



## City of Linden

### Zoning Board of Appeals (ZBA) Orientation Contents

- Meeting Schedule
- Bylaws
- Flow Chart
- Master Plan
- Zoning District Map
- Planning & Zoning Fundamentals
- Michigan Municipal League (MML) Materials:
  - Zoning Board of Appeals Handbook
  - Section 2: Roles & Responsibilities, Chapter 9: Planning & Zoning
  - Fact Sheet
  - Zoning: Nonconforming Buildings & Uses
- Zoning Ordinance

### Additional Web Resources

**For meeting minutes, agendas, notices & more, visit the City of Linden Website:**

<http://lindenmi.us/>

**Michigan Municipal League (MML) Planning/Zoning:**

[https://www.mml.org/resources/information/planning\\_zoning.htm](https://www.mml.org/resources/information/planning_zoning.htm)

**Michigan Association of Planning (MAP) Website:**

<https://www.planningmi.org/workshops>

**MSU's Master Citizen Planner Program Website:**

[https://www.canr.msu.edu/michigan\\_citizen\\_planner/](https://www.canr.msu.edu/michigan_citizen_planner/)

Call City Administration at (810) 735-7980 or e-mail [deputyclerk@lindenmi.us](mailto:deputyclerk@lindenmi.us)

For Training Opportunities!

**CITY OF LINDEN**

**RESOLUTION NO. 32-23  
A RESOLUTION ESTABLISHING THE REGULAR MEETING SCHEDULE FOR 2024**

**WHEREAS**, the Linden City Council wishes to establish its regular meeting schedule for 2024; and

**WHEREAS**, the Linden City Council wishes to provide proper posting for all City Boards and Commissions Meetings, in accordance with the Open Meetings Act; and

**WHEREAS**, meeting times may change, and special meetings may be scheduled from time-to-time, revisions to the regular meeting schedule below shall be posted in City Hall, in accordance with the Michigan Open Meetings Act;

**NOW, THEREFORE BE IT RESOLVED**, the Linden City Council instructs the City Clerk to post notification of the following regular meetings:

**CITY COUNCIL**

Regular meetings are held on the fourth Monday of each month at 7:00 p.m. in Council Chambers, located at 201 North Main Street unless otherwise noted:

January 22, 2024	May 13, 2024*	September 23, 2024
February 26, 2024	June 24, 2024	October 28, 2024
March 25, 2024	July 22, 2024	*November 12, 2024
April 22, 2024	August 26, 2024	*December 9, 2024

**CITY COUNCIL WORK SESSIONS**

Work sessions are held on the second Monday of each month at 6:30 p.m. in Council Chambers, 201 North Main Street unless otherwise noted:

January 8, 2024	No May Work Session	September 9, 2024
February 12, 2024	June 10, 2024	*October 15, 2024
March 11, 2024	July 8, 2024	No November Work Session
April 8, 2024	August 12, 2024	No December Work Session

**PLANNING COMMISSION**

Regular meetings are held on the first Monday of each month at 7:00 p.m. in Council Chambers, 201 North Main Street:

*January 3, 2024	May 6, 2024	*September 3, 2024
February 5, 2024	June 3, 2024	October 7, 2024
March 4, 2024	July 1, 2024	November 4, 2024
April 1, 2024	August 5, 2024	December 2, 2024

\*If the regular meeting date falls on a holiday, the Planning Commission will reschedule the meeting to another date during the month.

**ZONING BOARD OF APPEALS**

Meets the second Tuesday (as needed) of January, April, July and October at 7:00 p.m. in Council Chambers, 201 North Main Street:

January 9, 2024	July 9, 2024
April 9, 2024	*October 16, 2024

\*\*Special meeting dates may be scheduled on an as-needed basis on the second Tuesday of the month.



**HISTORIC DISTRICT COMMISSION** Meets the third Wednesday of each quarter at 6:30 p.m. in Council Chambers, 201 North Main Street:

January 17, 2024                      July 17, 2024  
April 17, 2024                      \*October 17, 2024

**LIBRARY BOARD** Meets the first Thursday of the months below at 6:30 p.m. at 201 North Main Street:

January 4, 2024                      June 6, 2024                      December 5, 2024  
April 4, 2024                      September 5, 2024

**PARKS & RECREATION COMMISSION** Meets the third Thursday of every other month at 6:00 p.m. or as needed:

January 18, 2024                      May 16, 2024                      September 19, 2024  
March 21, 2024                      July 18, 2024                      November 21, 2024

**DOWNTOWN DEVELOPMENT AUTHORITY** Meets the fourth Thursday of each month at 8:30 a.m. in Council Chambers, 201 North Main Street:

January 25, 2024                      May 23, 2024                      September 26, 2024  
February 22, 2024                      June 27, 2024                      October 24, 2023  
March 28, 2024                      July 25, 2024                      \*November 21, 2024  
April 25, 2024                      August 22, 2024                      No December Meeting

**SIGN COMMITTEE** Meets Thursday at 8:30 a.m. if there is an agenda item in City Hall, 132 East Broad Street

**BOARD OF REVIEW**

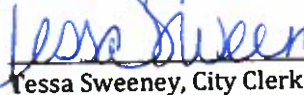
March 5, 2024 Organizational meeting only 9:00 am  
March 18, 2024 9 am-3pm  
March 19, 2024 3pm-9pm  
July 16, 2024 9am  
December 10, 2024 9am

**MINUTES OF ALL MEETINGS ARE AVAILABLE FOR REVIEW UPON REQUEST MADE TO THE CITY CLERK  
CHECK SUPPLEMENTAL POSTINGS TO CONFIRM MEETING TIMES AND DATES. ALL AGENDA PACKETS  
ARE POSTED ON THE CITY'S WEBSITE.**

Adopted by the Linden City Council at their regular meeting held on Monday, December 11, 2023.

  
Danielle N. Cusson, Mayor

Attest:

  
Tessa Sweeney, City Clerk

# **ZONING BOARD OF APPEALS**

## **CITY OF LINDEN**

### **BY-LAWS**

#### **I. Officers and their duties:**

A. The Officers of the Board shall consist of a Chairman, Vice Chairman, and Secretary, all of whom shall be appointed members of the Board.

B. The Chairman shall have the privilege of discussing all matters before the Board and to vote on these matters. The Chairman shall call meetings, preside at all meetings, appoint such committees as shall from time to time be deemed necessary, administer oaths and compel attendance of witnesses, sign all vouchers authorized by the Board and perform other duties that may be delegated by the Board.

C. The Vice Chairman shall act for the Chairman in his absence.

D. The Secretary shall keep the minutes and records of the Board.

E. The City Manager or his designee shall act as staff for the Zoning Board of Appeals. As such he shall attend to correspondence of the Board, prepare the agendas of regular and special meetings, provide notice of meetings to Board members, arrange proper and legal notice of hearings, keep a record of all vouchers authorized by the Board and keep a copy of all transcripts, records, plans, plats, etc. brought before the Board.

#### **II. Election of Officers:**

A. Nominations of officers shall be made from the floor at the annual organizational meeting, which shall be the first meeting of the calendar year in January, and the elections shall follow immediately thereafter. Newly elected officers will assume their office immediately.

B. A candidate receiving a majority vote of the membership present shall be declared elected.

C. Vacancies in offices shall be filled immediately by regular election procedure.

#### **III. Meetings**

A. Regular meetings may be held as needed on the second Tuesday of January, April, July and October. The regular meetings shall commence at 7:00 p.m. in the Council Chambers at

201 N. Main Street. Special meetings will be scheduled on an as-needed basis on the second Tuesday of the month. When a regular meeting is scheduled for a holiday, the meeting shall be held on such other day as determined by the Board.

B. Four (4) members of the Board shall constitute a quorum and the number of votes necessary to transact business shall be four (4). A record of the vote shall be kept as a part of the minutes.

C. All members of the Board shall vote on every motion placed on the floor unless there is a conflict of interest. In the event that a member of the Board shall question whether he or any other member has a conflict of interest, the question shall be submitted to the City Attorney who shall review the facts and issue an opinion.

D. Robert's Rules of Order shall be used except where they conflict with the By-Laws, State Statute, the City Charter or the Linden Municipal Code.

E. All meetings at which official action is taken shall be open to the general public.

F. Any member of the Zoning Board of Appeals who misses three (3) consecutive meetings of the Board shall be subject to removal by a majority vote of the City Council. Written notice to the member being considered for removal shall be made at least seven (7) days prior to the City Council meeting at which removal will be considered.

#### **IV. Order of Business:**

The order of business at regular meetings shall be:

- I. Call to Order
- II. Roll Call
- III. Approval of Minutes
- IV. Public Hearings
- V. Citizens Comments - Persons wishing to address the Board are asked to state their name and address for the record and limit their comments to five (5) minutes and ten (10) minutes if representing a group of persons.
- VI. Correspondence
- VII. Unfinished Business
- VIII. New Business

IX. Board Member & Committee Reports.

X. Adjournment

This order of business may be suspended by a vote of the Board.

**V. Committees:**

The Chairman shall appoint such committees as he deems necessary subject, however, to the mandates of the State Statutes, City Charter and the Linden Municipal Code. Any committee appointed shall be given a specific task along with a specific date upon which the committee will expire.

**VI. Hearings and Proceedings:**

A. The Board shall conduct such hearings and proceedings as provided for in the Zoning Code for the City of Linden or as provided for by State Statute.

B. Notice of such hearings shall be as required by City Ordinance and/or State Law, and, in cases in which certain property is in issue, the Board shall give fifteen (15) days notice to all owners of record of property within a radius of three hundred (300) feet of the premises in question, such notice to be delivered personally or by mail addressed to the respective owners at the addresses given in the latest assessment roll.

C. The case before the Board shall be presented in summary by Staff. Parties in interest shall have privilege of the floor. No record of statement shall be recorded or sworn to as evidence for any Court of Law without notice to the parties.

D. When deciding an appeal, when rendering an opinion or when granting or denying a variance, special approval or exception, the Board shall make specific findings of fact or conclusions of law. These findings and conclusions shall be made a part of the minutes. The Board shall consider those standards required by the Zoning Code and State Law and any other standards or factors deemed necessary by the Board. A site visit by the Board as a whole is allowable upon a majority vote of the members present. No action shall be taken during a site visit. A site visit shall be recorded in the minutes of the Board.

E. In order to be included on the agenda of the Board a petitioner shall submit his or her request at least twenty-eight (28) days prior to the regularly scheduled meeting. The request shall

be submitted on a form provided by the City at the office of the City Clerk. All fees must be paid in order for the request to be deemed "submitted".

F. The City administration shall submit to each Board member ten (10) days before the regularly scheduled meeting a copy of the petition as well as a copy of the administration's findings and recommendation.

**VIII. Amendments:**

These By-Laws may be amended by a two-thirds (2/3) vote of the entire membership of the Board.

ADOPTED as amended by the City of Linden Zoning Board of Appeals at a regular meeting on the 13th day of January, 2009.

---

Steve Mammel, Chairperson

ATTEST:

---

Chris Kinyon, Secretary

## Important Linden Contact Information:

City of Linden  
 132 E. Broad Street  
 P.O. Box 507  
 Linden, MI 48451

### City Website:

Forms and other useful information can be obtained through the City website, located at: <https://www.lindenmi.us/>

### Zoning Code:

Linden's Municipal Code, including the Zoning Code, is available online at: <https://codelibrary.amlegal.com/codes/linden/latest/overview>

**City Hall Main Number:** (810) 735-7980

**City Manager:** (810) 735-7980  
 Ellen Glass

**City Planner/Zoning Administrator:** (810) 735-7980 Thursdays 8-12  
 Adam Young, AICP (313) 961-3650 Wade Trim Office

**Building Official:** (810) 735-7980  
 Marty Johnson

**City Clerk:** (810) 735-7980  
 Tessa Sweeney

**Director of Public Works:** (810) 735-7980  
 Don Grice

**City Engineer:** (810) 341-7500  
 Rowe Professional Services

**City Treasurer:** (810) 735-7980  
 Brooke Card

**Police Chief:** (810) 735-5454  
 Scott Sutter


**Fire Chief:** (810) 735-1714  
 Brian Will

# CITY OF LINDEN Development Review Process

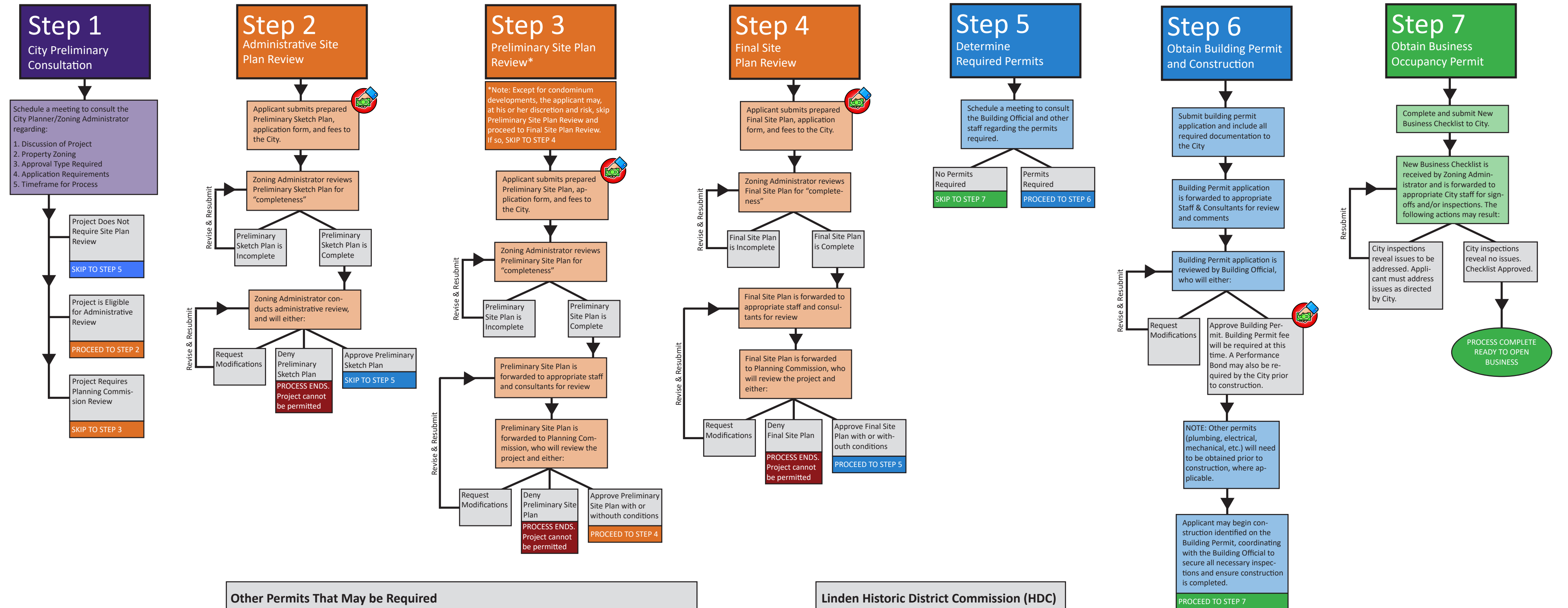
The intent of this brochure is to provide an overview of the development process that is required for new businesses within the City of Linden. A flow chart can be found on the following pages to guide you through these required steps. Depending on the type of business and/or application you need to submit, different stages of the flow chart will be employed. The flow chart and the following information will help you navigate the approval processes:

This development process presupposes that your business use is a principal permitted use within the zoning classification of your property. If it is a special land use, your business could be permitted but would require the obtaining of a Special Land Use permit from the Planning Commission concurrent with the Site Plan Review Phase. If your business use is not permitted in the zoning district, and you wish to file an application to rezone your property, please see the City Clerk to file a Rezoning Application.

Prepared by: **The City of Linden**

In conjunction with: 





**Other Permits That May be Required**



Depending on the type and scope of project, a variety of other permits will need to be sought and obtained. These may include other applicable City permits, outside agency permits, and business specific permits and/or licenses. City staff will assist you in determining what permits might be required for your project. The obtaining of these permits will most commonly occur concurrently with the Building/Construction Permit Phase, which begins at Step 5.

Examples include:

- Sign Permits - City of Linden
- Sewer Taps - City of Linden
- Plumbing, Electrical & Mechanical Permits - State of Michigan
- Drain Permits - County Drain Commissioner
- Liquor License - State Liquor Commission
- Food Service - County Health Department
- Therapy License - State of Michigan
- Cosmetology License - State of Michigan

**Linden Historic District Commission (HDC)**

Projects within the Linden Historic District that would have an impact on the exterior appearance of the district first require approval by the Linden HDC. Such projects include new buildings or structures, building additions, new or modified signs, etc. The process includes the submittal of an application form to the City along with a \$50 application fee. After review by the HDC, a "Certificate of Appropriateness" is issued for the project.

 Denotes Fees  
 City Determinations

Disclaimer: This flow chart is designed to provide an overview of the typical development process. Steps outside of this chart may be required depending on the specific project.





# CITY OF LINDEN MASTER PLAN UPDATE

Adopted by the Linden City  
Council on February 13, 2023





**Resolution No. 04-23**  
**Adoption of City of Linden Master Plan**  
**City Council, City of Linden, Genesee County, Michigan**

**WHEREAS**, The City of Linden has established a Planning Commission under the Planning Enabling Act, Public Act 33 of 2008, as amended; and,

**WHEREAS**, The City of Linden Planning Commission is required by Section 31 of said Act to prepare and adopt a master plan as a guide for the physical development of the city; and,

**WHEREAS**, The City of Linden Planning Commission, with the assistance of a specially appointed Master Plan Steering Committee, oversaw a planning process that included significant public input through a variety of engagement methods, including focus group discussions, workshops, surveys and public meetings; and,

**WHEREAS**, A proposed master plan was prepared and was approved for distribution by the Linden City Council on November 14, 2022 and was subsequently submitted for review in accordance with Section 41 of said Act; and,

**WHEREAS**, The proposed master plan was presented to the public at a hearing held on February 6, 2023, before the Planning Commission, with notice of the hearing being provided in accordance with Section 43 of said Act; and,

**WHEREAS**, The City of Linden Planning Commission determined that the plan is appropriate for the future development of the city; and,

**WHEREAS**, The City of Linden Planning Commission, on February 6, 2023, recommended adoption of the City of Linden Master Plan and submitted the plan to the Linden City Council for final adoption;

**NOW THEREFORE BE IT RESOLVED THAT**, The City of Linden City Council concurs with the recommendation of the Planning Commission and does hereby adopt the City of Linden Master Plan.

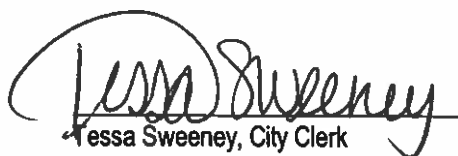
Ayes: Cusson, Armstrong, Dick, Howel, Culbert, Simons

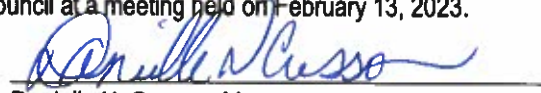
Nays: None

Absent: MacDermaid

Adopted February 13, 2023

I, Tessa Sweeney, Clerk of the City of Linden, do hereby certify the foregoing to be a true and correct copy of a resolution that was adopted by the Linden City Council at a meeting held on February 13, 2023.

  
Tessa Sweeney, City Clerk

  
Danielle N. Cusson, Mayor



# Acknowledgments

## City Council

Danielle Cusson, Mayor  
Ray Culbert  
Brad Dick  
Pamela Howd  
Heather MacDermaid  
Brenda Simons  
Aaron Wiens

## City Manager

Ellen Glass

## Planning Commission

Daniel Cusson, Chair  
Victor Lukasavitz, Vice Chair  
Benjamin Cox  
Ray Culbert  
Brad Dick  
John Hartranft  
Stephanie Johnson  
Kevin Pyszora  
Michael Simons

## Downtown Development Authority

Jeanine Sapelak, Chair  
Steve James, Vice Chair  
Heather MacDermaid, City Council Rep  
Keri Burns  
Tate Marisa  
Krystal Payne  
Michelle Robins  
Karen Stroud  
Marta Wright



132 E. Broad Street  
Linden, MI 48451  
[www.lindenmi.us](http://www.lindenmi.us)

## Master Plan Steering Committee

Danielle Cusson, Mayor  
Libby Elliott, former Planning Commission  
Ellen Glass, City Manager  
John Hartranft, Planning Commission  
Stephanie Johnson, Planning Commission  
Bryan Mulanix, Comm./Econ. Devel. Director  
Greg Vadasz, Linden Schools

Assistance Provided By:



500 Griswold, Suite 2500  
Detroit, MI 48226  
[www.wadetrim.com](http://www.wadetrim.com)



17195 Silver Parkway #309  
Fenton, MI 48430  
[www.cibplanning.com](http://www.cibplanning.com)

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Adopted by the Linden City Council on February 13, 2023

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- B. Focus Group Discussions Results Summary
- C. Visioning Workshop Slide Presentation

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# Introduction

## Authority to Plan

The City of Linden Planning Commission prepared this Master Land Use Plan under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008. Article 3, Section 125.3831 of the Act states:

*A planning commission shall make and approve a master plan as a guide for development within the planning jurisdiction:*

- a) *In the preparation of a master plan, a planning commission shall do all of the following, as applicable:*
  - 1) *Make careful and comprehensive surveys and studies of present conditions and future growth within the planning jurisdiction with due regard to its relation to neighboring jurisdictions.*
  - 2) *Consult with representatives of adjacent local units of government in respect to their planning so that conflicts in master plans and zoning may be avoided.*
  - 3) *Cooperate with all departments of the state and federal governments, public transportation agencies, and other public agencies concerned with programs for economic, social, and*



CITY OF LINDEN  
**MASTER PLAN UPDATE**



physical development within the planning jurisdiction and seek the maximum coordination of the local unit of government's programs with these agencies.

## Purpose of the Plan

Article 1, Section 125.3807 of the Michigan Planning Enabling Act, Public Act 33 of 2008 gives a summary of the purpose of a master plan:

*The general purpose of a master plan is to guide and accomplish, in the planning jurisdiction and its environs, development that... is coordinated, adjusted, harmonious, efficient, and economical; considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.*

*Additionally, the master plan should provide a general statement of the community's goals and a comprehensive vision of the future. It should also serve as the statutory basis for the Zoning Ordinance, and as the primary policy guide for local officials considering development proposals, land divisions, capital improvements, and other matters related to land use and development, pursuant to section 203(1) of the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006.*

Every community's master plan is unique, focusing on important issues and challenges specific to that community. This Master Plan is designed to highlight local issues and to identify solutions to meet local needs.

## Plan Organization

The Master Plan report is comprised of eleven sections. The first section of the Master Plan is the Introduction, which gives an overview of the Master Plan and the City of Linden. The second section is the Executive Summary, which serves as a summary of the major findings and conclusions of the Master Plan for quick reference purposes.

The next four sections (Socioeconomic Profile, Natural Resources Assessment, Existing Land Use Analysis and

Community Facilities Analysis) form the background studies portion of the Master Plan. These sections highlight important conditions, characteristics, and trends within the City of Linden that have direct impacts on current and future land use.

Goals and Objectives form the seventh section of the Master Plan. The goals and objectives are formulated through citizen input and participation, and are presented to guide future development. The goals and objectives also consider the key land use trends, population trends, natural resources, and other issues presented in the background information sections. The goals and objectives are the written "vision" for the future of the City of Linden.

The long-range planning recommendations are detailed in three sections of the plan: Circulation Plan; Future Land Use Plan; and, Priority Redevelopment Sites. These sections establish the key strategies -- related to circulation, future land use and redevelopment -- that the city will employ to achieve the vision described in the Goals and Objectives section.

The final section of the plan is the Implementation Strategy. This section serves as a guide for implementing the recommendations in the Master Plan. An important component of the Implementation Strategy is a zoning plan, which takes into consideration the existing ordinances, populations, and future needs of the community in analyzing recommended zoning changes.

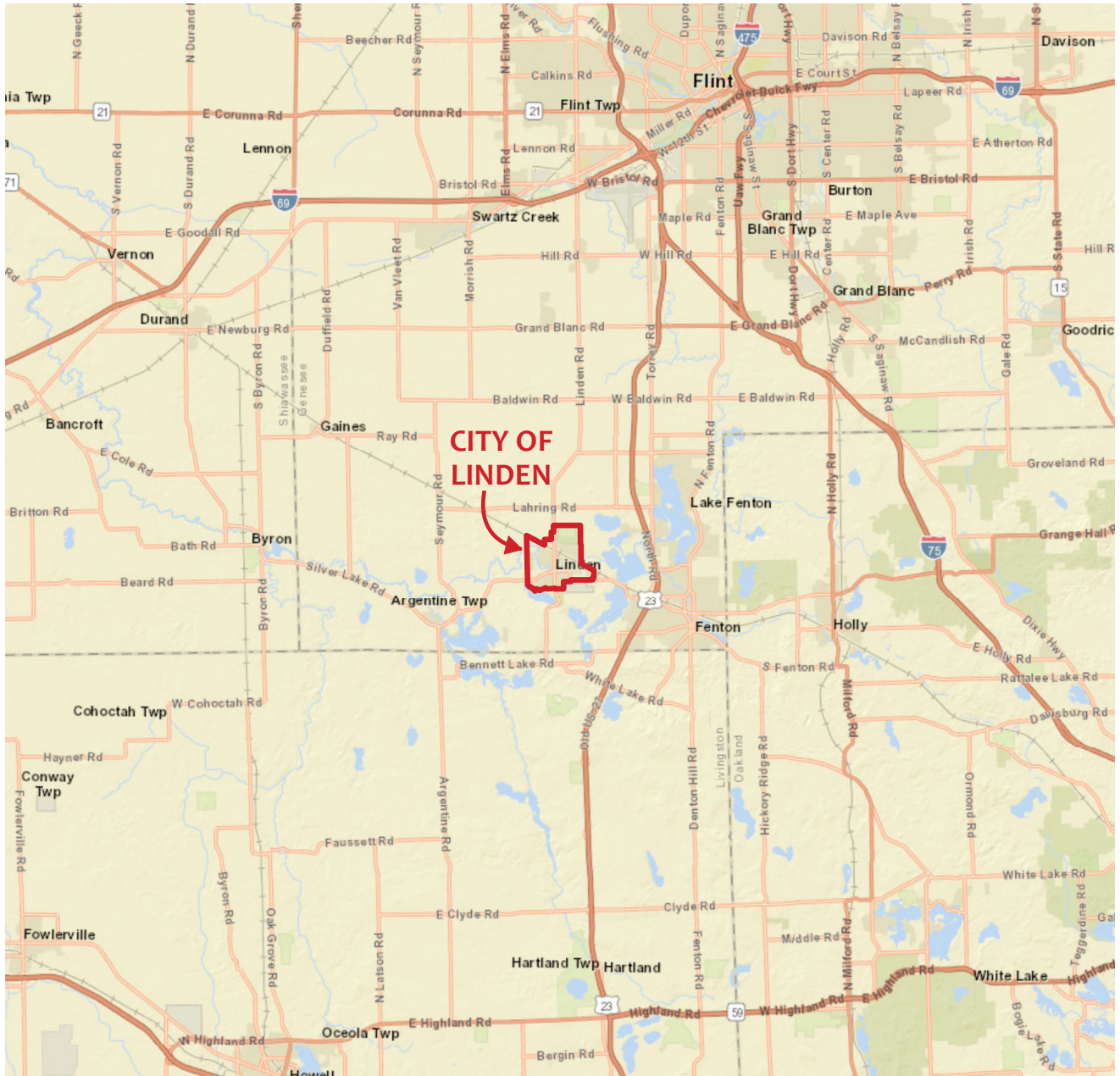
## Location and Regional Context

The City of Linden is located in the southwestern corner of Genesee County, in the mid-Michigan region. Genesee County is a county home to rural communities, small towns, and the City of Flint. The county features several environmental amenities such as lakes, rivers, and forest lands. There is abundant farmland in most of the outer ring of the county.

The nearest communities to the City of Linden include the City of Fenton to the southeast and Fenton Township, surrounding the city. Larger communities are also located within a short distance from the City of Linden, including Flint (15 miles northeast), Lansing (40 miles southwest), Detroit (50 miles southeast), and Saginaw (40 miles northeast). Major regional transportation routes include Interstate 75, Interstate 69, Interstate 475, U.S. Highway 23, M-54, and M-21.

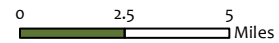
# Regional Context Map

City of Linden Master Plan Update



Service Layer Credits: Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

August 2021



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## Concurrent Planning Effort: Economic Development and Marketing Strategy

Concurrent with the development of this Master Plan, the city prepared an Economic Development and Marketing Strategy. Although separate documents, the Economic Development and Marketing Strategy and this Master Plan work together to achieve the preferred vision for the future of the City of Linden.

The economic development component of the strategy answers the question of “why invest in Linden.” It expresses an optimistic tone and positive expectations for the future, outlines key economic development actions, and establishes performance measures that are both meaningful and readily updated.

The most successful communities have a clear strategy that describes how they intend to attract investment, build tax base, create jobs, visitors and new residents. The marketing component of the strategy must establish a framework for a coordinated telling of Linden’s unique story.

## Planning Process

This Master Plan was developed over a nearly two-year period starting in the Spring of 2021. The graphic to the left identifies key points in the planning process.

Ultimately, the Master Plan was adopted by the Linden City Council on February 13, 2023, after a recommendation by the City Planning Commission was made on February 6, 2023.

## Public Engagement

This Master Plan (and the Economic Development and Marketing Strategy) was developed with significant input received from members of the community, achieved through a variety of engagement methods. Dozens of community leaders including members of the elected and appointed bodies of the city contributed toward the development of the plan. Hundreds of citizens and stakeholders provided input during the course of the planning process.

Notably, a Steering Committee was formed and met on a regular basis to oversee the development of the Master Plan. They helped formulate the public engage-



ment process and methods, worked to spread the word about the project, reviewed project drafts, and provided valuable feedback to the technical consultant team.

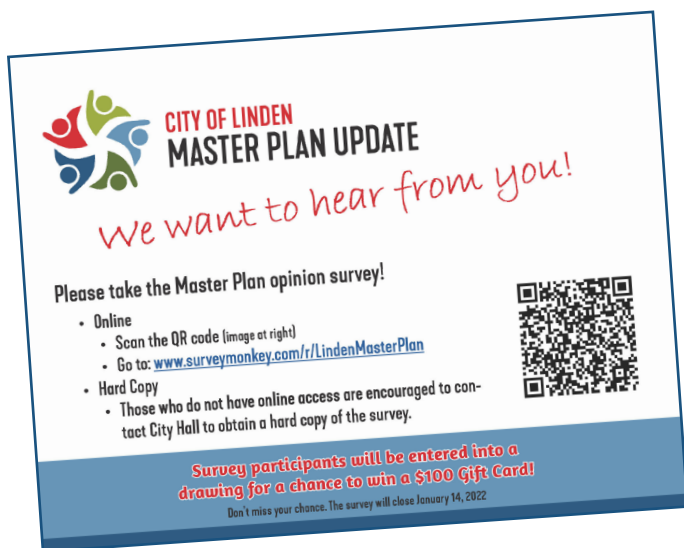
Public engagement methods included a SWOT (Strengths, Weaknesses, Opportunities and Threats) Analysis Session with the Steering Committee, a Recreational Workshop with the Parks and Recreation Commission, a Mill Building Survey, and a booth at public events. Information about the Master Plan was made available through a project web page, press releases, social media posts, quarterly city newsletters, and school newsletters.

The following is a summary of the three primary engagement methods employed during the development of this Master Plan. A detailed summary of the feedback received through each of these engagement methods is included in the **Appendix**.

## Citizen Survey

In late 2021 and early 2022, a citizen survey was facilitated. Available in both paper and electronic formats, the survey was highly successful and generated 624 total responses. More than 85% of the respondents were citizens.

The feedback received from the survey had a significant influence on key recommendations included in this Master Plan. A summary of the feedback received and conclusions gained by the survey is included as **Appendix A: Citizen Survey Results Summary**.



## Focus Group Discussions

In April 2022, a series of topic-based focus group discussions were held during the course of one morning at the VFW Hall in Linden. The three topics of discussion were:

- Land Use, Redevelopment & Economic Development
- Community Life
- Youth

The discussions were attended by approximately 15 community stakeholders, selected by the city as representative of different elements of the community including:

- Citizens
- Business owners
- Property owners
- Real estate professionals
- Schools
- Religious organizations
- City government

A summary of the feedback received and conclusions gained from the discussions is included as **Appendix B: Focus Group Discussions Results Summary**.

## Visioning Workshop

In July 2022, a public visioning workshop was held at the Loose Senior Citizens Center in Linden. The workshop began with a presentation on the purpose of a master plan, results of the public engagement received up to that point, and strategic opportunities for the future, including an introduction to the Ten Principles of Smart Growth. Following the presentation, participants participated in two different small group exercises. The first exercise asked the small groups to work together to identify how key smart growth principles could be applied within Linden. The second exercise asked the small groups to work together to identify and brainstorm opportunities for priority redevelopment sites within Linden. The feedback received during the workshop had a direct influence on the development of key recommendations of this plan, particularly the Priority Redevelopment Sites. The slide presentation from the visioning workshop is included as **Appendix C: Visioning Workshop Slide Presentation**.

## Master Plan Update - What's New?

This Master Plan is an update to the city's prior Master Plan, which was adopted on January 24, 2011. This new Master Plan documents and evaluates the trends changes which have occurred over the past decade while addressing contemporary issues and challenges the city is currently facing.

At the time the 2011 Master Plan was being prepared, the country was still in the midst of a nation-wide housing and economic recession. Largely, new growth and development had been halted within Linden and the surrounding areas. However, Linden slowly emerged from the recession and is once again experiencing steady growth and new development. New projects which have been developed within Linden since the adoption of the 2011 Master Plan include:

- Near full build-out of several subdivisions which were started in the early 2000's including Forest Ridge Glens and Saddlebrook
- Caretel Inns/Symphony of Linden senior care facility expansion
- Loose Senior Center expansion
- Willow Haven apartments expansion
- Sandal Wood Village new senior housing development
- New commercial development in the West Broad Street business district
- Redevelopment of the former "Union Block" building as a new two-story, mixed-use building
- Redevelopment of the B&B Market

In comparison to the 2011 Master Plan, this planning effort is more comprehensive in scope and outlines a proactive strategy for land use, development, economic development, circulation and quality of life. Each section contained in this Master Plan has been updated to reflect a refreshed vision for the future. Notably, the Circulation Plan and Priority Redevelopment Sites sections are new elements that were not contemplated in the 2011 Master Plan.



# Executive Summary

The executive Summary is provided to highlight major findings of each section for quick reference purposes.

## Socioeconomic Profile

The socioeconomic profile provides insight into the social characteristics of the residents, the housing stock, and the economy of the City of Linden. This insight is important for developing timely and appropriate community policies in order to meet the diverse and changing needs of the population.

## Population

Over the past few decades, the population of Linden has risen with an overall upward trend. The recently released 2020 Census indicates a total population of 4,142 for the City of Linden, an increase of 3.8% from its 2010 population. Population estimates for 2021 provided by ESRI indicate a 2021 population of 4,286. ESRI projects modest population growth over the next five years, increasing to 4,295 residents by 2026. According to Genesee County Long Range Transportation Plan population projections, the city will increase to 4,514 residents by 2040, a 9% increase from its 2020 population.

Comparatively, Genesee County exhibits a different trend, of a fluctuating population that has been in decline since 1980. However, based on the Genesee County Long Range Transportation Plan population projections, Genesee County is expected to halt recent declines and once again begin to grow. Genesee County is expected to increase in population by 3.5% from 2020 to 2040.



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The majority of the city's population is within the Family Formation years and the Empty Nest years age groups (20-64 years of age). The median age is 41.5 years, which is only slightly older than the average age for the county and for the State of Michigan. In terms of race and ethnicity, Linden residents are primarily white and non-Hispanic, with racial minorities making up a small percent of the population.

## Housing

The majority of the city's housing stock is single-family dwelling units that are owner-occupied. When compared to the number of owner-occupied units, there are very few renter-occupied units (almost 18% of all occupied units). At present, there is an estimated total of 1,749 housing units in Linden; of these units, 1,672 are occupied, suggesting there may be need for additional, diverse housing options in the future as the population grows. In terms of age, more than half of city housing units were built in 1980 or more recently - a higher percentage than Fenton Township, Genesee County and the State of Michigan.

Housing values are a meaningful indicator to determine both housing quality and affordability. According to the 2021 ESRI Housing Profile, the median home value in the City of Linden is \$193,552. This value is higher than both the county and state median home values.

## Economy

Income and poverty levels are helpful measures of the economic health of a community. In Linden, the estimated median household income is \$72,587, which is considerably higher than the median household income for Genesee County (at \$50,805) and Michigan (at \$58,537). Approximately 6.5% of the entire Linden population is living below the federal poverty line, and nearly 5% of the population over the age of 65 is below the poverty line. However, the city's poverty levels are much lower than the county and state.

Nearly 95% of Linden's population has received a high school diploma (or the equivalent). Comparatively, just under 90% of Genesee County's population has received a high school diploma (or the equivalent). Just over 30% of Linden's population has received a bachelor's degree, in comparison to Genesee County at just over 20%. Educational attainment is often an indicator for financial success and economic health in a community. The level of education contributes to the employ-

ment opportunities and industries that will meet the skills of the local work force.

The major industry sectors in which the citizens of Linden are employed include Health Care/Social Assistance, Manufacturing, and Construction. Together, these three industry sectors employ nearly 50% of Linden's citizens.

Employment by occupation statistics provide a deeper understanding of the city's workforce characteristics. Approximately 65% of the employed citizens in Linden are in "white collar" occupations. Examples of white collar occupations include management, financial, social services, health care, education and the arts. Approximately 25% of employed residents are in "blue collar" occupations, such as construction, production, and transportation. The remaining 10% of employed citizens are in "service" occupations, such as food services and personal care services.

It is important to note that only 55.7% of the total population in Linden are in the workforce, according to the 2021 ESRI Civilian Labor Force Profile. This may suggest that many of the residents are of retirement age, or are children.

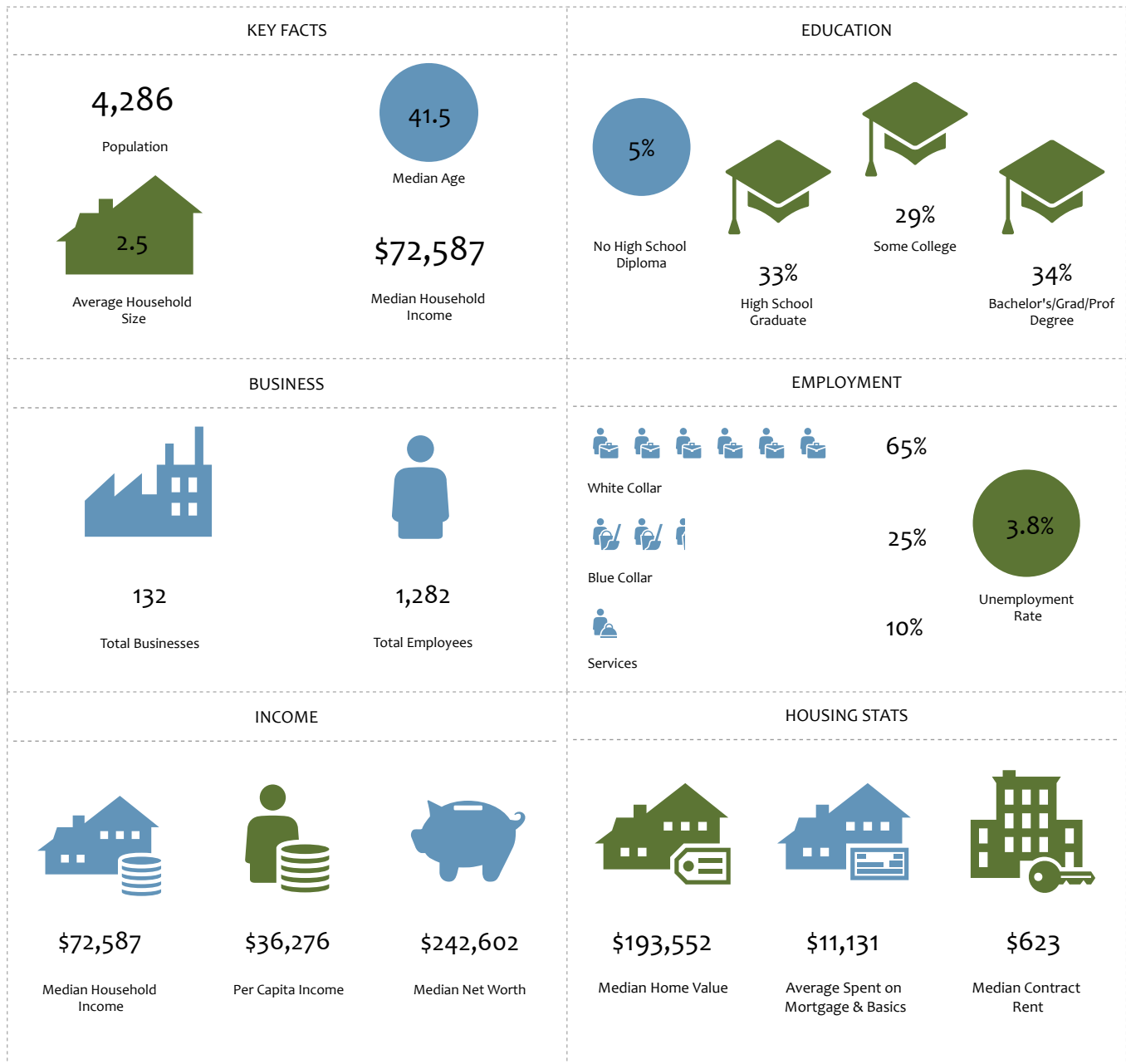
## Natural Resources Assessment

### Climate

The City of Linden has a seasonal climate, with temperatures ranging from below 0-degree Fahrenheit in the winter to over 90 degrees Fahrenheit in the summer months. The county gets a decent amount of precipitation, totaling nearly 69 inches of snow and rainfall annually.

The city is located in the Midwest region, which, through the effects of climate change, may experience increased rainfall, increased humidity, and decreased agricultural productivity. Additionally, Linden's natural assets will be more susceptible to invasive species and decreased biodiversity. Over time, the city may experience increased extreme weather events, such as floods or droughts. These events will also place stresses on man-made infrastructure, such as roads, pipes, homes, and more.





This infographic contains data provided by Esri, Esri and Data Axle. The vintage of the data is 2021, 2026.

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## Topography

The topography of Linden is flat or gently sloped. While there are some areas of steeper elevation, the city's elevation ranges only 80 feet from 860 feet above sea level to 920 feet above sea level (see **Map 1**). Those areas with lesser slopes are more suitable for land development.

## Vegetation

Woodlands and forests are not considered a primary natural feature found throughout the city, as most of Linden is developed. However, mature street trees

and neighborhood trees are prevalent throughout the city. The woodlands of Eagle's Wooden Park and other lands along the Shiawassee River offer many opportunities for scenic and recreation attraction.

## Wetlands and Watercourses

The Shiawassee River and its associated wetlands serve as the predominant water body in the City of Linden. The river is controlled by a dam, which has created the Mill Pond just east of Bridge Street. Located on the southwestern edge of the city is Byram Lake, totaling 133 acres in area.

Wetlands are an additional, extremely important, natural resource found within the city (see **Map 2**). These wetlands present themselves in a variety of forms, and many of the wetlands are protected by state and federal governments.

There are eight different prominent soil associations within Genesee County that may be present in Linden (see **Map 3**). Some of the soils are suitable for development, while others are more problematic.

## Existing Land Use Analysis

An analysis of the existing land development informs the decisions made concerning proposals for new development and future development (see **Map 4**).

The heart of the city - downtown Linden - is located where the historic travel routes of Broad Street, Bridge Street and the Shiawassee River converge. Downtown Linden features a diverse mixture of land uses that include commercial, office, institutional and residential. Numerous mixed-use buildings are found in downtown. Downtown Linden has significant historic character and is a state designated Historic District.

Surrounding downtown Linden are the city's well established residential neighborhoods. These neighborhoods are predominantly characterized by single-family detached homes, many of which are historic. However, some neighborhoods do include a mixture of two-family dwellings (duplexes). Multiple family residential uses are scattered around the city, primarily along its major roads such as North and South Bridge Street.

Beyond downtown, the city features two additional commercial districts: North Bridge Street, south of Rolston Road; and, West Broad Street, near Hyatt Lane. These commercial districts feature a combination of commercial and office uses.

Minimal industrial lands are found within the city, along the railroad tracks in its northern end.

is named Linden Road. Except for a few small county road segments and some private streets, the remainder of the roads in the city are owned and maintained by the city (see **Map 5**). One railroad traverses on a diagonal through the north-central portion of the city.

The city's sidewalk network is largely complete within downtown and the immediately surrounding neighborhoods. Outside of this area, some street segments, including some neighborhood streets, do not have sidewalks (see **Map 6**). Key sidewalk gaps in the city include along Hyatt Lane and Stan Eaton Drive, both of which are important connections to the two elementary schools.

## Infrastructure Analysis

The City of Linden, in partnership with other governmental and private entities, provides a complete array of public and emergency services for its citizens. These services include water supply, sanitary sewer service, refuse collection, recycling service, storm sewers, police, fire, and emergency medical services.

Institutional land uses, including municipal facilities, schools, cemeteries, and churches, are scattered throughout the city to serve its residents. Linden operates four city parks. In addition to these, numerous private recreational facilities (golf courses) and open spaces (subdivision/condominium open space) are found (see **Map 7**).

## Goals and Objectives

The City of Linden has established a series of goals and objectives which describe the desired character, quality, and pattern of development for the physical development of the city and embody the strategic direction the city will take to achieve its desired character. Goals and objectives are outlined to achieve six key attributes:

1. Exceptional Community Character
2. Vibrant Residential Neighborhoods
3. Thriving Economy and Business Districts
4. Balanced Circulation Network
5. Community Sustainability
6. First-Class Community Services

## Executive Summary Transportation Analysis

Two key road arteries lead to the City of Linden: Broad Street from the east and west; and, Bridge Street from the north and south. Outside the city limits, Broad Street is named Silver Lake Road, while Bridge Street

## Circulation Plan

The city has established a long-term plan to accomplish a balanced circulation system of vehicular and nonmotorized transportation. This plan is centered on the concept of “complete streets” – streets which are designed to accommodate pedestrians bicyclists, motorists and users of all ages and abilities. The Future Circulation Plan (**Map 8**) outlines a vision for two multi-modal main streets (Bridge and Broad Streets), along with complementary local streets, sidewalks, shared use paths and the Shiawassee River State and National Water Trail.

## Future Land Use Plan

The City of Linden has created a plan for future land use to serve as a guide for the future development of the city. The plan establishes and describes eleven future land use classifications and the Future Land Use Map (**Map 9**) prescribes the geographic extent of these classifications across the city:

1. Single Family Residential
2. Historic/Core Residential
3. Mixed Residential
4. Multiple Family Residential
5. Manufactured Housing
6. Mixed-Use
7. Central Business District
8. Commercial
9. Office
10. Light Industrial
11. Recreation/Open Space

The future land use plan seeks to protect and enhance the exceptional character of the city, embodied by downtown Linden and the safe and walkable neighborhoods which surround it. The plan seeks to preserve existing recreational and open spaces, while identifying locations where new development and redevelopment may occur in a manner that complements the established land use fabric of the city.

## Priority Redevelopment Sites

Recognizing the need for a strategic focus on redevelopment, the city has identified four priority redevelopment sites. Listed below and shown on **Map 10**, the city believes that the redevelopment of these sites would serve as a catalyst for further community enhancements:

1. Evan’s Building
2. DPW Yard
3. Parkside
4. Old Theater

## Implementation Strategy

An implementation strategy has been prepared which identifies the actions needed to transform the plan’s vision into reality. Of particular importance are recommendations for future zoning ordinance updates that would work to implement the vision of the Master Plan.

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# Socioeconomic Profile

Socioeconomic characteristics are essential components in the development of any master plan and a continuing planning process. While an evaluation of the community's current situation provides insight into immediate needs and deficiencies, forecasts and projections provide a basis for determining future land use requirements, public facility needs, and essential services.

By examining socioeconomic characteristics such as population, income, and employment base, a community can identify trends and opportunities that will influence future land use decisions and policy choices. Since certain socioeconomic analyses have an identifiable impact upon the future of a community, appropriate sections have been detailed to relate social trends to future economic considerations. Secondly, the socio-economy of a city does not function in a vacuum. Consequently, this analysis is benchmarked, when appropriate, to larger socioeconomic environments and trends.

## Methodology

This socioeconomic profile relies on several key data sources. Figures from the decennial U.S. Census reports, including the most recent 2020 Census, are utilized, where available. Another key data source is Esri, who produces independent demographic and socioeconomic updates and forecasts for the United States using a variety of data sources, beginning with the latest Census base and adding a mixture of administrative records and private sources to capture change. Esri



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data is available for 2021, with 5-year forecasts for the year 2026. Finally, data on certain detailed demographic topics is only available through the American Community Survey (ACS) 5-year estimates, made available by the U.S. Census Bureau.

## Population

Population growth is the most important factor influencing land use decision in any community. If the population is growing, there will be an increased need for housing, commerce, industry, parks and recreation, public services and facilities, and roads. **Table 1** shows the population trends from 1960 through the most current 2020 Census for the City of Linden, Fenton Township, Genesee County, and the State of Michigan. Since 1960, the City of Linden’s population has grown more than three times in size, increasing from 1,146 people in 1960 to 4,142 in 2020, a growth rate of 261%.

Similar positive population growth trends are occurring within Fenton Township, which surrounds Linden, and the State of Michigan as a whole. In contrast, the population in Genesee County has fluctuated, with a peak population of 450,449 in 1980, but recent declines place the County’s population at only 406,211 as of 2020.

The Genesee County 2040 Long Range Transportation Plan developed a population projection for the City of Linden and for Genesee County. Historically, though both geographies have increased in population since

1960, their trajectories have differed. However, the Long Range Transportation Plan projects that the populations in both the City of Linden and Genesee County will increase steadily towards 2040. The City of Linden’s population is estimated to grow to about 4,500 people by 2040. The population in Genesee County is also projected to increase to about 423,000, which is larger than the county’s population in 1960, but smaller than the population was in 1970.

## Age Distribution

An age distribution analysis is used by demographers and policy makers to anticipate future changes and needs in housing, resource/goods consumption, medical care, education, and recreation. In this analysis, five general life cycles are defined:

- Preschool (0-4 years)
- School (5-19 years)
- Family Formation (20-44 years)
- Empty Nest (45-64 years)
- Elderly (65 years or older)

As shown by **Table 3**, the majority of Linden’s population is within the Family Formation years and the Empty Nest years age groups (20-64 years of age). In 2010, 52.7% of the population was in these age groups; this is expected to decline to 51.3% by 2026. In 2010, 27.3% of the city’s population was 19 years old or younger; this

**Table 1: Population Trends, 1960-2020**

Population Trends							
Unit of Government	1960	1970	1980	1990	2000	2010	2020
City of Linden	1,146	1,546	2,174	2,415	2,861	3,991	4,142
Fenton Township	12,761	8,850	11,744	10,055	12,968	15,552	16,843
Genesee County	374,313	445,589	450,449	430,459	436,141	425,790	406,211
Michigan	7,823,194	8,875,083	9,262,070	9,295,297	9,938,444	9,883,640	10,077,331

Source: 1960 - 2020 U.S. Census

**Table 2: Population Projections, 2020-2040**

Population Projections						
Unit of Government	2020	2025	2030	2035	2040	% Change
City of Linden	4,142	4,239	4,342	4,417	4,514	9.0%
Genesee County	406,211	410,384	411,749	416,286	423,030	4.1%

Source: 2040 Long Range Transportation Plan Summary Document by GeneSEE the Future: Mobility 2040  
<https://forwardtogethergenesee.org/wp-content/uploads/2020/12/Genesee-County-2040-Long-Term-Transportation-Plan-2018.pdf>



**Table 3: Age Distribution, 2010-2026**

Age Distribution												
Age Range	City of Linden			Fenton Township			Genesee County			Michigan		
	% in 2010	% in 2026	Change in %, 2010-2026	% in 2010	% in 2026	Change in %, 2010-2026	% in 2010	% in 2026	Change in %, 2010-2026	% in 2010	% in 2026	Change in %, 2010-2026
0 - 4 Years Old	7.3%	6.4%	-0.9%	5.4%	4.7%	-0.7%	6.4%	5.6%	-0.8%	6.0%	5.3%	-0.7%
5 - 19 Years Old	20.0%	20.5%	0.5%	21.2%	17.4%	-3.8%	21.5%	18.2%	-3.3%	20.8%	17.7%	-3.1%
20 - 44 Years Old	29.7%	28.2%	-1.5%	26.8%	26.7%	-0.1%	30.7%	30.2%	-0.5%	31.5%	30.9%	-0.6%
45 - 64 Years Old	23.0%	23.1%	0.1%	32.9%	26.6%	-6.3%	27.7%	25.0%	-2.7%	28.0%	24.8%	-3.2%
65 Years and Older	19.9%	21.8%	1.9%	13.8%	24.7%	10.9%	13.7%	21.0%	7.3%	13.7%	21.1%	7.4%

Source: 2021 ESRI Demographic and Income Profiles

**Table 4: Median Age, 2010-2026**

Median Age				
Year	City of Linden	Fenton Township	Genesee County	Michigan
2010	39.4	42.6	38.3	38.8
2026	41.1	46.0	41.6	41.7
Change, 2010-2026	1.7	3.4	3.3	2.9

Source: 2021 ESRI Demographic and Income Profiles

is expected to decline to 26.9% by 2026. Finally, 19.9% of the city population was 65 years and older in 2010. By 2026, this is expected to increase to 21.8%. Between 2010 and 2026, every other unit of government compared in **Table 3** is expected to see declines in all age groups except for the 65 years and older age group. Notably, between 2010 and 2026, the 65 years and older age groups for Fenton Township, Genesee County and Michigan are expected to increase at a much greater rate than Linden.

**Table 4** shows the median age for Linden in 2010 and 2026, along with Fenton Township, Genesee County and Michigan. All units of government are anticipated to increase in median age over the 16 year span. Linden is expected to increase from a median of 39.4 years to 41.1 years.

Together, the figures indicate an aging population and inform the potential future and changing needs of the community, such as ADA improvements, smaller single-story homes, senior and assisted living facilities, infrastructure to promote aging in place, senior programming, and medical care facilities. The demand for education, recreation, and consumer goods from the younger age groups (0-19 years old) is not as high as the need for aging-related amenities, though this need may evolve as the population grows.

## Race and Ethnicity

Another important characteristic of a community is its racial make-up. Knowing the racial make-up of a community helps to identify the diverse needs of its population. Even though the population of Linden has become slightly more diverse since 2010, residents of the city are almost exclusively white (**Table 5**). This may suggest that the housing stock and other amenities are either not affordable or not desirable to many different minority populations. Since there has been little change in the racial make-up in the community since 2010, it may be useful to analyze the housing stock and employment opportunities which may be acting as barriers to entry.

## Households

The number of persons per household constitutes household size. Since the 1970's, the nationwide trend has been a decline in household size. This trend has occurred due to fewer children per family, higher divorce rates, and an increasing number of elderly people living alone.

Knowing whether the household size is increasing or decreasing helps to identify the community's housing needs. If the household size is decreasing, this means that new, smaller housing units may be required to accommodate for more people to live. In some mu-

**Table 5: Racial Distribution, City of Linden, 2010-2021**

Racial Distribution				
Category	2010		2021	
	#	%	#	%
White	3,863	96.8%	4,118	96.1%
Black or African American	18	0.5%	23	0.5%
Asian	17	0.4%	20	0.5%
American Indian and Alaska Native	18	0.5%	20	0.5%
Native Hawaiian and Pacific Islander	1	0.0%	1	0.0%
Some Other Race	24	0.6%	33	0.8%
Two or More Races	50	1.3%	71	1.7%
<b>Total</b>	<b>3,991</b>	<b>100.0%</b>	<b>4,286</b>	<b>100.0%</b>
Hispanic or Latino, Any Race	79	--	111	--

Source: 2021 ESRI Demographic and Income Profile: Linden City, MI; 2010 U.S. Census Bureau

**Table 6: Households and Household Size, 2010-2026**

Household Size						
Unit of Government	2010		2026		Change, 2010-2026	
	Total Households	Avg. HH Size	Total Households	Avg. HH Size	Total Households	Avg. HH Size
<b>City of Linden</b>	<b>1,552</b>	<b>2.51</b>	<b>1,679</b>	<b>2.50</b>	<b>127</b>	<b>-0.01</b>
Fenton Township	6,011	2.59	6,278	2.54	267	-0.05
Genesee County	169,202	2.48	164,729	2.44	-4,473	-0.04
Michigan	3,872,508	2.49	4,051,868	2.46	179,360	-0.03

Source: 2021 ESRI Demographic and Income Profiles

**Table 7: Household Characteristics, 2019**

Household Characteristics							
Unit of Government	Total Households	% of Total Households					
		Married-Couple Family	Cohabiting Couple Household	Male Householder, no spouse/partner present	Female Householder, no spouse/partner present	Households with one or more people under 18 years	Households with one or more people 65 years and over
<b>City of Linden</b>	<b>1,551</b>	<b>53.1%</b>	<b>10.1%</b>	<b>14.7%</b>	<b>22.1%</b>	<b>34.0%</b>	<b>38.2%</b>
Fenton Township	6,051	64.5%	5.5%	10.5%	19.5%	30.9%	38.5%
Genesee County	167,902	42.4%	7.6%	18.6%	31.4%	29.6%	30.5%
Michigan	3,935,041	47.1%	6.6%	18.6%	27.7%	28.7%	30.0%

Source: 2015-2019 American Community Survey 5-Year Estimates

municipalities, the new housing units are being built to accommodate the demand for housing created by lower household sizes despite an overall decline in populations.

In 2010, Linden featured 1,552 total households (Table 6). Consistent with the city’s growing population, the number of households is expected to increase to 1,679 by 2026. However, the average household size in Linden is expected to decline slightly, from 2.51 in 2010 to 2.50 in 2026. Similar declines in average household size are expected in Fenton Township, Genesee County and Michigan.



## Household Characteristics

This section examines households in terms of the relationships among the persons who share a housing unit. **Table 7** examines four different household types based on relationship:

- Married-couple families
- Cohabiting couple household
- Male householder, no spouse/partner present
- Female householder, no spouse/partner present

In 2019, more than half (53.1%) of Linden households were married-couple families. The second largest household type was female householder with no spouse/partner present (22.1%). Linden’s household characteristics are in line with the other units of government compared in **Table 7**, except that Linden has the highest percentage of cohabiting couple households at 10.1%.

In 2019, of all households, 34.0% contained one or more persons under 18 years of age, while 38.2% contained one or more persons 65 years and over. Compared to the other units of government in **Table 7**, Linden has the highest percentage of households with one or more persons under 18 years of age at 34.0%. Linden’s percentage of households with one or more persons 65 years and over is comparable to Fenton Township, but much higher than Genesee County and Michigan.

## Housing

In line with Linden’s population growth, the total number of housing units within the city has increased since 2010 and will continue to increase through 2026 (**Table 8**). In 2010, Linden featured 1,695 total housing units; by 2026, this figure will grow to 1,769, a growth rate of 4.4%. This is a higher growth rate than Fenton Township and Genesee County, but is slightly lower than the State of Michigan at 5.5%.

## Housing Occupancy and Tenure

Housing occupancy measures the number of occupied housing units and vacant housing units. Tenure identifies whether those occupied units are inhabited by renters or homeowners. Occupancy and tenure data is shown in **Table 9**. As of 2021, over 95% of Linden’s available housing is occupied, while only 4.4% is vacant. Generally, a healthy housing market will feature a vacancy rate of approximately 5% to ensure there is sufficient available housing stock. Since Linden’s vacancy rate is below 5%, it may suggest a tight housing market with insufficient available housing. Fenton Township, Genesee County and the State of Michigan have much higher rates of vacancy than the City of Linden.

Among those housing units that are occupied in Linden, the majority (82.5%) are occupied by owners as opposed to renters. A very high owner-occupancy rate (89.4%) is also found in neighboring Fenton Township. High rates of home ownership generally mean that a community has stable and well-kept neighborhoods.

**Table 8: Total Housing Units, 2010-2026**

Total Housing Units				
Unit of Government	Year			
	2010	2021	2026	% Change, 2010-2026
City of Linden	1,695	1,749	1,769	4.4%
Fenton Township	6,616	6,751	6,809	2.9%
Genesee County	192,180	193,192	194,435	1.2%
Michigan	4,532,233	4,692,971	4,779,956	5.5%

Source: 2021 ESRI Housing Profiles

**Table 9: Housing Occupancy and Tenure, 2021**

Housing Occupancy and Tenure							
Unit of Government	Total Housing Units	Occupied Housing Units				Vacant Housing Units	
		#	% of Total Units	% Owner Occupied	% Renter Occupied	#	% of Total Units
<b>City of Linden</b>	<b>1,749</b>	<b>1,672</b>	<b>95.6%</b>	<b>82.3%</b>	<b>17.7%</b>	<b>77</b>	<b>4.4%</b>
Fenton Township	6,751	6,293	93.2%	89.4%	10.6%	458	6.8%
Genesee County	193,192	166,855	86.4%	70.5%	29.5%	26,337	13.6%
Michigan	4,692,971	3,999,335	85.2%	71.7%	28.3%	693,636	14.8%

Source: 2021 ESRI Housing Profiles

**Table 10: Type of Housing, 2019**

Housing Units by Type						
Unit of Government	Total Housing Units	% of Total Housing Units by Units in Structure				
		1-Unit, Detached	1-Unit, Attached	2-4 Units	5 or More Units	Mobile Home, Boat, RV, van, etc.
<b>City of Linden</b>	<b>1,618</b>	<b>75.2%</b>	<b>4.0%</b>	<b>4.4%</b>	<b>4.2%</b>	<b>12.3%</b>
Fenton Township	6,392	88.6%	3.8%	1.8%	2.5%	3.3%
Genesee County	192,290	74.1%	5.1%	3.2%	12.6%	5.1%
Michigan	4,596,198	72.2%	4.6%	4.9%	12.9%	5.3%

Source: 2015-2019 American Community Survey 5-Year Estimates

## Housing Types

Future planning for housing begins with an understanding of the current distribution of housing types within a community. The U.S. Census Bureau separates housing units into five different categories: 1-unit detached structures (i.e., single-family detached homes), 1-unit attached structures (i.e., townhouses), units in 2-4 unit structures (i.e., duplex units), units in 5 or more unit structures (i.e., apartment buildings), and mobile home, boat, RV, van, etc. **Table 10** shows the distribution of housing units for the city, Fenton Township, and Genesee County based on the 2015-2019 American Community Survey estimates.

At this time, Linden’s housing stock is primarily single-family detached dwelling units (75.2%). The second largest percentage is mobile home units (12.3%) primarily situated in the Shiawassee Shores Retirement Park community. Linden’s percentage of single-family detached units is comparable to Genesee County and the state, but is considerably lower than Fenton Township (88.6%). Linden’s percentage of mobile home units is

higher than all other units of government compared in **Table 10**. Linden contains a relatively small percentage of single-family attached units, units in 2-4 unit structures, and units in 5 or more unit structures.

## Age of Structures

Analyzing the age of housing units is a way to measure the physical quality of the housing stock of a community. Housing units are divided into categories according to the year the structure was built. These grouping are helpful in determining the economic viability of housing structures. Additionally, the age of a community’s housing stock may indicate the need for rehabilitation, lead-paint abatement, and changing needs of the community. Any unit built prior to 1950 is likely in need of some level of housing repairs or rehabilitation. Homes built before 1980 are also more likely to have lead-based paint hazards. At the same time, some of the older housing in a community may be highly desirable due to the historical or architectural value.

Based on data from 2019, of the 1,618 total housing units in Linden, the largest percentage (34.8%) were built between 1980 and 2000. This is the highest percentage of all governments compared in **Table 11**. The second largest percentage (21.5%) were built in 2000 or more recently. These figures reflect a relatively high percentage of newer housing units, especially compared to Genesee County and the State of Michigan. Even so, more than 20% of the city’s housing stock was built in 1959 or earlier. Many of these units are historic homes located in the core of the city.

## Housing Values

Analyzing housing values could be the best way to determine both the quality and affordability of housing. It is of crucial importance that a community maintains quality, affordable housing for its current residents and for potential residents.

As shown in **Table 12**, in 2021, Linden had a healthy median value of \$193,552, which was higher than both Genesee County (\$150,115) and the state (\$188,958). The median housing value in Linden is expected to increase to \$217,056 by 2026, a change of 12.1% from 2021. Although it is positive to see an increase in median housing value over the next 5 years, Linden’s rate

of change is somewhat less than what is expected in Fenton Township (13.3%), Genesee County (20.3%) and Michigan (18.3%).

## Housing Affordability

The housing stock in a community should be affordable to its residents. If housing costs are prohibitive, housing needs remain unmet in spite of housing unit availability.

One method to measure housing affordability is to determine monthly housing costs as a percentage of household income. Generally, if a household is paying more than 30% of household income for housing (mortgage or rent, plus utilities), they are considered “cost burdened.” For Linden, monthly owner cost figures are provided by the U.S. Census based on American Community Survey sample counts between 2015 and 2019. Based on a sample of 858 housing units with a mortgage, 16.6% of owners in Linden paid more than 30% of their household income on housing costs. This percentage for Linden was lower than the nation-wide average of 27.8% for the same period. Based on a sample of 198 units paying rent, 36.4% of renters in Linden paid more than 30% of their household income on housing costs. This percentage for Linden was lower than the nation-wide average of 49.6% for the same period.

**Table 11: Age of Housing, 2019**

Year Structure Built						
Unit of Government	Total Housing Units	% Built 1939 or Earlier	% Built 1940 to 1959	% Built 1960 to 1979	% Built 1980 to 2000	% Built 2000 or Later
<b>City of Linden</b>	<b>1,618</b>	<b>12.3%</b>	<b>10.6%</b>	<b>20.8%</b>	<b>34.8%</b>	<b>21.5%</b>
Fenton Township	6,392	7.0%	9.7%	27.2%	32.7%	23.4%
Genesee County	192,290	11.6%	25.8%	32.9%	19.1%	10.5%
Michigan	4,596,198	14.8%	22.5%	27.3%	23.1%	12.3%

Source: 2015-2019 American Community Survey 5-Year Estimates

**Table 12: Housing Value, 2021-2026**

Median Value of Owner-Occupied Units			
Unit of Government	2021	2026	% Change, 2021-2026
<b>City of Linden</b>	<b>\$193,552</b>	<b>\$217,056</b>	<b>12.1%</b>
Fenton Township	\$270,026	\$305,925	13.3%
Genesee County	\$150,115	\$180,525	20.3%
Michigan	\$188,958	\$223,569	18.3%

Source: 2021 ESRI Housing Profiles

**Table 13: Income, 2021-2026**

Median Household Income			
Unit of Government	2021	2026	% Change, 2021-2026
<b>City of Linden</b>	<b>\$72,587</b>	<b>\$79,787</b>	<b>9.9%</b>
Fenton Township	\$91,676	\$101,722	11.0%
Genesee County	\$50,805	\$54,892	8.0%
Michigan	\$58,537	\$64,549	10.3%

Source: 2021 ESRI Demographic and Income Profiles

Although the percentage of housing cost burdened households in Linden may not be as high as the national average, housing affordability remains a local concern. This is especially true as home values and rents have risen in recent years due to a competitive housing market, and now most recently by the Covid pandemic-induced run on housing. According to recent data, the median home price in the U.S. rose roughly 30% over the last decade, yet incomes increased by only 11% over the same period.<sup>1</sup> This trend is expected to continue within Linden over the next 5 years. Linden’s median value of owner-occupied housing is expected to increase by 12.1% between 2021 and 2026, while its median household income is only expected to increase by 9.9% over the same period (refer to **Tables 12 and 13**).

### Income and Poverty

Income and poverty level data are a good way to measure the relative economic health of a community. **Table 13** shows median household incomes for Linden, Fenton Township, Genesee County and Michigan. Median household income is a measure of the average of the total incomes of the persons living in a single household. The average annual median household income in Linden was \$72,587 in 2021, which was higher than the county and state, but lower than

Fenton Township. Linden’s median household income is expected to increase to \$79,787 by 2026, a change of 9.9% from 2021.

**Table 14** shows the percentage of people below the poverty line for Linden, Fenton Township, Genesee County and Michigan in 2019. Of the total population in Linden, approximately 6.5% is living below the federal poverty level. This value is lower than the county and state-wide percentage of 18.9% and 14.4%, respectively, but greater than the neighboring Fenton Township at 4.9%.

### Educational Attainment

Educational attainment is an important factor in analyzing the capabilities of the local work force and the economic vitality of the community. The educational attainment of the citizens of a community plays a major role in determining what types of industries are suitable or necessary. **Table 15** illustrates the educational attainment levels for the City of Linden as well as the surrounding Fenton Township, Genesee County and Michigan.

As of 2019, of the population 25 years and over, nearly 95% of Linden residents had graduated high school or a higher degree. This percentage was slightly lower than

**Table 14: Poverty, 2019**

Poverty Status		
Unit of Government	% of Persons Below Poverty Level	% of Persons Age 65+ Below Poverty Level
<b>City of Linden</b>	<b>6.5%</b>	<b>4.8%</b>
Fenton Township	4.9%	3.9%
Genesee County	18.9%	9.1%
Michigan	14.4%	8.4%

Source: 2015-2019 American Community Survey 5-Year Estimates

**Table 15: Educational Attainment, 2019**

Educational Attainment			
Unit of Government	Population 25 Years and Over	% High School Graduate or Higher	% Bachelor's Degree or Higher
<b>City of Linden</b>	<b>2,685</b>	<b>94.7%</b>	<b>31.5%</b>
Fenton Township	11,110	95.5%	41.0%
Genesee County	279,412	90.6%	21.2%
Michigan	6,813,480	90.8%	29.1%

Source: 2015-2019 American Community Survey 5-Year Estimates

Fenton Township but higher than both the county and state. More than 30% of Linden residents had obtained a Bachelor’s Degree or a higher degree. This percentage also was lower than Fenton Township but higher than both the county and state.

### Employment

The ESRI Civilian Labor Force Profiles present employment data for Linden’s citizens. In 2021, only 55.7% of the total population in Linden was in the workforce, suggesting that many residents are of retirement age, or are children. Of the workforce population, a total of 144 were unemployed while 3,606 were employed. Linden’s unemployment rate of 3.8% is lower than both Genesee County (6.2%) and Michigan (5.8%).

Analyzing employment by industry is a good way to gain insight into the types of occupations that employ the city’s citizens. **Table 16** details the percentages of people within each employment industry in Linden, Fenton Township, Genesee County and Michigan in 2021. In Linden, the healthcare/social assistance sector employs the highest percentage of citizens (22.6%), followed by manufacturing (16.6%), and construction (10.5%). Linden’s percentages in the healthcare/social assistance and construction industries are higher than all other units of government compared in the table.

**Table 17** shows employment data by occupation, providing a deeper understanding of local and regional employment conditions in 2021. Approximately 65% of the employed citizens in Linden are in “white collar” occupations. Examples of white collar occupations include management, financial, social services, health care, education and the arts. Approximately 25% of employed residents are in “blue collar” occupations, such as construction, production, and transportation. The remaining 10% of employed citizens are in “service”

occupations, such as food services and personal care services. For Linden’s employed citizens, the largest single occupational categories include management (12.5%), healthcare support (12.3%) and healthcare practitioner (8.2%).

### Commuting Habits

**Table 18** shows the travel time to work for those who commute to a job and live in Linden, Fenton Township, Genesee County and Michigan. This data provides information about the location of jobs in the region, identifying what percentage of Linden residents must travel outside of the local area for employment. Just over 50% of Linden residents who commute to work have a commute of 30 minutes or less. Slightly more than 30% have a 30 to 59 minute commute, while nearly 20% have a commute of 60 minutes or more.

The mean travel time to work is 31.5 minutes, suggesting that most people do not have to travel too far outside of the city to get to work. However, Linden’s mean travel time is the highest of all units of government compared in the table.

#### Chapter Footnotes:

1. “Home prices are now rising much faster than incomes, studies show.” CNBC. November 10, 2021. Web link: <https://www.cnbc.com/2021/11/10/home-prices-are-now-rising-much-faster-than-incomes-studies-show.html>



**Table 16: Employment by Industry, 2021**

Employment by Industry				
Category	Unit of Government			
	City of Linden	Fenton Township	Genesee County	Michigan
<b>Total Employed</b>	<b>1,803</b>	<b>7,751</b>	<b>166,085</b>	<b>4,665,828</b>
<b>Percent of Total Employed by Industry:</b>	<b>99.9%</b>	<b>100.0%</b>	<b>99.9%</b>	<b>99.9%</b>
Agriculture/Forestry/Fishing	0.3%	0.1%	0.4%	1.0%
Mining/Quarrying/Oil & Gas	0.0%	0.0%	0.0%	0.1%
Construction	10.5%	4.3%	5.9%	5.8%
Manufacturing	16.6%	18.9%	16.6%	18.3%
Wholesale Trade	3.7%	3.1%	2.1%	2.4%
Retail Trade	5.9%	11.8%	12.5%	10.4%
Transportation/Warehousing	2.8%	2.2%	4.3%	3.9%
Utilities	0.0%	1.1%	0.7%	0.8%
Information	0.4%	0.9%	1.2%	1.2%
Finance/Insurance	4.3%	5.7%	3.6%	4.4%
Real Estate/Rental/Leasing	1.1%	1.8%	1.8%	1.6%
Professional/Scientific/Tech	6.9%	4.3%	4.7%	6.4%
Management of Companies	0.0%	0.0%	0.1%	0.1%
Admin/Support/Waste Management	0.9%	1.7%	3.5%	3.3%
Educational Services	7.7%	8.6%	8.3%	8.7%
Health Care/Social Assistance	22.6%	20.9%	18.7%	15.8%
Arts/Entertainment/Recreation	1.1%	1.9%	1.2%	1.4%
Accommodation/Food Services	6.6%	6.1%	6.3%	6.1%
Other Services (Excluding Public)	8.5%	2.9%	4.7%	4.4%
Public Administration	0.0%	3.7%	3.3%	3.8%

Source: 2021 ESRI Civilian Labor Force Profiles

**Table 18: Commuting Habits, 2019**

Travel Time to Work					
	Less than 10 minutes	10 - 29 Minutes	30 - 59 Minutes	60 Minutes or More	Mean Travel Time to Work (minutes)
<b>City of Linden</b>	<b>12.3%</b>	<b>38.4%</b>	<b>30.8%</b>	<b>18.4%</b>	<b>31.5</b>
Fenton Township	8.7%	48.5%	28.4%	14.3%	30.8
Genesee County	12.9%	54.7%	21.8%	10.4%	26.2
Michigan	13.6%	53.0%	27.1%	6.3%	24.6

Source: 2015-2019 American Community Survey 5-Year Estimates

Table 17: Employment by Occupation, 2021

Employment by Occupation				
Category	Unit of Government			
	City of Linden	Fenton Township	Genesee County	Michigan
<b>Total Employed</b>	<b>1,803</b>	<b>7,751</b>	<b>166,085</b>	<b>4,665,828</b>
<b>White Collar</b>	<b>65.2%</b>	<b>75.5%</b>	<b>62.4%</b>	<b>64.4%</b>
Management	12.5%	16.9%	9.2%	11.1%
Business/Financial	3.7%	4.2%	4.2%	5.6%
Computer/Mathematical	0.0%	2.7%	2.4%	3.2%
Architecture/Engineering	5.6%	3.6%	2.3%	3.0%
Life/Physical/Social Sciences	0.7%	1.1%	0.4%	0.9%
Community/Social Service	1.1%	1.2%	1.9%	1.9%
Legal	0.6%	0.8%	0.6%	0.9%
Education/Training/Library	5.0%	6.1%	5.2%	5.2%
Arts/Design/Entertainment	0.4%	1.3%	1.3%	1.6%
Healthcare Practitioner	8.2%	13.9%	8.5%	7.3%
Healthcare Support	12.3%	2.6%	5.4%	3.8%
Sales and Sales Related	5.1%	13.4%	9.7%	8.9%
Office/Administrative Support	10.0%	7.7%	11.3%	11.0%
<b>Blue Collar</b>	<b>25.3%</b>	<b>15.0%</b>	<b>26.0%</b>	<b>24.4%</b>
Farming/Fishing/Forestry	0.0%	0.2%	0.2%	0.5%
Construction/Extraction	7.5%	2.6%	4.7%	4.4%
Installation/Maintenance/Repair	2.6%	1.9%	3.4%	3.0%
Production	7.5%	5.0%	8.6%	8.5%
Transportation/Material Moving	7.7%	5.3%	9.1%	8.0%
<b>Services</b>	<b>9.7%</b>	<b>9.6%</b>	<b>11.6%</b>	<b>11.2%</b>
Protective Service	0.0%	2.6%	1.8%	1.6%
Food Preparation/Serving	4.7%	4.4%	4.7%	4.7%
Building Maintenance	2.1%	1.7%	3.1%	3.2%
Personal Care/Service	2.9%	0.9%	2.0%	1.7%

Source: 2021 ESRI Civilian Labor Force Profiles

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# Natural Resources Assessment

The natural environment plays a major role in land development. It can significantly impact development; for example, a steep slope may prohibit the construction of any structure. Conversely, the natural environment can be affected by land development. An example of this is the increased erosion potential caused by clearing vegetation. Thus, when preparing a Future Land Use Plan, it is important to examine the natural environment in order to determine where development is best suited, and where it should be discouraged.

In any environmentally sensitive area within a community, development should be prevented. Environmentally sensitive areas are lands whose destruction or disturbance will affect the life of a community by either:

1. Creating hazards such as flooding or slope erosion.
2. Destroying important public resources such as groundwater supplies and surface water bodies.
3. Wasting productive lands and non-renewable resources such as prime farmland and natural habitats like wetlands.

Each of these effects is detrimental to the general welfare of a community, resulting in social and economic loss.





The purpose of this section is twofold. First, the goal is to identify areas in the city that are best suited for development. The focus is on areas that will minimize development costs and provide amenities without adversely impacting the existing natural systems. The second goal is to identify land that should be conserved in its natural state and is most suitable for preservation, open space, or recreation purposes.

Climate, topography, woodlands, wetlands, water bodies, and soil conditions are among the most important natural features impacting land use in the City of Linden.

## Climate

The climate of Genesee County is seasonal, as the region experiences considerable changes in temperatures and precipitation throughout the year. The average temperature in January ranges from 15 to 30 degrees Fahrenheit. In July, the temperature ranges from 59 to 82 degrees Fahrenheit. The county experiences an average of 7 days with temperatures below 0 degrees Fahrenheit, while the county experiences an average of 5.2 days with temperatures above 90 degrees Fahrenheit. The growing season in Genesee County lasts about 165 days, on average. In terms of annual precipitation, Genesee County averages around 32 inches of rainfall and around 37 inches of snowfall per year.

## Climate Change Vulnerabilities

Climate change is an important challenge facing municipalities nationwide and globally. Understanding the way climate change impacts the City of Linden will allow for a deeper understanding of the localized affects, and promote realistic, place-based solutions. The Fourth National Climate Change Assessment, produced in 2018, outlines the key threats and mitigation strategies for each region of the United States. Located in the Midwest, the city can expect to see increased local humidity and precipitation due to increases in global temperatures.

Midwest communities are becoming increasingly susceptible to flood events, droughts, and decreased air quality. This will impact not only agricultural productivity, but also critical infrastructure like storm water management, and human health.

To mitigate the impact of these climate change related stressors, Linden may engage in responsible regionalism. It suggests that municipalities coordinate the shared use of resources, designate growth areas, restore, connect, and protect natural environments, plan for green infrastructure, and endeavor to reduce carbon footprints. Responsible regionalism is both an environmentally and financially productive method to planning, as it promotes the sharing of natural and built resources (such as housing), lessens the burden of development, and encourages coordination across governments.

## Topography

The overall topography of the City of Linden can be characterized as generally flat. Within Linden, elevations range from a low of about 860 feet above level to a high of approximately 920 feet above sea level, for a total elevation change of about 80 feet. **Map 1** shows the topography of the City of Linden using graduated contour lines on top of a parcel map of the city.

In general, the lowest elevations are found in the central and western areas of the city and along the Linden Mill Pond and the Shiawassee River. Hills and higher elevations are located in the northeastern and southeastern parts of the city. There are very few steep hills in the city; as such, the gently sloping hills or flat areas that characterize the majority of the city pose few constraints to any future land development.

## Woodlands

Woodlands are not a prominent natural feature in the city. The largest wooded area in the city is in the area of Eagle's Wooden Park and along the Shiawassee River. Other scattered woodlands are found throughout the city. The woodlands of Eagle's Wooden Park and other lands along the Shiawassee River offer many opportunities for scenic and recreation attraction. Additionally, mature street trees and neighborhood trees are prevalent throughout the city's neighborhoods.

## Wetlands

Wetlands are an extremely important, though commonly overlooked, natural resource that provides both aesthetic and functional benefits. Through the years, over 50% of Michigan's wetlands have been destroyed by development and agricultural activities. Therefore, the State of Michigan enacted Part 3030, Wetlands

July 2021

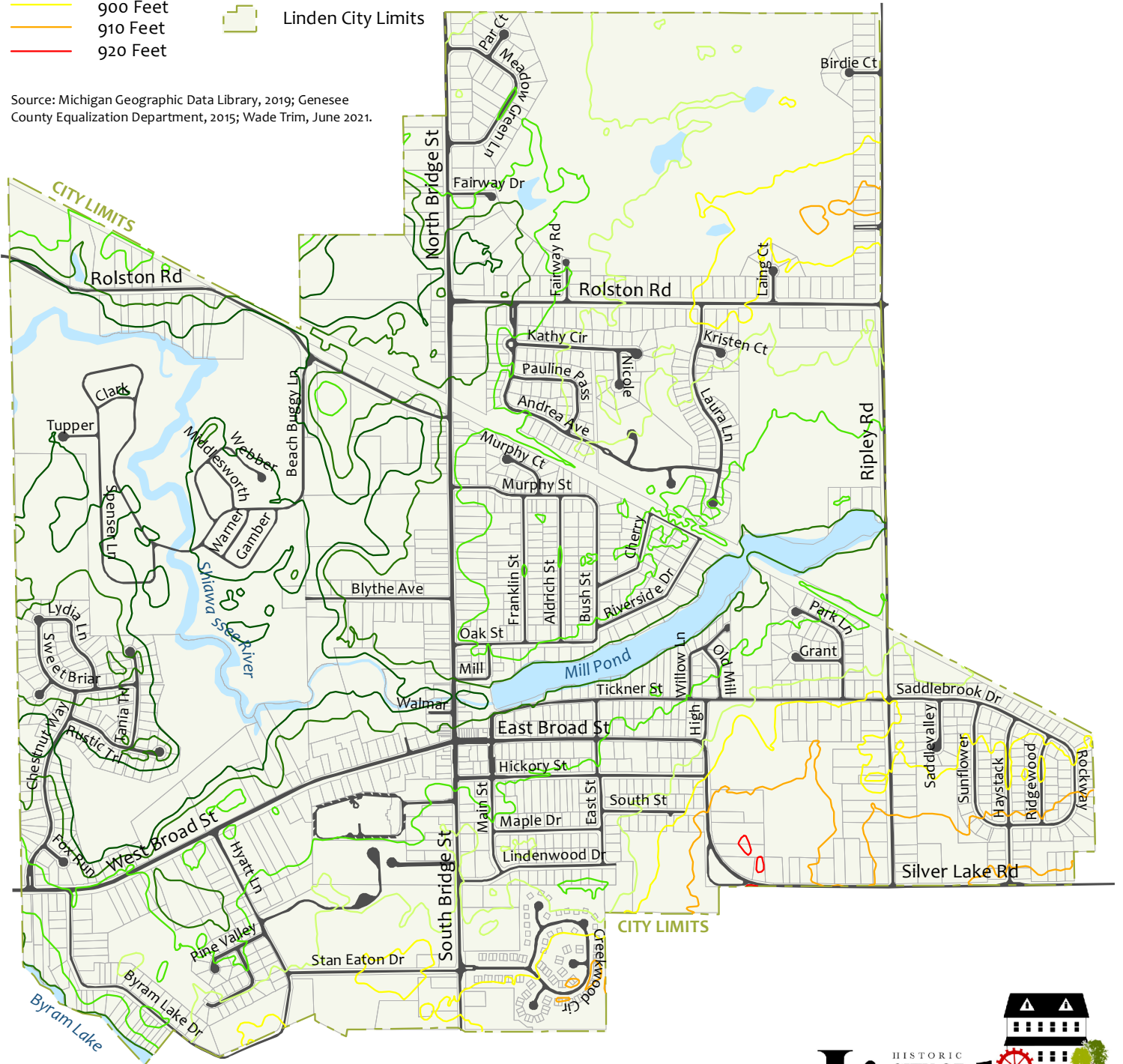


Contours:

- 860 Feet
- 870 Feet
- 880 Feet
- 890 Feet
- 900 Feet
- 910 Feet
- 920 Feet

- Streets
- Parcels
- Rivers and Streams
- Water Bodies
- Linden City Limits

Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.



Protection, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994 to protect the remaining wetlands.

The wetland act authorizes the Michigan Department of Environment, Great Lakes, and Energy (MEGLE), to preserve certain wetland areas. The MEGLE may require permits before altering regulated wetlands and may prohibit development in some locations.

The MEGLE defines and regulates wetlands as “land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.” MEGLE reserves the right to regulate wetlands if they are any of the following:

- Connected to one of the Great Lakes or Lake St. Clair
- Located within 1,000 feet of one of the Great Lakes or Lake St. Clair
- Connected to an inland lake, pond, river, or stream
- Located within 500 feet of an inland lake, pond, river or stream
- Not connected to one of the Great Lakes or Lake St. Clair, or an inland lake, pond, stream, or river, but are more than 5 acres in size
- Not connected to one of the Great Lakes or Lake St. Clair, or an inland lake, pond, stream, or river, and less than 5 acres in size, but MEGLE has determined that these wetlands are essential to the preservation of the state’s natural resources and has notified the property owner

Any wetlands in the city not meeting the criteria for wetlands as defined by MEGLE can be protected by local control techniques. Such techniques include a local wetland ordinance, policies in this Master Plan directing incompatible land uses away from wetlands, and specific wetlands provisions in the Zoning Ordinance.

As shown on **Map 2**, Linden has one major concentration of wetlands located west of North Bridge Street, south of West Rolston Road, and north of West Broad Street. There are additional small pockets of wetlands throughout the city.



Linden Mill Pond



## Water Bodies

The City of Linden is home to two primary natural water bodies. The two bodies, the Linden Mill Pond and the Shiawassee River, connect to one another and run transverse across the central part of the city. To the west, the Shiawassee River continues to meander through Genesee County, connecting to Shiawassee Lake and beyond. To the east, the Linden Mill Pond connects to Tupper Lake and Lake Ponemah in Fenton Township. These water bodies are part of the Shiawassee River State and National Water Trail and serve as a focal point for the town and for recreation opportunities. Residents and visitors enjoy the waterway for kayaking, fishing, swimming, and more; the water bodies are accompanied by hiking trails and pathways to restaurants, entertainment, and other local amenities.

## Soil Associations

Soil characteristics help define the land’s capacity to support certain types of land uses. Soils most suitable for development purposes are well drained and are not subject to a high water table. Adequate drainage is important for minimizing stormwater impacts and maximizing the efficient operation of septic drain fields. Adequate depth to the water table is necessary to prevent ground water contamination from septic systems. A high water table also limits the construction of basements. Though civil engineering techniques can be employed to improve drainage and maintain adequate separation from the water table, such techniques are expensive to construct and maintain.



July 2021



Wetlands:

Emergent

Flat

Forested

Scrub-Shrub

Floodplains

Streets

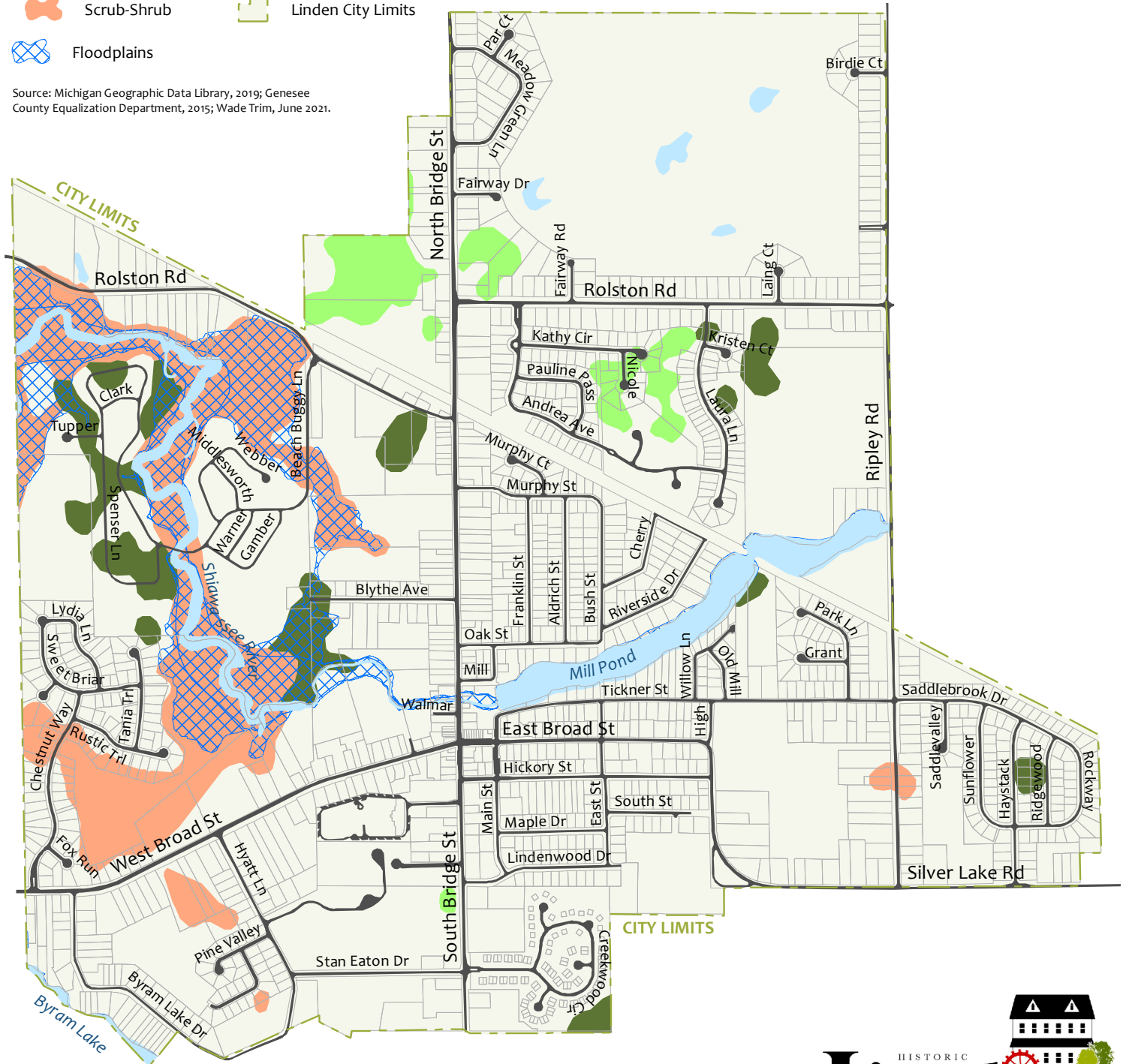
Parcels





Rivers and Streams

Water Bodies

Linden City Limits

Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.




-  Rivers and Streams
-  Water Bodies
-  Linden City Limits
-  Parcels

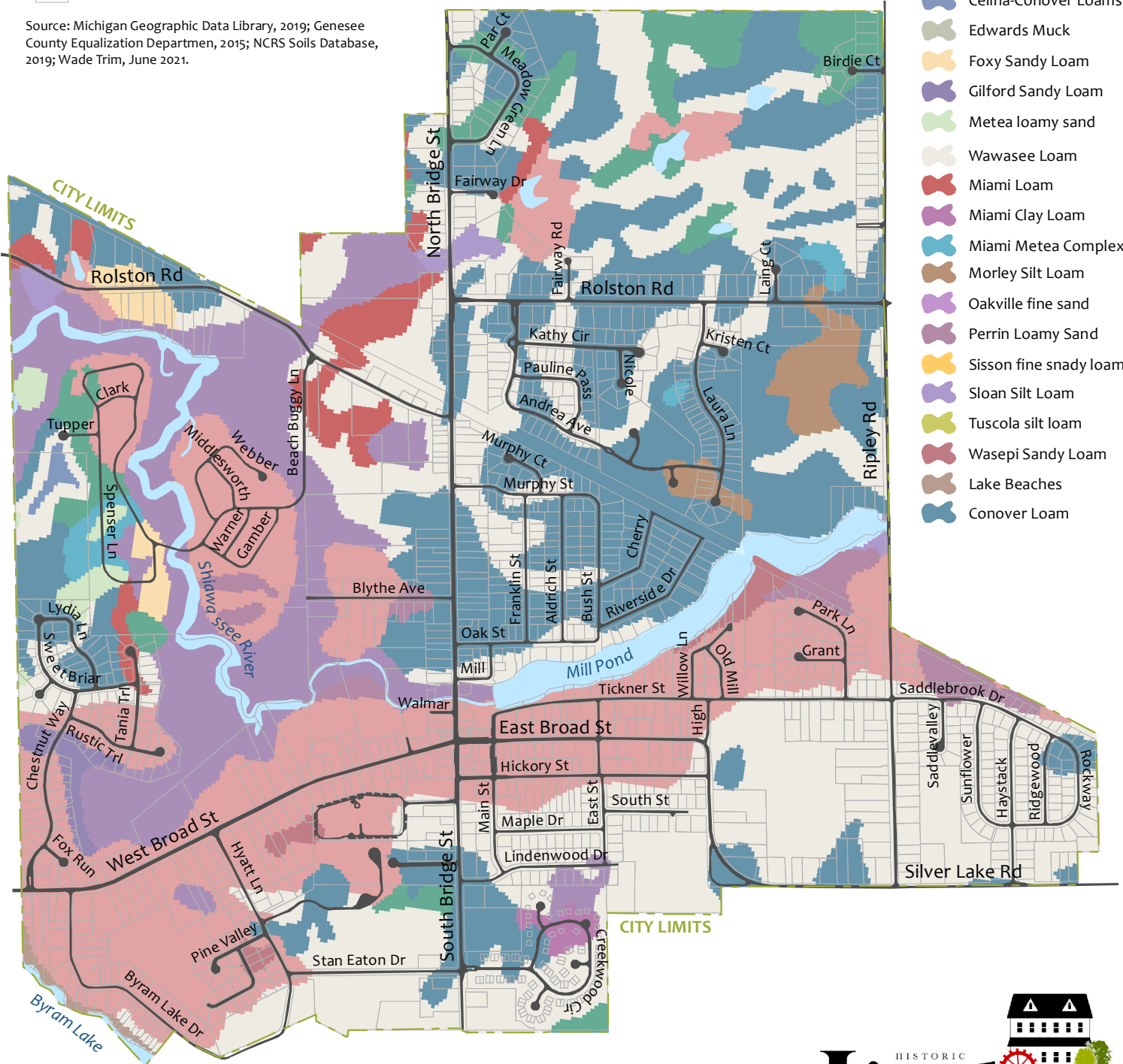
Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; NCRS Soils Database, 2019; Wade Trim, June 2021.

July 2021

0 500 1,000 Feet



- Soil Associations:**
-  Boyer Loamy Sand
  -  Brookston Loam
  -  Carlisle & Linwood Mucks
  -  Celina-Conover Loams
  -  Edwards Muck
  -  Foxy Sandy Loam
  -  Gilford Sandy Loam
  -  Metea loamy sand
  -  Wawasee Loam
  -  Miami Loam
  -  Miami Clay Loam
  -  Miami Metea Complex
  -  Morley Silt Loam
  -  Oakville fine sand
  -  Perrin Loamy Sand
  -  Sisson fine sandy loam
  -  Sloan Silt Loam
  -  Tuscola silt loam
  -  Wasopi Sandy Loam
  -  Lake Beaches
  -  Conover Loam





According to the 1972 Soil Survey of Genesee County, there are eight primary soil associations within the County. The locations of specific soil types (those that, combined make up a distinctive pattern of soil, known as a soil association) are shown in **Map 3**.

As mentioned, each soil association is composed of several soil series. The series in one soil association may also be found in a different soil association, but in a different pattern or combination. A description of the eight soil associations within the City of Linden follows, including an analysis of each associations potential for land use and development (**Table 19**).



**Table 19: Soil Associations**

City of Linden Soil Associations	
Soil Association Name	Description
Conover-Brookston association	This soil association is composed of level to gently sloping, somewhat poorly drained and poorly drained loams that have a clay loam subsoil on till plains. Soils of this association are best suited to intensive farming uses, and limit residential development due to the high water table, which can interfere with the functioning of septic systems and drainage.
Celina-Concover-Miami association	This association is made of level to sloping, somewhat poorly drained to well-drained loams that have a clay loam subsoil on uplands, which are best suited to some controlled farming for common crops. Additionally, some residential development and highway developments may be hindered due to the soils high water table and frost heaving.
Miami-Metea-Muck association	These soils are made of undulating to rolling, well-drained loams and loamy sands that have a clay loam to loamy sand subsoil on uplands and a very poorly drained muck soils in potholes and swales. In terms of development, this soil association has a tendency to slope, erode, and turn to muck. These features make development difficult, except for some farming activities.
Del Rey-Lenawee association	This soil association is composed of level to gently sloping, somewhat poorly drained and poorly drained silt loams and silty clay loams that have a silty clay loam subsoil on lake plains. This soil can be managed to control drainage, but may still pose problems for residential development since the water table is high and close to the surface.
Pinconning-Allendale-Lenawee association	This soil association is comprised of level and nearly level, poorly drained and somewhat poorly drained loamy fine sands underlain by silty clay, and soils that are silty clay loam throughout on lake plains. These soils can be too wet and have limited uses for farming; residential and highway development uses are severely limited due to the continual wetting and drying of underlying clays.
Granby-Gilford association	These soils are level, poorly drained loamy sands underlain by sands and sandy loams that have a dominantly coarse sandy loam subsoil underlain by sand and gravel on lake plains. Soils of this association have limited fertility and are not ideal for farming uses. Commercial sand and gravel sites are best suited for these soils.
Spinks-Metea-Miami association	This association is comprised of undulating to rolling, well-drained loamy sands that have a dominantly sand and loamy sand subsoil, and loams that have a clay loam subsoil on uplands. These soils tend to be susceptible to erosion and droughty, limiting their uses for farming. These soils can be steep, but where they are level, they are well-suited for recreational and residential uses.
Boyer-Spinks-Ceresco-Cohoctah association	This soil association is composed of nearly level to gently sloping, well-drained loamy sands that have a dominantly sand to sandy loam subsoil, on outwash plains and terraces, and level, somewhat poorly drained and very poorly drained fine sandy loams underlain by fine sandy loams to sand on bottom lands. These soils can accommodate a variety of uses, including farming, fill material, highways, streets, and residential developments. There can be limitations for residential and recreational uses due to risks of flooding and high water tables.

Source: General Soils Map of Genesee County, Michigan (1972), provided by the USDA Soils Conservation Service

# Existing Land Use Analysis

The rational application of the planning process for the Future Land Use Plan is possible only when a clear understanding of existing conditions of relationships between land uses. Knowledge of existing land development furnishes the basic information by which decisions can be made concerning proposals for future residential, commercial, industrial, and public land use activities. The Existing Land Use Map and Table, included in this section of the report, will serve as a ready reference for the city in its consideration for land use management and public improvement proposals.

## Survey Methodology

A computer-generated base map for the city was first created using digital information from the Michigan GIS Open Data portal and other online data sources. The base map includes the city boundary line, streets and water bodies. Property boundary line data was acquired from Genesee County. A parcel-by-parcel field survey of the city was conducted during the last master plan process in 2011, and was updated by Wade Trim using online technologies in 2021. Each land use was recorded on the base map according to a predetermined land use classification system. Collectively, this information created the Existing Land Use Map (**Map 4**). City officials reviewed the map for accuracy. Land use acreages were then derived directly from the digital information (**Table 20**).





## Land Use Analysis

Below is a description of each existing land use category found within the city.

### Single-Family Residential

This land use category includes land occupied by single-family dwelling units, including both detached and attached units, seasonal dwellings, mobile homes outside of designated mobile or manufactured home parks, and their related accessory buildings such as garages and sheds.

In total, single-family residential lands comprise 555.3 acres or 36.1% of the city. Older, historic neighborhoods are found immediately adjacent to downtown Linden. These include homes situated on Bridge and Broad Streets, as well as homes along numerous local streets: Main, Oak, Mill, Tickner, Hickory, Maple, Lindenwood, East, South, Franklin, Aldrich and Bush. Many newer neighborhoods are found beyond the core neighborhoods and within the outskirts of the city. These include the Spring Meadows, Forest Ridge, Saddlebrook, Creekwood, Pine Valley, and Chestnut Grove neighborhoods.

### Multiple Family Residential

Multiple family residential use includes any residential properties that have two or more units. These include duplexes, triplexes, quadplexes and traditional apartments, along with their related accessory buildings such as garages and community buildings. The multiple family residential use category also includes senior assisted living facilities.



Single-family residential homes just outside of downtown Linden



In Linden, multiple family residential use occupies 35.3 acres or 2.3% of the city. Numerous duplex units are scattered within the city's older neighborhoods, particularly along Franklin and Aldrich Streets. Several small apartment complexes are also found within the city, but not in any concentrated area. A new senior housing attached residential community is under construction along North Bridge Street in the northern-most portion of the city. Symphony of Linden, a large assisted living and senior care facility, is found on the west side of South Bridge Street, southwest of downtown.

**Table 20: Existing Land Use, 2021**


Existing Land Use		
Land Use Category	Acres	Percent of Total
Single Family Residential	555.3	36.1%
Multiple Family Residential	35.3	2.3%
Manufactured Home Park	136.3	8.9%
Office	10.4	0.7%
Commercial	44.2	2.9%
Industrial	14.2	0.9%
Public/Semi-Public	102.5	6.7%
Open Space/Recreation	243.5	15.8%
Vacant/Rights-of-Way	369.5	24.0%
Water Bodies	27.0	1.8%
<b>Total</b>	<b>1,538.2</b>	<b>100.0%</b>










Source: Wade Trim Analysis, July 2021

-  Streets
-  Parcels
-  Rivers and Streams
-  Water Bodies
-  Linden City Limits

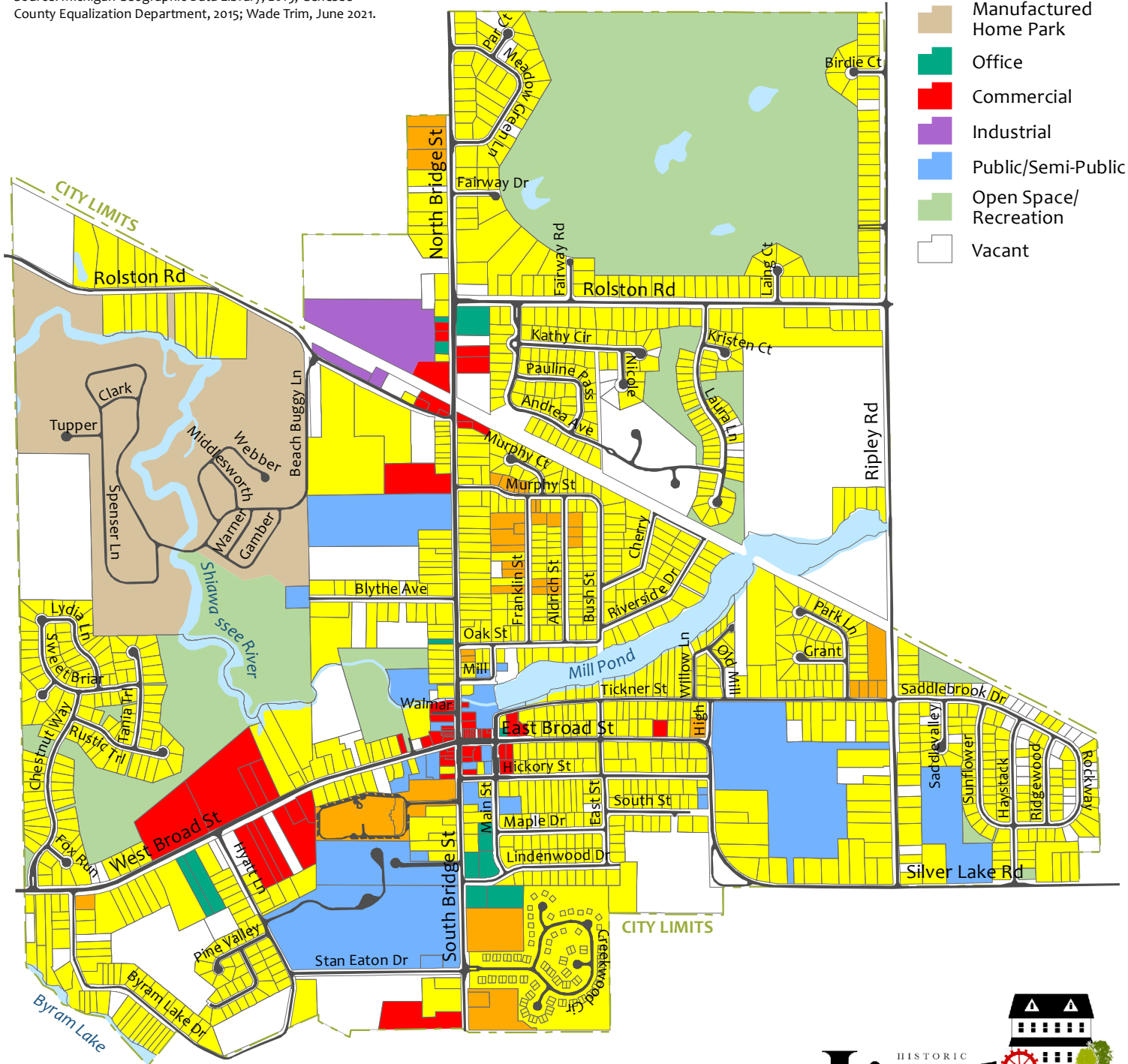
July 2021

0 500 1,000 Feet



- Existing Land Use:**
-  Single Family Residential
  -  Multiple Family Residential
  -  Manufactured Home Park
  -  Office
  -  Commercial
  -  Industrial
  -  Public/Semi-Public
  -  Open Space/Recreation
  -  Vacant

Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.





## Manufactured Home Park

The Shiawassee Shores Retirement Park is a large manufactured home community located in the northwestern portion of the city. This is the only property within this use category, which accounts for 136.3 acres or 8.9% of the city.

## Office

Offices such as financial institutions, professional offices, and clinics are included in this category. There are only a few office land uses within Linden, which make up 10.4 acres or 0.7% of the city. These office uses are primarily found along West Broad Street, South Bridge Street and North Bridge Street.

## Commercial

This land use category includes land that is predominantly of a commercial character, including retail sales establishments, grocery/convenience stores, service establishments (including personal, pet, business and automotive services), restaurants, entertainment venues, commercial child care centers, and mini-storage establishments.

There are three primary pockets of commercial activity in Linden, comprising 44.2 acres or 2.9% of land uses within the city. Downtown Linden has the greatest density of commercial activity within the city, featuring a variety of commercial establishments. Many buildings within downtown Linden feature a mixture of uses, including second story residential uses. The other two commercial concentrations are found along West Broad Street, near Hyatt Lane, and along North Bridge Street, between West Rolston and East Rolston Roads.

## Industrial

This land use category is comprised of land occupied by manufacturing industries, processing facilities, warehouses, and non-manufacturing uses which are primarily industrial in nature. Presently, no intensive manufacturing or processing facilities are located in Linden. Only a few uses of an industrial character are found in the northern portion of the City along West Rolston Road and North Bridge Street. These lands occupy 14.2 acres or 0.9% of the city.



Commercial uses in downtown Linden





## Public/Semi-Public

Public uses are land and facilities that are publicly operated and available for use by the public. Examples include schools, government buildings, water and sewer utilities, correctional facilities, and airports. Semi-public uses are land and facilities which may be privately owned or operated but used by the public or a limited number of persons. Examples include churches, cemeteries, and hospitals.

There are numerous public or semi-public uses throughout the city, comprising about 102.5 acres or 6.7% of the city. These include (also see **Map 7**):

- Loose Senior Center
- Linden Mills Community Building/Library
- City Hall
- Linden Presbyterian Church
- Linden United Methodist Church
- Masonic Temple
- VFW Post 4642
- U.S. Post Office
- City DPW yard
- Linden Elementary School
- Hyatt Elementary School
- Fairview Cemetery
- Faith Baptist Church
- Several city/utility service facilities (water towers, pump stations, substations, etc.)

## Open Space/Recreation

Several public and private recreational facilities and/or open spaces are included within this category. In total, these lands occupy 243.5 acres or 15.8% of the city. Several of these properties are conservation areas within residential subdivisions/condominiums. These are not necessarily “active” spaces, but are preserved as public open space. Active recreational facilities within the city include (also see **Map 7**):

- Eagle’s Wooden Park
- Triangle Park
- Kimble-Sharp Gazebo & Park
- Mill Pond Park



Linden City Hall



- Spring Meadows Golf Course/Country Club
- Shiawassee Shores Golf Course

## Vacant/Rights-of-Way

This category includes undeveloped lands in the city such as woodlots, wetlands, open fields, and vacant buildings/sites. Publicly owned road rights-of-way are also included in this category. In total, the vacant/rights-of-way category comprises 369.5 acres or 24.0% of the city.

## Water Bodies

This category includes the Linden Mill Pond and Shiawassee River, which total approximately 27 acres.



Kimble-Sharp Gazebo & Park



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# Community Facilities Analysis

The City of Linden, in conjunction with numerous governmental, institutional and private service agencies, provides a broad array of facilities and services to its residents to ensure the continued quality of urban life. These services and facilities have a range of functions including transportation, public safety, specialized social services, education, and parks and recreation. This section explores these community facilities and services in depth.

## Transportation

Mobility and accessibility are vital components of the social and economic wellbeing of a community. The traffic circulation system is, in a large sense, the framework upon which a community is built. This system must support the collective mobility of citizens and visitors of the City of Linden. The system must also be fully coordinated with the other elements of the master plan, particularly future land use, so as to complement the collective goals, objectives, and policies of the plan, and to ensure that residents can access needed services and employment opportunities.

## Regional Highway Network

The residents of the City of Linden have good access to the region and the state through major county roads, local roads, and nearby State and U.S. Highways. Although no State or U.S. highway passes through the city, several are located just outside its boundaries. To the east is U.S. Highway 23 and Interstate 75. To the north is Interstate 69; Interstate 96 and Michigan 59 are to the south. These highways provide easy access



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to other communities in the region, such as Durand, Grand Blanc, Brighton, Howell, and Owosso. These highways also provide access to the major metropolitan areas of the state as well as the entire Midwest. Major cities located within a one-half day driving distance from the city include:

- Flint – 20 miles
- Ann Arbor – 40 miles
- Saginaw – 50 miles
- Lansing – 60 miles
- Detroit – 70 miles
- Toledo – 100 miles
- Grand Rapids – 115 miles
- Kalamazoo – 140 miles
- Chicago – 280 miles

Responsible regionalism, coordination with other local and county-wide transportation plans are extremely important in order to ensure and enhance inter-regional connections. Additionally, regional planning for transportation may be beneficial for future regional transportation investments.

## Local Transportation Network

**Map 5** shows the current transportation network of the City of Linden. All roads in the city are divided into five categories:

- County Primary
- County Local
- City Major
- City Minor
- Non-Act 51 Certified (roads not certified to receive revenues from Michigan Public Act 51).

Using this classification, **Map 5** shows the transportation routes within the city and the primary links to outside the city. The primary north/south through route is Bridge Street. Outside of the city, Bridge Street is named Linden Road; it connects to Flint to the north and Livingston County to the south. The primary east/west through route is Broad Street. Outside of the city, Broad Street is named Silver Lake Road; it connects to Argentine to the west and Fenton to the east.



North Bridge Street - Bridge over the Shiawassee River



Other key roads that extend beyond the city limits are Rolston Road and Ripley Road.

In general, the transportation network within the city is somewhat fragmented, with many of the roads ending in dead ends. To a significant extent, this is due to the barriers formed by the Shiawassee River/Linden Mill Pond and the CN Railroad, affording only limited road crossings.

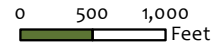
## Non-Motorized Facilities

**Map 6** shows the existing sidewalk network within the city. Presently, there are approximately 29.5 miles of sidewalk within the city. However, the sidewalk network is fragmented. Although sidewalks are provided along key streets, including both Broad and Bridge Streets, numerous local streets are lacking sidewalks. With a fragmented sidewalk network, many neighborhoods are lacking a safe walking connections to destinations such as downtown, parks and schools. Key sidewalk gaps in the city include along Hyatt Lane and Stan Eaton Drive, both of which are important connections to the two elementary schools.

Recently, the city's first bike lanes were designated (through pavement markings and signage) along Bridge Street. No other designated bike lanes are presently found.

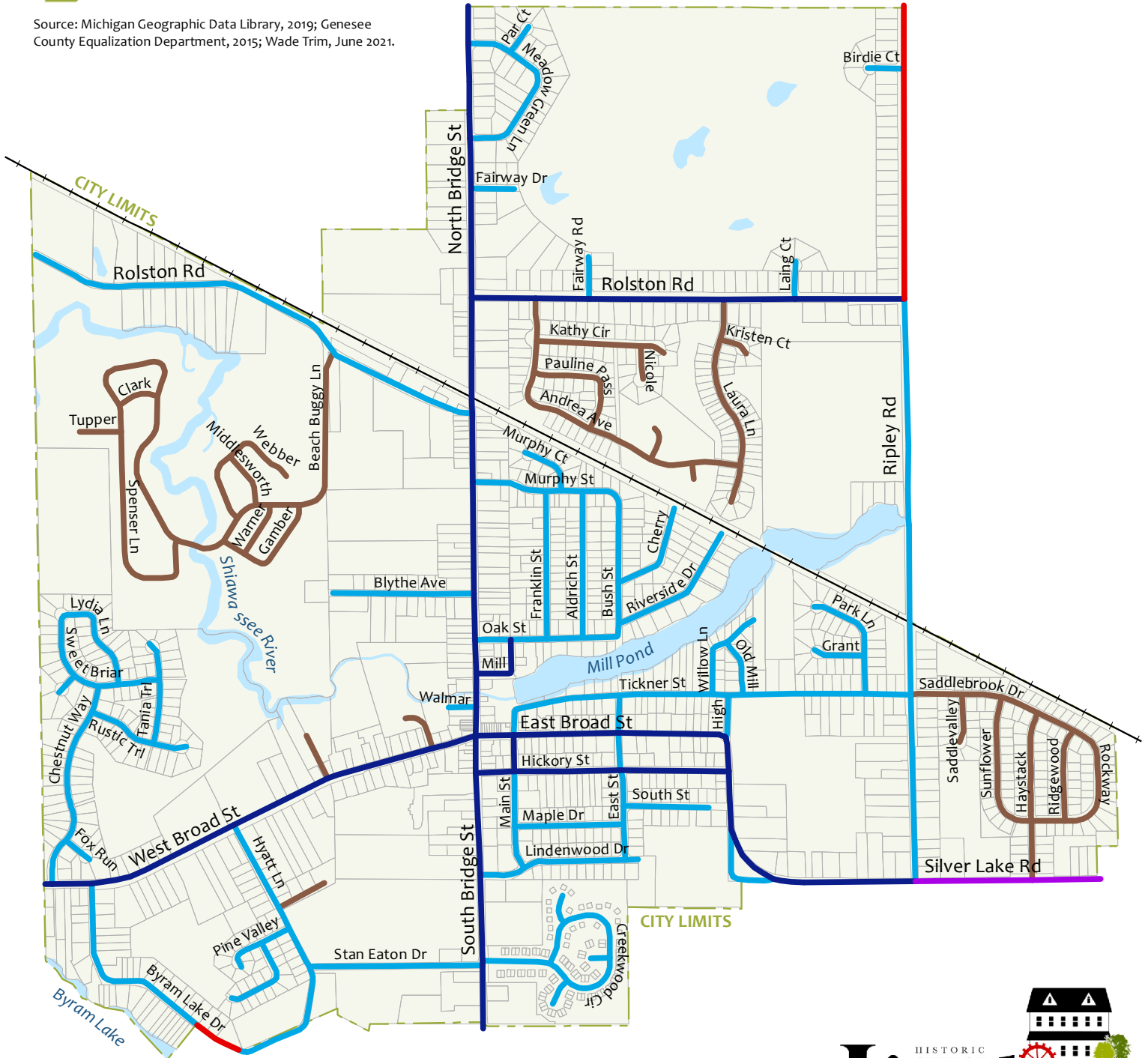
In recent years, the city has actively supported the efforts of the Linden, Argentine, Fenton and Fenton Township (LAFF) Pathways group, a non-profit or-

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- Parcels
- Rivers and Streams
- Water Bodies
- Linden City Limits
- Transportation Network:**
- County Primary
- County Local
- Non Act 51 Certified
- City Major
- City Minor
- Railroad

Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.





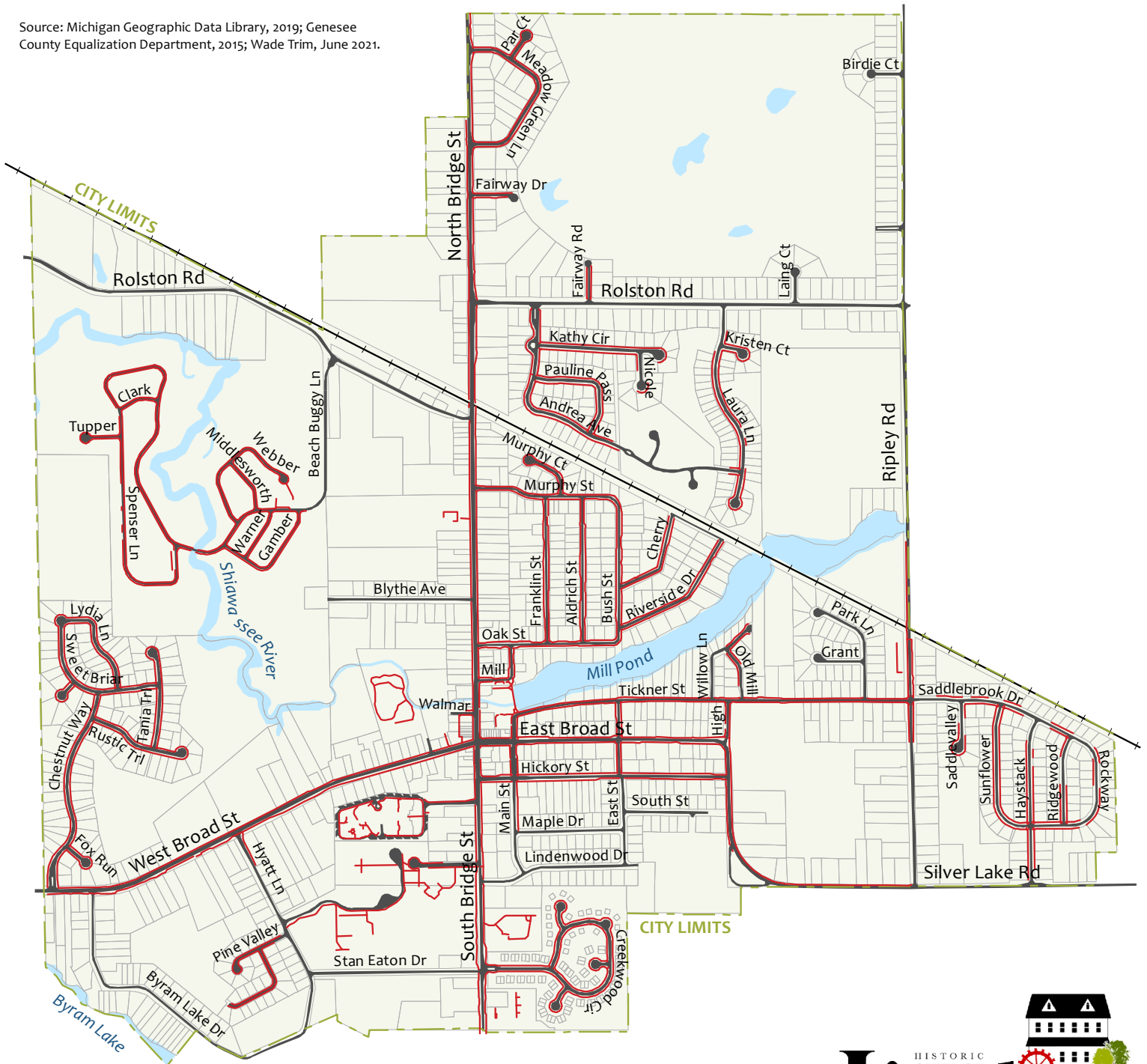
July 2021

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- Sidewalks
- Streets
- + Railroads
- Parcels
- ~ Rivers and Streams
- Water Bodies
- Linden City Limits

Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.



ganization which supports connecting communities through non-motorized trail facilities. Most relevant to Linden, the LAFF Pathways group worked successfully to construct the first segment (Phase 1) of trail - a 2 mile long, 10-foot wide asphalt trail that begins in Argentine Township and connects to Linden's sidewalk system along West Broad Street at Linden's western city limits. The proposed Phase 2 segment will begin at Triangle Park in Linden and continue east along Silver Lake Road through Fenton Township to Fenton. This Phase 2 segment has been identified as a Tier 1 priority trail in the Genesee County Metropolitan Planning Commission's Non-Motorized Plan.

### Other Transportation Modes

Genesee County is served by the Flint Mass Transportation Authority (MTA), although, no fixed bus routes presently extend into or through the City of Linden. Linden residents who are elderly and/or who have disabilities have access to the MTA's Your Ride curb to curb service.

Air transportation for Linden residents is provided through nearby local, regional and international airports including Flint Bishop International Airport, located approximately 20 minutes north of Linden, and Detroit Metropolitan Airport, located 1 hour southeast of Linden.

### Community Services and Facilities

Map 7 highlights the location of key community service facilities and properties within the city.

Considered by many as the heart of the city, the Linden Mills building is an historic treasure sitting on the bank of the Shiawassee River within Kimble-Sharp Gazebo & Park, dating back to the pre-civil war era. The building currently houses the public library, a unique collection of artifacts pertaining to Linden's history, as well as the City Council Chambers.

Linden City Hall is located on East Broad Street in downtown. The police and fire departments are also located within the City Hall building. Other City of Linden facilities include the DPW Yard, Fairview Cemetery, and several utility facilities (pump station, water towers, etc.).



Linden Mills Building



Located on North Bridge Street, the Loose Senior Center is a regional facility serving residents 50 and older in Linden as well as the south end of Genesee, northern Oakland, Livingston and Shiawassee Counties. The facility was constructed in the 1990's through a five community partnership that included the City of Linden. The facility currently provides a wide variety of programs and services for the senior community.

Other public and quasi-public buildings and facilities within Linden include a U.S. Post Office, VFW Post, Masonic Temple, Linden Presbyterian Church, Linden Methodist Church, and Faith Baptist Church.

### Emergency Services

Police protection is provided by the Linden Police Department, located within the Linden City Hall building. The Fire Department also operates out of City Hall and is primarily made up of paid, on-call volunteers. Both fire and police services can be reached via 911 emergency service. In addition to the police and fire departments, Mobile Medical Response (MMR) is contracted by the City to provide ambulance service to the community.

### Educational and Facilities

City residents and beyond are served by the Linden Community School System. The system's student population is approximately 2,900 children spread across three elementary schools (Central, Hyatt, and Linden), Linden Middle School and Linden High School. Linden and Hyatt Elementary schools are located next to each

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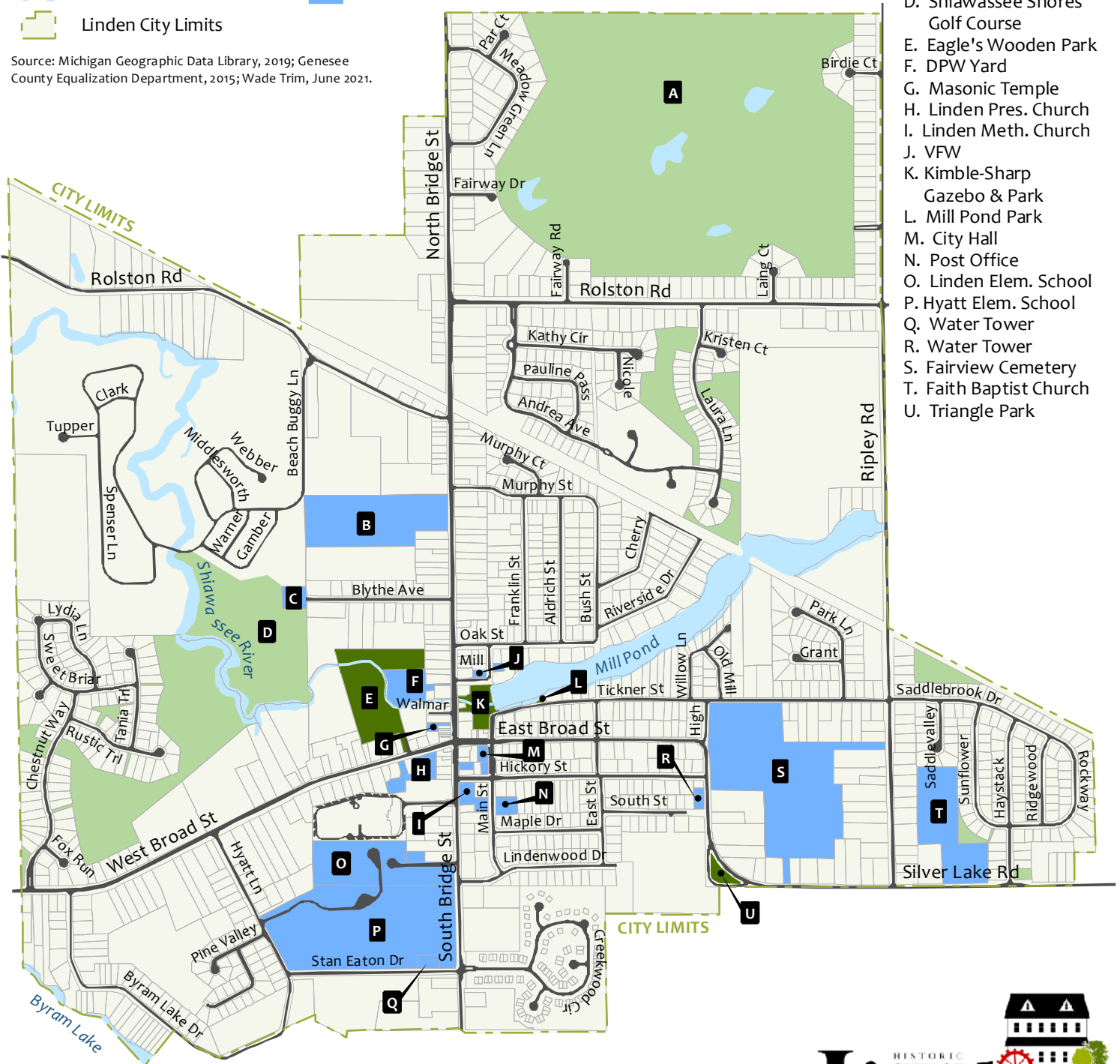
- Streets
- Parcels
- Rivers and Streams
- Water Bodies
- Linden City Limits

- Service Facilities:**
- City Parks
  - Other Recreation/Open Space
  - Public/Semi-Public Facilities

**Label Key:**

- A. Spring Meadows Country Club
- B. Loose Senior Center
- C. Sewer Pump Station
- D. Shiawassee Shores Golf Course
- E. Eagle's Wooden Park
- F. DPW Yard
- G. Masonic Temple
- H. Linden Pres. Church
- I. Linden Meth. Church
- J. VFW
- K. Kimble-Sharp Gazebo & Park
- L. Mill Pond Park
- M. City Hall
- N. Post Office
- O. Linden Elem. School
- P. Hyatt Elem. School
- Q. Water Tower
- R. Water Tower
- S. Fairview Cemetery
- T. Faith Baptist Church
- U. Triangle Park

Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.





other in the southwestern portion of the city (see **Map 7**). Central Elementary, Linden Middle and Linden High School are located within an educational campus on the south side of Silver Lake Road, approximately 1 mile west of the city.

## Parks and Recreation Facilities

The city operates four municipal parks, three of which are located along the Shiawassee River/Mill Pond. These parks provide access and enjoyment of the river and its State and National Water Trail. Area residents and visitors enjoy the waterway for kayaking, fishing, swimming, and watching wildlife.

Eagles Wooden Park is surrounded by an expanse of woods. The city park features a playground and forested trails winding with the bend of the Shiawassee River.

Kimble-Sharp Gazebo & Park is located in downtown across the Shiawassee River from the Linden Mills Building. The city park is home to the Kimble-Sharp Gazebo. The park and gazebo area is a popular location for outdoor weddings and summertime events, including Music by the Mill, a summer concert series.

Mill Pond Park is located on the south side of the Mill Pond along Tickner Street, just northeast of downtown. Mill Pond Park provides canoe/kayak access to the Mill Pond and is a quiet place for contemplation and appreciation of the water.

Triangle Park is the fourth city park, located along the bend of Silver Lake Road. The park is currently utilized for casual picnicking and other passive activities.

Beyond the city parks, several private recreational facilities or open spaces are found scattered across the city. These include several neighborhood conservation/open space areas and two private golf courses: Spring Meadows Country Club and Shiawassee Shores Golf Course.

## Public Water

The city provides clean and safe drinking water to all its customers. Municipal water supply is provided through four production wells and a water treatment plant. The city's Public Works Department maintains approximately 20 miles of various sized water distribution mains within the city. There are also two water



Kimble-Sharp Gazebo & Park



towers within the city. The water distribution system includes 1,700 meters at 1,234 accounts throughout the water system. Recently (October 2022), the Linden City Council voted to connect to the Genesee County Water System. this connection will occur before the Spring of 2025.

## Public Sewer

Public sewer service is provided through a joint effort of the City of Linden and the Genesee County Drain Commissioner Water & Waste Services. The city's Public Works Department maintains approximately 7 miles of various sized sewer mains and four sewer pumping stations. City sewer mains feed into the Genesee County system and treatment occurs at the Genesee County Wastewater Treatment facility, located just west of the city limits on Silver Lake Road.

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# Goals and Objectives

The guiding principles and objectives of the City of Linden Master Plan establish the desired character, quality, and pattern of development for the physical development of the city. They also embody the strategic direction the city will take to ensure a high quality of life, promote a strong economy with vibrant business districts, maintain a safe and efficient circulation system, and provide first-class public services. The goals and objectives contained in this section direct future decisions on land use regulations, actions, procedures, and programs that will further implement the intent and purpose of the overall plan.

In terms relevant to community planning, goals and objectives provide the master plan the philosophical guidance to address the current issues and advance plans into the future. In general, goals and objectives can be defined as follows:

- Goals are overall broad statements that provide a focus for future discussions. Goals are supported by the more specific objectives.
- Objectives are very specific, measurable, action-oriented statements that help achieve the goals.

The vision, goals, and objectives, presented, are organized by six major themes including:

- Exceptional Community Character
- Vibrant Residential Neighborhoods
- Thriving Economy and Business Districts
- Balanced Circulation Network



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- Community Sustainability
- First-Class Community Services

## Exceptional Community Character

### Goal

Maintain a sustainable, small-town character that makes Linden unique and a great place to live by encouraging quality development.

### Objectives

1. Encourage the preservation of the city's historic character by preserving or restoring historically significant properties, and promoting new developments consistent with the existing character.
2. Enforce design standards for all improvement projects being undertaken within the City of Linden Historic District.
3. Enact zoning regulations that encourage high quality, mixed-use development within and adjacent to the downtown area.
4. Encourage the regular maintenance of residential and commercial buildings and sites.
5. Incorporate unique and functional community design components with all new developments, public spaces, and streetscapes.

## Vibrant Residential Neighborhoods

### Goal

While protecting the essential qualities of established neighborhoods, provide varied and high quality housing types needed by persons of all ages, incomes and household sizes.

### Objectives

1. Foster the development of new residential neighborhoods and support existing neighborhoods based upon traditional neighborhood design principles of scale, density, and connectivity.
2. Protect the historic residential neighborhoods along Broad Street and Bridge Street from encroachment of commercial and office uses.



## Telling Linden's Story The 30-second elevator pitch

*Linden is a community that has managed to keep the best of its Victoria-era charm while maintaining a forward-facing focus on continuing to provide its residents with the elements they need to build a wonderful life. Generations of families continue to choose Linden and call it home. It is the purist definition of community - neighbors look out for each other, kids can safely run around and explore, and families gather to take a relaxing breath away from the hustle and bustle of life.*

*As a town of about 4,000 people in the southwest corner of Genesee County, downtown Linden is home to thriving shops, restaurants, and professional services. Among many others, Linden's points of pride include its well-maintained parks and waterways, excellent schools, local businesses, charming atmosphere, senior center, and the intangible assets like safety, care, cooperation, and community support.*

*Linden is where Yesterday Meets Today.*

3. Enforce existing housing, rental and maintenance codes to ensure neighborhoods remain strong and vital.
4. Support affordable housing opportunities that are consistent with market conditions.
5. Support new lifestyle housing choices such as townhomes, rowhouses, stacked ranches, lofts and life-work units within downtown and adjacent mixed-use sites.

## Thriving Economy and Business Districts

### Goal

Retain existing businesses and promote the development of new businesses in defined locations that

provide needed employment, goods, and services for residents, visitors, and workers.

## Objectives

1. Maintain and leverage a thriving downtown district, featuring a diverse mixture of land uses, community institutions and civic spaces.
2. As new commercial and mixed-use development occurs, consider upper floors for resident populations.
3. Support the goals and actions outlined in the City's Economic Development and Marketing Strategies.
4. Continue to expand and deepen relationships with local institutions, community groups, business development groups and the DDA to maximize the use of scarce time and money.
5. Work cooperatively with the development community to undertake inventive redevelopment concepts.
6. Discourage automobile-oriented businesses from locating within or adjacent to downtown.
7. Support the development of public parking in downtown, distributed to areas of demonstrated need to maximize use by customers.

## Balanced Circulation Network

### Goal

Establish a multi-modal transportation network that effectively serves both the motorized and non-motorized needs of the city, provides accessibility and connectivity to destinations, is designed for people, and responds to advances in transportation technology.

### Objectives

1. Maintain the city's network of streets to accommodate the safe and efficient movement of vehicles.
2. Create visually attractive gateways into downtown and the city on major roads.
3. Maintain an interconnected network of sidewalks, prioritizing improvements near schools, parks, and downtown.

4. Create a network of bike routes linking cultural resources, schools, parks, the river, and activity centers throughout the city.
5. Improve pedestrian safety and accessibility of crosswalks.
6. Continue to build a strong partnership of public and private entities and residents to support regional trail initiatives, including the LAFF Pathways and the Shiawassee River State and National Water Trail.

## Community Sustainability

### Goals

1. Strive for the protection of important natural resources and open spaces that contribute to the health of natural systems, wildlife habitats, community character, and quality of life.
2. Promote a healthy quality of life by capitalizing on the city's walkability, access to the Shiawassee River, and recreational opportunities.
3. Foster community collaboration and civic mindedness while partnering with fellow citizens to improve the city while safeguarding Linden's exceptional assets.

### Objectives

1. Ensure riverfront development emphasizes public access to the water and remains sensitive to visual and environmental development impacts.
2. Develop, expand and improve the city's system of parks, guided by the 5-year Parks and Recreation Master Plan.
3. Develop storm water best management practices to minimize the negative impacts development can have on runoff and water quality.
4. Protect and enhance the Shiawassee River and its riverfront habitat through measures such as the placement of land into conservation easements, shoreline stabilization, elimination of invasive species, and control of storm water runoff pollutants.
5. Link natural features and open space areas to create a system of natural corridors.



6. Promote the development of public spaces that are easy to access, are comfortable, offer activities, provide opportunities for public art, and that will continue to nurture social interaction.
7. Foster and expand community arts and culture through partnerships with regional and local organizations and support of arts and culture focused community events.
8. Create a community where local and regional cultural, social, civic, educational and fraternal organizations complement one another, share resources, information and coordinate activities.
9. Encourage and support community volunteerism by providing opportunities for citizens motivated to contribute to the community's well-being, and to satisfy one's personal need for fulfillment, sense of accomplishment, and self-esteem.

## First-Class Community Services

### Goal

Continue to offer efficient, first-class services and facilities to residents and businesses to preserve the city's high quality of life.

### Objectives

1. Provide adequate public water and sewer services to residents and plan for future expansion, in coordination with Genesee County.
2. Connect to the Genesee County water system to alleviate long-standing pressure and water capacity issues.
3. Plan for the continued improvement of the city's public facilities and services through capital improvement programming, coordinated with adjoining jurisdictions, and other public agencies.
4. Continue to maintain and support the senior center and its programs to provide high quality, cost effective services to Linden residents.
5. Continue to prioritize good governance and leadership by operating in an open and financially stable manner, focusing on maintaining high levels of citizen involvement and achieving measurable results.



## Smart Growth Principles

*What is smart growth? Smart growth is development that supports economic growth, strong communities and environmental health. The following "principles" of smart growth are accepted by this Master Plan as an over-arching framework for growth and development within the City of Linden:*

1. Mix land uses



2. Take advantage of compact building design



3. Create a Range of Housing Opportunities and Choices



4. Create Walkable Neighborhoods



5. Foster Distinctive, Attractive Communities with a Strong Sense of Place



6. Preserve Open Space, Farmland, Natural Beauty and Critical Environmental Areas



7. Strengthen and Direct Development Towards Existing Communities



8. Provide a Variety of Transportation Choices



9. Make Development Decisions Predictable, Fair and Cost Effective



10. Encourage Community and Stakeholder Collaboration in Development Decisions





# Circulation Plan

The City of Linden strives towards providing an equitable and sustainable transportation system that will serve its current and future residents into the middle of the 21st century and beyond. Towards that end, the city's leadership understands that a long-term plan is necessary to accomplish a balanced circulation system of vehicular and nonmotorized transportation that serves the needs of all users equally.

The purpose of this section is to outline a 5 to 20-year vision for a circulation system of "complete streets" and nonmotorized facilities that will provide a convenient and safe option to link people, schools, businesses, parks, natural resources, and cultural and historic landmarks to each other within the city as well as connect to adjacent communities and resources.

## Why Complete Streets?

The ability of people and goods to efficiently flow without unexpected stops or unprecedented congestion is an important part of the quality of life in a community as well as a vital part to a community's economic well-being and growth. Yet, a circulation network that emphasizes efficient traffic flow primarily for a single mode of travel over other circulation goals and modes of travel leads to an unbalanced, unsafe and inefficient transportation system.



Complete streets contribute to livable communities that make getting around easier for people with disabilities, older adults, and children. They also increase safety and contribute to better public health, while decreasing traffic demands. The following are key benefits of complete streets:

1. **Safety** - Safety is a key concern in designing transportation networks, both for motorists as well as pedestrians and bicyclists. According to a Federal Highway Administration publication, crashes involving pedestrians are twice as likely to occur in places without sidewalks. Complete streets design the streets with the pedestrian in mind and engage in comprehensive safety improvements. A study by the Transportation Research Board found that installing pedestrian and bicycle facilities can reduce the risk of crashes by 28 percent. In addition, the installation of some pedestrian features, such as medians and traffic-calming measures, can lead to speed reduction in motorists.
2. **Economic Development** - An increased level of pedestrian and bicycling activity can improve business and bring revenue to the surrounding area. Complete streets projects increase foot traffic and have been successful throughout the nation in attracting new businesses. The walkability of a neighborhood can also increase property values. A survey of 15 real estate markets across the country in 2009 found that a 1-point increase in the walkability of neighborhood (as measured by WalkScore.com) resulted in an increase of home values by \$700 to \$3,000. In addition, streetscaping projects, such as planting street trees in the right of way, can increase the selling prices of homes.
3. **Public Health** - Complete streets support active living habits. The walkability of a neighborhood is directly linked to the health of its residents. A study done by Social Science & Medicine found that people who live in walkable neighborhoods participated in 35 to 45 more minutes of physical activity per week and were less likely to be overweight than similar people living in neighborhoods that are less walkable.
4. **The Environment** - The transportation industry is one of the leading contributors to carbon dioxide emissions in the United States. Nonmotorized forms of transportation, such as walk-

ing and biking, can have the biggest impact on reducing emissions, but transit is also a lower emissions mode.

5. **Accessibility** - Many roads are designed to meet the needs of automobiles, however at least one-third of Americans do not drive and use other forms of transportation. These groups include children, adolescents, some older adults, individuals with disabilities, and low-income individuals. Complete streets aim to allow safe and comfortable travel for everyone, including people in these groups.

## Circulation Plan

The Circulation Plan Map (**Map 8**) sets forth recommendations for the development of public rights-of-way in a manner consistent with and supportive of recommendations for future land use. The Circulation Plan Map does not anticipate any changes to the existing Public Act 51 designations (i.e., County Primary, City Major, City Minor) of streets within the city as shown on **Map 7** (Transportation Network). The recommendations on the Circulation Plan Map focus on safety enhancements, improvements for more complete streets with pedestrian and bicycle facilities, and the development of nonmotorized facilities. The future circulation network is designed to link Linden's most important community facilities and establish easy to navigate connections for people to walk and bike in their neighborhoods and around the city.

Below is a description of the circulation system types and strategies outlined on the Circulation Plan Map.

### Multi-Modal Main Street (Bridge/Broad Streets)

Bridge and Broad Streets are designated on the Circulation Plan Map as multi-modal main streets. These two streets are the primary routes to and from the City of Linden. Downtown Linden is centered around the intersection of Bridge and Broad Streets. Given the primacy of these streets, it is essential that these streets are designed as complete streets to accomplish numerous goals, including:

- Maintain a high quality aesthetic as they key gateways into the city, contributing to the city's small-town character and appeal
- Support safe and convenient pedestrian and bicycle travel



- City Parks
- Open Space/Recreation
- Public/Semi-Public
- Linden City Limits

- Rivers and Streams
- Water Bodies
- Parcels
- Railroads

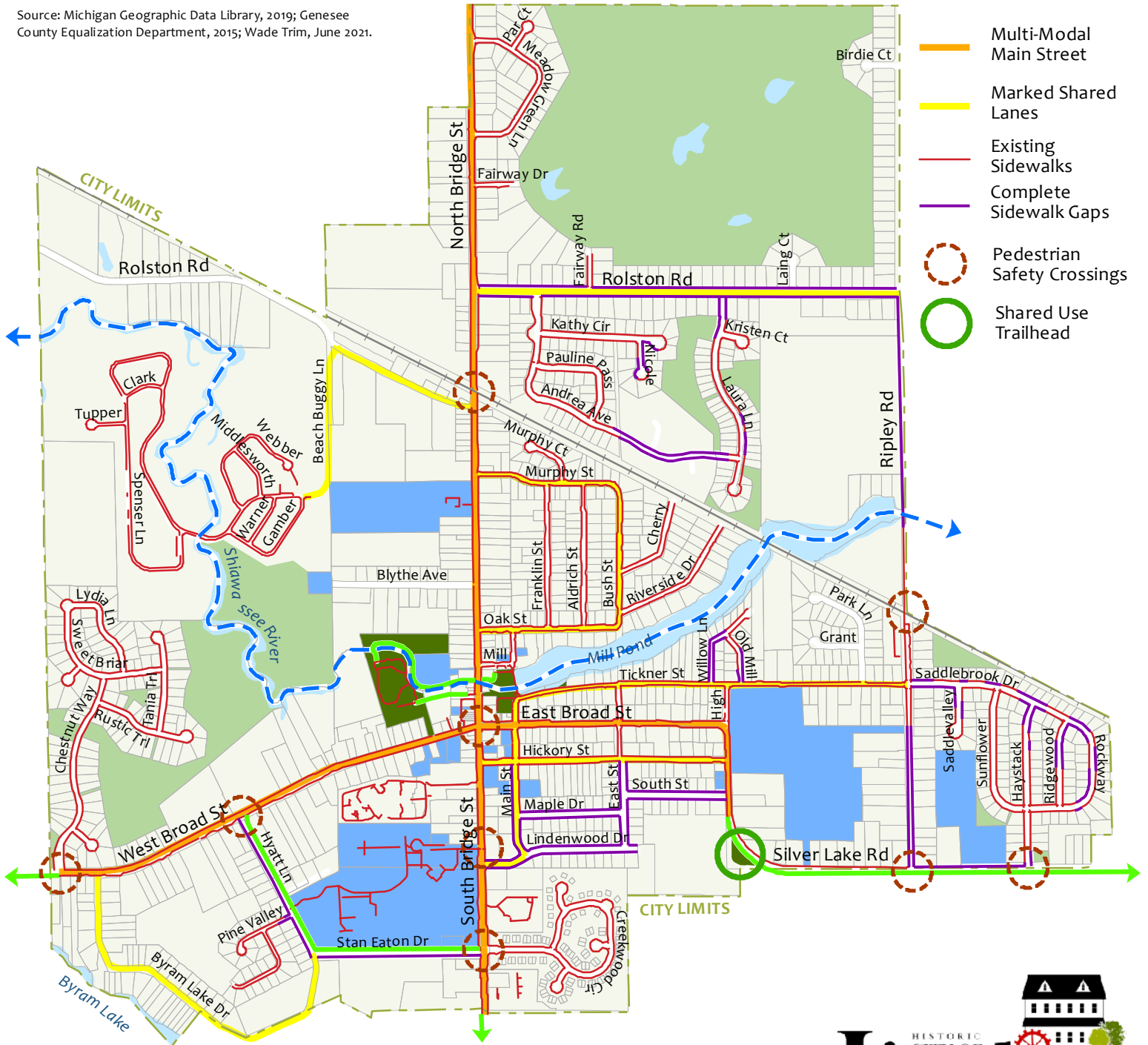
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### Future Circulation Plan:

- Shared Use Paths
- Water Trail
- Multi-Modal Main Street
- Marked Shared Lanes
- Existing Sidewalks
- Complete Sidewalk Gaps
- Pedestrian Safety Crossings
- Shared Use Trailhead

Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.





## What is a Complete Street?

Complete streets are designed and operated to enable safe access for all legal users. Pedestrians, bicyclists, motorists, and public transportation users of all ages and abilities can safely move along and across a complete street. The right-of-way is designed to enable safe access for all users as part of a complete street. There are no strict requirements to qualify as a complete street. The community context must be taken into consideration and therefore each complete street is unique. Some complete streets may include special bus lanes and accessible public transportation stops, while others may have wide paved shoulders with narrower travel lanes. The concept of complete streets is not to create the perfect street for every traveler, but rather to design a network of streets that emphasizes different modes of transportation and is accessible by everyone.



- Accommodate on-street parking within downtown
- Support “street life” within downtown, local business districts and the city’s neighborhoods, creating safe and comfortable spaces for social connections along the street
- Ensure safe and efficient vehicular travel of people and goods, but in a manner which does not compromise the other goals listed above

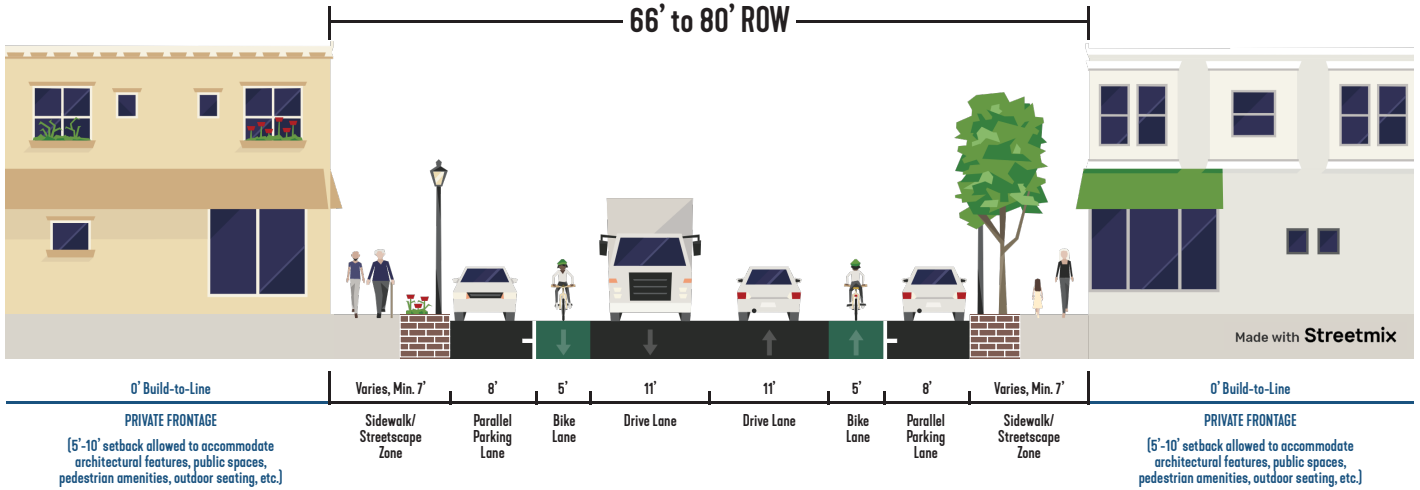
Recommended street cross-section designs for Bridge and Broad Streets are included in this section. Within the context of downtown, these multi-modal streets will accommodate vehicular travel, robust streetscape amenities, wide sidewalks to accommodate pedestrians and support business and entertainment activities, bicycle travel, and on-street parking. Outside of downtown, the multi-modal main streets must be designed to safely accommodate vehicular, pedestrian and bicycle travel in a residential environment.

### **Bicycle Travel Options for Broad Street**

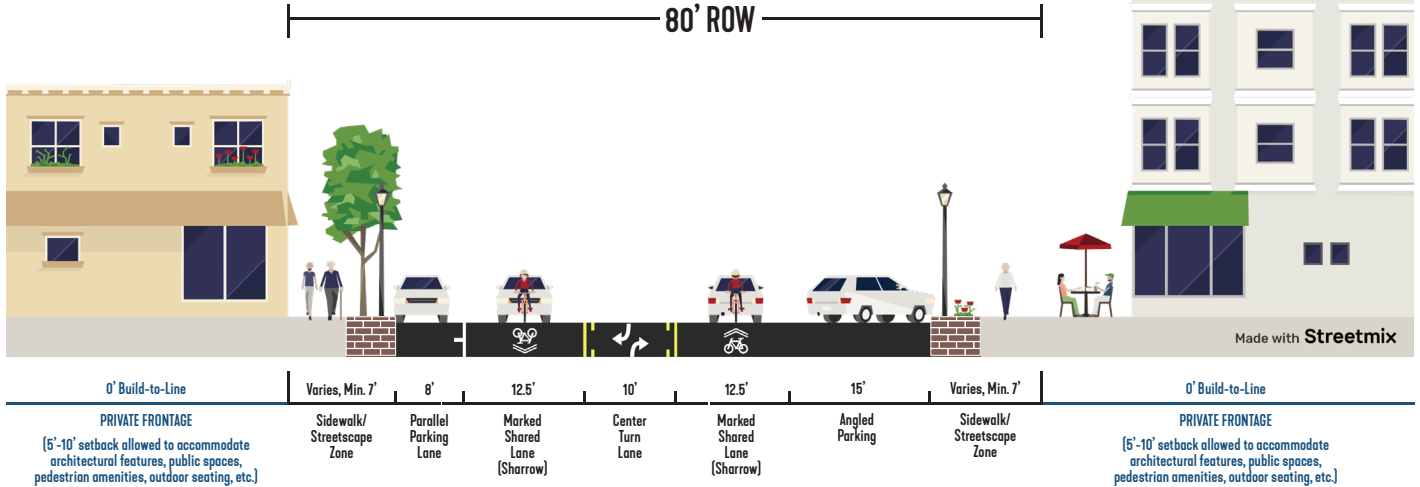
Bike lanes already exist along much of Bridge Street within the city. However, Broad Street does not currently accommodate defined bicycle travel. As shown in the Circulation Plan Map, Broad Street is a critical nonmotorized travel route, as the regional LAFF Pathway system connects to Broad Street at both the eastern and western city limits. Broad Street can safely accommodate pedestrian travel, as a complete sidewalk system is provided on both sides of the street. However, bicycle infrastructure improvements are needed along Broad Street to support bicycle travel through the city.



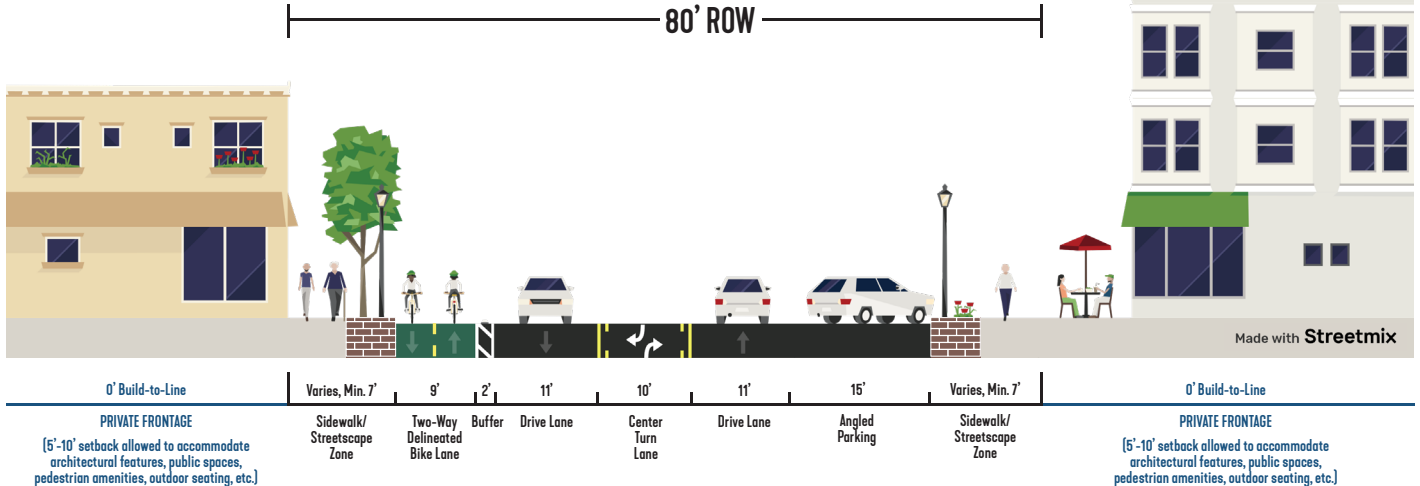
## Multi-Modal Main Street: Bridge Street (Downtown typ.)



## Multi-Modal Main Street: Broad Street (block east of Bridge St.) Option 1

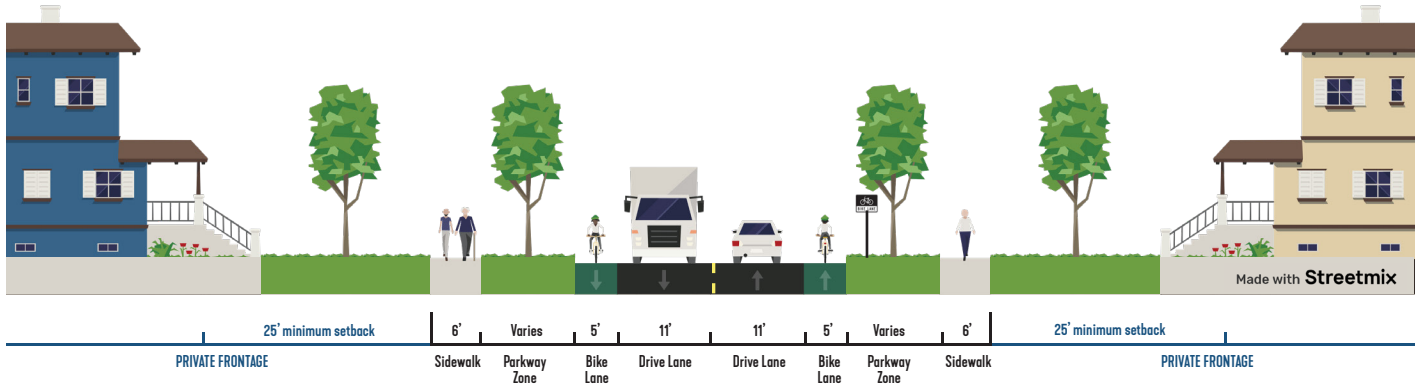


## Multi-Modal Main Street: Broad Street (block east of Bridge St.) Option 2



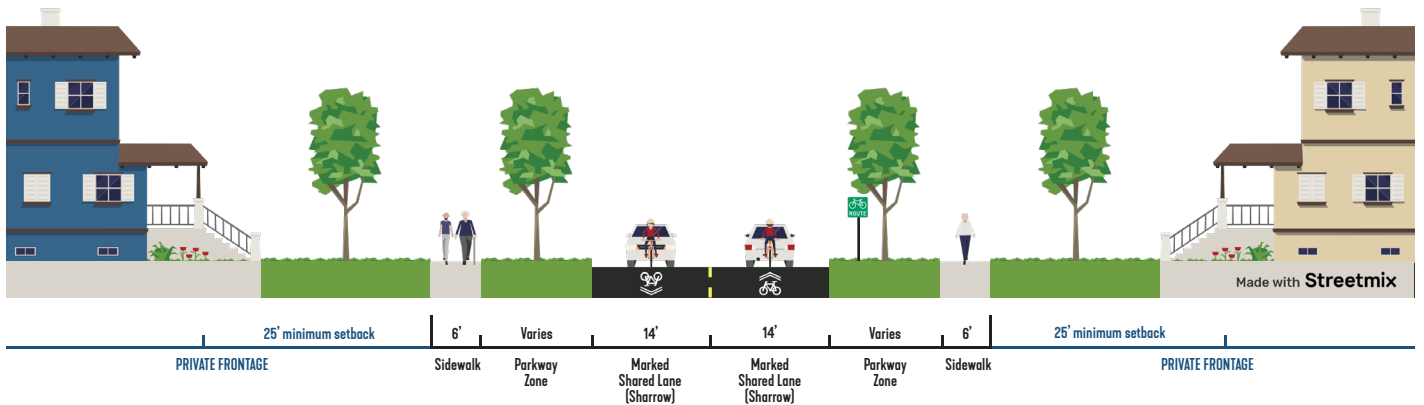
## Multi-Modal Main Street: Bridge Street (outside of Downtown typ.)

66' ROW



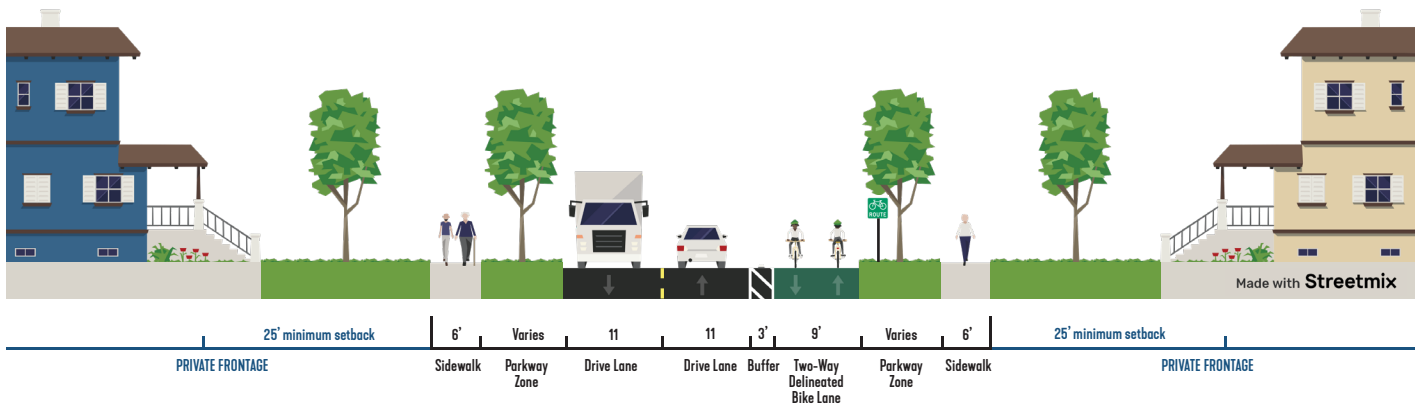
## Multi-Modal Main Street: Broad Street (outside of Downtown typ.) Option 1

66' ROW



## Multi-Modal Main Street: Broad Street (outside of Downtown typ.) Option 2

66' ROW



Two options to support bicycle travel along Broad Street are shown in the recommended street cross-section designs. The first option is a short-term and less costly recommendation to accommodate shared pavement markings (sharrows - see description later in this section). The second option is a longer-term recommendation to accommodate a two-way delineated bike lane within the street. A two-way delineated bike lane is a physically separated space that allows bicycle movement in both directions on one side of the road. A buffer space between vehicular and bicycle travel must be provided, which would include a physical separation device such as rumble strips. This second option for a two-way delineated bike lane is a longer-term and more cost intensive recommendation that will require widening of the street in certain locations. The plan-view drawings below illustrate how the two bicycle infrastructure options can be incorporated within Broad Street in the western portion of the city.



Two-way delineated bike lane example



**Multi-Modal Main Street:**  
Broad Street (outside of Downtown typ.)








## Marked Shared Lanes

The Circulation Plan Map recommends for selected streets within the city to be retrofitted with shared lane markings. These are streets that have a significant potential to accommodate bicycle travel, and include Rolston Road, Murphy/Bush/Oak Streets, Tickner Street, Hickory Street, Main Street and Byram Lake Drive.

Marked shared lanes (“sharrow lanes” or “sharrows”) are a newer alternative that are often incorporated into bike routes today. Sharrows are pavement markings that are to provide positional guidance to bike riders as to where they belong within the roadway and to alert motorists that bicyclists should be anticipated in the roadway and where they may be riding. These sharrow markings are used in areas where it is too narrow for bike lanes, has high incidences of wrong-way riding, and/or high parking turnover. The markings, generally placed every 200 feet and within 100 feet of every intersection, should also be used with “share the road” signs. Bicyclists should be positioning themselves to be crossing over the center of the sharrow’s chevron arrows.

## Sidewalks

Presently, the majority of streets in the city are framed by sidewalks on both sides. However, there are numerous sidewalk gaps in the system. Completion of these gaps is a key recommendation shown on the Circulation Plan Map.

Sidewalks are the basis of any nonmotorized system. They are typically located adjacent to the road network and range between 48 to 60 inches wide. The American Association of State Highway Transportation Officials (AASHTO) permits 48 inch-wide sidewalks while the Federal Highway Administration (FHWA) recommends a minimum width of 60 inches. The landscaped buffer strip between the sidewalk and the street (“parkway zone”) should be a minimum of five feet wide, while narrower strips are permitted.

## Shared Use Paths

The Circulation Plan Map recommends the development of several shared use paths connecting key destinations within and beyond the city.

Shared use paths are multi-use pathways that accommodate both pedestrians and wheeled users. Developed independent of roadways and designed to carry higher amounts of nonmotorized traffic, the shared use path is often the optimal solution; however, they are expensive to construct and maintain, often requiring the purchase of dedicated right-of-way. Separated from roadways by a parkway zone, shared use paths should be at least 10 feet wide to accommodate two way traffic. For paths with more than 300 users per hour, paths should be widened to at least 12 feet.

A shared use path “loop” route is proposed along both sides of the Shiawassee River, connecting downtown Linden with the city’s riverfront parks. This route would be an excellent option for visitors to downtown to experience the river and recreational opportunities. To provide safe passage for residents and children walking to the elementary schools, a shared use path route is proposed along Hyatt Lane and Stan Eaton Drive. The State Bank Trail, a shared use path slated for construction in 2023, is shown along the south side of Silver Lake Road. This shared use path will connect Linden with the City of Fenton.

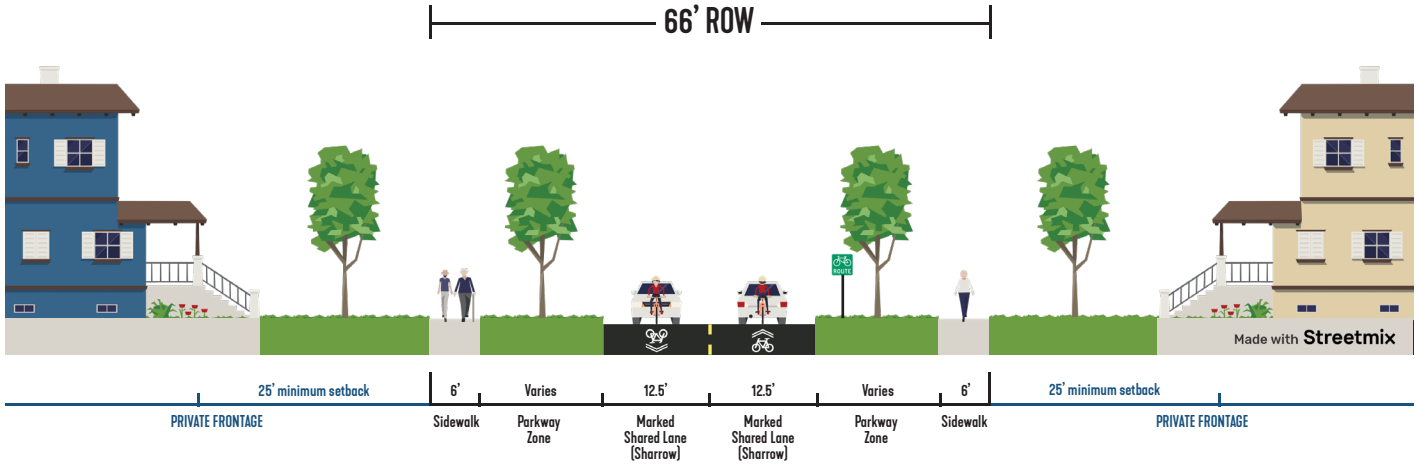
### Shared Use Trailhead

The Circulation Plan Map shows a new trailhead at Triangle Park, where the State Bank Trail ends/begins. This will be completed as part of the 2023 construction of the State Bank Trail.

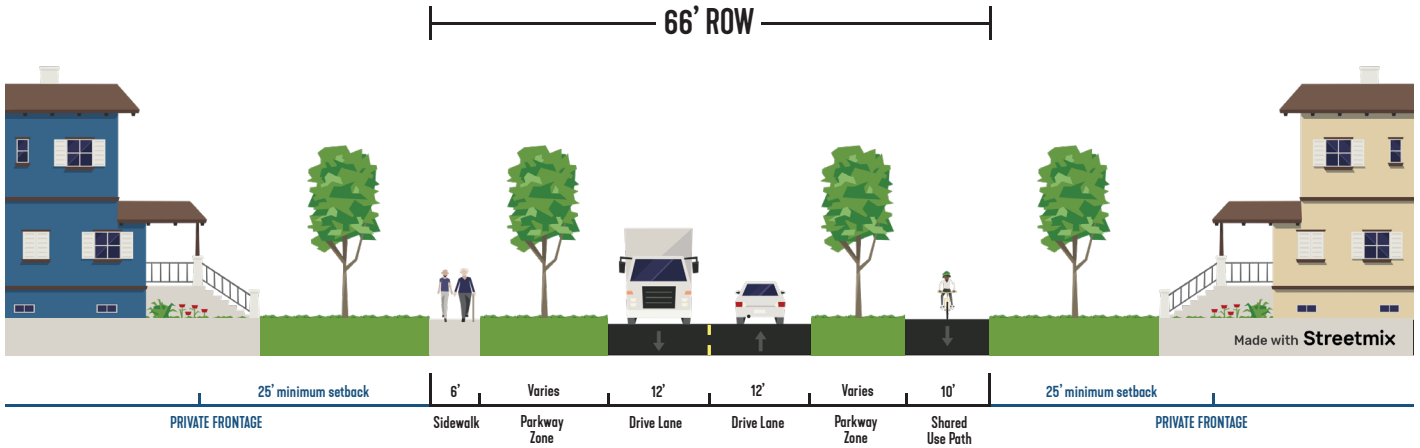
## Water Trails

The Shiawassee River State and National Water Trail is shown on the Circulation Plan Map. This existing water trail route is a key component of the city’s overall circulation system and provides a unique opportunity for recreational travel and enjoyment of the river and its adjacent natural habitat. It is a regional water trail which extends from Holly to Chesaning. The City of Linden supports the efforts of the Shiawassee River Water Trail Coalition to expand and improve this key regional resource.

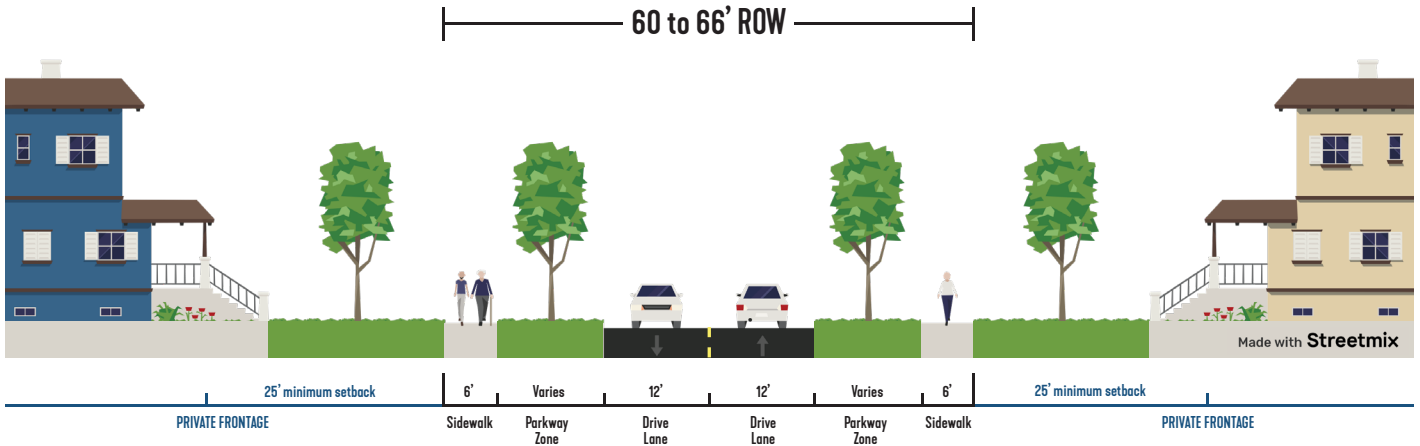
## Residential Streets with Marked Shared Lanes (typ.)



## Residential Streets with Shared Use Path (typ.)



## Residential Streets (typ.)



## Pedestrian Safety Crossings

Intersection and other pedestrian safety crossings improve the overall safety, walkability, and identity of Linden. The following strategies are recommended.

### Intersection Crossings

The Circulation Plan Map shows pedestrian crossing improvements needed at key intersections. Although each intersection has unique needs with unique solutions, general intersection treatments such as curb extensions, textures, pavement markings, crosswalks, tightening corner curb radii, and installing pedestrian refuge islands are recommended to improve traffic management and safety. At a minimum, countdown pedestrian signals are recommended at all signalized crossings.

### Mid-Block Crossings

Mid-block crossings should be strategically located to provide safe crossing of a road at locations where there is no street intersection, but where higher volumes of pedestrian and bicycle users have a need to cross the road. Design features should include signage (ranging from a standard pedestrian crossing sign to a HAWK pedestrian beacon signal), pavement markings, and refuge islands for wider road segments.

### Railroad Crossings

Railroad crossings can present safety issues for pedestrians, particularly those using wheeled devices such as wheelchairs and scooters. There are a number of ways pedestrian safety can be improved at railroad crossings. Passive devices include signage, fencing, swing gates, and pavement markings. Active devices include flashers and audible active warning devices. The Circulation Plan Map shows needed improvements where North Bridge Street and Ripley Road cross the railroad. The North Bridge Street railroad crossing presently has no pedestrian safety devices. The Ripley Road crossing includes bollards along the sidewalk at the railroad, which force wheeled users to stop prior to crossing the railroad. Enhanced pedestrian safety measures should be explored at both crossings.



Mid-block crossing example safety treatments





# Future Land Use Plan

The Future Land Use Plan is the physical result of the master plan development process. It is designed to serve as a guide for the future development of the city. In the creation of a Future Land Use Plan, it is critical that the current profile of the community is thoroughly understood to better predict future conditions. The preceding sections of this Master Plan provide the background or basis on which the Future Land Use Plan was developed. In particular, the Future Land Use Map was based upon:

- A review and analysis of existing land use conditions
- Infrastructure capabilities
- Analysis of demographic data
- Goals and objectives developed for the Master Plan
- Public participation gained through various opportunities during the planning process

While the city has carefully derived the Future Land Use Plan and Map based on the above factors, there may be conflicts between text in the Master Plan and the Future Land Use Map designation of a property. Where those instances have occurred, the designation on the map is most critical in reviewing a rezoning request.



CITY OF LINDEN  
**MASTER PLAN UPDATE**



## Future Land Use Map and Classifications

Eleven future land use classifications have been established and are shown on the Future Land Use Map (Map 9). Below is a narrative to explain the proposed development patterns illustrated on the Future Land Use Map.

### Single Family Residential

This classification is intended to create a location for single family residential detached housing developed on lots that are between 80 and 100 feet in width and 9,600 square feet and 15,000 square feet in area. These lot sizes are typical for much of the single family residential properties in the community and should be maintained to continue the overall appearance of the classification. However, the creation of smaller sized (“clustered”) lots within a development may be allowed as a means to accomplish community benefits, such as the preservation of unique natural features on the property.

Lands designed on the Future Land Use Map in this category are generally found on the periphery of the city and embody suburban-style residential development. They are highly-desirable, safe and attractive neighborhoods whose character should be maintained and protected. Most properties are already developed; although there are some larger and/or undeveloped properties that could accommodate new residential development similar in character to existing development.

### Historic/Core Residential

The intent of this classification is to protect and preserve the integrity of the traditional neighborhood character of the City of Linden. Most of the existing homes within this classification are older and many are historic. Over the years, owners have taken great care to improve and restore the historic architecture of their homes. This area is characterized by small lots ranging in size from 8,400 to 9,600 square feet and ranging in width between 70 and 80 feet. (Note: lands within this classification are located outside of Linden’s state registered historic district - the City of Linden Historic District encompasses downtown Linden.)

These neighborhoods are located immediately adjacent to and/or are within easy walking distance from downtown Linden. Nearly all of the properties in this classification are developed. Although the majority

of properties feature detached single-family homes, there are a small number of duplex dwellings scattered within these areas.

### Mixed Residential

The intent of this future land use classification is to accommodate a mixture of residential use characterized predominantly by small lot detached single family development and attached single family development. This classification may also include housing developments catering to a senior population, including senior active living developments and residential care facilities. It is not intended for this category to accommodate conventional multiple-family apartment development or mobile/manufactured home park development.

Development within this category will be carefully designed to ensure the protection of the natural characteristics of the property, encourage high-quality architectural design standards and facilitate the construction of site amenities to serve the residents of the development and community as a whole. They will also be sufficiently screened where adjacent to lower density single-family neighborhoods.

Lands so classified include one existing residential development (Creekwood) which contains a mixture of detached and attached single-family homes. The remaining properties, several of which are large, are undeveloped and have the capacity to accommodate new mixed residential development. For new development, densities of up to 6 dwelling units per acre may be allowed. However, the granting of additional density may be considered by the city upon demonstration by the owner of exceptional public benefit that would not otherwise be achieved by a conventional development.

### Multiple Family Residential

This land use classification is intended for multiple family developments between 8 and 12 dwelling units per acre. Developments may include attached residential, townhouses, and traditional garden apartments. Most of the properties included in this classification feature existing apartment development.












-  Streets
-  Rivers and Streams
-  Parcels
-  Water Bodies
-  Linden City Limits

October 2022

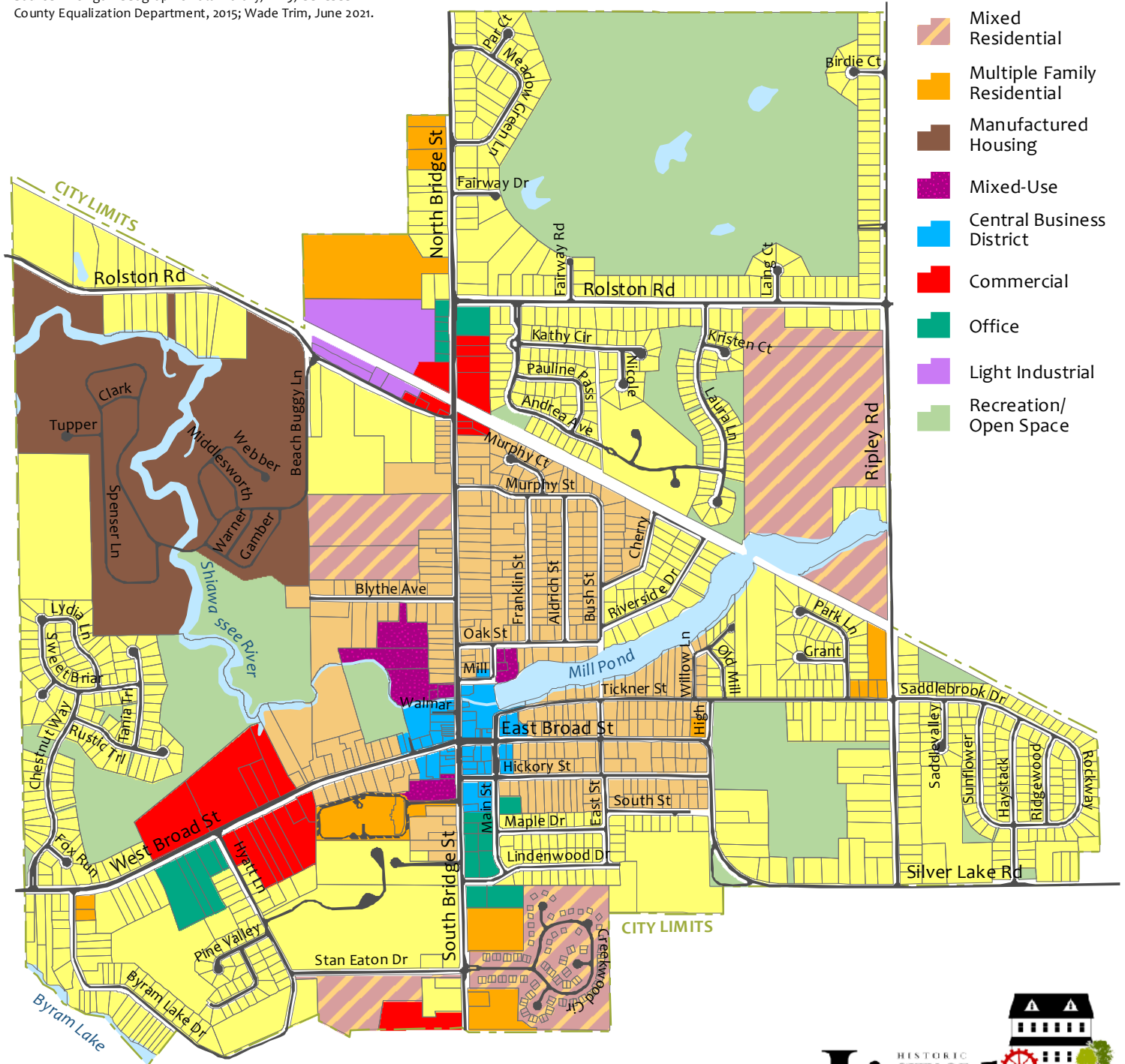
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### Future Land Use:

-  Single Family Residential
-  Historic/Core Residential
-  Mixed Residential
-  Multiple Family Residential
-  Manufactured Housing
-  Mixed-Use
-  Central Business District
-  Commercial
-  Office
-  Light Industrial
-  Recreation/Open Space

Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.





## Manufactured Housing

The intent of the manufactured housing land use classification is to provide an additional means of affordable housing in the City of Linden. Currently, the only location in the city with this land use classification is the Shiawassee Shores retirement community located off of West Rolston Road.

## Mixed-Use

This future land use classification is designed to accommodate a combination of uses either contained within an individual structure or among structures, generally housing a mix of residential, commercial, office, and quasi-public uses.

Three locations in the city are identified for mixed-use development, all of which are adjacent to downtown Linden. Given their proximity to downtown, they may include mixed-use buildings with street level retail and/or office use, with office and/or residential spaces on the floors above. Developments with a combination of commercial or mixed-use buildings on the same site with residential building types could also be appropriate.

Several of these properties have been designated as Priority Redevelopment Sites and are addressed more fully in the next section.

## Central Business District

This future land use classification is intended for a mixture of retail, office and service establishments in a traditional downtown setting. The focus of the classification is entertainment, specialty retail, restaurants, personal service, small offices and institutional uses. Residential uses on the upper levels of buildings are also appropriate and encouraged within the Central Business District. The Central Business District boundary is very similar to City of Linden Historic District boundary which requires a level of protection to the character of the downtown.

## Commercial

This classification is intended for the widest variety of retail and service businesses. Businesses could range from general retail, automobile service and restaurants to small commercial centers. The uses in this classification are not intended to compete with larger commercial development located outside of the city or those retail uses located in the Central Business District.

Properties designated as Commercial generally have a large enough property to accommodate parking and a stand-alone structure on the site.

Aside from a single property on the southern edge of the city, lands within this classification are either within the West Broad Street local business district or the North Bridge Street local business district.

## Office

This land use classification is intended for low intensity, single story office uses. Specifically, it is envisioned that professional offices such as medical, dental, financial and personal services would be preferred uses.

Lands within this classification are found in three small concentrations within the city: immediately south of downtown along South Bridge Street; at the southwest corner of West Broad Street and Hyatt Lane; and, along North Bridge Street near East Rolston Road.

## Light Industrial

This land use classification is intended to accommodate limited, small-scale light industrial developments, such as wholesale activities, warehouses, and light manufacturing, whose external, physical effects are restricted to the area of the districts and in no manner affect in a detrimental way any of the surrounding districts.

Linden has very limited light industrial development presently and there is no desire on the part of the city to accommodate widespread industrial development. Therefore, only one small area has been designated in this classification where existing industrial development already exists. This area is located north of West Rolston Road on either side of the railroad tracks.

## Recreation/Open Space

This future land use classification includes public parks, private open space areas, and similar “open” institutional properties. They are intended to remain open/undeveloped or for recreational use.

# Priority Redevelopment Sites

Communities must think strategically about the redevelopment of properties. Investments should be targeted in areas that have the potential for positive future development. Focusing on the redevelopment and reuse of a single property or a specific node can catalyze further development around it. To ensure lasting change, the following concepts identify a community-generated vision for “priority redevelopment sites” within the City of Linden . By engaging the public and formulating a framework of desired outcomes for priority sites, the city is creating a predictable environment for redevelopment projects.



CITY OF LINDEN  
MASTER PLAN UPDATE



## Priority Redevelopment Sites Identification

Listed below and shown on **Map 10**, four sites within the city have been identified and will be targeted as priority redevelopment sites:

1. Evan's Building
2. DPW Yard
3. Parkside
4. Old Theater

These sites came to the forefront during the various public engagement opportunities, including the citizen survey, focus group discussions and visioning workshop. They have significant potential for redevelopment and, if developed, would greatly contribute to the improvement of the community in line with the vision and recommendations of this Master Plan. This section of the Master Plan provides a detailed evaluation of challenges and opportunities for each of these sites, along with strategies to turn the redevelopment of these sites into reality.

However, these are not the only sites in the city with the potential for redevelopment. **Map 10** shows additional redevelopment sites which are not deemed "priority" sites but nonetheless were identified as potential sites for redevelopment during the course of the planning process. Conditions may change and new opportunities may arise that will result in the city focusing on different or new redevelopment sites. Over time, the city should continually identify priority redevelopment sites (in addition to those highlighted in this section) and package them for marketing and solicitation of developers.

## Overcoming Redevelopment Challenges

Site redevelopment poses a variety of challenges which are generally not faced by a project involving new construction on an undeveloped site. The following is a listing of challenges that are commonly faced by site redevelopment projects, including Linden's four priority redevelopment sites:

- Small site size and/or the lack of control of the land
- High cost of rehabilitating existing buildings on site, which may be in poor condition
- Possible environmental contamination from prior uses, leading to site remediation costs

- Zoning designations/requirements which serve as barriers to "creative" redevelopment concepts
- Need for additional parking, but a lack of space on-site to accommodate parking

However, the city, with the support of private and public partners, has the ability and necessary tools to combat these challenges. The following strategies are recommended as means for the city to overcome the various redevelopment challenges.

### 1. Market redevelopment sites and solicit developers

- Clearly articulate and communicate the vision for each priority redevelopment site. The concept plans included in this section are a starting point, but additional site investigation may be necessary and the city may wish to prepare high quality concept sketches and illustrations as marketing tools.
- Post business information packets on the city's website, which contain demographics, available incentives and testimonials from successful business owners already in the city
- Work with local partners (DDA, County, MEDC, etc.) to promote the vision
- Promote sites on online databases such as Zoom Prospector, OppSites, and the MEDC Real Estate Database

### 2. Eliminate zoning barriers

- Proactively rezone priority redevelopment sites to a district that would support the proposed redevelopment
- Create and adopt a new mixed-use zoning district which allows for creative mixed-use redevelopment proposals

### 3. Incentivize redevelopment

- Establish and promote clear incentives to demonstrate the city is a willing partner in redevelopment for certain types of projects. City incentives may include tax abatements, DDA sign/facade improvement programs, and DDA funded capital improvements.



-  Streets
-  Parcels
-  Rivers and Streams
-  Water Bodies
-  Linden City Limits

- Priority Redevelopment Sites:**
1. Evan's Building
  2. DPW Yard
  3. Parkside
  4. Old Theater

- Additional Redevelopment Sites:**
- A. City Hall Site
  - B. 495 W. Broad
  - C. 112 S. Bridge
  - D. North end business district

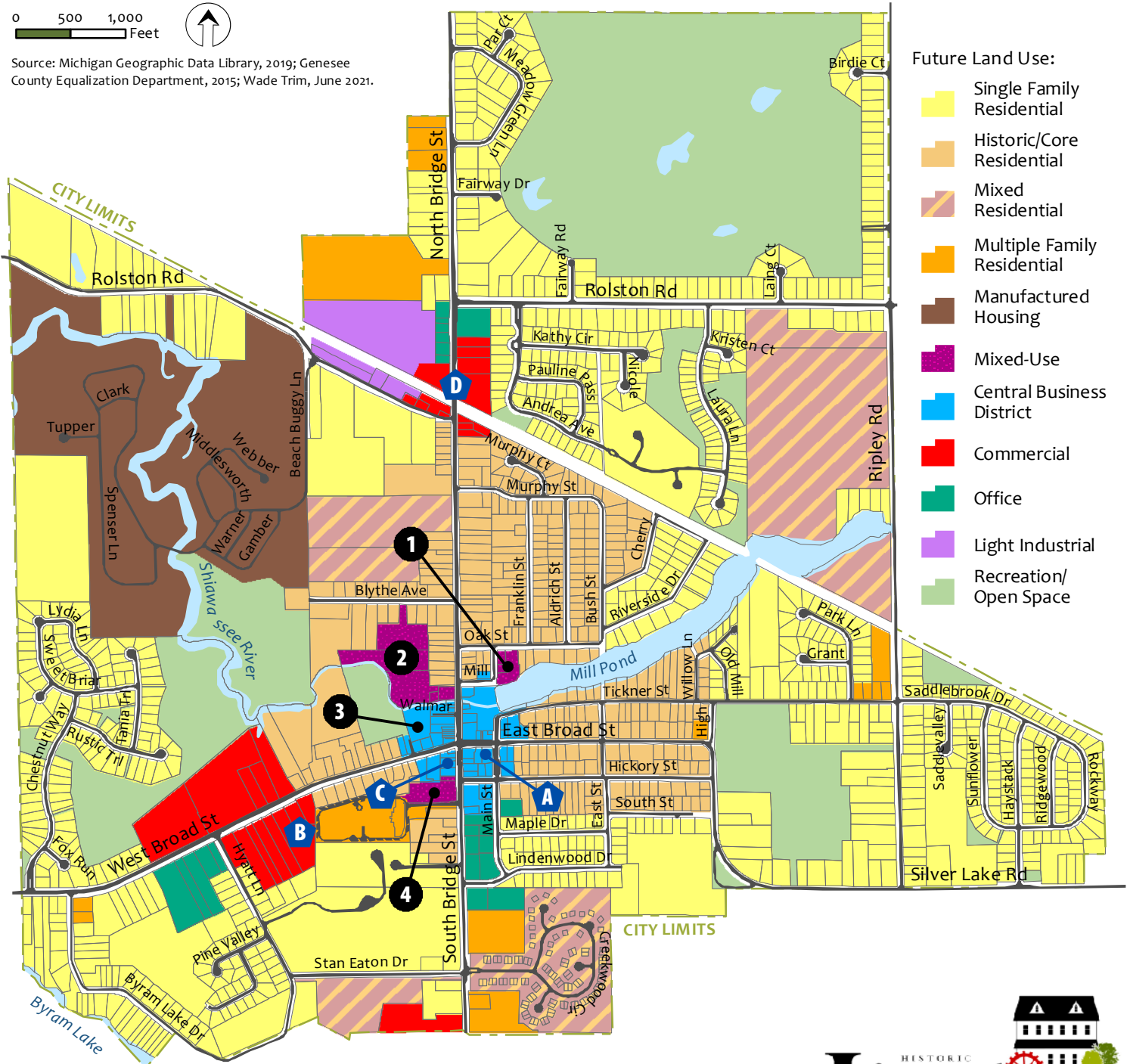
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Source: Michigan Geographic Data Library, 2019; Genesee County Equalization Department, 2015; Wade Trim, June 2021.

- Future Land Use:**
-  Single Family Residential
  -  Historic/Core Residential
  -  Mixed Residential
  -  Multiple Family Residential
  -  Manufactured Housing
  -  Mixed-Use
  -  Central Business District
  -  Commercial
  -  Office
  -  Light Industrial
  -  Recreation/Open Space



- Consider a new DDA program to provide “gap financing” for impactful investment projects through the use of project specific tax increment financing
- Catalogue available outside funding resources and serve as a conduit between property owners and funding agencies, including the MEDC and MEGLE

## Priority Redevelopment Site Recommendations

This section outlines recommendations for the redevelopment of each of the four priority redevelopment sites. Included are concept plans for each site that illustrate the overall character of redevelopment opportunities. The recommendations and concept sketches are not intended to be a prescription for what the city will allow or require at each site. Rather, they are intended to showcase potential redevelopment concepts that would be consistent with the overall goals and recommendations of this Master Plan. The city recognizes that some or portions of these sites are privately owned and does not intend to restrict the creativity of property owners or developers to propose different designs and concepts that would also be complementary with the city’s future vision.

### Evan’s Building

This site is located northeast of and adjacent to downtown Linden. It is approximately 1.2 acres in size and has water frontage along the Mill Pond. The site consists of two separate properties, both of which are privately owned. The larger of the two properties features a large warehouse building (locally known as the “Evan’s” building) and the smaller of the two properties contains a single-family dwelling. Existing challenges at this site include the presence of an adjacent electric substation, the cost of needed warehouse building improvements, lack of parking, and the potential for environmental contamination from prior uses.

Two concept drawings have been prepared to illustrate opportunities for the redevelopment of this site. One concept considers how the existing warehouse building could be reused or re-purposed, while the second concept considers site redevelopment if the existing warehouse building was demolished. Both concepts envision mixed-use development capitalizing on the site’s waterfront setting.

### DPW Yard

This priority redevelopment site is located on the north side of the Shiawassee River, east of North Bridge Street. It is located across the river from downtown Linden and Eagle’s Wooden Park. The site is approximately 9.1 acres in size and is entirely owned by the City of Linden. Much of the site is undeveloped, but a small dwelling (unoccupied) is located near Bridge Street and the central portion of the site is utilized as the city DPW yard, with one existing DPW building. Several water wells are located at the site which currently supply the city’s municipal water system. Two key challenges exist at this location: 1) the need to relocate the city DPW facility; and, (2) having to work around the existing municipal water wells. However, the City Council’s recent decision to connect to the Genesee County water system means that the water wells at this property would no longer be a significant barrier to site redevelopment. This connection is estimated to occur by the Spring of 2025. Smaller challenges include the need to demolish the existing dwelling structure and the lack of connections to downtown, with the river separating the site from downtown.

A concept drawing has been prepared to illustrate opportunities for the redevelopment of this site. Given the size of the site, an opportunity exists to establish multiple uses at the site, including commercial (near North Bridge Street), residential (central and northern portion of the site) and public (along the riverfront).

### Parkside

This 2.1 acre site is located immediately adjacent to downtown Linden to the west. The site consists of two small privately-owned properties along West Broad Street and a larger city-owned property with frontage on the Shiawassee River. One existing and occupied commercial building is located on the property, which is anticipated to remain. One challenge to redevelopment is potential contamination at the property along West Broad Street, which was formerly occupied by a gas station.

A concept drawing has been prepared to illustrate opportunities for the redevelopment of this site. Commercial and/or mixed-use development is envisioned along West Broad Street, while the central portion of the site could be utilized for public parking to serve the larger downtown area. The river-fronting portion of the site is anticipated as recreational space.



# Evan's Building Redevelopment Concept: Building Reuse Alternative

## Precedent Imagery



Dockside Dining



Adaptive Reuse of Industrial Buildings



Pop Up Shops

## Entice New Business Uses:

- Restaurants with waterfront seating
- Microbrewery
- Food truck park
- Banquet/events facility
- Unique shops/pop-up shops
- Office/maker-space

## New Public Amenities:

- On-site parking (north end)
- Community meeting space
- Kayak/canoe docks (customer use)
- Bike racks

Demolish northern portion of building for off-street parking. Possible option for podium parking with building above.



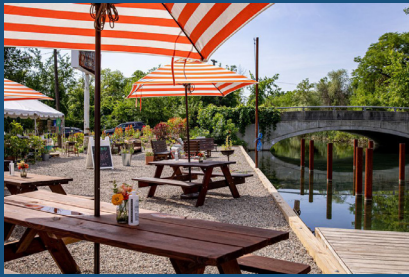
## Upper Story Development:

- Potential 2-3 story building height
- 3rd story would require step-back from water and streets
- Upper story uses may include residential, office, maker-space or live/work units



# Evan's Building Redevelopment Concept: Building Demolition Alternative

## Precedent Imagery



Active dock/boardwalk space



Residential with ground floor commercial



Attached residential development

## Demolition of Existing Building and New Construction:

- 2 to 3 stories
- Attached residential townhouses
- Ground floor commercial and office
- Upper story office, live/work and maker-space





## DPW Yard Redevelopment Concept

### Potential Public Amenities Along the Shiawassee:

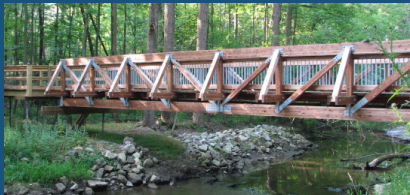
- Bridge to Eagles Wooden Park
- Canoe/kayak livery
- Paddlers campground
- Passive outdoor recreation space (picnic area, grills)
- Enhance nature opportunities (i.e., birding)
- Access point to launch kayaks portaging from east
- Farmers market and other outdoor events
- Restroom

### Entice New Mixed-Use Development:

- Restaurant uses along the river with outdoor seating
- Retail uses
- Unique shops/pop-up shops
- Mixed residential development, to include attached and detached dwellings



### Precedent Imagery



Pathway, bridge and recreational amenities



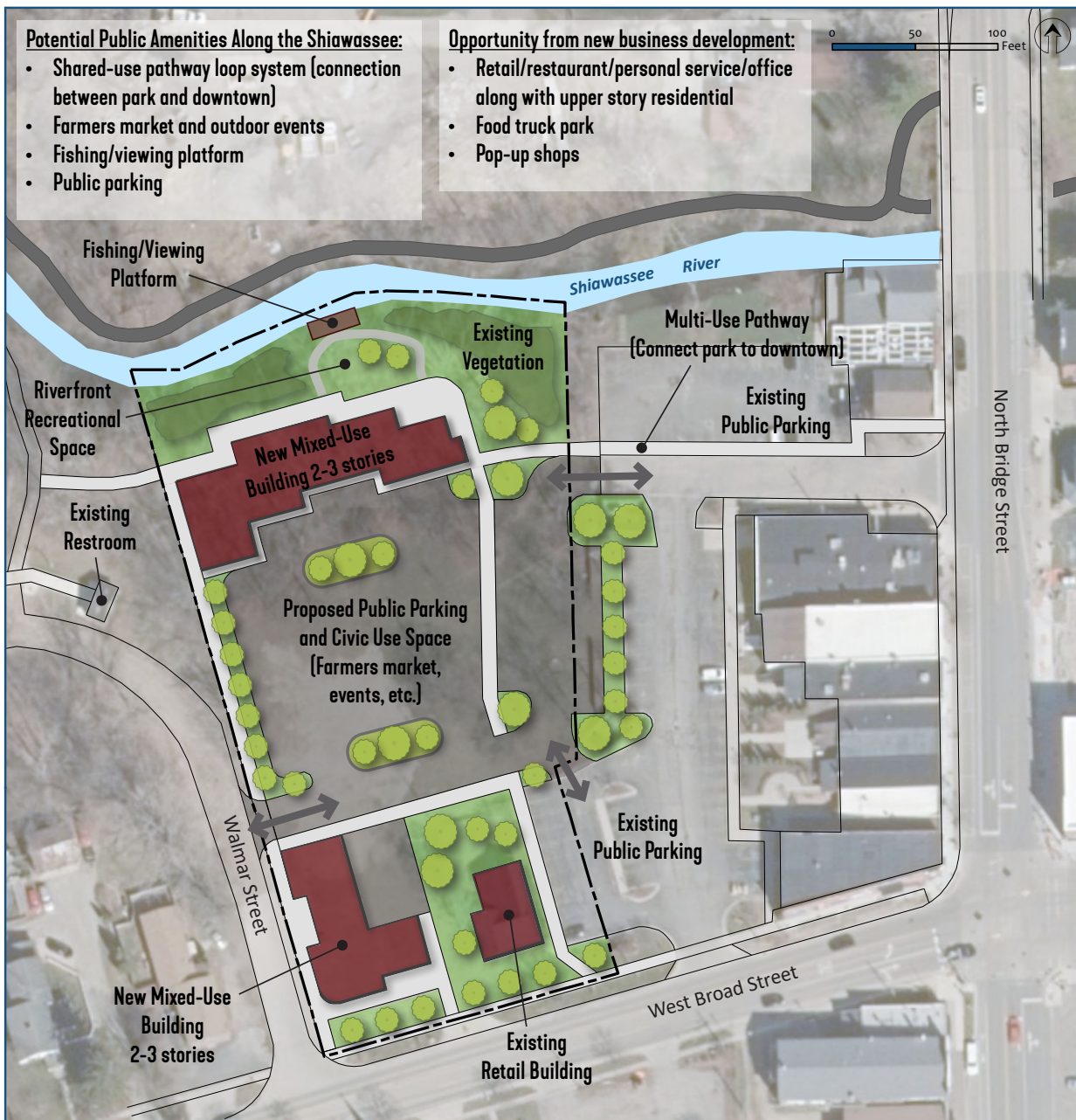
Farmers' market  
Mixed-residential housing -->



Priority Redevelopment Sites



## Parkside Redevelopment Concept



### Precedent Imagery



Riverfront recreational space



Riverfront-oriented mixed-use



Public parking



Civic multi-purpose space



Mixed-use/unique commercial



## Old Theater

This approximately 2-acre site is located just south of downtown Linden along the west side of South Bridge Street. The site consists of two properties, both of which are privately owned (Symphony of Linden). Only the northeast corner of the site is occupied by a two-story, former theater building. The remainder of the site is undeveloped - this portion of the site has previously been designated as a possible future phase of the Symphony of Linden senior care facility. Challenges for the redevelopment of the site include the poor condition of the existing theater building and potential contamination from prior uses.

A concept drawing has been prepared to illustrate opportunities for the redevelopment of this site. Following its historic use as a theater, the concept suggests that the site be re-established as a theater for the performing arts. Given the building condition, this will require building rehabilitation or demolition and new construction. Space for new mixed-use development along South Bridge Street is available, along with space for the expansion of the senior care facility.

## Additional Redevelopment Sites

Although not deemed “priority” sites, **Map 10** shows additional redevelopment sites which were identified during the planning process as having the potential to accommodate redevelopment activity. These sites include:

- City Hall Site
- 495 W. Broad
- 112 S. Bridge
- North end business district

## City Hall Site

Linden City Hall, located at 132 East Broad Street, is a two-story building that houses the city administrative office, police department and fire department. Because it is a historic building located in downtown, there exists the potential for the building to be rehabilitated and re-occupied as a mixed-use building, which would be a stronger contributor to the vibrancy of downtown. To enable this transformation, the city municipal functions would first need to be relocated elsewhere within the city.

## 495 West Broad

Located on the south side of West Broad Street, this 2.7 acre property is presently utilized as a landscape materials yard. Located on the edge of the West Broad Street business district, it has the potential to be redeveloped for commercial and/or office use and better connected to the larger business district.

## 112 South Bridge

This small site on the west side of South Bridge Street is currently a gravel parking lot located between historic commercial buildings along the street. The lack of development at this site results in a “gap” in the historic street wall, which could be filled through new building construction of a character similar to the existing buildings to the north and south.

## North End Business District

As part of the citizen survey, respondents were asked to indicate locations in the city where redevelopment should occur. Numerous respondents indicated the north end business district (North Bridge Street) as a general location where redevelopment is needed. This business district contains a mixture of uses including industrial, office and commercial. Some sites within the business district are either underutilized or are undeveloped. The city desires to attract new business investments to generate additional tax revenue and commerce in line with the existing character of this local business district.

## Old Theater Redevelopment Concept



### Precedent Imagery



Theater exterior improvements



Supportive living expansion



New mixed-use construction



# Implementation Strategy

This Master Plan serves as the policy guide for moving Linden forward, guiding decisions about future land use, development and redevelopment, circulation and overall quality of life. Transforming the Master Plan's goals into reality will require a long-term commitment and political consensus. Implementation will require the ongoing efforts of elected officials, appointed officials, city staff, neighboring agencies and citizens. The effectiveness of the Master Plan relies upon the diligence with which its provisions are implemented.

The plan is designed to be a road map for action, incorporating strategies, specific projects, and programs that will achieve the desired results. This section identifies the actions needed to transform the plan's vision into reality.

## Tenets of Successful Implementation

The input received through the planning process provided a foundation to help achieve the city's vision. Community support, commitment, and involvement must continue.

### Commitment

Successful plan implementation will be directly related to a committed city leadership. While elected and appointed officials will have a strong leadership role, many others, including city staff and leaders from the community's many institutions and organizations, will also be instrumental in supporting the plan. However, commitment reaches beyond just these individuals and includes the array of stakeholders. Citizens, landown-



CITY OF LINDEN  
MASTER PLAN UPDATE



ers, developers, and business owners interested in how Linden develops must unite toward the plan's common vision.

### **Guidance for Development Decisions**

This plan is designed for routine use and should be consistently employed during any process affecting the community's future. Private investment decisions by developers, corporations, and land owners should consider the plan's direction as it is the guide for future growth and stability of the community.

### **Role of the Planning Commission**

A role of the Planning Commission is to provide recommendations to the City Council and city administration. This planning function is a continuous process which does not terminate with the completion of the Master Plan. Planning is an ongoing process of identification, adjustment, and response to problems or opportunities that arise. In order to sustain the planning process, generate positive results, maintain momentum, and respond to change, the plan should be reviewed and updated every five years, at a minimum (refer to the Planning Enabling Act). In addition, the Planning Commission or other designated committees, can prepare sub-area or topic-based plans for specific issues or areas of concern as specified in the Master Plan.

The Planning Commission's work does not end with the adoption of this plan. Every year, the Planning Commission should establish/update its annual work plan based upon this plan's recommendations.

### **Coordination between Boards and Commissions**

In no certain order, the Planning Commission, City Council, Zoning Board of Appeals, Parks and Recreation Commission and other groups are essential for the implementation of the plan. To that end, there should be a regularly scheduled coordination session between these groups to discuss work plans and priorities for the year. Resources can be allocated and schedules developed to minimize the duplication of effort and conflicting interests.

### **Downtown Development Authority's Role**

The DDA should be viewed as the development arm of city government, as opposed to just a funding source for public improvements. The DDA can leverage private investment using its ability to capture tax increment, both current and future, and direct it

toward specific development projects. Without this investment, many projects would not be feasible, ensuring they would not be built and the city loses new tax revenue moving forward.

### **Capital Improvement Program**

The city has and will continue to maintain an updated and effective Capital Improvement Plan (CIP). A CIP is used to evaluate, prioritize and structure financing of public improvement projects. The CIP provides a basis for systematic review of proposed improvements related to the Master Plan by the City Council, and creates an opportunity to coordinate timing, location and financing of those projects.

The role of the Planning Commission in the CIP process is primarily to identify potential projects as related to the Master Plan, coordinate material submitted by others, and work with financial officials in assembling facts for decision by the City Council.

### **Public Understanding and Support**

The necessity of citizen participation and understanding of the planning process and the plan cannot be over-emphasized. A carefully organized public education program is needed to organize and identify public support in any community development plan. The lack of citizen understanding and support can seriously limit implementation of the planning proposals. The failure to support needed bond issues, failure to elect progressive officials, and litigation concerning taxation, special assessments, zoning, and public improvements are some of the results of public misunderstanding of long-range plans.

In order to organize public support most effectively, the city must emphasize the reasons for the planning program and encourage citizen participation in the adoption of the plan and the continued planning process. Public education can be achieved through informational presentations at various local functions, newspaper articles, and preparation of simple summary statements on plans for distribution. Participation by residents in various civic groups is evidence of community involvement.

## Programs and Funding

Successful implementation of projects will depend on the ability of the city to secure the necessary financing. Besides the general fund, millage proposals and other traditional funding mechanisms, there are several sources of funding available to the city. In many cases, the city has in the past, or currently benefits from such funding.

## Zoning Plan

According to section 2(d) of the Michigan Planning Enabling Act, PA 33 of 2008, the Master Plan shall include a “Zoning Plan” - depicting the various zoning districts and their use, as well as standards for height, bulk, location, and use of building and premises. The zoning plan serves as the link between the Master Plan and the Zoning Ordinance, and to ensure consistency between the two documents, it guides the Planning Commission in what to consider updating in the Zoning Ordinance.

The City of Linden Master Plan has established a total of eleven future land use classifications (see the Future Land Use Plan section and **Map 9**).

The presently adopted City of Linden Zoning Ordinance has established a total of nine zoning district designations, as follows:

- R-1, Single Family Residential
- R-2, Single Family Residential
- R-3, Single Family Residential
- R-4, Multiple Family Residential
- R-5, Mobile Home Park
- LS, Local Service
- GC, General Commercial
- CBD, Central Business District
- LI, Limited Industrial

The City Zoning Ordinance also has established a development option, Planned Unit Development, which allows for regulatory flexibility for unique projects that meet certain qualifications.

**Table 21** highlights how each of the eleven future land use classifications is intended to be accomplished through zoning district designations.

**Table 21: Zoning Plan**

Relationship Between the Future Land Use Classifications and Zoning Districts		
Future Land Use Classification	Current Zoning District(s)	Notes
Single Family Residential	R-1 Single-Family Residential; R-2, Single-Family Residential	The R-1 and R-2 Districts work together to accomplish the intent of the Single Family Residential future land use classification
Historic/Core Residential	R-3, Single-Family Residential	
Mixed Residential	n/a	Most likely to be accomplished through the Planned Unit Development option which offers regulatory flexibility
Multiple Family Residential	R-4, Multiple Family Residential	
Manufactured Housing	R-5, Mobile Home Park	
Mixed-Use	n/a	The city should explore creating a new Mixed-Use Zoning District; At present, the Planned Unit Development option offers regulatory flexibility to accommodate mixed-uses
Central Business District	CBD, Central Business District	
Commercial	GC, General Commercial	
Office	LS, Local Service	
Light Industrial	LI, Limited Industrial	
Recreation/Open Space	n/a	Public and semi-public uses are allowed in a variety of districts, including the single family residential districts (R-1, R-2 and R-3)

## Items for Consideration in Future Zoning Ordinance Updates

Not meant to be an exhaustive list, the following issues/items/topics have been identified within this Master Plan and should be evaluated by the Planning Commission for consideration as potential zoning amendments:

1. Create and adopt a new zoning district classification that meets the intent of the mixed-use future land use classification described within this Master Plan, which includes flexibility to allow a variety of mixed-use buildings and mixed-uses within a single site
2. Identify and consider changes to the Zoning Districts Map to ensure consistency with the Future Land Use Map
3. Review permitted and special land uses and incorporate additional modern uses
4. Consider establishing site and architectural design guidelines for commercial buildings outside of the Historic District
5. Review and consider amendments to the Zoning Ordinance based on the Redevelopment Ready Communities (RRC) Best Practices for Zoning, which include:
  - Ensuring that the Zoning Ordinance is properly aligned with the Master Plan
  - Improving Zoning Ordinance accessibility and user-friendliness
  - Ensuring that the Zoning Ordinance allows areas for context-sensitive concentrated development, such as build-to-lines, minimum ground floor transparency and walk-up windows
  - Reviewing and amending the Zoning Ordinance to ensure that it allows for a diverse range of housing types in appropriate locations, such as triplexes, quadplexes and stacked flats
  - Amending the zoning ordinance to increase flexibility in the provision of off-street parking
  - Ensuring that green infrastructure and low-impact site design techniques are allowed and encouraged

## Implementation Matrix

In order for the Master Plan to be implemented, the City and community partners must carry out the actions needed to achieve the goals and the community’s vision for Linden’s future. To aide the City in implementation of the plan’s recommendations, an Implementation Matrix has been prepared (**Table 22**).

The Implementation Matrix is organized around the six major themes established in the Goals and Objectives section of the Master Plan. These six themes are as follows:

1. Exceptional Community Character
2. Vibrant Residential Neighborhoods
3. Thriving Economy and Business Districts
4. Balanced Circulation Network
5. Community Sustainability
6. First-Class Community Services

Under each theme, various “actions” are presented. Each action includes a time frame in which the action should be carried out and the task leader(s) most likely to carry out the action. The task leader listed first should be the primary lead on the action item; others listed are recommended collaborators.

Timeframe Key
<p><b>Now:</b> Begin work immediately upon plan adoption.</p>
<p><b>Near:</b> Begin work within 1 to 2 years. Inform the task leader(s) and initiate a committee if necessary. The committee should meet at least (1) time per year starting now until the time of implementation to ensure any further work and study on the action is completed and implementation begins on time.</p>
<p><b>Next:</b> Begin work within 3 to 5 years. The Planning Commission should monitor the progress of the near-term action items and be ready to continue progress with these next action items.</p>
<p><b>Ongoing:</b> Actions that require continuous monitoring or effort.</p>



Responsibility Key
<b>BC:</b> Business Community (Grow Linden, Chamber of Commerce, etc.)
<b>CA:</b> City Administration/Staff
<b>CC:</b> City Council
<b>DDA:</b> Downtown Development Authority
<b>HDC:</b> Historic District Commission
<b>GC:</b> Genesee County
<b>PC:</b> Planning Commission
<b>PR:</b> Parks and Recreation Commission

Funding Key
<b>P:</b> Public - Includes public funds from the City general operating budget, Genesee County, and State funding. Public funds may also include local government bonds.
<b>TIF:</b> Tax Increment Finance - Revenues through the City’s Downtown Development Authority as authorized by City Council.
<b>O:</b> Private/Other - Includes funds from private sources, such as grant monies, foundations, corporations, or personal property owners.

**Table 22: Implementation Matrix**

Theme: Exceptional Community Character			
Action	Timeframe	Responsibility	Funding
1. Regularly review and update this Master Plan.	Ongoing	PC, CA	P
2. Update the City of Linden Zoning Ordinance per the recommendations of the Zoning Plan	Now	PC, CA	P
3. Consider establishing site and architectural design guidelines for commercial buildings outside of the Historic District.	Near	PC, CA, HDC	P
4. Continue to provide assistance to businesses to improve and restore the facades and signage of buildings in the downtown area.	Now	DDA	TIF
5. Promote the history of the City in public and semi-public spaces through placemaking strategies like public art, historical landmarks, and signage.	Next	CC, CA, DDA, HDC	P, TIF
6. Enhance City gateways by implementing placemaking strategies like signage, wayfinding, and streetscape upgrades.	Next	CC, CA, DDA, HDC	P, TIF
7. Establish a committee to identify and foster partnerships with local and regional organizations in support of community arts and culture programs and initiatives.	Near	PC, CA	P
8. Update the City website to catalogue the various cultural, social, civic, educational and fraternal organizations operating within Linden, while advertising their respective purposes and opportunities for residents to get involved or provide support.	Near	CA	P

**Table 22: Implementation Matrix (cont.)**

<b>Theme: Vibrant Residential Neighborhoods</b>			
Action	Timeframe	Responsibility	Funding
1. Develop marketing materials for the benefit of existing and potential residents documenting Linden’s many desirable attributes, including its safe and unique neighborhoods, neighborhood amenities, and other quality of life elements.	Near	CA	P
2. Create a common vision and a communication plan to generate support for affordable housing initiatives and developments.	Near	PC, CA	P
3. Explore measures to integrate more affordable housing within Linden.	Now	PC, CA	P
4. Explore measures to integrate more housing options within downtown Linden.	Now	PC, CA	P
5. Review the current residential neighborhood code compliance and enforcement program and consider options to increase its effectiveness.	Near	CA	P
<b>Theme: Thriving Economy and Business Districts</b>			
Action	Timeframe	Responsibility	Funding
1. Establish a task force with responsibility for working to implement the recommendations of the City of Linden Economic Development and Marketing Strategy.	Now	DDA, CA	TIF
2. Regularly review and update the City of Linden Economic Development and Marketing Strategy.	Ongoing	DDA, CA	TIF
3. Update the DDA’s 2014 parking study to determine current and future parking needs within and near Downtown.	Near	DDA, CA	TIF
4. Establish a task force with responsibility for championing the redevelopment of the City’s Priority Redevelopment Sites. Tasks will include marketing, coordinating with property owners, identifying funding resources, etc.	Now	PC, DDA, CA	P, TIF

**Table 22: Implementation Matrix (cont.)**

<b>Theme: Balanced Circulation Network</b>			
<b>Action</b>	<b>Timeframe</b>	<b>Responsibility</b>	<b>Funding</b>
1. Establish a committee to work toward implementation of the road design and non-motorized facility recommendations of the Future Circulation Plan.	Now	CC, PC, PR, CA	P
2. Ensure that the pedestrian, bicycle and non-motorized amenity recommendations of this plan are completed in conjunction with scheduled road improvement projects.	Ongoing	CC, CA	P
3. Engage with local and regional organizations and advocacy groups such as LAFF pathways, bicycle users, seniors, and schools to promote non-motorized travel and improvements within Linden, including Safe Routes to School improvements.	Ongoing	CA	P
4. Identify and seek outside funding in support of road enhancements and non-motorized improvements.	Ongoing	CC, PC, PR, CA	O
<b>Theme: Community Sustainability</b>			
<b>Action</b>	<b>Timeframe</b>	<b>Responsibility</b>	<b>Funding</b>
1. Work toward implementation of the City of Linden Parks and Recreation Plan.	Ongoing	PR, CC, CA	P, O
2. Regularly review and update the City of Parks and Recreation Plan.	Ongoing	PR, CA	P
3. Create a public art program for parks and public spaces.	Next	PR, CC, CA	P
4. Consider zoning changes to allow for sustainable energy production.	Near	PC, CA	P
5. Consider zoning changes that encourage rain gardens, permeable paving materials, LEED certification, and other sustainable development goals.	Near	PC, CA	P



**Table 22: Implementation Matrix (cont.)**

Theme: First-Class Community Services			
Action	Timeframe	Responsibility	Funding
1. Develop a 6 year Capital Improvement Plan (CIP) and update it annually.	Ongoing	CC, CA	P
2. Connect to the Genesee County water system to alleviate long-standing pressure and water capacity issues.	Now	CC, CA	P
3. Create promotional materials for residents and businesses describing the various sustainable practices that can be deployed in the city.	Now	CA	P
4. Improve the user experience of the City’s website to be an efficient resource for information, transparency, and basic functions.	Ongoing	CA	P
5. Establish a public participation strategy.	Now	CA	P
6. Develop a documented policy to guide the internal review process including tasks, times, responsible parties, etc.	Now	CA	P
7. Create a tracking system for development projects.	Now	CA	P
8. Create an orientation packet for development-related boards and commissions.	Now	CA	P
9. Hold an annual joint meeting with City Council, Planning Commission and DDA.	Ongoing	CC, PC, DDA	P

# Appendix

- A. Citizen Survey Results Summary
- B. Focus Group Discussions Results Summary
- C. Visioning Workshop Slide Presentation



**CITY OF LINDEN**

# **MASTER PLAN UPDATE**

## **Citizen Survey Results Summary**

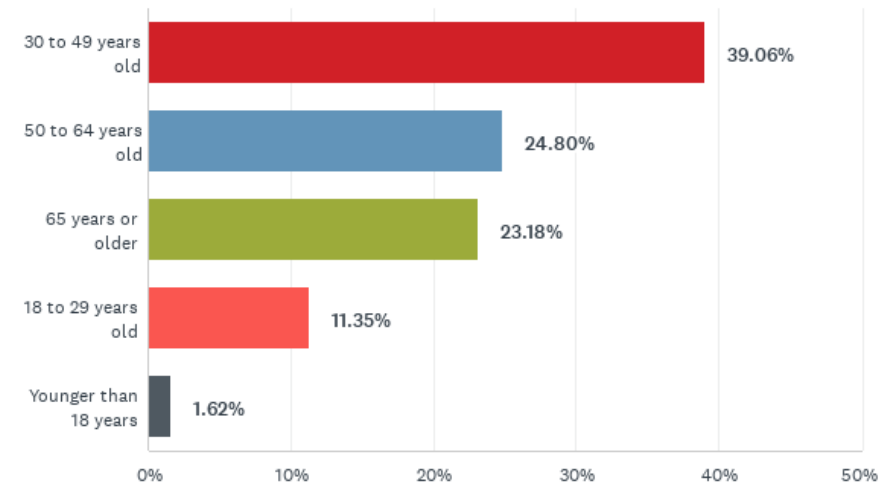
Prepared by Wade Trim, April 26, 2022



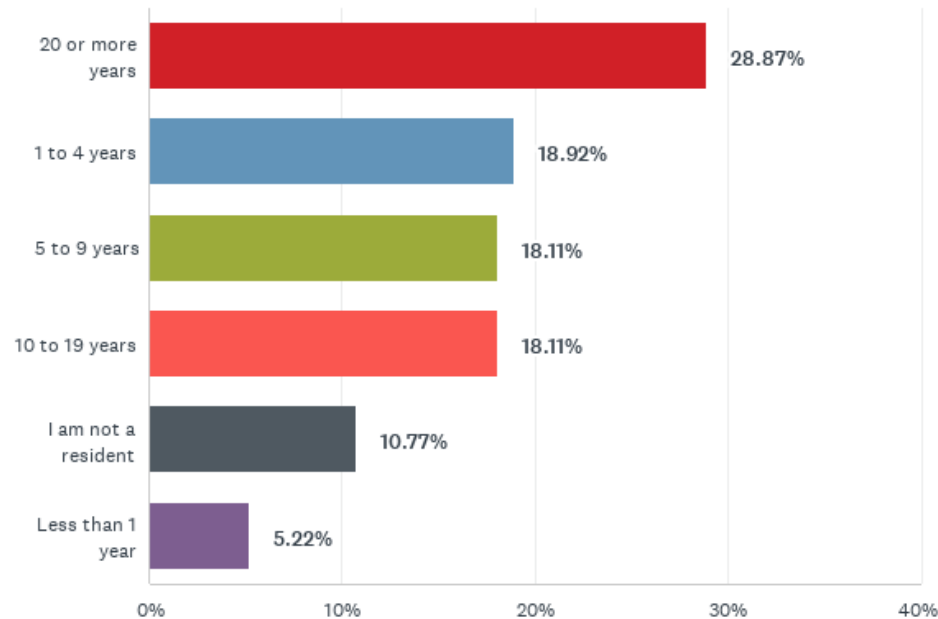
# Survey Response & Respondent Profile

- 624 total responses
- Nov. '21 – Jan. '22

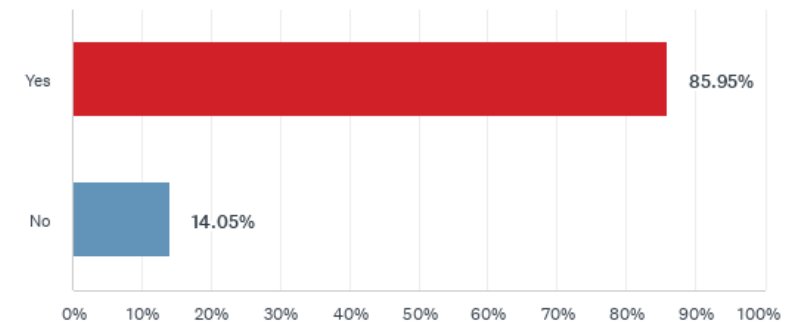
### Age Range



### Length of Residency in Linden



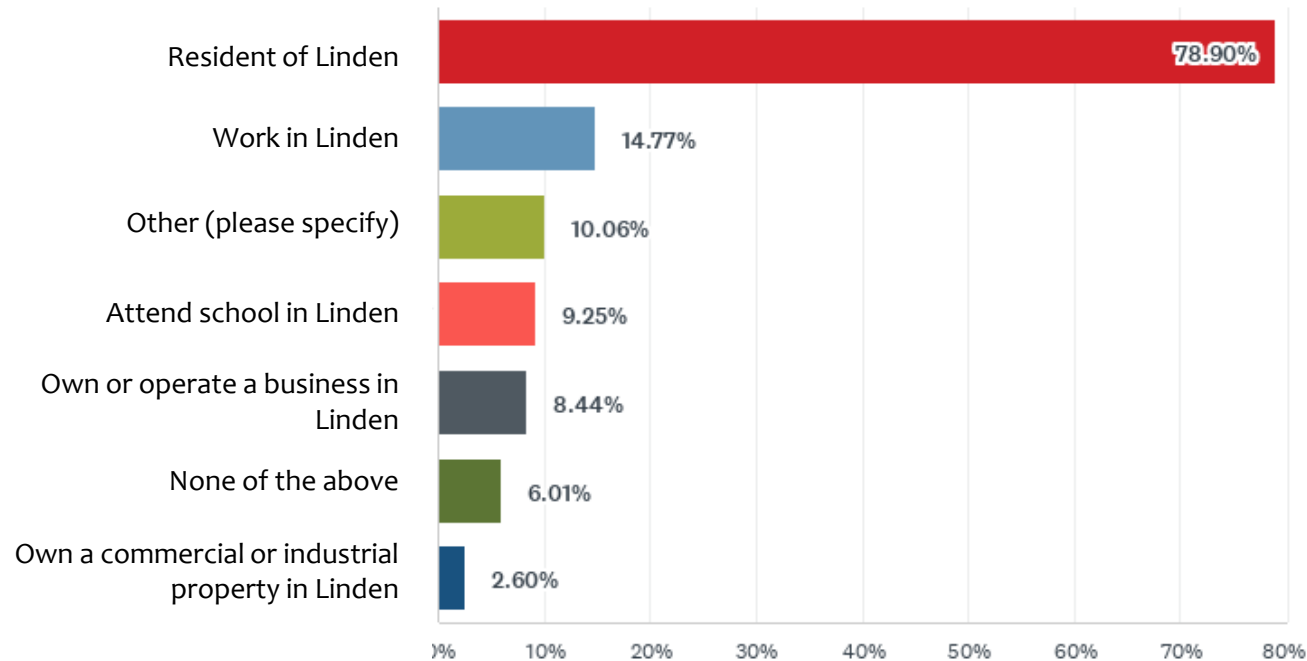
### Citizen Status



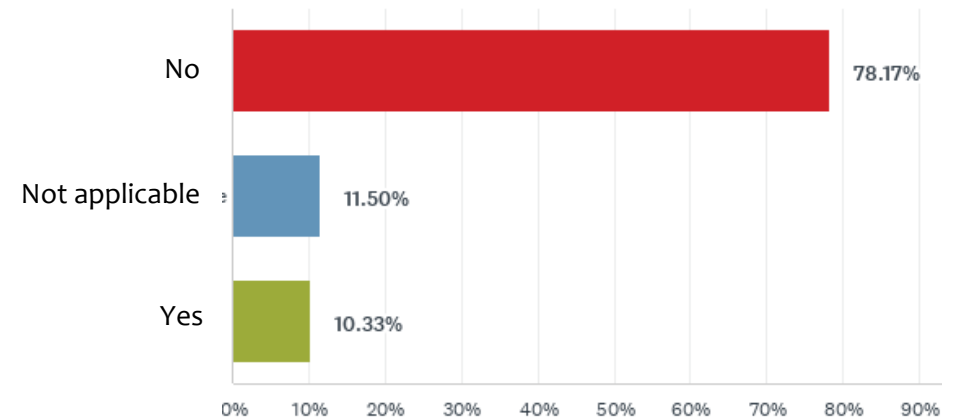
Where relevant, notes have been added to this summary to indicate differences in opinions between resident and non-resident respondents, and younger (<29 years) and older (>65 year) respondents.

# Respondent Profile (cont.)

## Relationship to Linden



## Do you plan on moving out of Linden in the next 5 to 10 years?



# Most Positive Aspects of Linden

- Top 10 Most Positive Aspects

1. Small-town atmosphere (74%)
2. Safe neighborhoods and community (65%)
3. Friendly people or atmosphere (44%)
4. Historic character of the community (44%) ← Ranked #3 for non-residents
5. No or limited congestion (31%)
6. Quality of the school district (30%) ← Ranked #4 for 29 years and under
7. Proximity to family or friends (29%)
8. Community spirit or civic mindedness (28%)
9. Access to non-motorized transportation (bike paths, sidewalks, etc.) (27%)
10. Recreation options (23%)

**Conclusions:** There was broad consensus about the small-town character of the community being Linden's most positive aspect. Several other aspects in the top 10, such as no or limited congestion, are related to small-town character.



# Least Favorable Aspects of Linden

- Top 10 Least Favorable Aspects

1. Lack of dining options (60%)
2. Lack of shopping, retail and service options (41%)
3. Lack of entertainment options (37%)
4. Downtown district is not vibrant enough (35%) ← Ranked #2 for 65 years and over
5. Other (please specify) (18%)
6. Congestion (17%)
7. Lack of youth activities (16%) ← Ranked #5 for non-residents
8. Housing costs (12%) ← Ranked #6 for 29 years and under
9. Lack of recreation options (12%)
10. Loss of small-town atmosphere (12%)

**Conclusions:** “Lack of dining options” was the clear choice for survey respondents. “Lack of shopping, retail and service options,” “lack of entertainment options,” and “downtown district is not vibrant enough” were also commonly noted as least favorable.

# What is the one thing you would change?

- Common Responses (375 total):

(As compiled by Wade Trim and listed in no particular order)

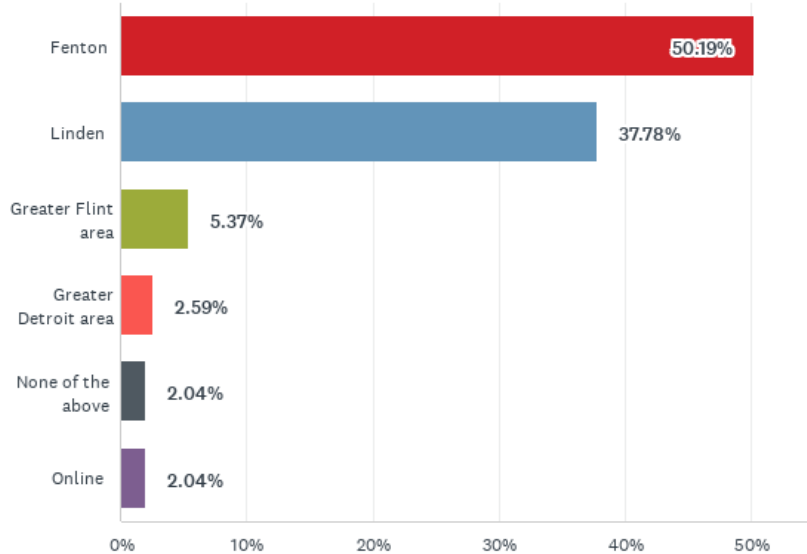
- More retail, dining and entertainment options
- Maintain small-town character
- Add businesses/more vibrant downtown
- Improve roads
- Increase parking downtown
- Need for youth facilities/activities
- Sidewalk improvements/connections
- Mill Building improvements
- Reduce congestion/traffic
- Blight/improvements to older buildings

families Please drive open will Living N lot Fenton right Improve homes traffic Clean look  
post office Pave Ripley road conditions road use etc new know sidewalks  
neighborhood big entertainment make rid see water downtown area River  
options Stop restaurants old add thing shopping many  
better help park nice city Rolston Rd Linden bike path  
roads Mill Building buildings Ripley Road  
downtown new gas station need condition people side  
go especially businesses dining streets Lack  
dining options subdivisions paved think environment property  
change one S keep town try residents increase now draw people closer  
see doctor improve Nothing year places bridges Fix Repair housing walk really Limit  
everyone Fire moved coming development low taxes Bridge Street

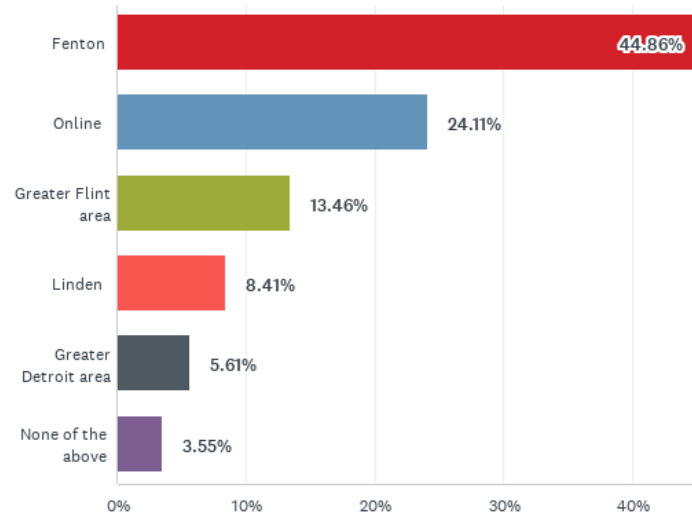
**Conclusions:** A great variety of responses were received. Common sentiments and themes are listed above.

# Shopping Habits

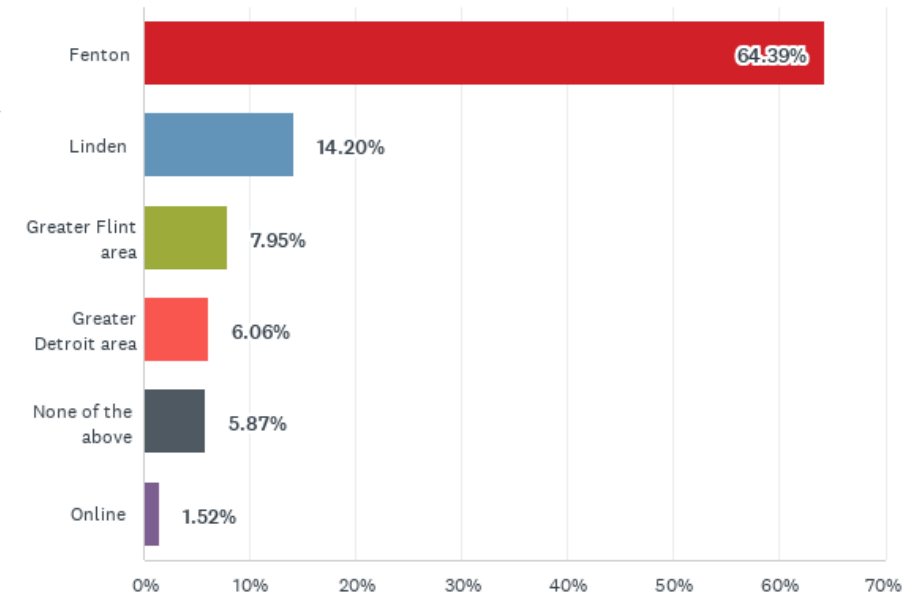
## Most Common Location for Convenience Shopping and Service Needs



## Most Common Location for Comparison Shopping and Service Needs



## Most Common Location for Dining and Entertainment Needs



**Conclusions:** Most respondents go outside of the Linden to fulfill their shopping needs, mostly to Fenton. Even for convenience shopping and service, such as groceries, drugs, salons and hardware, respondents most commonly left the City.

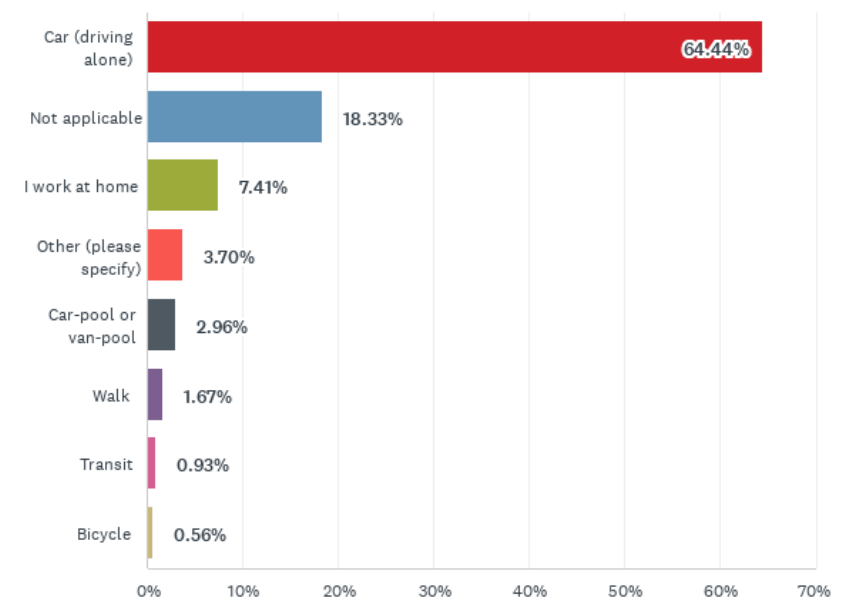


# Transportation Habits

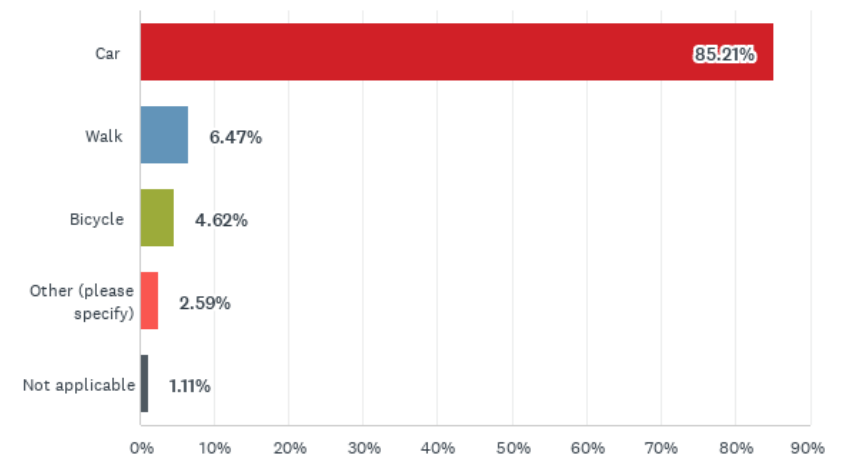
- What barriers exist that prevent you from using your preferred mode of transportation or a different mode of transportation?
  - Common responses (266 total):  
(As compiled by Wade Trim and listed in no particular order)
    - None
    - No other options
    - Sidewalk conditions/gaps
    - No bike paths
    - Poor road conditions
    - Traffic congestion

**Conclusions:** Survey respondents rely heavily on their car as their primary mode of travel to work and between destinations within Linden. When asked about transportation barriers, many respondents indicated that there are none. For those who did, common sentiments and themes are listed above.

## Primary Mode of Transportation to Work

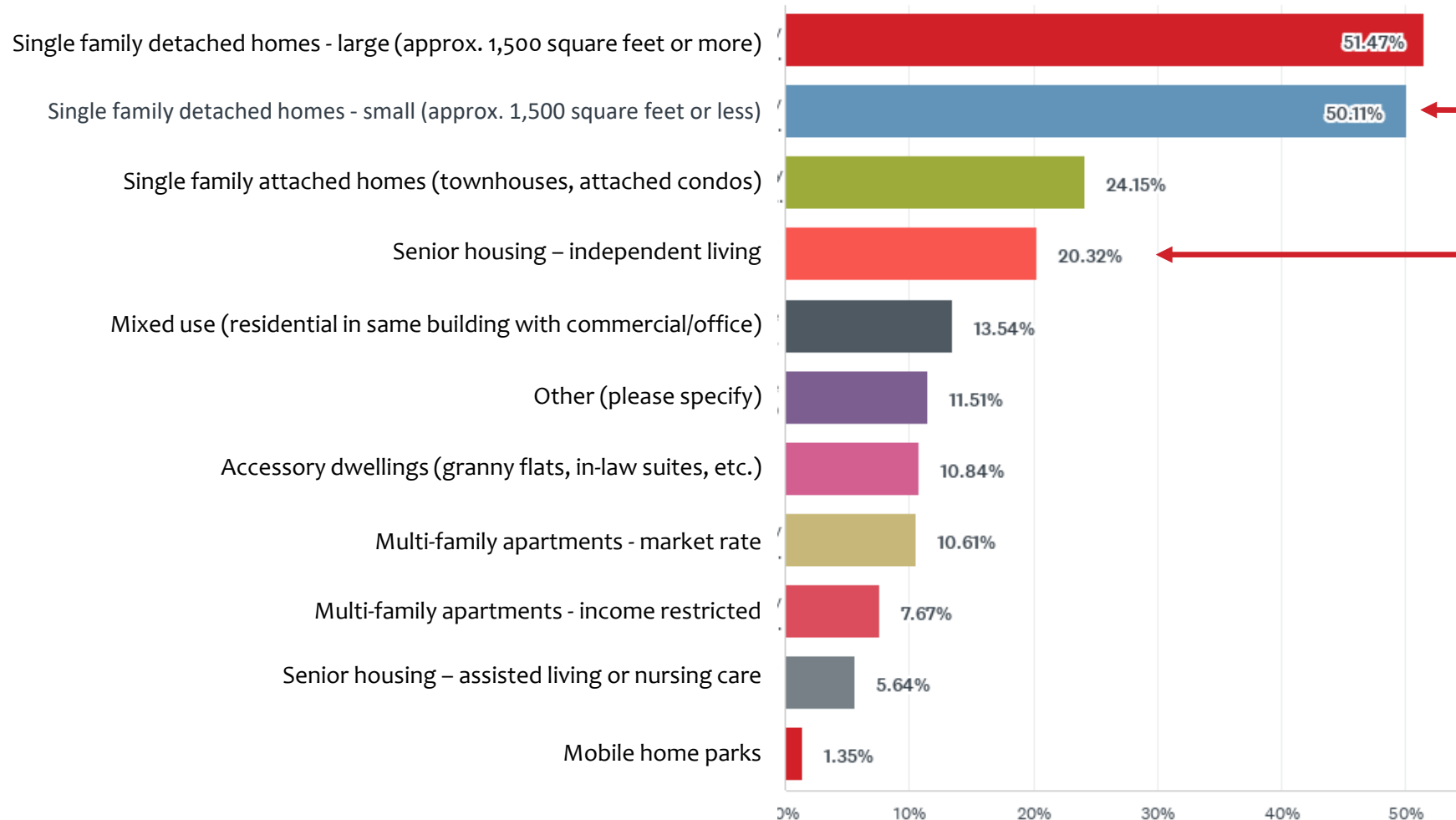


## Primary Mode of Transportation between Destinations within Linden



# Future Housing Development

In the next 5 to 20 years, what type of housing should be developed in Linden?



Ranked #1 for non-residents and for 65 years and over

Ranked #2 for 65 years and over

**Conclusions:** Single-family detached homes, whether large or small, is the clear preference for the type of housing that should be developed in Linden in the future. Beyond single-family, a fair number of residents saw the need for attached homes and senior independent living.

# Land Use Strategy Prioritization

- The following is a list of potential land use development strategies that Linden could employ over the next 5 to 20 years. In your opinion, what is the level of importance of each of these potential strategies?

Land Use Strategy	Weighted Average	
Preserve natural features (floodplains, wetlands, woodlands, etc.)	3.27	
Enhance and direct new development to Downtown Linden	3.09	
Improve/expand the motorized transportation network (roads, bridges, etc.)	3.07	← Ranked #1 for 65 years and over
Improve/expand community services and infrastructure	3.02	
Improve the appearance of existing homes and neighborhoods	2.98	
Improve/expand the non-motorized transportation network (bike paths, sidewalks, etc.)	2.95	
Capitalize on or maximize access to the Shiawassee River/Mill Pond	2.94	Ranked #3
Improve/expand recreational facilities and programming	2.9	← for non-residents
Encourage additional commercial development outside of Downtown	2.69	← Ranked #2 for 29 years and under
Encourage additional housing development	2.28	
Encourage additional industrial development	1.86	

**Conclusions:** The highest priority strategies are listed at the top (table is sorted by weighted average).



# Targeted Redevelopment Sites

- Please list up to 3 sites/locations in Linden that should be targeted for redevelopment. These could be vacant sites or sites which are currently underutilized.
  - Common responses (238 total):  
(As compiled by Wade Trim and listed in no particular order)
    - Downtown (in general)
    - Mill Pond area (in general)
    - North end business district (in general)
    - City DPW building/property
    - Site in front of Eagle's Park
    - 122 S. Bridge
    - 117 W. Broad
    - Evan's building
    - City hall building
    - N. Bridge vacant site (n. of RR tracks)
    - Surrounding Price's Airport
    - Linden Mills Building
    - Ripley/Rolston property (SW corner)
    - 495 W. Broad

**Conclusions:** A great variety of responses were received. Common locations, either site-specific or generalized, are listed above.

# Branding

- What are three words or phrases that come to mind when describing Linden?

- Common responses (334 total):

(As compiled by Wade Trim and listed in no particular order)

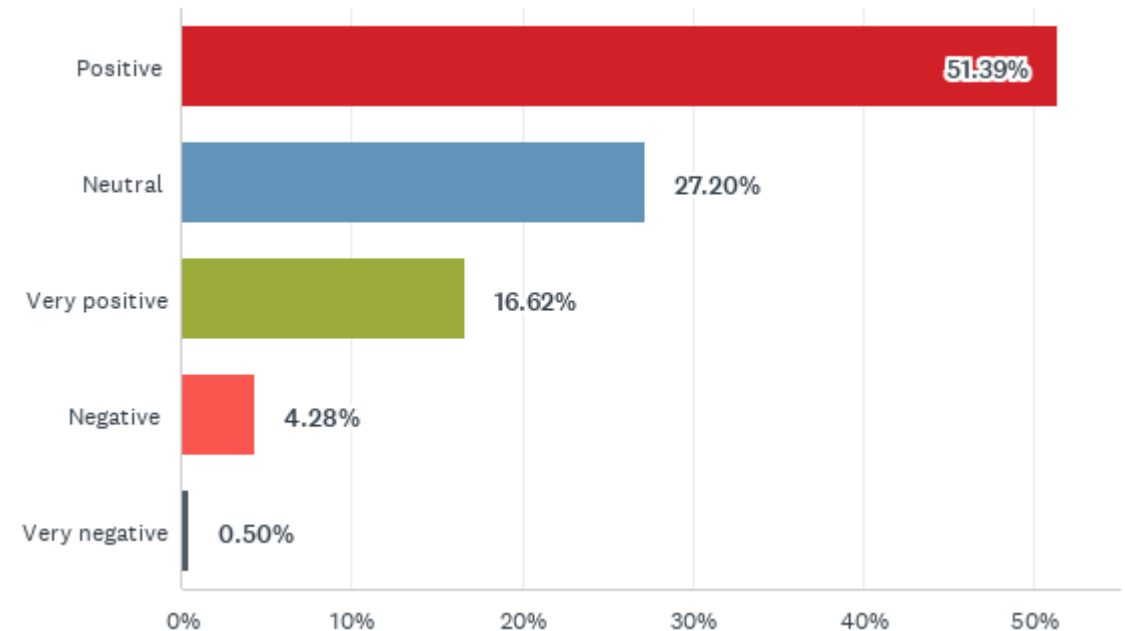
- Quaint
- Beautiful
- Small
- Quiet
- Peaceful
- Cute
- Home/hometown
- Community
- Charming
- Sweet
- Safe
- Cozy
- Family
- Small town/small town feel
- Great
- Historic
- Friendly
- Living
- Good
- People
- River
- Clean
- Growing
- Charm

**Conclusions:** A great variety of responses were received. Common sentiments and themes are listed above.

# Visitor Experience and Appeal

- Pretend your job is to explain and convince someone who is not familiar with Linden to relocate their residence and/or business here. What do you say to encourage them to move to Linden?
  - Common responses (256 total):  
(As compiled by Wade Trim and listed in no particular order)
    - Friendly community
    - Close to everything you need
    - Good schools
    - Safe community
    - Historic character
    - Small town feel
    - Reasonably affordable
    - Quiet, less congestion
    - Don't come, we're full

How do you believe visitors, either business or personal, experience the City of Linden?



**Conclusions:** Most respondents believe that visitors have positive experiences in Linden. Only a very small number perceived a negative visitor experience.



# Economic Development

- Top 5 Challenges to Jobs and Economic Growth (weighted average)
  1. Keeping young, skilled workers (2.75)
  2. Competition from nearby business districts and employment centers (2.61)
  3. Availability of jobs (2.46)
  4. High costs (business and living) (2.25)
  5. Inadequate transportation infrastructure (2.13)
- Bottom 3 Challenges to Jobs and Economic Growth (weighted average)
  1. Lack of industrial facilities (1.65)
  2. School systems (1.75)
  3. Collaborative mindset (2.01)
- What does economic development mean to you? (Top 3 by weighted average)
  1. Expanding the growth of existing businesses in the city (5.50)
  2. Launching new businesses in the city (5.49)
  3. Attracting businesses to locate to the city (5.25)

**Conclusions:** Respondents felt that the greatest economic development challenges included “keeping young, skilled workers” and “competition from nearby business districts and employment centers.” Respondents largely felt that economic development means supporting business growth and development, for both existing and new businesses.

# Future Aspirations

- What would you like to see in Linden that doesn't currently exist?
  - Common responses (274 total):  
(As compiled by Wade Trim and listed in no particular order)
    - More grocery options
    - Pedestrian/bicycle connections
    - New/more businesses (in general)
    - More/better restaurants
    - Improved roads
    - More recreational facilities/recreation center
    - Entertainment establishments
    - Youth amenities & activities
    - Public art
    - Keep it the way it is

area Quality restaurants street fast food ONE Mill pond SEE connected buildings alone events  
nice things gym center bar new beautiful another industrial river recreational bakery  
water Good restaurant Aldi dining options used town small town  
roads farmers market community evening Linden place  
Better full downtown theater restaurants want  
city Nothing park feel businesses food options shop go  
store public walk teens dining trails nice restaurant make Look bigger  
family great Decent around options chain need Leave kids way opportunities bike paths  
expanding youth activities Old gas station sidewalks maybe

**Conclusions:** A great variety of responses were received. Common sentiments and themes are listed above.



**CITY OF LINDEN**  
**MASTER PLAN UPDATE**

# Focus Group Discussions Summary

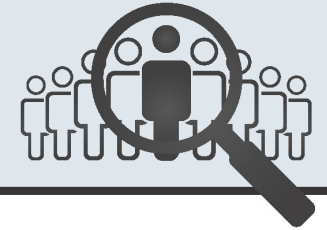
April 14, 2022



# Focus Group Discussions

- Held on Thursday, April 14, 2022
- Three “topics” (see image at right)
- Attended by 15 community stakeholders representing different elements of the community, including:
  - Citizens
  - Business owners
  - Property owners
  - Real estate professionals
  - Schools
  - Public service organizations
  - Religious organizations
  - City government

## Focus Group Discussions



**Thursday, April 14th, 2022**

**Location: VFW Hall**

**(VFW Post 4642, located on Mill Street, just north of Linden Mills Park)**

### Focus Group Topics / Schedule

8:15am - 9:30am	Land Use, Redevelopment & Economic Development
9:45am - 11:00am	Community Life
11:15am - Noon	Youth

Refreshments will be provided.



**CITY OF LINDEN**  
**MASTER PLAN UPDATE**

# Topic: Land Use, Redevelopment & Economic Development

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The following slides provide a summary of comments received relating to the topic of Land Use, Redevelopment & Economic Development.



# Neighborhoods

- What are the most valued features of Linden's neighborhoods?
  - Pedestrian circulation and connectivity provided by sidewalks and trails and the close proximity of most neighborhoods to downtown.
  - Small-town feel
    - A little further from the highway, but less hustle and bustle
    - Big enough to provide amenities, yet small enough to maintain small town character
  - Safe feeling
- What is lacking in Linden's neighborhoods?
  - Needed road improvements
  - Enhanced code enforcement to improve aesthetics



# Housing

- What are future needs related to housing?
  - Limited housing inventory currently
  - Need housing for young families
  - Need greater housing affordability (current gap in the \$150k - \$250k range)
  - However, Linden doesn't have to provide everything for everybody

# Business Districts

- What are the most valued features of Linden’s business districts?
  - New development in Downtown – recent momentum in highly visible locations
    - The “vibe” is more positive, in contrast to negative voices in the past
    - Opportunity to build on the momentum – more people equals more businesses
  - Strong and active Downtown Development Authority, including improved collaboration and communication
  - Significant traffic volumes
- What are the areas for improvement?
  - Need for clear marketing and advertising what’s good
  - Establish a business recruitment packet, noting incentives and funding opportunities
  - More financial assistance for businesses
  - Need to attract a well-established, reputable restaurateur
  - Revisit site development restrictions, such as signage, to ensure that businesses can advertise
  - Need to re-frame the narrative on the “we need more parking” perception
    - Having a parking problem is a good sign for a healthy district
    - Be a part of the solution by parking further away and walking

# Targeted Business Types/Locations

- What targeted business types are in greatest need and could be successful in Linden?
  - Family-oriented businesses (toddler play spot, etc.)
  - Fitness establishment
  - Sit-down restaurant
  - Businesses selling retail “experience”
  - Water/river-oriented service (kayak rentals, etc.)
  - Event center / banquet hall
  - Business incubator / “maker-space”
- What are the locations that should be targeted for redevelopment?
  - Evan’s building site
  - City Hall site
  - City DPW site

# Topic: Community Life

---

The following slides provide a summary of comments received relating to the topic of Community Life.





# Community Life

- What aspects of social/community life in Linden are most important to you?
  - Small town feel, “one-stoplight town”
  - Close knit community, with the ability to meet people you know at the grocery store
  - Care and concern for the wellbeing of our neighbors
  - Safety – not concerned about crime, and feel comfortable allowing our kids to explore and enjoy the town
  - Active and involved community groups – not something that is seen in larger communities
  - Our great schools are a community focal point
- What are the points of pride in Linden?
  - Safety
  - Hometown
  - River
  - Caring
  - Family
  - Local businesses
  - Schools
  - Cooperation

# Future Needs

- What can the City do to better facilitate community life?
  - Enter into discussions with outside groups to invite them in
  - Continue to facilitate and support community events
    - Evaluate and ensure that community events contribute to the City’s mission and values. However, the City should not be an event “micro-manager.”
    - Event sponsors should be sensitive to weekend availability of City/DPW staff to assist at events
  - Advertise and encourage citizens to join the community service organizations – they are losing members and under pressure to survive. If this would happen, it may cause a void in community services.
  - Provide information on service groups and the needs they serve
    - There are a variety of lesser-known non-profits and service groups who serve specific special needs
    - Fenton Area Resource & Referral (FARR) has a website listing area groups and resources

# Civic Mindedness

- How can we increase civic-mindedness?
  - Starts with the youth
    - Coordinate with the schools to get them involved at a young age
    - City and service groups should reach out to junior/senior high school students to help in community events
    - Opportunity to connect the youth with the senior populations – youth service activities at the Senior Center
  - Service organizations need to be more creative in their advertising, programs and events
  - Actively invite people to participate
    - An active invitation to participate is more often met with a “yes” as opposed to a passive invitation
  - Better collaboration
    - Consider facilitating a “community leadership round-up” meeting once or twice a year which engages all community groups and service organizations
    - Eliminate “silos” across the various community service groups

# City Services

- What are current issues and/or future needs related to infrastructure (water, sewer, internet) and community services (police, fire, etc.)?
  - Water pressure concerns
  - Provide more efficient and cost-effective services through better intergovernmental cooperation and shared services
  - City, including the Fire Department, is seeing challenges in finding staff and volunteers
    - Opportunity to coordinate with the schools to hold a “fire academy” and a career day related to police, fire, DPW, etc.
  - Need for a community center in Linden
    - VFW Hall serves as a defacto community center
    - Possibility of creating a new civic complex at the Linden Schools property to include City municipal services



# Environment & Sustainability

- What steps can the City take to be more sustainable?
  - Enhance the City recycling program
  - Facilitate and promote Earth Day in Linden
    - Idea to provide free samplings to plant new trees around town
  - Coordinate with DTE Energy to construct electric vehicle charging stations in strategic locations
  - Better advertise the County's hazardous waste program to citizens
  - Construct a bicycle rental/sharing station
  - Share information and remain transparent regarding recent environmental contamination and clean-up efforts
  - Need for clean-up and redevelopment of the old Marathon station site
  - Increase awareness of steps to improve water quality
    - Install signage by catch basins that drain directly to the river

# Recreation

- What are the City's most pressing needs related to recreational facilities and programming?
  - LAFF pathway connection to Fenton is a highly utilized asset
    - Need to take the pathway into and through Linden, through sharrows markings and bike lanes
    - Increase awareness (signage, apps) to make LAFF pathway users aware of Linden destinations
    - LAFF is currently working to implement consistent wayfinding signage
  - Don't try to do everything – focus on a few things and do them well
    - Continue to coordinate with outside recreation providers such as the County and Southern Lakes Parks & Recreation
  - Recreation Commission is doing a “Thursdays in the Park” series of events
  - New kayak launch at the Mill Pond Park is coming soon

# Topic: Youth

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The following slides provide a summary of comments received relating to the topic of Youth.



# Deficiencies

- From the perspective of youth, what are Linden's most significant drawbacks?  
What is lacking?
  - Nothing to do – lacking entertainment
  - Options for sports and activities is limited largely to school-related programs
  - Special events often lack an element that is of interest to youth
  - Many amenities and programs for the senior population, but not much for the youth



# Opportunities

- What opportunities exist to retain and attract the youth population in Linden?
  - Promote community assets that the younger population may be drawn to:
    - Downtown living
    - Natural Resources: Mill Pond/Shiawassee River
    - Recreation: LAFF pathway
    - Hometown feel
      - Often the kids who grow up here want to settle down in a place that has a similar small-town character
      - There are great examples of young people who came back to their hometown and have made a difference
  - Provide in-demand amenities for the youth population:
    - Skate park
    - Gaming/family entertainment centers
    - Camping
    - Splash pad
    - Basketball courts
    - Disc golf
    - Theater/arts programs



# Community Visioning Workshop

July 14, 2022



CITY OF LINDEN  
MASTER PLAN UPDATE

# Agenda

1. Welcome, Introductions & Project Overview
2. Public Engagement Results Presentation
3. Strategic Opportunities Presentation
4. Small Group Exercises
5. Close & Next Steps



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MASTER PLAN UPDATE

# Welcome, Introductions & Project Overview

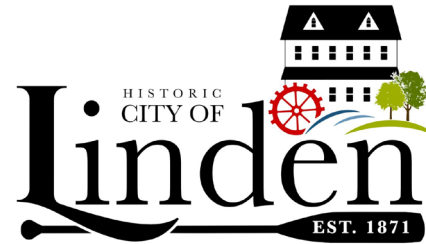
Community Visioning Workshop





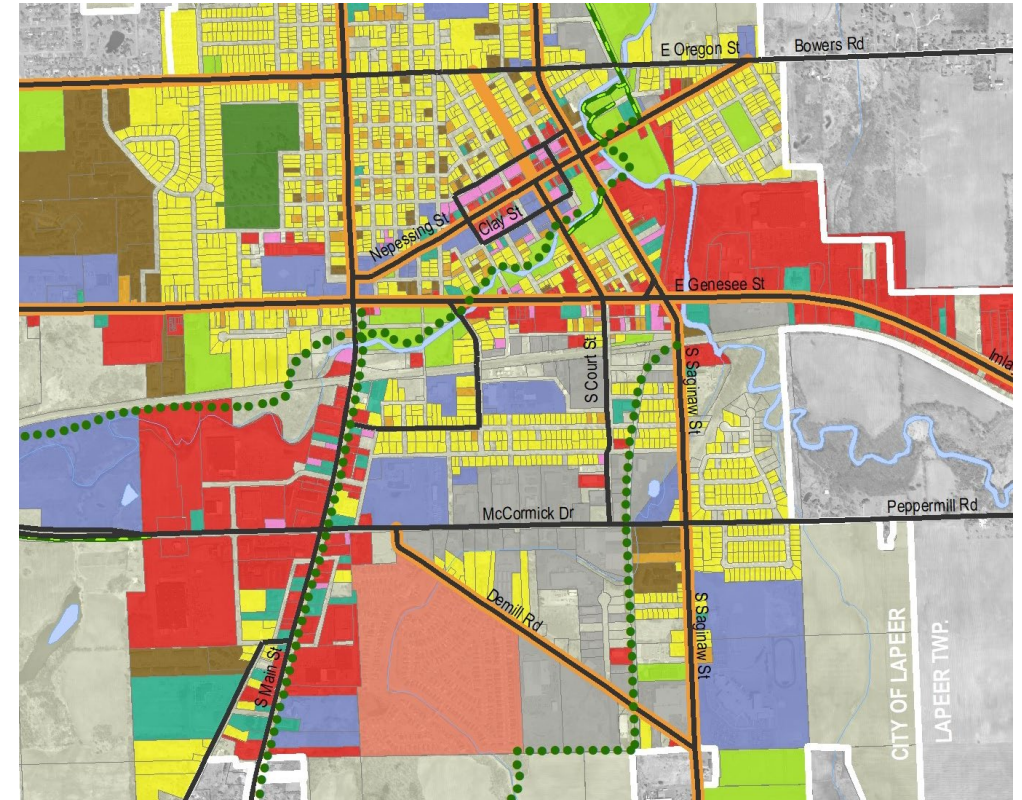
# Welcome & Introductions

- City of Linden
  - Danielle Cusson, Mayor
  - Ellen Glass, City Manager
- Consultant Team
  - Wade Trim
  - CIB Planning



# What is a Master Plan?

- A comprehensive, long-range plan which provides a framework for growth, development, and the community vision
- A master plan describes...
  - Where the community has been
  - Where the community wants to go
  - How the community plans to get there



# Why Plan?

“If you fail to plan, you are planning to fail” – Benjamin Franklin

- Set the community’s vision for the future
- Protect and enhance community character, the environment, and quality of life
- Establish a blueprint for development and redevelopment
- Promote collaboration within and between communities



# The Value of a Master Plan

- With competing and limited resources, communities must plan in order to determine the wisest use of their resources to reach established goals
- Provides support/increases likelihood of funding
- A word of warning...
  - The value of the master plan is directly related to the community's willingness to follow it and its diligence in keeping the plan current by anticipating changing conditions
  - A plan that is ignored has no value



# Economic Development & Marketing Strategy

- Being undertaken concurrently with the Master Plan
- Strategy supporting business growth and investments and providing economic opportunity
- Framework for a coordinated telling of Linden's unique story

# Roles and Responsibilities



# Scope of Work

- Where are we now?
  - Background studies/existing conditions
- Where do we want to go?
  - Public engagement
  - Goals and objectives
- How will we get there?
  - Redevelopment ready sites
  - Circulation plan
  - Future land use plan
  - Zoning and implementation plan



# Project Schedule

- Background studies – complete
- Public engagement – largely complete after tonight’s meeting
- Future planning recommendations – late Summer 2022
- Draft plan review – Fall 2022
- Adoption – late 2022





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# Public Engagement Results

Community Visioning Workshop



# Public Engagement Results

- Two key methods used to gain citizen and stakeholder feedback to-date:
  - Citizen Survey
  - Focus Group Discussions
- Others:
  - Steering committee work sessions
  - Booth & comment card at City events



# Citizen Survey Summary

- Nov. '21 – Jan. '22
- 624 total responses
  - 86% Linden citizens
  - 13% under 29 years old / 23% over 65 years old
- More detailed summary found on City website:
  - <https://www.lindenmi.us/master-plan-2021>

# Most Positive Aspects of Linden

## ■ Top 10 Most Positive Aspects

1. Small-town atmosphere (74%)
2. Safe neighborhoods and community (65%)
3. Friendly people or atmosphere (44%)
4. Historic character of the community (44%) ← Ranked #3 for non-residents
5. No or limited congestion (31%)
6. Quality of the school district (30%) ← Ranked #4 for 29 years and under
7. Proximity to family or friends (29%)
8. Community spirit or civic mindedness (28%)
9. Access to non-motorized transportation (bike paths, sidewalks, etc.) (27%)
10. Recreation options (23%)

**Conclusions:** There was broad consensus about the small-town character of the community being Linden's most positive aspect. Several other aspects in the top 10, such as no or limited congestion, are related to small-town character.



# Least Favorable Aspects of Linden

## ■ Top 10 Least Favorable Aspects

1. Lack of dining options (60%)
2. Lack of shopping, retail and service options (41%)
3. Lack of entertainment options (37%)
4. Downtown district is not vibrant enough (35%) ← Ranked #2 for 65 years and over
5. Other (please specify) (18%)
6. Congestion (17%)
7. Lack of youth activities (16%) ← Ranked #5 for non-residents
8. Housing costs (12%) ← Ranked #6 for 29 years and under
9. Lack of recreation options (12%)
10. Loss of small-town atmosphere (12%)

**Conclusions:** “Lack of dining options” was the clear choice for survey respondents. “Lack of shopping, retail and service options,” “lack of entertainment options,” and “downtown district is not vibrant enough” were also commonly noted as least favorable.

# What is the one thing you would change?

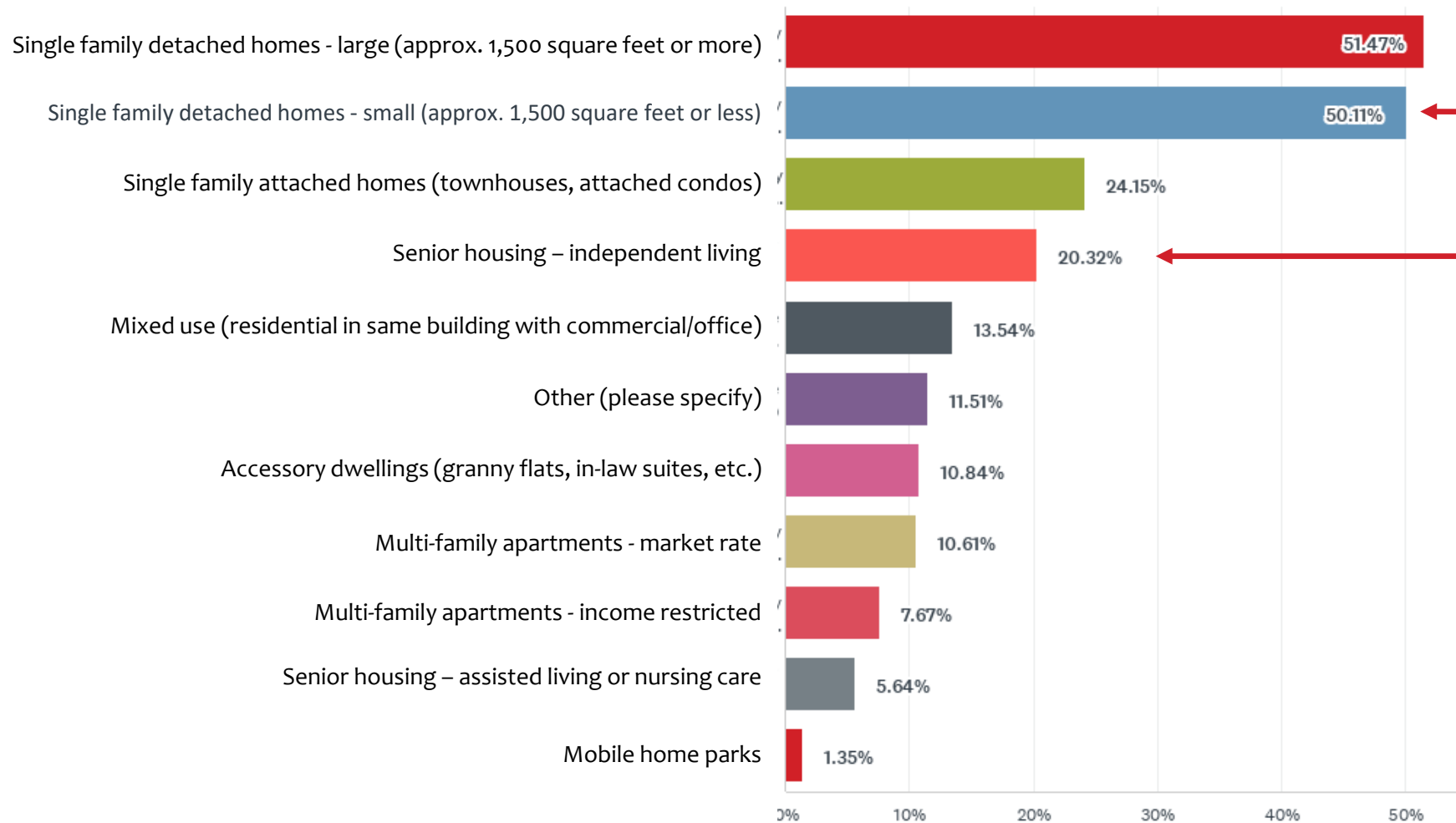
## ■ Common Responses (375 total):

(As compiled by Wade Trim and listed in no particular order)

- More retail, dining and entertainment options
- Maintain small-town character
- Add businesses/more vibrant downtown
- Improve roads
- Increase parking downtown
- Need for youth facilities/activities
- Sidewalk improvements/connections
- Mill Building improvements
- Reduce congestion/traffic
- Blight/improvements to older buildings

# Future Housing Development

## In the next 5 to 20 years, what type of housing should be developed in Linden?



Ranked #1 for non-residents and for 65 years and over

Ranked #2 for 65 years and over

**Conclusions:** Single-family detached homes, whether large or small, is the clear preference for the type of housing that should be developed in Linden in the future. Beyond single-family, a fair number of residents saw the need for attached homes and senior independent living.

# Land Use Strategy Prioritization

## Which potential strategies are most important?

Land Use Strategy	Weighted Average	
Preserve natural features (floodplains, wetlands, woodlands, etc.)	3.27	
Enhance and direct new development to Downtown Linden	3.09	
Improve/expand the motorized transportation network (roads, bridges, etc.)	3.07	← Ranked #1 for 65 years and over
Improve/expand community services and infrastructure	3.02	
Improve the appearance of existing homes and neighborhoods	2.98	
Improve/expand the non-motorized transportation network (bike paths, sidewalks, etc.)	2.95	
Capitalize on or maximize access to the Shiawassee River/Mill Pond	2.94	Ranked #3
Improve/expand recreational facilities and programming	2.9	← for non-residents
Encourage additional commercial development outside of Downtown	2.69	← Ranked #2 for 29 years and under
Encourage additional housing development	2.28	
Encourage additional industrial development	1.86	

**Conclusions:** The highest priority strategies are listed at the top (table is sorted by weighted average).



# Targeted Redevelopment Sites

## ▪ Common Responses (238 total):

(As compiled by Wade Trim and listed in no particular order)

- Downtown (in general)
- Mill Pond area (in general)
- North end business district (in general)
- City DPW building/property
- Site in front of Eagle's Park
- 122 S. Bridge
- 117 W. Broad
- Evan's building
- City hall building
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- Surrounding Price's Airport
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# Visitor Experience and Appeal

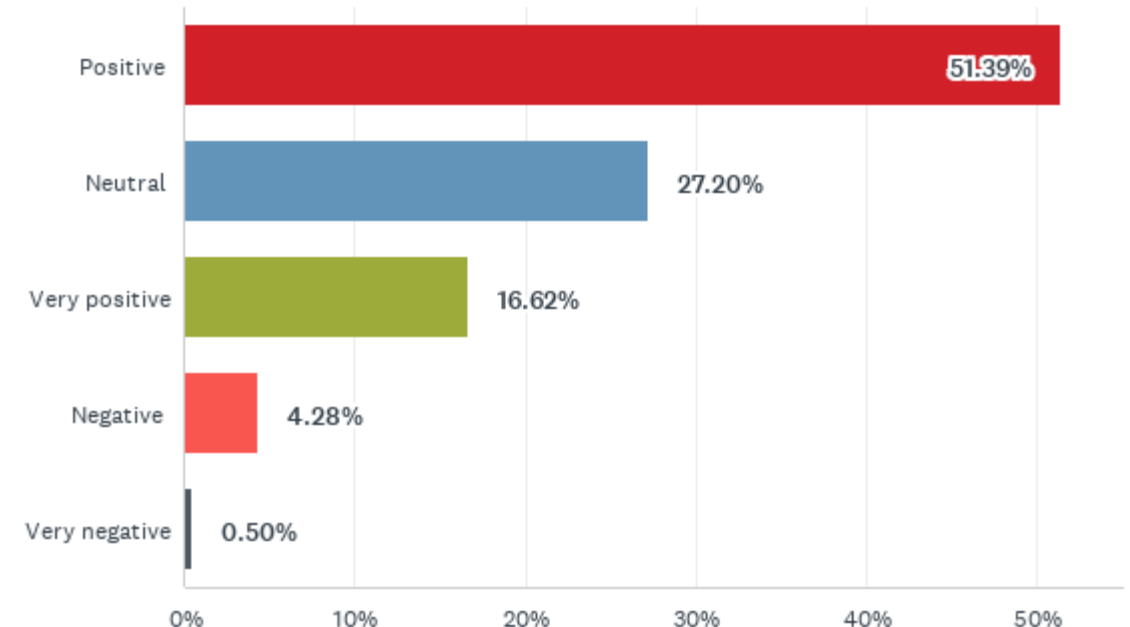
What would you say to someone to encourage them to move to Linden?

## ■ Common Responses (256 total):

(As compiled by Wade Trim and listed in no particular order)

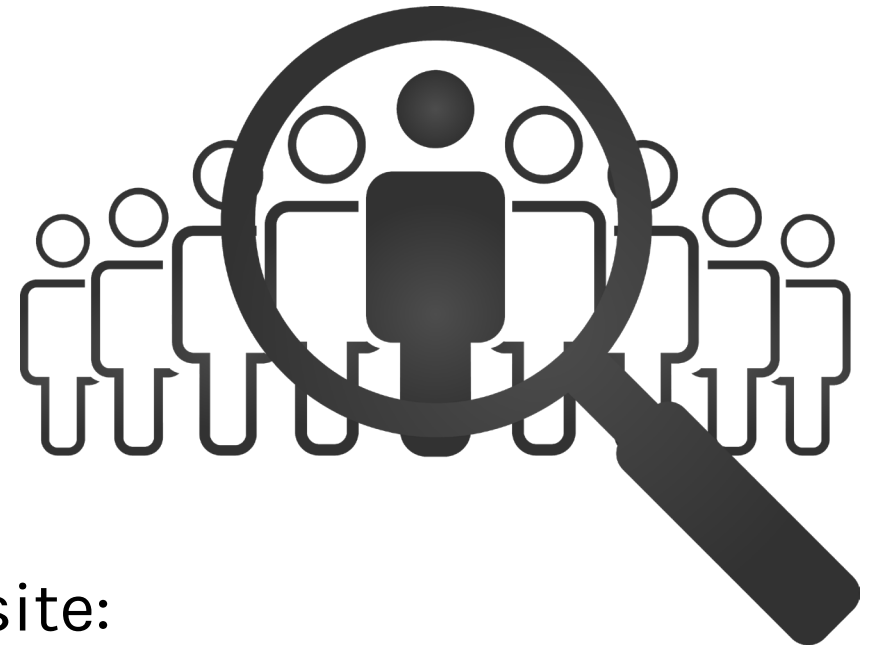
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- Small town feel
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- Quiet, less congestion
- Don't come, we're full

How do you believe visitors, either business or personal, experience the City of Linden?



# Focus Group Discussions Summary

- Held on Thursday, April 14, 2022
- Attended by community stakeholders, including:
  - Citizens
  - Business owners
  - Property owners
  - Real estate professionals
  - Schools
  - Public service organizations
  - Religious organizations
  - City government
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# Neighborhoods

- What are the most valued features of Linden's neighborhoods?
  - Pedestrian circulation and connectivity to downtown
  - A little further from the highway, but less hustle and bustle
  - Big enough to provide amenities, yet small enough to maintain small town character
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- What is lacking in Linden's neighborhoods?
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# Housing

- What are future needs related to housing?
  - Limited housing inventory currently
  - Need housing for young families
  - Need greater housing affordability (current gap in the \$150k - \$250k range)
  - However, Linden doesn't have to provide everything for everybody

# Business Districts

- What are the most valued features of Linden’s business districts?
  - New development in Downtown – recent momentum in highly visible locations
    - The “vibe” is more positive, in contrast to negative voices in the past
    - Opportunity to build on the momentum – more people equals more businesses
  - Strong and active Downtown Development Authority, including improved collaboration and communication
  - Significant traffic volumes

# Business Districts (cont.)

- What are the areas for improvement?
  - Need for clear marketing and advertising what's good
  - Establish a business recruitment packet, noting incentives and funding opportunities
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  - Need to attract a well-established, reputable restaurateur
  - Revisit site development restrictions, such as signage, to ensure that businesses can advertise
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# Targeted Business Types/Locations

- What targeted business types are in greatest need and could be successful in Linden?
  - Family-oriented businesses (toddler play spot, etc.)
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# Community Life

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# Environment & Sustainability

- What steps can the City take to be more sustainable?
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# Opportunities to Retain/Attract the Youth Population

- Promote community assets that the younger population may be drawn to:
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  - Natural Resources: Mill Pond/Shiawassee River
  - Recreation: LAFF pathway
  - Provide in-demand amenities
  - Hometown feel
    - Often the kids who grow up here want to settle down in a place that has a similar small-town character
    - There are great examples of young people who came back to their hometown and have made a difference



CITY OF LINDEN  
MASTER PLAN UPDATE

# Strategic Opportunities

Community Visioning Workshop





# Strategic Opportunities

- Strategic opportunities based on findings and insights gained from:
  - Existing conditions analysis (natural, physical, etc.)
  - Demographic analysis
  - Economic development strengths
  - “Smart Growth” planning principles



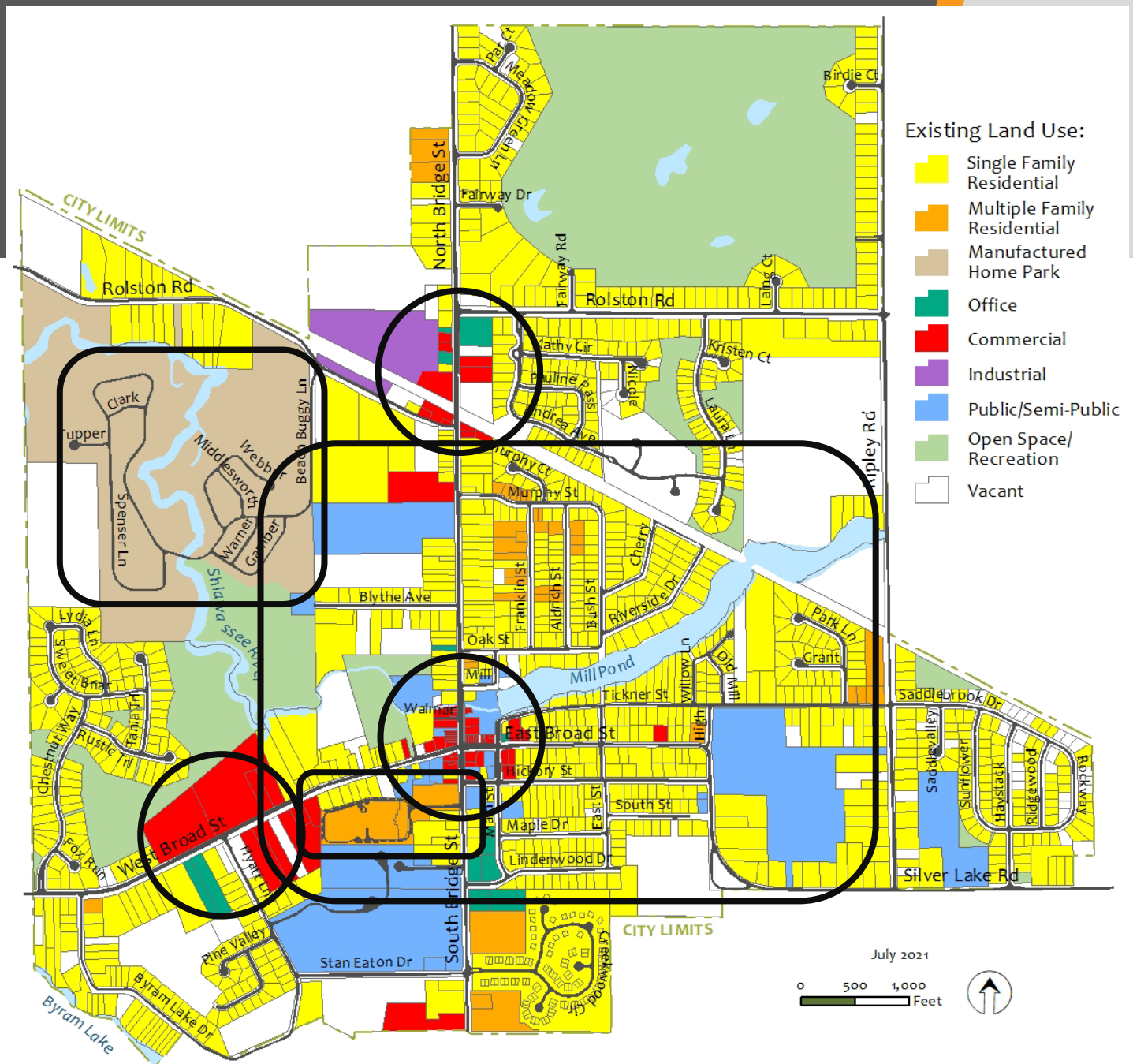
# Natural Assets

- Shiawassee River & Mill Pond
  - Driver of city's history & culture
  - Environmentally significant habitats
  - Recreational opportunities
    - Shiawassee River Water Trail
    - Eagle's Wooden Park/Mill Pond Park
  - Water & recreation-driven business growth
- 180+ acres of woodlands/wetlands/floodplains in west-central portion of city



# Existing Land Use

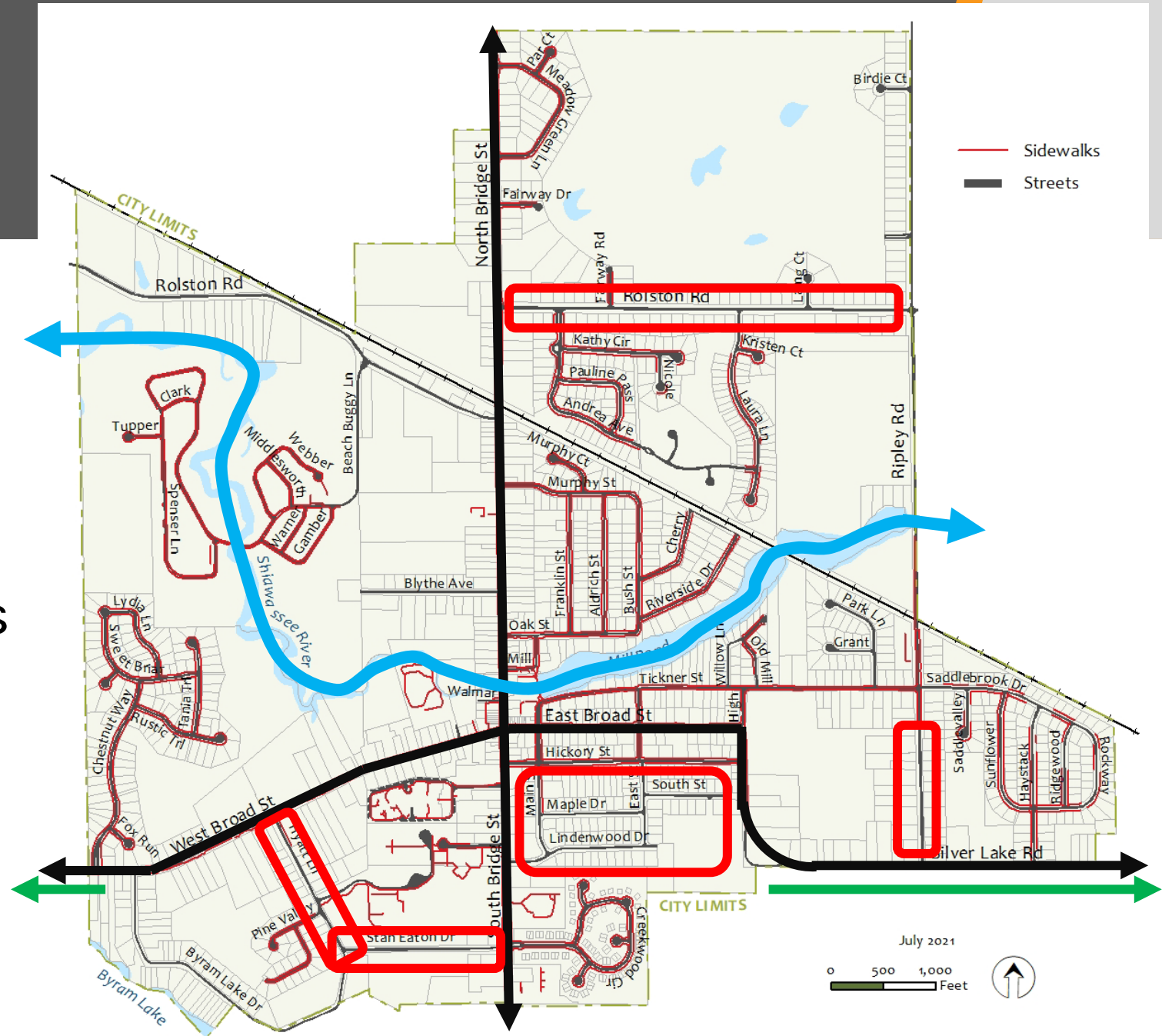
- Downtown mixed-use district
- Core residential neighborhoods
- Senior housing
- Local business districts





# Circulation Network

- Broad/Bridge Streets
  - 12,918 ADT W. Broad near Hyatt
  - 11,512 ADT N. Bridge near RR tracks
- Sidewalk network gaps
- Shiawassee river trail
- LAFF Pathway
- Bike lanes/amenities

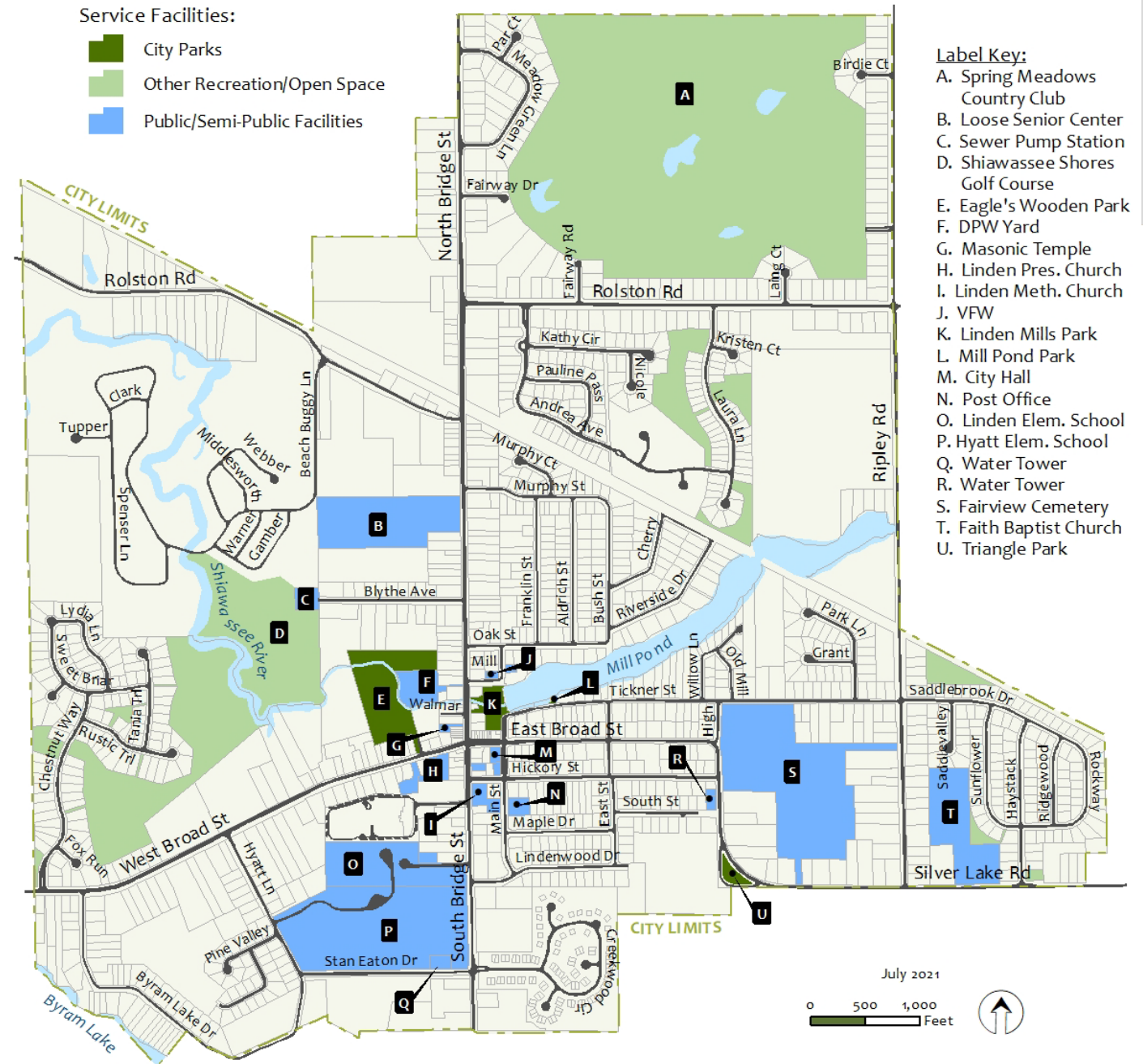




# Community Facilities & Services



Community Visioning Workshop



# Demographic Change

- Population trends & projections
  - 1,146 persons in 1960 to 4,142 in 2020 (+261%)
  - Projected increase to 4,514 by 2040 (+9%)
- Aging population
  - 21.8% 65+ years old in 2026 (19.9% in 2010)
  - Largest decrease in the 20 to 44 years age group 2010-2026
  - Median age - 39.4 years in 2010; 41.1 years in 2026
- Changing household make-up
  - Married couple families - 64% in 2010; 53% in 2019
  - Households with children under 18 - 36% in 2010; 34% in 2019
  - Households with persons 65+ years - 29% in 2010; 38% in 2019

# Housing

- Population growth driving need/opportunity for more housing
  - 1,695 housing units in 2010; projected 1,769 by 2026 (+4.4%)
  - 4.4% housing unit vacancy rate (2021)
- Current housing stock (2019):
  - 75% one family detached; 4% one family attached; 12% manufactured home; 9% multi-family
- Housing affordability (2019)
  - 17% of households with a mortgage and 36% of renters in Linden paid more than 30% of their household income on housing costs
  - Nationally (and locally), home prices continue to rise, outpacing incomes

# Demographic Change: Challenges/Opportunities

- Serve an aging population
  - Senior services/programming/health care
  - ADA improvements
  - Housing
    - Senior living/care facilities
    - Housing “downsizing”
- Keep/attract families and younger population
  - Provide unique places (“placemaking”)
  - Diversify housing stock - affordable housing, rental units
  - Quality of life improvements (recreation, safety, walkability, etc.)
  - Quality educational system



# Capitalize on Economic Development Strengths

- Natural resources/river
- History & historic structures
- Recent momentum of new development
- Active DDA
- Significant traffic volumes
- Businesses well connected to the community
- Small town character, but close to big city amenities
- Resident pride – shop local
- Available waterfront properties
- Niche market opportunity
- LAFF Pathway/walkability
- Relatively affordable housing in comparison to nearby communities
- Safe, connected community
- Active and involved community groups
- Quality schools
- Available infrastructure & services (water, sewer, broadband, etc.)

# Follow Smart Growth Principles

- What is “smart growth”?
  - Smart growth is development that supports economic growth, strong communities and environmental health
  - Smart growth covers a range of development and conservation strategies that help protect our health and natural environment and make our communities more attractive, economically stronger, and more socially diverse
- 10 smart growth principles
  - Based on the experience of communities around the nation that have used smart growth approaches to create and maintain great communities
  - [www.smartgrowth.org](http://www.smartgrowth.org)

# Smart Growth Principles

1. Mix land uses



2. Take advantage of compact building design





# Smart Growth Principles

3. Create a Range of Housing Opportunities and Choices



Community Visioning Workshop

4. Create Walkable Neighborhoods





# Smart Growth Principles

5. Foster Distinctive, Attractive Communities with a Strong Sense of Place



Community Visioning Workshop

6. Preserve Open Space, Farmland, Natural Beauty and Critical Environmental Areas





# Smart Growth Principles

7. Strengthen and Direct Development Towards Existing Communities



Community Visioning Workshop

8. Provide a Variety of Transportation Choices





# Smart Growth Principles

9. Make Development Decisions Predictable, Fair and Cost Effective



Community Visioning Workshop

10. Encourage Community and Stakeholder Collaboration in Development Decisions





# Small Group Exercise #1

Application of Smart Growth Principles





# Application of Smart Growth Principles

## Small Group Exercise #1

- Refer to instructions sheet
- Working together, rank the 10 principles by importance
  - 1 = not important    2 = some importance;
  - 3 = moderate importance    4 = great importance
- Working together, brainstorm at least 1 specific action of how each principle can be applied within Linden
- Time permitting, a group spokesperson may be asked to share results



# Small Group Exercise #2

Redevelopment Ready Sites



# Redevelopment Ready Sites

## Small Group Exercise #2

- Refer to instructions sheet
- Working together, choose 3 sites that are most “ready” for development and would provide the greatest benefit, if redeveloped
- For at least 1 site (or all 3, time permitting), work together to flesh out future redevelopment options/opportunities
- Time permitting, a group spokesperson may be asked to share results



# Close & Next Steps

Community Visioning Workshop





# Master Plan Website

<https://www.lindenmi.us/master-plan-2021>



# CITY OF LINDEN MASTER PLAN UPDATE



City of Linden  
Genesee County, Michigan  
132 E. Broad Street  
Linden, MI 48451  
[www.lindenmi.us](http://www.lindenmi.us)



500 Griswold, Suite 2500  
Detroit, MI 48226  
[www.wadetrim.com](http://www.wadetrim.com)



17195 Silver Parkway #309  
Fenton, MI 48430  
[www.cibplanning.com](http://www.cibplanning.com)



# PLANNING AND ZONING FUNDAMENTALS

CITY OF LINDEN

FEBRUARY 1, 2021





## WHAT IS PLANNING?

An interdisciplinary practice dealing with the physical design and regulation of spaces within a community, as well as the social welfare of the people of the community.

Why do we plan?

- To guide orderly development & establish a shared vision for the future
- To protect, strengthen, and enhance community character, the environment, and quality of life
- To promote cooperation between communities



# RELATIONSHIP OF PLANNING & ZONING

## MICHIGAN ZONING ENABLING ACT SECTION 201 (I) [PART]

A zoning ordinance shall be based on a plan designed to promote public health, safety, and general welfare [and] to encourage the use of lands in accordance with their character and adaptability

### MICHIGAN ZONING ENABLING ACT Act 110 of 2006

AN ACT to codify the laws regarding local units of government regulating the development and use of land; to provide for the adoption of zoning ordinances; to provide for the establishment in counties, townships, cities, and villages of zoning districts; to prescribe the powers and duties of certain officials; to provide for the assessment and collection of fees; to authorize the issuance of bonds and notes; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

**History:** 2006, Act 110, Eff. July 1, 2006.

*The People of the State of Michigan enact:*

#### ARTICLE I GENERAL PROVISIONS

##### **125.3101 Short title.**

Sec. 101. This act shall be known and may be cited as the "Michigan zoning enabling act".

**History:** 2006, Act 110, Eff. July 1, 2006.

##### **125.3102 Definitions.**

Sec. 102. As used in this act:

# MASTER PLAN

- A comprehensive, long-range plan provides a framework for growth, development, and the community vision
  - It looks towards the future
  - It expresses community goals and objectives
  - It serves as a guide for local decision-making
  - It may be a legal document or serve as the basis for legal documents

THE MASTER PLAN IS A POLICY DOCUMENT; ITS ADOPTION DOES NOT REGULATE OR CHANGE LAND USE

# RELATIONSHIP BETWEEN PLANNING & ZONING

## ■ Master Plan

- Long Range
- Guidance
- Policy



## ■ Zoning Ordinance

- Immediate
- Regulatory
- Enforced

THE MASTER PLAN REFERS TO FUTURE LAND USE WHILE THE ZONING ORDINANCE AFFECTS CURRENT LAND USE

# ROLES AND RESPONSIBILITIES

## Planning Commission (appointed)

- Master Plan
- Zoning Ordinance
- Subdivisions
- Zoning Reviews

## Legislative Body (elected)

- Appointments
- Ordinance Adoption
- Zoning Reviews
- Budgets

## Board of Appeals (appointed)

- Variances
- Appeals
- Interpretations
- Other Duties



# ROLES AND RESPONSIBILITIES – CITY OF LINDEN

Type of Zoning Approval

Site Plan Review

Planning Commission

Special Land Uses

Planning Commission

Rezoning & Text  
Amendments

Township Board, after  
recommendation by  
Planning Commission

Variances, Appeals,  
& Interpretations

Zoning Board of Appeals

# PLANNING COMMISSION

- Appointed residents of the community who give guidance to the land use, zoning, and planning process
- Formulate and adopt the master plan
- Make recommendations on zoning ordinances and amendments (text & map)
- Review site plans, special use requests, subdivision plats, condominiums, and street and alley vacation requests



# ZONING DECISIONS – KEY ORDINANCE SECTIONS

- Site Plans – Sec. 154.024
- Special Land Uses – Sec. 154.023
- Site Condominiums – Sec. 154.025
- Rezoning (map amendments) – Sec. 154.029
- Conditional Rezoning – Sec. 154.030

# Zoning Board of Appeals Handbook



Published by the Michigan Municipal League

Written by Steve Langworthy  
LSL Planning  
Community Planning Consultants

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About the Author:

Steve Langworthy is retired from the firm of LSL Planning. His more than 25 years of planning experience includes six years as the Planning Director and Zoning Administrator for the city of Kentwood and extensive experience in a variety of communities as a consulting planner. Steve authored numerous master plans, zoning ordinances, and special studies for communities of all sizes and levels of government.

Forward:

Along with the other appointed and elected municipal officials in your community, members of a zoning board of appeals accept responsibility to protect the personality and vitality of your community. To carry out their duties, these volunteers must digest a mountain of information and negotiate a maze of delicate situations.

This handbook was written to help new zoning board of appeals members understand the scope of their role and responsibilities, and to provide them with a basis of understanding in order to capably perform their duties within the law. Topics covered include: the role of the zoning board of appeals as a whole and the roles and responsibilities of individual members; an explanation of the Michigan Zoning Enabling Act; the ZBA's relationship to other municipal bodies and individuals; how to identify and handle conflicts of interest; how to interpret a zoning ordinance; types of variances; preparing for and conducting meetings; and guidelines for making tough decisions.

As the state association of cities and villages, the Michigan Municipal League is committed to providing a variety of educational resources for both elected and appointed municipal officials to assist them in doing their jobs. The League is a non-partisan, nonprofit association working through cooperative effort to strengthen the quality of municipal government and administration.

This handbook is the latest step in our continuing effort to help municipalities meet the daily challenges of governing. Our thanks go to community planning consultant Steve Langworthy of LSL Planning for developing this text. His knowledge, creativity, insight and patience are most appreciated. Contributing to the legal accuracy of this book were attorney Gerald A. Fisher of Kohl, Secrest, Wardle, Lynch, Clark & Hampton and League Associate General Counsel Sue Jeffers. The Information and Publications staff of the League added a measure of common sense and smooth flavor.

The League's goal is to produce publications that will help to make your job easier. We welcome suggestions for additions to this publication and your comments in regard to all of our publications. Let us know how we are doing and how we can be of further assistance.

Daniel P. Gilmartin  
Executive Director

## Introduction—The Job

### *Congratulations!*

§ 1 Your appointment to the zoning board of appeals (ZBA) is one that carries a significant responsibility for protecting your community and its future.

This handbook will provide you with some hints about how to be an effective member of the zoning board of appeals. It will tell you about the laws and regulations governing zoning and provide information about some of the expectations and methods you may use to prepare, make and enforce your decisions.

During your term you will encounter a wide variety of zoning related problems. Knowing some of the intricacies of zoning is only a part of your responsibilities. You will also learn how to deal with people, both applicants and neighbors, with patience, tact and diplomacy. Knowing how to act in stressful circumstances is one of the most important parts of the job, and one that is best learned through experience. The *Zoning Board of Appeals Handbook* is your head start on learning how to deal with these difficult situations.

You are encouraged to seek other sources for learning about the technical details of zoning and related topics. These, too, will be a significant part of your job as a member of the zoning board of appeals. The Michigan Municipal League can suggest a number of documents that can help you on your way, as well as an ongoing series of courses you may find helpful.

### *What's in a Name?*

§ 2 Your zoning ordinance may have given a different name to your board than the zoning board of appeals, such as the Board of Appeals, Board of Zoning Appeals, Board of Appeals and Adjustment or some other

similar name. In townships this should not be confused with the Zoning Commission, which is a derivative of a planning commission. Regardless of the name, the duties and authority of the ZBA are largely the same.

### *The Job*

§ 3 The future of your community will be greatly affected by the decisions you make as a member of the zoning board of appeals. Few voluntary, non-elected appointments have the kind of power granted to the ZBA. This is because it is one of only a few bodies that can permit someone to legally avoid compliance with an adopted ordinance. The exercise of this power is restricted by standards discussed in greater detail below that are to be applied in decision making.

### *It Begins with a Philosophy*

§ 4 Becoming an effective ZBA member begins with a clear philosophy of your approach to the task. Perhaps you had a desire to give something back to the community, or something happened in your neighborhood that disturbed you or you wanted to help people. Most likely, you did not get into the job for the money (you did volunteer, after all).

Regardless of why you decided to accept the appointment, to be an effective member, your participation will require a serious commitment of time and energy, and a serious commitment to the laws governing the decisions of the ZBA.

It may help to understand why the job of the zoning board of appeals was created in the first place.



*What is a Zoning Board of Appeals?*

§ 5 Early in the history of zoning it was recognized that it was nearly impossible to write a set of regulations affecting the development of land that could be universally applied. Many communities in Michigan and throughout the country had hundreds or thousands of parcels of land to which zoning standards had to be applied. As a result, it was clear that a means of providing relief from the strict requirements of the zoning ordinance was needed for property owners with unique conditions related to their property.

To provide an avenue of appeal, each state's zoning enabling acts required that any community which adopted a zoning ordinance have a zoning board of appeals. The function of the ZBA was to be a quasi-judicial body, to carry out two principal functions:

1. To hear and decide appeals of administrative decisions made in implementing the zoning ordinance; and
2. To hear and decide requests for variances from the strict terms of the zoning ordinance. In addition, the ZBA is occasionally called upon to interpret the provisions of the zoning ordinance.

*The Role of the ZBA*

§ 6 As a member of the zoning board of appeals, you will be dealing with one of the most enduring elements of society – land. Decisions based on the land nearly always last forever because they are in place regardless of the owner. Therefore, your decisions can have a serious effect on the use and value of land.

At the same time, you will be dealing with people, both applicants and neighbors affected by your decisions. You will find that this can create uniquely challenging

situations. Consequently, your actions must be based on the long-term interests of the community which, in turn, must be guided by the decision-making standards of the zoning ordinance.

Every person who can meet the criteria for relief has the right to seek relief from a zoning ordinance requirement. If the standards used by the ZBA are carefully considered and followed, the integrity of the ordinance should be maintained. However, not following such standards leads to problems. Too often variances are granted simply because no one sees any harm. The ZBA soon gains a reputation for not following its ordinance. One merely has to go to the zoning board of appeals to obtain relief from the ordinance—getting a variance is no problem. Eventually, the offhand granting of variances harms the community's ability to enforce the ordinance. Moreover, poorly supported decisions can, over time, destroy the credibility of the zoning ordinance. It is up to the members of the zoning board of appeals to prevent this by strictly applying the standards of the ordinance.

These decisions will not always be easy. In some instances, you will know the land owners, neighbors or applicants personally. The key to acting in a responsible manner is to act in ways that will allow you to treat each person and property in a fair and consistent manner.

## Chapter 1 The Basics

§ 7 In the Introduction we noted that being an effective ZBA member begins with a clear understanding of the job and each member's approach to it. Two important aspects with which you should be familiar are the legal basis for the zoning board of appeals and the relationship between the ZBA and other bodies and officials dealing with the zoning process.

### *The Zoning Enabling Act*

§ 8 All zoning authority is granted by the state through the new Michigan Zoning Enabling Act, (PA 110 of 2006). Counties that have adopted a zoning ordinance have zoning authority over townships (but not over cities or villages) which do not have their own zoning ordinance. Cities, villages and townships that have their own zoning ordinances do not fall under county authority.

The zoning enabling act defines the membership, responsibilities and authority of the ZBA. It also describes general rules for the formation and operation of a zoning board of appeals. The chart on the following page outlines some of the differences in the organization of the ZBA at various levels of government.

### *Membership*

§ 9 Qualifications for membership are generally minimal. Members are only required to be an elector and be representative of the population distribution and the "various interests present" in the community."

Although less common, but still practiced, legislative bodies may also act as the ZBA, but only in cities and villages. In townships, an elected official may be a

member of the ZBA, but cannot be the chair.

In addition to regular members, up to two alternates may be appointed to the ZBA. Alternates serve in the event of a declared conflict of interest or absence of a regular member. When called, alternates serve until the application(s) is resolved. In the case of an absence, the alternate stays with the cases heard even if the absent member returns.

### *Bylaws*

§ 10 The enabling act also permits the zoning board of appeals to adopt rules governing their operation, commonly referred to as bylaws. The bylaws should specify certain responsibilities, such as defining officers and their duties, quorum rules, special meeting procedures, conflict of interest procedures, and other aspects of the ZBA's operation. Bylaws are not part of the zoning ordinance but are adopted by the ZBA as its rules for operation.

### *Relationship to Other Bodies/Individuals*

§ 11 It is also important to understand the relationship between the zoning board of appeals and others with responsibility in the zoning process. Zoning responsibilities are divided between several individuals and bodies.

Zoning Act:  
Michigan Zoning Enabling Act  
2006 PA 110  
MCL 125.3101 et seq.

	Community
Number of members	Less than 5,000 population—not less than 3 members
	5,000 or more population—not less than 5 members
Membership	Planning commission member must be on the ZBA; elected official may be on ZBA. In cities and villages, the elected body may act as the ZBA.

**Planning Act:**  
**Municipal Planning Enabling Act**  
**2008 PA 33**  
**MCL 125.3081 et seq.**

**Purpose:** to codify the laws regarding and to provide for county, township, city, and village planning; to provide for the creation, organization, powers, and duties of local planning commissions; to provide for the powers and duties of certain state and local governmental officers and agencies; to provide for the regulation and subdivision of land.

*The Planning Commission*

§ 12 The planning commission is given the responsibility of drafting the master plan; the legislative body must “approve the plan for distribution,” and may elect to become the adopting authority for the plan. After preparing a proposed plan, the planning commission must submit the proposed plan to the legislative body for review and comment. Before the adoption process can proceed, the legislative body must approve the distribution of the proposed plan. If it does not, it must return the plan to the commission with its objections. The

commission must then revise the plan until it is accepted by the legislative body.

The long-term effect of this change to the adoption process will have to be determined. But even if the planning commission is delegated the responsibility of completing and adopting the master plan, the legislative body should be involved in all of the critical steps of the process in order for the plan to be effectively implemented.

The master plan is intended to serve as a guide for the future development of the community. The plan is used to indicate locations for new development where natural features and the environment are not at risk, where community character will not be diminished, and where expenses for new roads and services will be at a minimum. It is essential that any action related to zoning, including those actions taken by the zoning board of appeals, should take into consideration the master plan.

The planning commission is also responsible for writing the first draft of the zoning ordinance. This was done to ensure a direct connection between the master plan and zoning ordinance. Local control of the use of land (with some exceptions, such as some state land uses and federal land

uses) is an accepted legal principle. Land use is controlled through the separation of land into various use areas, called zoning districts. The rules governing these districts are found in the zoning ordinance, which contains provisions controlling the type and intensity of development allowed.

The zoning ordinance should be established and amended as guided by the master plan. The future land use classifications of the ordinance's zoning districts are depicted on the zoning map that is part of the ordinance. The density and intensity planned for the land use districts are translated to the uses permitted, lot sizes and other regulations.

The courts of the State of Michigan do not recognize the master plan as authorizing land uses on its own. This authorization is contained in the zoning ordinance. However, the courts do lend much more credibility to land use actions supported by careful planning than those actions that appear to have been taken arbitrarily against an individual property owner.

#### *The Legislative Body*

§ 13 The elected governing body of the community has several responsibilities related to the zoning board of appeals. First, and most obvious, the members of the ZBA are appointed or approved by them, unless the legislative body itself decides to act as the ZBA (cities and villages only). Second, the legislative body is responsible for providing the funds necessary for the operation of the ZBA. This includes per diem (or per meeting) payments to members and other expenses such as mileage for site visits, attendance at conferences and training sessions, educational materials and other costs associated with the ZBA.

Finally, the legislative body is required to adopt the zoning ordinance and any

subsequent amendments, based on a recommendation from the planning commission. Ultimately, the legislative body decides what zoning regulations and policies will be adopted and followed by the community.

It is especially important for the ZBA to recognize its role in relation to the planning commission and legislative body, particularly with respect to the writing and adoption of the master plan and zoning ordinance. There is no formal process for the zoning board of appeals to play an advisory role in determining planning policies or zoning regulations. Accordingly, it is not the role of the ZBA to attempt to change those regulations or policies through their actions. This, of course, does not prevent the ZBA from communicating their thoughts regarding the ordinance during the course of performing its functions.

#### *The Zoning Administrator*

§ 14 The zoning administrator is the individual responsible for the day-to-day administration and enforcement of the zoning ordinance. In many communities the zoning administrator is a valuable contact between the ZBA and the applicant, ensuring that all relevant materials are provided, offering advice in filling out application forms, and advising the ZBA on important factual matters pertaining to the requests before them. In some communities the administrator is asked to provide written, advisory recommendations regarding applications.

In communities where staff or other assistance is available, some of the roles filled by the zoning administrator, including submission of recommendations, may be complemented or completed by these other individuals.

### *Duties and Responsibilities of the Zoning Board of Appeals*

§ 15 The zoning board of appeals exercises three basic roles or functions. These include:

- a) Interpreting the ordinance (text and map),
- b) Deciding appeals from administrative decisions, and
- c) Granting variances (use and non-use).

The terms *appeal* and *variance* are often used interchangeably, but in fact are two entirely different concepts.

A variance, if granted, allows a departure from a particular requirement of the zoning ordinance.

An appeal is based on the fact that someone has made a decision related to the zoning ordinance, and another person disagrees with that decision.

### *Conflicts of Interest*

§ 16 Knowing about conflicts of interest is important since the zoning act requires the use of an alternate when a member has a conflict. In some instances, failure to declare a conflict of interest may result in the removal of a ZBA member.

### *What Constitutes a Conflict of Interest?*

§ 17 You probably have a conflict of interest if:

- you are the applicant;
- a close relative is the applicant;
- a business associate, lender or renter is the applicant;
- the proposal could allow you or a business associate to receive a financial gain or benefit;
- you are a planning commission representative to the zoning board of appeals and the matter to be heard is an appeal from a previous

planning commission decision in which you participated; or

If you have to ask...chances are others are asking as well. If you are in doubt about whether or not you have a conflict, it is often advisable to take a conservative approach and declare a conflict. This helps to avoid a public appearance of unfairness.

You may also consider the possibility of declaring a conflict of interest if your home falls within a notification radius used by your community for zoning board of appeals' actions. Since the sending of the notice automatically presumes some degree of interest, this fact should be recognized by declaring a conflict, particularly if a financial impact is likely.

Ultimately, the declaration of a conflict of interest becomes a personal issue and one that should be honored by the other members. If in doubt about whether a conflict of interest is present, it will generally be better to avoid the perception of a conflict, even though an individual member may conclude that a conflict does not exist.

### *What to Do*

§ 18 In order to maintain public trust and insure fairness, it is important to follow some simple steps if a conflict is present. The ZBA bylaws should address fully those actions to be taken in the event of a conflict of interest. Suggested actions are:

1. Declare the apparent conflict of interest. If a member is aware of a conflict prior to the meeting, the staff/chair should be notified in order to allow an alternate to be called. If an alternate is called in, he or she serves on that case until it is completed.
2. Generally, voting by the other members on a conflict of interest is not necessary. However, if the ZBA adheres strictly to Robert's Rules of Order for all meeting procedures (not



just conflicts), members should be excused through a vote. However, declaring a conflict of interest should not be used as a means of avoiding a difficult or uncomfortable decision.

3. Abstain from voting and do not participate in deliberations, either as a member of the ZBA, or as a citizen. Although no one can be prohibited from speaking as a citizen, the comments from a fellow ZBA member will likely be viewed by the audience as being very influential and have the appearance of bias. This does not prevent the member from being represented by an attorney, family member or friend.
4. Once the conflict is declared, you may wish (but have no obligation) to leave the room. This will be a clear indication to the audience that the member has no part in the deliberation or decision, and it avoids any perception by the audience that the member is attempting to influence the others. By all means, the member with a conflict should vacate his or her seat during all proceedings involving the case.

#### *Some Don'ts*

§ 19 if you have a conflict of interest, Don't discuss the proposal, either formally or informally with any of the other members.

Don't use inside knowledge and contacts. Make sure that minutes, staff materials, etc., are obtained through the same procedures as any other applicant. It is best to have someone else collect this information.

Don't represent yourself if you are the applicant. Have someone else perform that function. It is acceptable to have other family members, an attorney or a personal representative speak for the member.

#### Interpretations

§ 20 The ZBA is authorized to issue an official interpretation of the zoning ordinance. Interpretations may be related to either the text of the zoning ordinance or to the boundaries of the zoning map. Unlike legal opinions or recommendations of consultants, an interpretation by the ZBA establishes the meaning of the matter being interpreted and is deemed to be the actual meaning of the ordinance from that point forward, unless the ZBA's interpretation is appealed to the courts.

Several rules of thumb may help in making interpretations.

a) Base map interpretations on the zoning ordinance itself and any relevant historical information. Commonly, these rules are of the "walk like a duck" variety. In other words, if it appears as though the zoning boundary follows a river, it should be assumed to follow the river, or a road right-of-way, or some other physical feature. Where the boundary is unclear, the ZBA should take into account past zoning history (if any) and the potential effect of a determination on surrounding properties.

b) Interpret the text of the zoning ordinance based on a thorough reading of the ordinance in order not to have the effect of amending the ordinance.

c) Give weight to reasonable practical interpretations by administrative officials if applied consistently over a long period of time.

d) Keep records of all interpretations. Once an interpretation is rendered, it is the official position of the community as to that provision. Consistency in decision making is important for the long-term.

e) Generally, if equally convincing points are put forth by the zoning administrator and an individual affected by an interpretation, fairness dictates that the person most affected by the interpretation should prevail. In other words, where two

interpretations are reasonably equal, the benefit of the doubt should be given to the property owner rather than the zoning administrator.

Once an interpretation is made, it is advisable for the planning commission to review the matter to determine whether or not an amendment to the ordinance is needed to further clarify the language (for a text interpretation), or to review the zoning map to determine a specific location of a zoning boundary (for a map interpretation).

## Appeals

§ 21 The zoning board of appeals is empowered to hear and decide appeals from any person aggrieved by an administrative decision. An administrative decision is one made by a zoning administrator or the planning commission, or by the legislative body when they are acting in an administrative capacity, (if, for example, the legislative body approved all site plans). Most often, appeals are the result of a disagreement with a decision of the zoning administrator, or, in some cases, a person aggrieved by a site plan review decision by the planning commission. Appeals may be required to be filed within a specific time period set in the zoning ordinance.

The ZBA cannot hear two types of zoning decisions. The first is an amendment to the zoning ordinance (rezoning or text change)—this is reserved for the legislative body. The second type of decision is for special land uses and planned unit developments, which can only be heard by the ZBA if the zoning ordinance specifically allows for an appeal.

Although the ZBA may reverse or affirm, wholly or partly, or may modify a prior decision, its powers are generally limited to determining whether or not the official or body making the administrative

decision acted properly. The ZBA must recognize that the zoning administrator or planning commission has already made a decision regarding the issue as part of its delegated duties. The role of the ZBA is to determine whether the decision was authorized or supported by the zoning ordinance.

In addition, the ZBA should not treat the appeal as a new decision. Rather, review of the decision should be limited to the information that was available to the body or person who made the decision initially. Allowing testimony or evidence in addition to that previously submitted is inappropriate, unless the zoning ordinance directs otherwise.

In those instances where the official or body used proper procedures and standards, the ZBA should uphold the decision, even if the members personally disagree with the result.

Some communities attempt to make appeals and variances the same by allowing an application to the zoning board of appeals only after the denial of a requested permit, such as a building permit or zoning compliance permit. This can be an inefficient and cumbersome procedure since a permit application may require submission of a full application for the permit, even when it is obvious that some requirement of the zoning ordinance is not met and a variance will be needed before a permit can be issued.

## Variances

§ 22 A variance grants permission to depart from a requirement or limitation of the zoning ordinance. There are two types of variances:

- a) Nonuse variances (dimensional variances)
- b) Use variances

### *Nonuse or Dimensional Variances*

§ 23 A nonuse variance, also known as a dimensional variance, is a modification of a provision or requirement of the zoning ordinance authorized by the zoning board of appeals when the strict or literal application of the ordinance would cause “practical difficulties” for the applicant. Nonuse variance requests are typically associated with modifications of required yard setbacks, building heights, parking requirements, landscaping or buffering restrictions and related building or facility placement provisions.

To obtain a nonuse variance, the applicant must show that a *practical difficulty* exists on the property by demonstrating that the applicable review standards are met. A detailed examination of these standards is provided in Chapter 3.

### *Use Variances*

§ 24 A use variance allows a use of land that is not permitted in the district in which the property is placed. Granting of a use variance requires that the applicant demonstrate that an “unnecessary hardship” would be imposed if the owner cannot use the property as requested.

Use variances are permitted in cities and villages but limited in townships and counties. According to the Michigan Zoning Enabling Act, only the following townships and counties are eligible to hear use variances:

1. Those that as of February 15, 2006 had an ordinance that used the phrase use variance or variances from uses of land to expressly authorize the granting of use variances; and

2. Those that granted a use variance before February 15, 2006.

However, even if permitted and eligible to hear use variances, the Zoning Enabling

Act allows community opt out of this procedure.

To prohibit use variances the community must adopt zoning ordinance language that prohibits submission of use variance requests.

From a community planning perspective, the indiscriminate granting of use variances is a poor zoning and planning practice. Given the long-term implications, it is important that the ZBA understand the ultimate effects of use variances on the master plan or zoning plan for the community. Approval of a use variance can change the overall land use character of a particular area. That is why strict attention to the use variance standards is necessary.

### *Following the Rules*

§ 25 It is especially important that the zoning board of appeals establish a consistent method of processing applications, conducting meetings and handling other procedures. As noted earlier, the ZBA should have a set of written procedures, or bylaws, for those rules of operation not covered in the zoning ordinance.

Some common considerations follow.

- Incomplete applications (inadequate site plan, fee unpaid, etc.) should not be accepted, i.e., should not be placed on an agenda.
- If public notice was not properly completed, the process must be stopped and a new process begun using a correct notice as to form, content and publication.
- Action should not be taken on any application unless the applicant or a representative is present (unless legal time limits dictate otherwise).

## Conclusion

§ 26 Variances are not intended to relieve requirements of the zoning ordinance that are simply preventing applicants from doing what they wish.

Instead, the zoning board of appeals was intended to serve as a safety valve in those relatively rare circumstances where the application of the zoning requirements results in a practical difficulty (for nonuse variances) or unnecessary hardship (for use variances). However, variances approved without sufficient justification can turn the safety valve into a leak. Eventually, this will erode the overall purpose and effectiveness of the zoning ordinance, particularly when it is commonly known that the ZBA is likely to approve virtually any request.

## Chapter 2 Preparing for and Conducting Meetings

§ 27 Membership on the zoning board of appeals can mean either just showing up for the meeting or being prepared to make informed decisions. While it is difficult to ask a volunteer to put forth an extra effort, your agreement to serve is also a commitment to do the best possible job for your community.

It is difficult for any member of the ZBA to reach a fair and impartial result without a firm base of knowledge about the matters on which he or she is asked to decide. To gain this knowledge, you will need assistance from the community's staff, the applicant and each member. There are some positive "fact finding" steps you can take to make sure you are ready to make the best possible decision.

### *Information*

§ 28 In order to prepare properly for a meeting, you must review all available and relevant information. At a minimum, this will include copies of applications, site plans and other supporting material. This material should reach you early enough to allow adequate time to study and prepare, normally, at least one week before the meeting.

### Public Hearing Notices

§ 29 A public hearing is required for all ZBA approvals (variances, interpretations, and appeals). The notices differ slightly.

For variances, a notice of the request must be published in a newspaper of general circulation.

Notice shall also be sent by mail or personal delivery to the owners of property for

which approval is being considered, to all persons to whom real property is assessed within 300 feet of the property, and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the community. If the name of the occupant is not known, the term occupant may be used in making notification.

The notice shall be given not less than 15 days before the date the application will be considered for approval. The notice shall do all of the following:

(a) Describe the nature of the request.

(b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(c) State when and where the request will be considered.

(d) Indicate when and where written comments will be received concerning the request.

Public hearings for interpretations and appeals are the same, except that notices to individual property owners other than the applicant is necessary only if a specific property is involved in the interpretation or appeal.



### Site Visits

§ 30 Visiting the site is a critical step in the decision making process. Even if you have lived in the community all your life, a site will look different to you when a specific request is made. Prior to the site visit you should review any site plans or sketches submitted as part of the application. This review will allow you to gain a proper perspective on the request and how it relates to surrounding properties and to the standards of review you are required to use to reach your decision.

Some precautions must be taken when doing site visits. First, all such visits should always be made individually rather than as a group. Meeting on site (even with less than a quorum) presents several potential problems.

- A site visit by a majority of the membership of a decision making body is a “meeting,” and must be advertised in accordance with the Michigan Open Meetings Act, MCL 15.261 et seq., and the requirements of the Americans With Disabilities Act (ADA) must be met.
- Practically, it is hard for the visiting members to avoid talking among themselves about the proposal. Such discussions can violate the spirit as well as the letter of the Open Meetings Act.

Second, do not go onto the site unless the property owner has granted specific written permission or unless the site is otherwise available to the public (such as an existing shopping center). Verbal approvals should not be relied upon as sufficient permission. Written permission helps avoid misunderstandings and problems with trespassing accusations.

Refusal by the applicant to allow you on the site can not influence your decision.

Many people are concerned about liability or are simply determined to protect their privacy.

The Michigan Open Meetings Act, MCL 15.261 et seq., was intended to make sure that the decision making process followed by government bodies always takes place under the watchful eye of the public. Even though you can simply meet the *letter* of the act, it is just as important that the *spirit* of open meetings be observed. *Don't look for ways around the act; look for ways you can make it work better.*

If permission has not been granted and you feel as though your decision cannot be made without viewing the site, look for other ways to get the same information. This might include aerial photos or surveys. You may also request that the applicant submit photographs, slides or video tape particularly for larger, inaccessible sites. This information may be available from community staff or you may ask for it from the applicant. There are many ways to gather the necessary information and you should not make a decision until it is obtained.

TIP: Consider adding a line to your application form that allows the applicant the option to grant permission for the members to conduct a site visit.

You may feel free to request information from the community's staff. Make sure whatever information you receive is also distributed to each of the other members. Similarly, written materials received at home from applicants or others

should be provided to the community's staff<sup>6</sup> for distribution to the rest of the members.

Finally, do not talk to the property owner, neighbors or applicant outside of the meeting. The intent of information gathering is to ensure that everyone has the same information on which to base a decision. This is not possible if individual members contact or are contacted by others outside of the meeting.

If the applicant or others contact you, be prepared to tell them that you are required to conduct all of your discussions only when the other members of the ZBA are present. Encourage them to come to the meeting (tell them when and where) or ask them to submit their comments in writing (tell them to whom and by what date). If contact cannot be avoided, it should be reported to the rest of the members during the meeting, along with the general content of the conversation.

Remember - you are only one person on the ZBA; the only time you should act as a member of the zoning board of appeals is in the presence of the other members at a posted meeting.

#### *Before Leaving Home*

§ 31 Make sure you have everything. Follow this checklist.

1. Do you have your zoning ordinance and other applicable ordinances, if any?
2. Have you examined the agenda and related materials?
3. Have you written down your questions?
4. Have you completed the site visit? If not, at least drive by the site on the way to the meeting.
5. Have you reviewed the standards that will be used for each decision?

6. Remind yourself that the purpose of preparing for the meeting is not to make a decision; it is only to gather the information needed to prepare you for the decision that is to come.

#### *Meeting the Public*

§ 32 Land use issues, as you will no doubt discover, can bring out strong emotions. Faced with a roomful of angry and concerned people, you may sometimes find it difficult to maintain the decorum and professionalism needed. Although many zoning boards of appeal follow Robert's Rules of Order in one form or another, there are other, more subtle aspects that, while not unique to zoning, nevertheless are important.

#### *Being Fair*

§ 33 The foremost concern of any member of a public body should be to ensure fairness for all concerned. To accomplish this, it is helpful to keep some simple things in mind.

- Everyone must have the opportunity to speak and present evidence at public hearings. While some limitations may be placed on this right, as described later, no action should be taken that would deprive a person of his or her right to be heard within the confines of applicable rules of procedure.
- Recognize emotional responses and treat them with concern and understanding. Strong responses, within limits, should be expected and understood. Controlling your own emotions is essential, even if the comments get personal.
- One of mankind's greatest fears is public speaking. Make an effort to look beyond the mannerisms

and nervousness to find the speaker's message.

- Regardless of how many people show up to oppose or support a request, you must represent the long term interests of the entire community, not just those at the public hearing. Further discussion of this issue is presented later in this chapter.
- Listen. Public meetings are your chance to take the pulse of the community and to learn more about the neighborhood in which a request is pending. Take advantage of the efforts that those attending the meeting have made and learn as much as you can.

#### *Follow the Rules*

§ 34 Playing fair means playing by the rules. Having an effective set of meeting rules helps provide a sense of professionalism and ensures that meetings are orderly. Rules do not need to be rigid. Nor should they be too confining. Occasionally agendas will need to be altered to take unanticipated events into account.

Keeping a subtle balance between the degree of formality required and the informality that is sometimes needed is a learned art. For example, applicants should not be called by their first names. Doing so gives the impression of favoritism, that the person is "connected" in the community. Hearing rules should be made a part of the bylaws of the ZBA and a summary of those rules printed on the back of the meeting agenda so that everyone is aware of them.

#### *Rules for Speakers*

§ 35 You will soon learn that people do not often come to a meeting in support of a particular project. Most people have concerns they wish to address, while others are simply opposed to change in their

neighborhood. Having meeting rules for speakers are especially valuable when there are many people who wish to speak. Without a few basic rules (which should be approved by vote of the ZBA) it would be easy for one or two people to dominate the meeting, thus depriving others of the chance to speak their minds.

- Direct comments to the chair. This rule can help avoid debates between members of the audience, between the presenter and the audience, and between ZBA members and the audience or presenter. It also helps ensure that the chair controls the meeting.
- Limit speaking time, when necessary. If there are many people who wish to speak, it is appropriate to limit the time of each speaker to 3-5 minutes, with the exception of the applicant. The applicant should be given as much time as needed, within reason, to present his or her case. During the public comment period, the applicant may wish to respond to individual issues or questions raised. It is generally best to ask that the applicant respond to (or rebut) those questions after all comments have been received.
- Limit the number of times one person may speak. Generally, each person needs to be given only a single opportunity to speak. At the discretion of the chair, persons may be allowed to speak a second time to respond to earlier comments. However, the chair should emphasize that repeat comments are not desired. Your rules may also require a sign-up sheet for those persons wishing to speak, with

- the chair only recognizing those who have signed the sheet.
- The chair may also ask if there is a spokesperson for the audience, and ask that the spokesperson speak for others present who agree with his or her point of view. The chair should allow those for whom the spokesperson is speaking to be recognized, either through a show of hands or by standing. The spokesperson may be given additional time in recognition of his or her role.
  - After the public hearing is closed, it should remain closed. Further comments should not be accepted unless specifically requested by a member of the ZBA.

*And the Applause Meter Says...*

§ 36 Zoning cannot be a popularity contest, decided by a show of hands in the audience or names on a petition. Many zoning approvals require public input, usually in the form of a hearing. The dilemma in which most decision makers find themselves is trying to determine what weight to give public comments and complaints.

It will quickly be obvious to you that most people do not generally come to a meeting in support of a particular project. Most have concerns they wish addressed or they may simply oppose any development. Some may come to complain about things having little or nothing to do with the issue at hand.

While public input is a valuable part of decision making, the ZBA cannot simply mirror the wishes of those who come to the meeting or send letters. Your job is to follow the standards and requirements of the zoning ordinance. You are obligated to protect the interests of the applicant, those having a direct interest, and the entire

community, not simply the desires of those who happen to attend the meeting.

If it were simply a matter of counting hands in the audience, only one ZBA member would be needed to count the votes or read the applause meter. Simply because a roomful of people shows up to oppose a project, this is not a reason for denial. Similarly, petitions, letters and other written expressions of concern are useful, but only to the point where they provide relevant information.

Ultimately, the role of the public is to provide information to the decision maker. The public can provide a unique perspective on an issue, which may create the need for further study by the community or identify additional information to be provided by the applicant.

Making everyone happy in most cases is impossible, and probably shouldn't be tried. One of the most difficult aspects of planning and zoning is the need to balance the various, often competing, interests of property owners and residents. Michigan law dictates that the public has a legitimate interest in maintaining the important health, safety and welfare aspects of their neighborhood and in having their property values protected.

*"My home is my castle"* is not an idle remark. Those who follow the NIMBY and BANANA principles sometimes represent this view. The *NIMBYs* believe that the project is well designed, and needed, but located in the wrong place. *Not In My Back Yard* is their battle cry.

Others may believe that the project should not be built anywhere in their community, or perhaps anywhere at all. Their motto is *Build Absolutely Nothing Anywhere Near Anything—BANANA*.

On the other hand, we are also told that owners of property have a right to a reasonable return on their investment and

that zoning cannot unreasonably deprive the owners of that return.

Satisfying all of these conflicting views is simply not possible. The intent of zoning is to avoid the necessity of trying to judge between them. Instead, zoning decisions should treat each person, property, and point of view in a fair and consistent manner. It is not the responsibility of the ZBA to create zoning classifications for rezoning property. Rather, the ZBA must merely determine whether, after considering all evidence presented, the applicant has satisfied the necessary level of proofs for the particular case in order to be entitled to relief.

#### *Rules for ZBA Members*

§ 37 As members of a public body, you should follow the same set of rules when presenting yourselves to the public.

- All comments should be directed through the chair. Just as the audience must be recognized by the chair, so too should the members. Not only does this respect the role of the chair, it also sets an example for the audience to follow.
- All deliberations should be in the open. This is a strict legal requirement. It is important that the citizens view the zoning board of appeals as an open, fair and deliberative body. Remember, people are generally suspicious of government. Don't add substance to that perception.
- Stay in the public eye. Do not hold private conferences prior to meeting. Don't meet in a group in a small room or other place outside the meeting chamber. When arriving at the meeting, stay in the chamber. While socializing is acceptable, make

sure the citizens do not get the wrong impression.

- Speak up. Make all of your comments aloud during the deliberations. If you have a question, ask the applicant or the chair, rather than your neighbor. Don't allow yourself to be caught up in private discussions with other members.
- Make all of your comments loudly enough so everyone can hear.
- Express your opinions. Don't just vote without letting everyone know why you are voting, whether for or against the issue. Your comments may help others decide (or change their vote). It also lets the applicant and the audience know the strengths or weaknesses of the proposal. Moreover, it may add to the record if the case goes to court.
- Do not always attempt to answer every question. Some comments cannot be answered and may be asked just to express frustration. When this happens, calmly try to narrow questions down to specifics. Once you get a handle on the real problem, you may be able to suggest a solution.

It is also important that neither the chair nor members of the ZBA attempt to answer questions from audience members that are better answered by the applicant.

- If things get out of hand, take a recess. Long evenings and emotional topics can make for short tempers. A breather may be helpful.



- Do not feel compelled to make a hasty decision the night of the hearing. Everyone should feel comfortable with his or her vote. If he or she does not, obtain whatever additional information is needed before proceeding with the decision.
- Always use the review standards of the zoning ordinance. The standards are your guarantee of reaching fair, consistent and reasonable decisions. Failing to follow the standards of review can easily lead to discriminatory, subjective and inconsistent decisions.

*The Experts Say...*

§ 38 The question may also arise about how much influence staff reports and opinions should have on a decision. In most cases, staff members are trained in their various fields and are providing their professional opinion. Consequently, their advice and direction are likely to be useful and should be taken seriously. However, that advice and direction should be supported by the facts and by application of the ordinance standards just as the ZBA's decisions are expected to be. The professional's opinions of how the facts relate to the standards may differ from the ZBA's. But ultimately, it is the decision of the zoning board of appeals that will stand.

*Keeper of the Gavel*

§ 39 The chair is entrusted with enforcing meeting rules. Having a strong chair is important both to the operation of the ZBA and to public's perception of their professionalism. The role of the chair is to maintain order throughout the meeting. The chair should announce each agenda item and note the rules that apply to the hearing. During the meeting, the chair

should ensure that courtesy is maintained and that speakers are not interrupted.

*Keeping Faith with the Public*

§ 40 Too often, people feel that government works against them rather than in their best interests. While you will not always be able to satisfy everyone, you can make sure that the public knows that they have been heard and that you are acting responsibly. Following rules of fairness, preparing for meetings and making effective decisions can affirm the confidence placed in you by those who appointed you and those whom you serve.

*Making Your Decisions Stick*

§ 41 It won't matter how much attention is paid to the principles of the previous chapters if the decisions made are not properly documented. New members may have a tendency to rely on those who have the most experience to remember past actions. There is no doubt that their memories are valuable, but their recall may not be complete. The only reliable method of documenting actions is the written word and exhibits.

*Meeting Minutes*

§ 42 In smaller communities, keeping minutes may be one of the least glamorous parts of building a written record. The task of keeping minutes should be taken seriously. There are no firm rules or formats for minutes, but there are some basic principles. As a minimum, section 9 of the Open Meetings Act, MCL 15.269, requires the minutes to show the date, time, place, members present, members absent, any decisions made and all roll call votes taken. In general, minutes should contain enough detail so that a person not present can understand:

- What matters were discussed (the nature of the request, applicant, location);

- Receipt of any correspondence or other communications on the matter (including name and address, if known, and general content);
- Who spoke at the meeting and the general content of his or her comments (including name and address);
- What action was taken by the ZBA (including the motion, vote and any conditions attached to approved applications); and
- Why an action was taken and how the standards of review of the zoning ordinance were or were not met, i.e., the detailed findings that support the decision.

One of the reasons that minutes are especially important has to do with the appeal procedure that occurs once the ZBA has made its decision. As noted earlier, there are no other levels of review by the community itself after the zoning board of appeals. The next avenue of appeal is to the circuit court of the county in which the property is located.

The zoning enabling act directs the circuit court to decide an appeal on the basis of the record presented by the ZBA and the applicant. In other words, the only information seen by the court will be the written record created at the ZBA hearing. Accordingly, it is essential that the ZBA provide a suitable written record of the proceedings.

### *Motions*

§ 43 One of the important features of documenting decisions is the record of the action taken, as evidenced by the specific motion and vote. There are several essential elements of a motion:

- a maker and seconder;
- a description of the nature of the request;

- the action taken (approval, approval with conditions, denial, postponement of the decision);
- any conditions attached to affirmative decisions; and,
- the reasons for the action taken (the standards of review and how they were or were not satisfied) based upon the facts and evidence presented at the hearing—the findings that support the decision.

Some ZBAs have found it useful to have a blank format to help them word their motions. This can be an effective practice, as long as the motions are not completed prior to the meeting. Having staff or legal counsel prepare a motion or several motions in advance can create the perception that decisions have already been made if a case is highly controversial, and is likely to go to court, there may be a desire to have legal counsel assist in formulating the language of the decision. If such assistance does occur, consideration should be given to seeking such assistance on a decision granting the relief requested as well as a decision denying the relief.

Some hints about motions:

### § 44

- Be sure everyone is clear on the motion by restating it. Do not ask the person writing the minutes to “clean it up later,” or say, “you know what we want to say.” Take the time to get the wording right. Have the person who is writing down the motion read it back to ensure its accuracy.
- Include specific references to the ordinance’s review standards. If discussion on the issue is thoroughly documented and referenced in the minutes, they may be adequate to represent information related to

compliance with the standards of the ordinance. Otherwise, a summary of the discussion on the standards is appropriate.

- Properly stated and supported motions are particularly important. Simply referring to the standards of review is not enough; saying a standard is met doesn't make it so. A motion that states "this variance is approved (or denied) because it meets (or does not meet) the standards of Section \_\_\_\_" is not sufficient. There must be enough information presented to indicate specifically which standards were or were not met, and the reasons, in terms of the specific facts and evidence presented, the ZBA made the finding.
- Conditions may be imposed on any affirmative decision. Conditions attached to a decision should have a clear purpose: to ensure that the standards used to make the decision are met. In other words, the condition should strengthen the decision to grant relief. Any condition placed on an approval must have a direct relationship to one or more of the specifications stated in the zoning enabling act for conditions.

One informal way to test the appropriateness of a proposed condition is to review the decision without the condition in place. For example, one of the review standards noted in Chapter 3 is "(T)he variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare." If, during their deliberations, the board members become concerned that the approval of a variance could have an adverse affect on adjacent

properties, a possible condition might be a requirement that a fence or landscaping be installed. If the fence or landscaping were not required, this review standard would not be met. Accordingly, this condition would be an appropriate one to attach to the approval.

- If the motion includes the need for further action, it should state who will be responsible to see that action completed. For example, the required landscaping shall be reviewed and approved by the zoning administrator."

#### *Findings of Fact*

§ 45 It is worth emphasizing the obligation to make Findings of Fact. Findings of Fact are embodied in a concise statement of the action taken by the members, and include the reasons for the decision, including the specific facts and evidence supporting the decision. In the absence of such findings, it is quite difficult for a reviewing court to sustain the decision of the ZBA.

The Findings, which are part of the minutes, are not official until reviewed and adopted by the ZBA at the next meeting, or certified as approved at the same meeting. One reason this is important is that the applicant or other person disagreeing with the decision has a specific time limit in which to file an appeal to the circuit court (30 days). The clock on the time limit does not begin ticking until the minutes of the meeting at which the action was taken are officially approved.

If the ZBA only meets on demand, or infrequently, another option would be to schedule a meeting after the minutes are completed to review and adopt them.

#### *Post-Decision Documentation*

§ 46 Once the decision is made, some administrative steps should be taken to help complete the record. The applicant and

secretary of the ZBA should each sign and date 2-3 copies of the site plan or sketch submitted as part of the application. The applicant should keep one copy and the community at least one other. This provides a record of what was approved and when.

A copy of the minutes should be sent to the applicant following review by the approving bodies along with a letter specifically noting the action taken by the ZBA, including any conditions placed on the approval, if appropriate.

This letter may include further instructions regarding the proposal. For example, if a variance was granted, the letter may state that a site plan approval by the planning commission is necessary prior to issuance of a building permit.

#### *Record Retention*

§ 47 The community's records for each application should include, at a minimum:

- Relevant pages of minutes at which the proposal was discussed;
- Staff notes, meeting notes, correspondence, telephone conversation notes, etc.;
- Copy of the application and supporting material;
- Approved/signed copy of the site plan; and
- Follow-up correspondence (as noted above).

#### *If You Build It, We Will Come...*

§ 48 ...to make sure it complies with the approvals that were granted. Someone should be given the direct responsibility to make sure that any conditions or changes required by the zoning board of appeals are accomplished. Sending the building official and zoning administrator a copy of the approved application and meeting minutes could help this process.

Remember, building a complete record is important. Should a decision be legally

challenged, the written record will provide the background needed to help defend the decision of the ZBA. Also, a suitable record of past actions is needed to ensure that decisions are implemented and that they are enforced over a long period of time.

Reliance on someone with a good memory is not enough.

## Chapter 3 - Making the Tough Decisions

§ 49 In these days of increasing litigation and public participation, it is not enough to approve or deny an application for a variance or appeal because of a vague notion that the request is or is not a good idea, or that it will hurt the neighborhood, or make things better. If challenged, any decision must have a solid, well-supported foundation.

Decisions related to zoning are rarely easy. And, they are not usually a matter of right or wrong. The duties of the zoning board of appeals require a balancing of the needs of the community and the rights of a private property owner.

- The community has a strong interest in maintaining the integrity of the rules under which zoning operates, through the zoning ordinance. Variances granted without proper foundation can eventually, or even quickly in some cases, lead to a weakening of the ordinance.
- On the other hand, private property owners do have certain rights to use their property and the inappropriate application of the zoning ordinance to that property should not deprive them of those rights.

Proper decision making starts with the basics: knowledge of the zoning ordinance, knowledge of relevant case facts and using review standards to reach a decision.

### *Knowledge of the zoning ordinance*

§ 50 While it is not necessary for each member to know the intimate workings and details of a zoning ordinance, they must

be familiar with the relevant parts of the ordinance when reviewing applications. But more important, it is essential that each member understands the purpose and need for the regulation being discussed.

### Intent and Purpose

A front yard setback variance is being considered by the ZBA. A new member asks, "Why can't the building be built all the way to the property line?"  
What would be your answer?

One of the standards of review typically applied to variance requests asks that the decision not impair the intent and purpose of the ordinance. If the intent and purpose of the regulation would be materially affected, it is possible that the variance would not be appropriate. For example, one of the recognized purposes of a side yard setback is to provide access for safety personnel to the rear of a building. Should a variance be permitted that eliminates this access, the intent and purpose of the ordinance would not be fulfilled.

### *Knowledge of Relevant Case Facts*

§ 51 Facts are critical to good decision making. Sources of facts include:

- a) The application and supporting materials;
- b) The master plan or other relevant governmental plans;
- c) Staff and agency reports regarding impacts on public services, natural resources, character of the area, traffic and parking, and others;



- d) A visit to the site to see the physical characteristics of the property and adjacent parcels (see Chapter 2) and;
- e) Public hearing comments.

However, what is a fact is not always clear. Sometimes it will be necessary for the members to use their own experience and common sense (a concept not often applied to zoning).

#### *Use of Ordinance Standards*

§ 52 Following an effective and consistent decision making process is one of the most important methods of supporting your decisions. Proper and consistent use of the standards of the zoning ordinance or other ordinances is essential. If all ordinance standards and state law standards are met, the application must be approved. Before any variance should be approved, the applicant should be required to demonstrate that either a practical difficulty or unnecessary hardship exists. While these terms are sometimes used interchangeably, they are, in fact, distinct and different terms.

- *Practical difficulty* is applied only to nonuse, or dimensional variances;
- *Unnecessary hardship* is relevant only for use variances.

The wording and number of standards will often differ from one community to another, but the following standards have been considered by various court decisions and are common to ordinances.

#### *Standards for Nonuse or Dimensional Variances*

§ 53 Granting of a nonuse variance requires the existence of a practical difficulty, which is demonstrated by showing that:

1. *Special or unique conditions and circumstances exist which are peculiar to the land, structure, or*

*building involved and which are not generally applicable to other lands, structures, or buildings in the same district.*

§ 54 Meeting this standard requires the requested variance to be related to the characteristics of the property and not to the personal situation of the applicant. Should a variance be granted because of a perceived special condition related to the applicant, that condition would no longer exist if the applicant leaves the property. But the variance remains with the land.

Similarly, trying to distinguish between individual circumstances related to individuals is nearly impossible. Nearly every person has some situation that may consider unique. You are not expected to be able to draw a line between various applicants' special conditions.

This dilemma cannot be resolved by restricting the approval to a particular individual. Variances, like other zoning approvals, cannot be restricted solely to the benefit of or use by a specific person. Variances, once granted, run with the land, not with the property owner.

Special conditions or circumstances that are related to the property are generally physical characteristics that may normally include:

- exceptional narrowness, shallowness or shape;
- exceptional topographic conditions or other extraordinary situations related to the property; or
- use or development of the property immediately adjoining the property in question.

Also, the characteristics of the property asserted as the basis for relief must not be common among other properties in the same district or vicinity. As with all

variances, the principle is that the variance is needed to relieve a practical difficulty caused by the unique conditions present on the land. Common conditions or situations should be addressed by a change in the text of the ordinance, rather than by the granting of individual variance applications.

*2. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and that the variance is the minimum necessary.*

§ 55 Property owners are given certain rights to use their property within the limits allowed by the zoning ordinance. If the conditions present on the property are such that owners are deprived of these rights, the zoning board of appeals should find this standard (but not necessarily the variance) in favor of the applicant. However, this does not entitle the applicant to the maximum benefit that might be available. For example, while the ordinance provides that property owners may have accessory buildings, it does not grant the authority to allow any size building desired by the applicant.

This standard also permits the ZBA to modify the request of the applicant to accommodate the special condition or circumstance but only approve the amount of variance that is necessary to do so. For example, an applicant may wish to construct a garage closer to the lot line to avoid a large tree. The ZBA could approve a variance that would miss the tree, but in order to protect an adjoining property, not come as close to the property line as requested.

*3. The special conditions and circumstances do not result from the actions of the applicant.*

§ 56 This standard, often referred to as self-created, is often misunderstood and the subject of differing opinions. There are circumstances when the applicant has clearly taken some action creating a need for the variance. For example, if an applicant splits a lot which previously conformed to the requirements of the zoning ordinance into two smaller ones, one or both of which then do not meet the ordinance, the action is clearly self-created.

On the other hand, a buyer of a lot that cannot be developed without a variance may ask that the ZBA grant a variance to allow use of the lot. In this case, the applicant did not take an affirmative action by creating the lot. Accordingly, this standard should not be used as a reason for denial (although the variance still must meet the other standards of the ordinance).

*4. The granting of the variance will be in harmony with the general purpose and intent of this ordinance.*

§ 57 While the intent and purpose portion of this standard may sometimes seem like a catchall phrase, it does have meaning. The construction of the zoning ordinance was a carefully considered process that was begun by the planning commission, reviewed by the public and adopted by the legislative body. Each provision of the ordinance has a reason for its existence and it is important that the ZBA understand that reason and not act to impair that purpose.

Whether the ZBA agrees or disagrees with any provision in the ordinance is irrelevant. The ZBA's function is to enforce the provisions of the ordinance, except in very specific instances where conditions

exist that would make compliance with the requirements impractical. Those conditions are defined by the review standards of the ordinance.

It is equally important that the zoning ordinance be reviewed frequently to ensure it is kept current and relevant to today's conditions. This includes making sure that binding court rulings are included and new legislation recognized. Often, an outdated ordinance will tend to generate additional variance requests.

One way the ZBA can help keep the ordinance current is to review its decisions at the end of each year to determine if there are provisions of the ordinance that are consistently being requested for variances. If the review highlights some particular parts of the ordinance, it may be an indication that these provisions need to be updated.

A joint meeting with the planning commission to discuss these provisions will be useful. One of two outcomes is possible. The planning commission may agree that a provision needs updating and begin the actions necessary to amend the ordinance. Or, the commission may determine that the ordinance does not need to be updated and that the provision should remain unchanged. If this is the outcome, the ZBA should respect that decision and only approve variances in those cases where the standards of review are clearly met.

*5. The variance will not be injurious to the neighborhood or otherwise detrimental to the general welfare.*

§ 58 As with any zoning action, the result of the proposed variance should not be harmful to adjacent properties. Potential harm could be in the form of restricted access or view, noise, lights or any other effect not normally experienced by property owners in similar circumstances.

While the opinions of surrounding property owners are useful, they should not be given absolute weight. The role of the public is not to give their blessing or veto, but to provide the ZBA with information useful to its decision making process. As an illustration, a current adjoining property owner may be a relative or close friend and not object to a variance. But since the variance goes with the land, the next property owners may find themselves with an objectionable situation.

On the other hand, it is appropriate for the ZBA to take the comments of the public into consideration to determine whether or not the variance may adversely affect nearby property or the neighborhood. (See Chapter 2.) Note, however, that simply because a variance is not harmful to the neighborhood does not mean that it meets all of the other applicable standards.

*6. The spirit of this ordinance shall be observed, public safety secured and substantial justice done.*

§ 59 The concepts of this standard, though broad, are important. Observing the spirit of the ordinance will mean that the ZBA understands the potential effects one or several variances could have on the effectiveness of the zoning ordinance. For example, if the ZBA's reputation is one of easy approvals, applicants are more likely to seek variances in other than special conditions and circumstances.

"Public safety secured" indicates that the variance, if approved, will not create an unsafe condition.

While "substantial justice" directly addresses fairness to the applicant, it also applies to others who might be affected by the variance, such as neighboring property owners. Often the initial expectations of neighbors are that the ZBA will follow the

requirements of the zoning ordinance. The substantial justice requirement dictates that the variance should not be granted if it would undermine the purpose and intent of the zoning ordinance as it relates to adjoining properties. This includes a consideration of the extent of variance to be granted. In this context, substantial justice requires the variance to be the minimum necessary to afford relief.

#### The ZBA's Reputation

A zoning board of appeals known for easy approvals may find itself barraged with variance requests. As the word spreads that the ZBA grants almost any variance, the attitude among builders, attorneys, planners, and others who frequently advise property owners is, "Don't bother trying to meet the zoning ordinance, All you need to do is apply for a variance and you will get it."

#### Standards for Use Variances

§ 60 As noted in Chapter 1, a use variance allows a use of land that is not permitted in the district in which the property is placed. Because this type of relief is so significant, granting of a use variance requires the existence of an unnecessary hardship, which is demonstrated by showing that:

1. *The property could not be used (be put to a reasonable use) for the purposes permitted in that zone district.*

§ 61 The principle behind a use variance is that it is necessary because the property is not usable as it is zoned. Therefore, a thorough review is needed to first establish that none of the uses currently allowed in the district, either as permitted by right or through a special land use, are appropriate

for the property. While it is true that financial considerations are not generally the subject of review for variances, this standard may be satisfied by a finding that the property would essentially be valueless if an attempt were made to develop it as zoned.

Part of this review will require determining if the property can be reasonably used for any of the uses permitted in the district. This does not mean that the use has to be the most profitable, or the use proposed by the applicant. It only requires a finding that there is one or more uses permitted in the district which could reasonably be placed on the property.

2. *The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.*

§ 62 This standard is generally similar to that for nonuse variances, particularly with respect to the necessity for having unique circumstances that are specific to a property and not related to the applicant's personal situation. The other important aspect is the requirement that the situation on the property not be common in the area. If conditions are common to the area, a use variance would not be appropriate because the area should be reviewed by the planning commission to determine if the zoning for the entire area should be changed. But that is the function of the planning commission and not that of the zoning board of appeals.

*The use would not alter the essential character of the area.*

§ 63 Probably the most difficult aspect of this standard is determining what the essential character of an area is, and if the

use variance is approved, what effect might the variance have on that character.

One of the easiest ways to determine the essential character of an area is through a site visit to examine the area and see the various land uses that exist.

In some cases the character may be evidenced simply by the dominance of one land use over any others. In others it may not be as obvious. For example, some areas may have a wide variety of uses, occupying different sizes of lots. Viewing the area may not directly lead to a conclusion as to the character of the area and may require some degree of judgement.

*What is the "area" affected by a use variance?*

The "area" which may be affected by a use variance will depend on the nature of the request and the size of the property that is the subject of the requested use variance. For example, a small residential lot requesting a use variance for an office will affect a smaller area than a request on a large site for an intensive commercial use.

Another way to determine the character of an area and the possible effect of a use variance is to examine the community's master plan. The plan may clearly indicate the existing or intended character of an area. The ZBA may also seek the advice of the planning commission to help interpret the master plan, or to provide guidance when there is no plan or if it is out-of-date. Any opinion of the commission is simply advice, and should be considered only as input to the ZBA's deliberations.

After determining the essential character, the next step is to evaluate

whether or not approval of the use variance would alter that character. This decision might hinge on whether or not the proposed use variance may tip the scales in one direction or another. If an area appears to be in transition from a residential to commercial area, for example, a commercial use variance may be appropriate. However, if the specific character of the area is unclear, a use variance may not be appropriate since it could tend to establish a specific character. This type of decision will require the exercise of discretion by members of the ZBA, as assisted by staff and consultants.

*4. The problem is not self-created.*

§ 64 This standard is essentially the same as that for nonuse variances. If the applicant created a particular situation that made a property essentially unusable as zoned, that applicant would not be entitled to relief by approval of a use variance. For example, if a property owner subdivides a large, residentially zoned property, leaving a corner lot as an isolated parcel, an argument that the parcel should only be used for nonresidential purposes could fail because the parcel was created by the direct action of the applicant.

*5. The other general requirements are met.*

§ 65 As in the case of nonuse variances, an applicant must show that the variance meets the state law requirements, that the spirit of the ordinance shall be observed, public safety secured and substantial justice done.

*Use Variances and Rezonings - The Paragon Rule*

§ 66 Understanding use variances was made



more important by a 1996 decision of the Michigan Supreme Court, *Paragon Properties Company v City of Novi*, (452 Mich 568, 550 NW2d 772 (1996)) in which the court required a “final decision” of the municipality. Under the *Paragon* decision, it will not be deemed that a final decision has been rendered by the municipality until the property owner seeks a use variance from the zoning board of appeals. The *Paragon* decision, therefore, requires submission of a use variance application following a rezoning request denial by the legislative body before any legal disputes may be brought before the court.

The Michigan Zoning Enabling Act allows a community to choose whether or not it wishes to have a use variance procedure in its ordinance. Therefore, if the use variance procedure was not available, the applicant would not have to exhaust this remedy, and *Paragon* would not apply.

Even if provided for by statute, some communities have language in their zoning ordinances that prohibits consideration of use variances. Often this language is in the form of not permitting the zoning board of appeals to hear variances that would have the effect of changing land use or zoning.

For those communities that continue to hear use variances further definition of the meaning of the *Paragon* decision will likely require additional litigation and clarification.

In general, the full effect of this decision has yet to be felt and the interpretation of its language will likely result in some confusion as individual county circuit courts utilize this case.

#### *What about precedents?*

§ 67 One of the concerns often expressed by ZBA members is the fear that by approving or not approving a request they may be setting or violating a precedent. This concern can be real if the ZBA is not

using the standards of review of the zoning ordinance. Failure to use these standards consistently requires the ZBA to make up the rules as they go. As a result, future applicants gain the right to be considered by the same considerations used by the ZBA in previous meetings.

Consequently, the way to avoid setting a precedent is to base every decision on the standards of review of the zoning ordinance, and include findings of fact that distinguish cases from one another. When the standards are used and findings made consistently, the ZBA is less likely to be bound by past decisions because the facts of each case are different. On the other hand, where the facts are very similar the same decision should be reached, not because of a precedent but because the same facts were applied against a consistent set of review standards.

Therefore, consistent and faithful use of the review standards for variances allows the ZBA to reach decisions based on the facts of each individual case. This, together with the detailed findings of fact, helps ensure consistency and fair treatment for every applicant by avoiding the arbitrary and capricious labels often given to zoning decisions that are not well supported.

As each application is debated, each of the applicable standards should be specifically reviewed and individual findings made for each. No approvals should be granted until the members clearly agree that all the standards of review are satisfied. Zoning decisions are permanent. Care must be taken to ensure that each decision is well supported. It is essential that the decisions are well documented and that the records pertaining to all applications are complete.

#### *How to Avoid Litigation*

§ 68 The short answer to avoiding litigation is simple—you can't! Governments are

always open to lawsuits, regardless of the quality of their decisions. Far too often, disappointed applicants or neighbors look to the courts to solve their problems. As a result, the ZBA cannot be overly influenced by threats or concerns about whether a decision will result in a lawsuit, provided, of course, that the ZBA has acted properly and thoroughly supported and documented the decision.

However, there are some actions that can strengthen the ZBA's legal position should any decision be challenged.

- Follow a standard decision making process. The zoning process involves a wide variety of technical, administrative and judgmental factors. Making sure that the requirements of the ordinance are followed, including proper notices, use of standards of review and proper documentation of decisions is a good start.
- Use review standards and make findings. The most important step you can take is the proper use of the review standards provided in the zoning ordinance to guide your decisions. These standards outline a clear path to reaching fair and consistent decisions. All decisions must be based on these standards and the facts that are used to apply them. Therefore, apply and make findings on each review standard.
- Follow proper procedures. The community should ensure that adequate procedures are in place to ensure that application procedures are clear, notices are properly completed, and adequate records are kept. The ZBA should ensure that proper hearing procedures are followed.

This includes creating a suitable record of the actions taken and the reasons for those actions as part of the ZBA minutes.

## Section 2: Roles and Responsibilities

# Chapter 9: Planning and Zoning

### A Balancing of Interests

Perhaps one of the most difficult aspects of planning and zoning is the need to balance the various, often competing, interests of property owners and residents. These competing interests are represented through the concept of property rights. Local decision makers are required to balance the interests of private property rights against the need to protect the public interest. In other words, how much regulation is enough to protect the public and at what point does that regulation begin to infringe on property rights?

In the midst of these sometimes competing interests and views are the local authorities for zoning; the zoning administrator, the planning commission, the zoning board of appeals, and the city or village council. Dealing with each of these conflicting perspectives is simply not possible, and the intent of zoning is to avoid conflicts that arise. Instead, zoning follows some basic principles and procedures designed to treat each person, property, and point of view fairly and consistently.

### Legal Framework

Local planning and zoning authority is based in two statutes, the Michigan Zoning Enabling Act (MZEA) (PA 110 of 2006) and the Michigan Planning Enabling Act (MPEA) (PA 33 of 2008). These laws consolidated and updated various older enabling statutes, and should be referenced when adopting or updating local planning and zoning documents, as they address topics like:

- The creation and membership of the planning commission and zoning board of appeals (ZBA);
- The division of responsibilities between these appointed bodies and the local legislative body;
- Requirements for adopting a master plan and zoning ordinance; and

- Minimum standards for public notices and processes around planning and zoning decisions

If your community has not yet reviewed its ordinances against these new statutes, it is critical to undertake that review, to ensure that you are on solid legal footing.

### The Planning Team

The laws that originally set up the land use planning and zoning system for Michigan anticipated the need for the three bodies most involved to work closely together to coordinate their efforts.

**The planning commission**, an appointed body, was originally given the responsibility of writing and adopting the master plan. This was done to ensure some degree of independence from the political arena, which had plagued the planning process in earlier years. In 2002, this requirement was changed to include more involvement by the legislative body in the planning and adoption process. The planning commission was also given the duty of writing the first draft of the zoning ordinance. This was done to ensure a direct connection between the master plan and zoning ordinance.

**The village council** may choose to be the adopting authority of the master plan, but is required to adopt the zoning ordinance because it is the law.

**The zoning board of appeals** was granted the authority to waive certain zoning ordinance requirements where conditions of the ordinance deprived property owners of the right to develop their property.

There are, however, situations where this delicate balance fails. For example:

- The planning commission adopts a master plan with which the legislative body has fundamental differences. The legislative body may refuse to allow the plan to be adopted by the planning commission, or the legislative body may itself refuse to adopt

the plan. Accordingly, any attempt to implement the plan through the zoning ordinance may then fail when the legislative body refused to adopt either the plan or the ordinance. To reduce the chance of conflict, the legislative body and planning commission should work together on strategic goal setting early in a master planning process; and

- The ZBA grants variances without sufficient justification, which detracts from the ordinance's effectiveness. In extreme cases, such actions might allow the ZBA to, in effect, take over the zoning policy-making function that is normally reserved for the planning commission and legislative body. If the ZBA believes the zoning ordinance is generally flawed, rather than a unique situation with a particular property, it should communicate with the planning commission to address the issue.

The legislative body, planning commission, and ZBA may find periodic joint meetings or other formal communications helpful: all have an interest in keeping the master plan, as a policy document, the zoning ordinance, as a law, and the administrative and quasi-judicial decisions made on individual applications in alignment.

### **The Master Plan**

Policies regarding land use are expressed through the master plan. A master plan will include a description of the community, outline goals and objectives and map areas of different land uses, ranging from residential to industrial. The master plan must constantly be reviewed to make sure that the new growth conforms to what was planned. But as events unfold, these plans may change to take unanticipated events into account. While a master plan typically considers a timeframe of decades, the MPEA requires a community to formally review its plan at least every five years.

While the planning commission is responsible for drafting the master plan, the legislative body must "approve the plan for distribution," and may elect to become the adopting authority for the plan. After preparing a

proposed plan, the planning commission must submit the proposed plan to the legislative body for review and comment. Before the adoption process can proceed, the legislative body must approve the distribution of the proposed plan. If it does not, it must return the plan to the commission with its objections. The commission must then revise the plan until it is accepted by the legislative body.

The long-term effect of this change to the adoption process will have to be determined. But even if the planning commission is delegated the responsibility of completing and adopting the master plan, the legislative body should be involved in all of the critical steps of the process in order for the plan to be effectively implemented.

Developing a master plan is a reasonably logical process. It consists of:

- identifying community issues;
- collecting information regarding those issues;
- determining the direction in which the community wants to develop;
- deciding how to proceed in that direction;
- adopting the plan;
- fashioning a method of implementation; and
- reviewing the plan periodically.

Of these, perhaps the most important is determining the direction of the community through the development of a community vision and setting goals that will achieve that vision. To begin this process, the planning commission and legislative body should discuss philosophical, broad-ranging questions related to growth and community character. These might include such questions as, "Do we want to grow?" or "What does 'small town character' mean to us?"

Once the master plan is in place the normal reaction is a let-down; the planning commission's hard work has paid off and the plan is completed and ready to be filed. But, in reality, the work has just begun. All too often, the plan sits on a shelf and collects dust.

A plan which is not actively followed and implemented may lead to problems for the community in the future. Failure to follow the plan may discredit any attempt to use the plan as a defense for actions which may be challenged by property owners or developers.

## The Zoning Ordinance

Local control of the use of land (with some exceptions, such as state and federal land uses) is an accepted legal principle. Land use is traditionally controlled through the separation of land into various use areas, called zoning districts. The rules governing these districts are contained in a zoning ordinance which includes provisions controlling the type and intensity of development allowed.

Communities often have to wrestle with complex zoning and growth policy issues brought on by new development. The need to provide flexibility, coupled with the desire to maintain some degree of control, has created the need to find innovative zoning and land use policy solutions. Some of these include:

- A planned unit development (PUD) process offers the opportunity to review large or complex developments for their ability to better meet the intent of the zoning ordinance than the strict application of the ordinance provisions. The MZEA introduced the ability for a PUD to take place on noncontiguous properties. In all cases, the zoning ordinance must enable and define the process for a PUD before one may be considered;
- A form-based code (FBC) places focus on the shape, size, and arrangement of buildings or other improvements on a property, with the activity happening on the property a secondary consideration—some communities find this approach is better able to manage community character and impact of development than a focus on traditional divisions of residential, commercial, etc., activity. Note that the MZEA does not explicitly discuss or authorize FBCs separately from more traditional zoning;
- Two or more communities may form a joint planning commission, to facilitate coordination of development across jurisdictions; and
- The MZEA introduced the option for an applicant to offer conditions to a rezoning request, such as limiting

permitted uses under the rezoning to only some of the uses permitted in the target district. Note that municipalities are clearly forbidden from requesting conditions or amending the conditions proposed—this option should be used carefully, if at all.

## The Zoning Board of Appeals

A community that has established a zoning ordinance must have a zoning board of appeals (ZBA). A city council may act as the ZBA, or a separate board of not less than five members may be appointed. The Zoning Board of Appeals has a quasi-judicial function and must act objectively when evaluating an appeal. If the elected body also serves as the ZBA, it may become difficult to remain an objective evaluator when an individual is also an elected official.

The number of members is based on population; less than 5,000 must have at least three members. More than 5,000 must have at least five members. The only appointment guidelines are residency, population distribution, and representation for the various interests in the community (residential, commercial, industrial, education, etc.). All members serve three-year terms. Two alternate members may be appointed and serve in the case of an absence or in the case of a conflict of interest with one of the regular members. The alternate, if called, serves on a case until a decision is reached, even if called on the basis of an absence of the regular member, and even if that member returns.

The board has the responsibility for ensuring that the zoning ordinance is properly and fairly applied. The need for the ZBA is based on the realization that a single set of regulations cannot anticipate every potential condition related to individual properties and uses. The most common action by the board is the consideration of variances.

A **variance** is permission to waive or alter a requirement or limitation of the zoning ordinance. There are two types of variances.

A **use variance** permits a use of land that is otherwise not allowed in that district. A use variance is a modification of the literal provisions of the zoning ordinance that may be



authorized by the board when strict enforcement of the ordinance would cause *unnecessary hardship* for the property owner due to circumstances unique to the property. To obtain a use variance, the applicant must demonstrate through review standards that the unnecessary hardship related to the use of the property exists. The community may choose to exclude the consideration of use variance in its zoning ordinance.

A **nonuse variance**, also known as a dimensional variance, is a modification of the literal provisions of the zoning ordinance that may be authorized by the board when strict enforcement of the ordinance would cause *practical difficulties* for the property owner due to circumstances unique to the property. Nonuse variance requests are typically associated with modifications of required yard setbacks, building heights, parking requirements, landscaping or buffering restrictions, and related building or facility placement matters and sizes.

Every person has the right to seek relief from a zoning ordinance requirement. If the standards used by the board are carefully considered and followed, the integrity of the ordinance will be maintained. But too often variances are granted because no one sees any harm in doing so, rather than carefully considering the ordinance standards. The board soon gains a reputation for not following its ordinance; one merely has to go to the ZBA to obtain relief from the ordinance.

Eventually, the offhand granting of variances harms the community's ability to enforce the ordinance. Moreover, poorly supported decisions can, over time, have the effect of destroying the credibility of the zoning ordinance as well as the ZBA. It is up to the members to prevent this by strictly applying the review standards of the ordinance necessary to obtain a variance: variances create an exception from the ordinance, and should be exceptional, rather than routine.

### Procedures and Processes

Foremost among today's planning and zoning issues is the need to have specific, written procedures for handling planning and zoning matters. The entire zoning process, from the time that a person first approaches the

municipality to the issuance of the occupancy permit or possible sanction of violations, should be clearly understood by all parties involved. Some basic rules:

- Proper forms should be in place to document applications and permits;
- Meetings should be governed by consistent rules;
- All actions should be clearly and thoroughly documented;
- Applications should not be accepted if incomplete (inadequate site plan, fee unpaid, etc.);
- If required public notices were not sent or were published improperly, stop the process and start over; and
- Action on any application should be delayed until the applicant or a representative is present (unless legal time limits dictate otherwise).

Another important aspect is keeping good records. One test of record-keeping is the ability to pick any application that has been approved and constructed and be able to follow each step, from the first contact of the application to the last permit, by the records kept for that application. Project files should include, at a minimum:

- relevant pages of minutes at which the proposal was discussed,
- staff notes, meeting notes, correspondence, telephone conversation notes, etc.,
- copy of the application and supporting material, and
- approved/signed copy of the site plan.

### Making Effective Decisions

Following an effective decision-making process is one of the most important methods of avoiding, or at least surviving, challenges to decisions. Careful consideration and support of decisions through the use of the standards of the zoning ordinance is important. These standards must be written into the ordinance and if all standards are met, the application must be approved.

If the decision is challenged, the importance of using the ordinance's standards becomes self-evident. A well-supported decision provides the background needed to build a solid legal

foundation for the decision. The use of standards will help avoid the “arbitrary and capricious” label often given to zoning decisions that are not well supported.

The record must show sufficient facts to back up the findings made according to the ordinance standards. Some simple considerations:

- It is not enough to deny an application because of a vague notion that the use is not a “good idea,” or that it will “harm the neighborhood;”
- The presence of a roomful of people opposing the project is not sufficient reason to deny an application;
- The past performance of the applicant should not be used as a basis for a denial. If there are doubts about performance, make proper use of conditional approvals, performance bonds, and proper documentation;
- Approvals and denials should each be thoroughly documented on the record, clearly stating how the ordinance standards were, or were not met; and
- Questions of doubt should be resolved before taking action; do not act hastily. Zoning decisions are permanent; take care that the decision is the best that can be made given the information available.

### **The Role of the Public**

Having noted the need for objectivity, the question arises as to what role the public should play. Various zoning approvals require participation by the public in the decision-making process, usually in the form of public hearings. The dilemma in which most decision makers find themselves is trying to determine what weight to give the comments (and complaints) of the public.

People do not generally come to a meeting in support of a particular project; most have concerns that they wish addressed, many are simply opposed to what is proposed. The foremost concern that any decision maker should have is to ensure fairness for all concerned; the applicant as well as the public.

To ensure fairness, keep some simple things in mind.

- Everyone must have the opportunity to speak and present evidence at public hearings. While some limitations may be placed on this right, no action should be taken that would deprive a person of their right to be heard.
- Most people are uncomfortable speaking in public. While the chair cannot make everyone effective speakers, he/she can make sure that meeting rules are followed and order maintained. Keeping a subtle balance between the degree of formality required, and the degree of informality that is sometimes needed is a learned art.
- Recognize emotional responses and treat them with concern and understanding. Land use issues can elicit strong emotions. Strong responses, within limits, should be expected and understood. Decision makers must learn to control their emotions, even when the comments get personal.
- The chair can help maintain order by following meeting rules and requiring that comments are made only on the subject at hand. It is often helpful to point out what request is being made and to ensure that the public understands the limitations of the board or commission.

### **Enforcement**

No matter how well written the zoning ordinance may be, it is essentially made meaningless unless the community has an effective enforcement process. Creating and maintaining an effective enforcement program requires a good COP (Commitment, Ordinances, Process):

**Commitment:** The community, including its enforcement officials, administration and legislative body, needs to have a firm commitment to the enforcement of its ordinances. This means providing the necessary resources to monitor and penalize. It also means ensuring that enforcement officials are not subject to interference from the administration and legislative body members.

**Ordinances:** Ordinances must be clearly written and be able to be reasonably monitored and enforced. Each time a new regulation is drafted, it would be useful to ask the enforcement officials how they may go about monitoring and implementing the various ordinance provisions. Ordinances that require unreasonable actions on the part of enforcement officers are less likely to be properly administered.

**Process:** Finally, it is important that there be a consistent, well documented enforcement process. For example, a follow up to a violation might be similar to this:

1. Verbal notification is sent to the property owner, followed up by a written notice.
2. If not corrected, a second notice (usually worded somewhat more forcefully) may be sent.
3. If not corrected after the second notice, a citation is issued.

(Note: The procedures for each community will be different, and may depend on whether the ordinance violation requires a civil or criminal action.)

### How to Avoid Litigation

The short answer to avoiding litigation is simple. You can't! Governments are always open to lawsuits, regardless of the methods used to reach a decision. Disappointed applicants and neighbors far too often look to the courts to make a decision favorable to their position. However, there are some actions that you may take to strengthen your legal position.

The first way to avoid a legal challenge to your decisions is to follow the procedures and principles outlined in this chapter. As many members have already experienced, the zoning process involves a wide variety of technical, administrative, and discretionary factors. The technical factors may include compliance with the specific requirements of the zoning ordinance, such as setbacks, height, parking, etc. The administrative requirements may include ensuring that notices are mailed and published,

meeting procedures followed, and other similar actions.

Finally, and probably most important, are the judgmental factors that are required in making effective zoning decisions. The standards provided in the zoning ordinance for various types of decisions are the clearest guide given to decision makers. All decisions should be based on these standards and the facts that are used to apply them.

Other factors that should be remembered:

- Keep the master plan and zoning ordinance up-to-date. A current plan and ordinance can bolster an effective defense. An outdated plan or ordinance is subject to attack as not relevant to today's conditions.
- Recognize the landowner's right to a reasonable rate of return, although that may not be the use that provides the highest profit or "highest and best use," not a term applicable to zoning.
- Do not exclude lawful land uses if there is a demand and an appropriate location in the community.
- Base decisions on the ordinances and facts rather than emotions or opinions of the applicant.
- Make decisions using the written standards of the zoning ordinance.
- Know the rules of procedure and follow them consistently.
- Resolve questions of doubt before taking action; do not act hastily. Zoning decisions are permanent; try to get it right the first time.
- Know the limits of the community's authority and act in good faith.
- Correct immediately any situations that could be/are found liable.  
If sued, hire competent legal counsel familiar with the type of litigation involved.

**Chapter by League staff** based on materials provided by **Steve Langworthy**, retired partner with LSL Planning.

## Zoning: Basic Questions

### What is the role of the planning commission?

The planning commission was originally given the responsibility of writing and adopting the master plan for the community. In 2002, this was changed to require more involvement by the legislative body in the planning and adoption process. The planning commission remains the authors of the first draft of the zoning ordinance. This ensures a direct connection between the master plan and zoning ordinance.

While the 2002 change allowed the city or village council to be the adopting authority of the master plan, it is **required** to adopt the zoning ordinance because it is the law.

### Why do we need a master plan?

Policies regarding land use are expressed through the master plan. A master plan will include a description of the community, outline goals and objectives and map areas of different land uses, ranging from residential to industrial. The Michigan Zoning Enabling Act requires that a zoning ordinance be based on a plan to help guide zoning decisions.

### What is the role of the Zoning Board of Appeals?

It is nearly impossible to write a set of regulations affecting the development of land that can be universally applied. Many communities in Michigan and throughout the country had hundreds or thousands of parcels of land to which zoning standards had to be applied. As a result, it was clear that a means of providing relief from the strict requirements of the zoning ordinance was needed for property owners with unique conditions related to their property. So, each state's zoning enabling acts required that any community which adopted a zoning ordinance must also have a zoning board of appeals. The zoning board of appeals exercises three basic roles or functions:

- Interpreting the ordinance (text and map)
- Deciding appeals from administrative decisions
- Granting variances (use and nonuse).

### What is a variance?

A variance is the permission granted to deviate from the requirements of the zoning ordinance. There are two types of variances—use variances and non-use variances. Non-use variances are often referred to as dimensional variances. The authority to grant variances rests with the zoning board of appeals.

### If we grant a variance and the person to whom we granted the variance sells the property, is the variance still in force?

Zoning runs with the land—not the person! Like any zoning decision, the variance granted is generally permanent and stays with the property—not with the property owner.

### What is a special land use?

The Michigan Zoning Enabling Act permits consideration of special land uses. Special land uses are uses listed in a zoning district which are generally compatible with the purpose and intent of the district but, due to their individual or unique characteristics and potential impact, warrant a more in-depth analysis prior to approval.

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## Zoning: Nonconforming Buildings and Uses

### Introduction

According to the Michigan Zoning Enabling Act (PA 110 of 2006), "if the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment.

### What does nonconforming mean?

A nonconforming building or use is one that, when created, met the requirements of the zoning ordinance in effect at that time, but, as a result of a situation beyond the control of the owner, does not comply with the current ordinance.

The basic rule regarding nonconformities is that if the use or building was legal when constructed, it must be allowed to continue to exist.

### What is a nonconforming building?

Most municipal zoning ordinances will not permit a nonconforming building to be enlarged or expanded beyond its existing external footprint. However, regulations may be adopted that permit some degree of expansion, but approval by the zoning board of appeals is usually necessary to do so.

### What is a nonconforming use?

Nonconforming uses are most often created when a property is rezoned or changes are made to the uses allowed in a district. This can be a problem when residentially developed areas are rezoned to commercial. Most municipal zoning ordinances will not permit a nonconforming use to increase its area of nonconformity.

Unlike nonconforming buildings, which may be restricted once destroyed to some degree, the only way nonconforming uses can be eliminated (absent a purchase by the community) is if the owner intentionally abandons the use.

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## CHAPTER 154: ZONING

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**GENERAL PROVISIONS**

**§ 154.001 TITLE.**

This chapter shall be known and cited as the “City of Linden Zoning Ordinance” and may be referred to herein as “this chapter” or “chapter”.

(Ord. 285, passed 12-8-2003)

**§ 154.002 PURPOSE.**

(A) The purpose of this chapter is to promote, protect, regulate, restrict, and provide for the use of land and buildings within the city; to meet the needs of the state’s residents for places of residence, recreation, industry, trade,

service, and other uses of land; to ensure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

(B) The city is divided into districts, which include regulations designating land uses or activities that shall be permitted or subjected to special regulations.

(C) It is also the purpose of this chapter to provide for the establishment of a board of appeals and its powers and duties; to provide for the administration and enforcement hereof and for penalties for its violation; and to provide for the repeal of any and all ordinances inconsistent herewith.

(Ord. 285, passed 12-8-2003)

### **§ 154.003 SCOPE AND CONSTRUCTION OF REGULATIONS.**

(A) This chapter shall be liberally construed in such manner as to best implement its purpose. In interpreting and applying the provisions of this chapter, the requirements shall be held to be the minimum for the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare.

(B) No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed, or altered, and no new use or change shall be made of any building, structure, or land, or part thereof, except as permitted by the provisions of this chapter.

(C) Where a condition imposed by a provision of this chapter upon the use of any lot, building, or structure is conflicting with a condition imposed by any other provision of this chapter, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive shall govern.

(D) Nothing within this chapter shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.004 CONFLICT WITH OTHER LAWS, REGULATIONS, AND AGREEMENTS.**

(A) Where any condition imposed by any provision of this chapter upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable conditions imposed by any other provision of this chapter or by the provision of any ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

(B) This chapter is not intended to modify or annul any easement, covenant, or other private agreement provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.

(Ord. 285, passed 12-8-2003)

### **§ 154.005 VESTED RIGHT.**

It is hereby expressly declared that nothing in this chapter be held or construed to give or grant to any person, firm, or corporation any vested right, license, privilege, or permit.

(Ord. 285, passed 12-8-2003)

### **§ 154.006 RULE APPLYING TO TEXT.**

The following rules shall apply to the text and language of this chapter.

(A) The particular shall control the general.



(B) In case of any difference of meaning or implication between the text of this chapter and any caption, the text shall control.

(C) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

(D) Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.

(E) The word “used” or “occupied” as applied to any land or building, shall be construed to include the words “intended, arranged, or designed to be used or occupied”.

(F) Any word or term not defined herein shall be used with a meaning of common or standard utilization.

(Ord. 285, passed 12-8-2003)

## § 154.007 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Illustrations of specific definitions are provided as Figures 1 through 5 below.

**ACCELERATION/DECELERATION LANE.** An added roadway lane that permits vehicles to speed up when leaving a site access point or slow down before turning onto a site access point.

**ACCESSORY BUILDINGS AND STRUCTURES.** A supplementary building or structure on the same lot or parcel of land as the principal building occupied by or devoted exclusively to an accessory use.

**ACCESSORY USE.** A use reasonably and customarily, incidental and subordinate to the principal use of the premises.

**ADULT FOSTER CARE FACILITY.** A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An **ADULT FOSTER CARE FACILITY** does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of **ADULT FOSTER CARE FACILITY** by the Adult Foster Care Facility Licensing Act, M.C.L.A. §§ 400.701 et seq., as amended. The following additional definitions shall apply in the application of this chapter.

(1) **ADULT FOSTER CARE CONGREGATE FACILITY.** An adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

(2) **ADULT FOSTER CARE FAMILY HOME.** A private residence with the approved capacity to receive six or fewer adults to be provided supervision, personal care, and protection in addition to room and board, 24 hours a day, five or more days a week and for two or more consecutive weeks. The **ADULT FOSTER CARE FAMILY HOME** licensee must be a member of the household and an occupant of the residence.

(3) **ADULT FOSTER CARE LARGE GROUP HOME.** A facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, 24 hours a day, five or more days a week, and for two or more consecutive weeks.

(4) **ADULT FOSTER CARE SMALL GROUP HOME.** An owner-occupied facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

**ALLEY.** Any dedicated public right-of-way 30 feet or less in width, affording secondary means of access to abutting property not intended for general vehicle circulation nor as primary means of access to property.

**ALTERATION.** Any change, addition, or modification to a building or structure, including accessory wall signs, which alters structure, exterior walls, or is related to a change of occupancy. Covering of exterior doors, windows, walls, or changes to free-standing or wall sign face are included in this definition.

***AMATEUR RADIO ANTENNAS, SATELLITE DISH ANTENNA, AND OTHER SIMILAR STRUCTURES.***

(1) Any fixture or apparatus located outdoors, which is designed or utilized to transmit or receive radio, microwave, television, or similar waves, signals, or electrical impulses.

(2) The term ***ANTENNA*** shall include, but shall not be limited to, ***TELEVISION ANTENNAS, CITIZEN BAND RADIO ANTENNAS, AMATEUR RADIO ANTENNAS,*** and ***SATELLITE DISHES.***

***ARCADE.*** Any place, premises, establishment, building, or portion thereof in a retail or commercial facility in which are located for public use five or more coin or token operated amusement devices. This definition does not include establishments not open to the general public.

***AS-BUILT SURVEY.*** Plans that indicate final construction that occurred on the subject site.

***AUTOMOBILE DEALER.*** A building or premises used primarily for the sale of new or used automobiles.

***AUTOMOBILE REPAIR.*** General repair, engine rebuilding, rebuilding, or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair, overall painting, and vehicle rustproofing.

***AUTOMOBILE SERVICE STATION.***

(1) A place that is used or designed to be used for the retail supply of gasoline and other fuels used for the propulsion of motor vehicles, kerosene, motor oil, lubricants, or grease, including sale of accessories and services, such as polishing, washing, cleaning, greasing, undercoating, and minor repairs, but not including bumping, painting, or refinishing thereof.

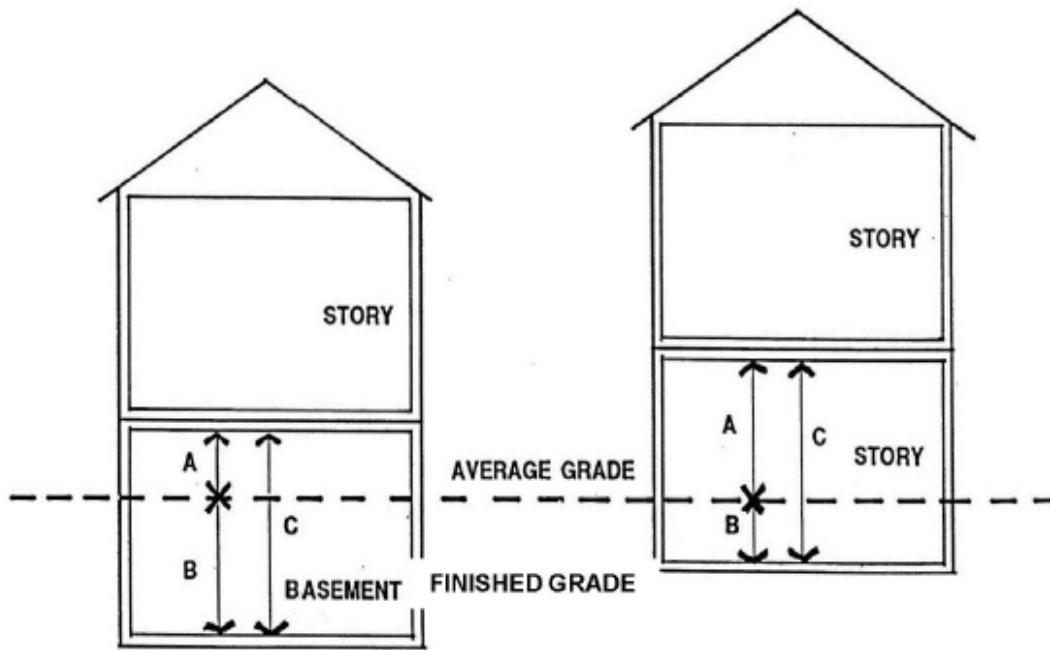
(2) In addition to automobile service, convenience stores and carry-out, drive-in, drive-through, fast-food, and standard restaurants may be included within the same building or on the same site.

***AUTOMOBILE WASHES.*** A building, or portion thereof, the primary purpose of which is that of washing vehicles either by automatic or self-service means.

***BASE FLOOD LEVEL.*** Indicates the water surface elevation resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

***BASEMENT.*** The portion of a building having more than one-half of its height below finished grade. (See Figure 1.)

**Figure 1**



IF THE AVERAGE OF "A" IS EQUAL TO OR LESS THAN 1/2 OF "B", THEN "C" IS A BASEMENT.

IF THE AVERAGE OF "A" IS GREATER THAN 1/2 OF "B" THEN "C" IS A STORY.

**BED AND BREAKFAST OPERATIONS.** A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and board in return for payment.

**BUILDING.** A structure having a roof supported by columns or walls.

**BUILDING CODE.** The currently adopted code or codes regulating building construction in the city.

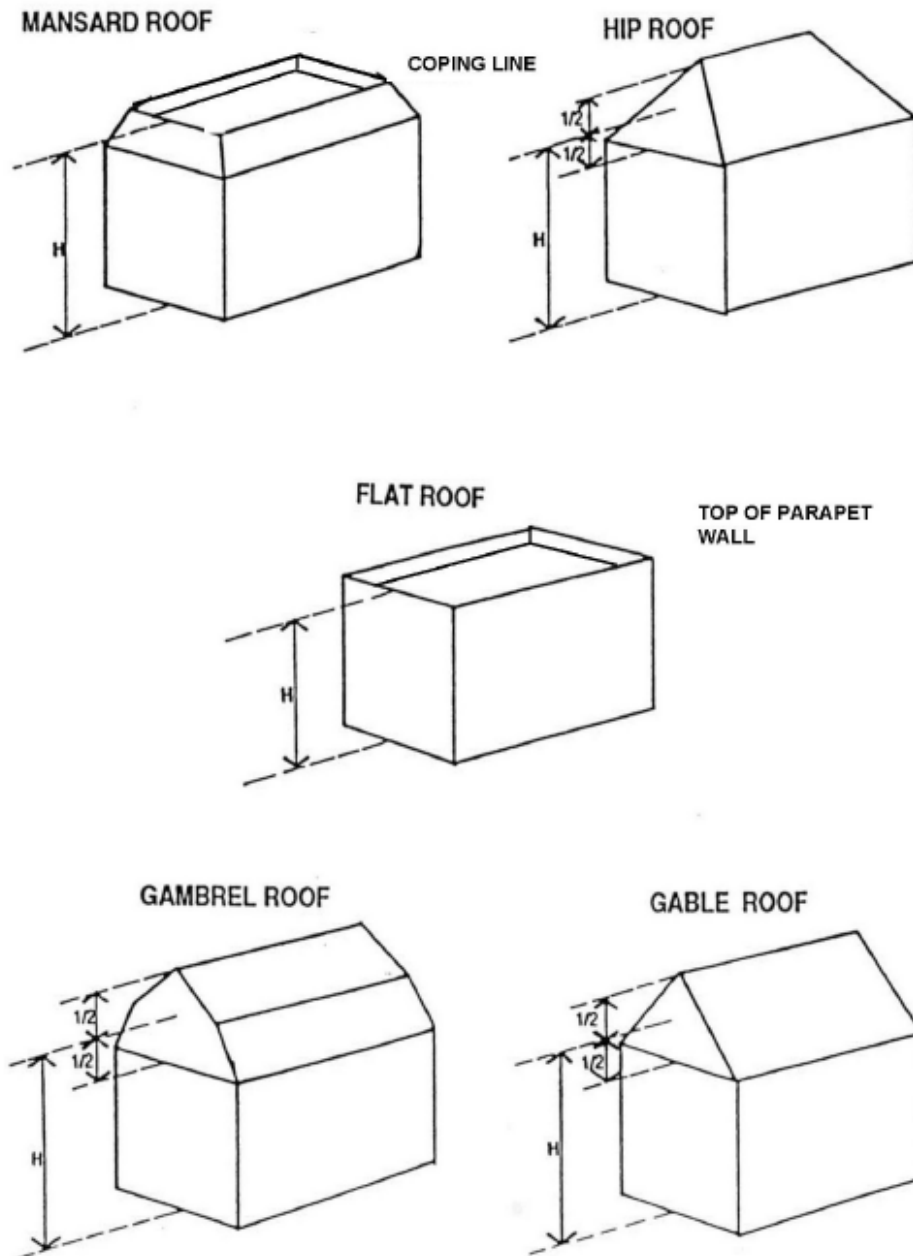
**BUILDING ENVELOPE.** The buildable area of a parcel or lot formed by setback requirements.

**BUILDING HEIGHT.**

(1) The building height is the vertical distance measured from the finished grade level to the highest point of the parapet wall if a flat roof; to the coping of mansard roofs; and to the mean height level between eaves and ridges of gable, hip, and gambrel roofs.

(2) Where the building may be situated on sloping terrain, this height shall be measured from the average level of the finished grade at the building wall. (See Figure 2.)

**Figure 2**



**BUILDING OFFICIAL.** The administrative official designated by the City Council to enforce the Building Code.

**BUILDING SETBACK LINE.** The line established by the minimum required setbacks forming the area within a lot in which a building may be located.

**CANOPY.** A roof-like structure of a permanent nature which projects from the wall of a building and overhangs the public right-of-way.

**CANOPY TREE.** A deciduous tree whose mature height and branch structure provides foliage primarily on the upper half of the tree and which provides shade to adjacent ground areas.

**CARPORIT.** A covered motor vehicle parking structure accessory to a residential dwelling.

**CENTRAL BUSINESS DISTRICT.** The primary downtown commercial center of the city.

**CERTIFICATE OF OCCUPANCY.** The certificate issued by the building official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of this chapter and the building codes for the use and occupancy of the building in its several parts together with any special stipulations or conditions of zoning approval and/or the building permit.

**CERTIFICATE OF ZONING.** A written certificate that a structure, use, or parcel of land is, or will be, in compliance with the requirements of this chapter.

**CHURCH, SYNAGOGUE, or OTHER PLACE OF WORSHIP.** A building, the primary use of which is regular assembly of persons for religious worship or services together with reasonably closely related activities or uses.

**CLINIC.** An establishment where human patients are admitted for examination and treatment by a group of physicians, dentists, and other medical specialists and other medical professionals on an out-patient basis, meaning patients do not remain overnight. A **CLINIC** may incorporate customary laboratories and pharmacies incidental or necessary to its operation.

**CLUB.** The buildings and facilities used by an organization of persons for special purposes or for the promotion of sports, arts, science, literature, politics, social activities, and other similar group activities.

**COIN-OPERATED AMUSEMENT DEVICE.** Any amusement machine operated by means of a coin or token or activated by any other means, for the purpose of amusement or test of skill. Coin-operated music machines shall not be considered a **COIN-OPERATED AMUSEMENT DEVICE**.

**COMMERCIAL USE.** The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services, and the maintenance or operation of offices.

**CONVALESCENT or NURSING HOME.** A state licensed facility for the care of children, of the aged or infirm, or a place of rest for those suffering bodily disorders. Said **HOME** shall conform and qualify for license under state law even though state law has different size regulations.

**CONVENIENCE GROCERY STORE.** A one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”). **CONVENIENCE GROCERY STORES** are designed to attract a large volume of stop-and-go traffic.

**COPING LINE.** The highest point of the sloped mansard roof generally terminated with a metal or stone cap. (See Figure 2.)

**CUL-DE-SAC.** A dead end, public, or private street which terminates in a circular section which allows for vehicle turnaround.

**DAY CARE FACILITIES.** The following definitions shall apply in the application of this chapter.

(1) **DAY CARE CENTER.** A state-licensed facility, other than a private residence, receiving more than one or more children for care and supervision for periods less than 24 hours, and where the parents or guardians are not immediately available to the child.

(2) **FAMILY DAY CARE HOME.** A state-licensed, owner-occupied private residence in which one, but not more than six, minor children are received for care and supervision for periods less than 24 hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.

(3) **GROUP DAY CARE HOME.** A state-licensed, owner-occupied private residence in which seven, but not more than 12, children are received for care and supervision for periods less than 24 hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.

**DEFLECTION POINT.** The point of change of direction between the forward course and the backward course.

**DENSITY.** The number of dwelling units developed per gross acre of land.

**DETENTION/RETENTION BASIN.** A stormwater holding facility intended to hold and release stormwater into a drainage course over a short period of time.

**DISTRICT.** A portion of the city within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.



**DRIVE-IN ESTABLISHMENT.** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in or momentarily stepped away from their motor vehicles, rather than within a building or structure, so that consumption of goods or services within motor vehicles may be facilitated.

**DRIVE-THROUGH ESTABLISHMENT.** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to services patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption of goods or services off the premises may be facilitated.

**DRIVEWAY.** A way located upon a parcel, lot or limited common area, specifically constructed and maintained to provide ingress and egress from the road or street onto the site and circulation about the site. In order to be considered a **DRIVEWAY** under this chapter, such an area must be surfaced with concrete, asphalt, brick, cut stone, or a minimum four-inch depth of crushed materials (stone, concrete, asphalt and the like ) having a size of at least one-half inch in diameter. Further, such **DRIVEWAY** must be properly graded for drainage and be maintained in good condition free of dust, trash and debris. Within a front yard, newly constructed driveways shall be no less than ten feet in width, and shall be no wider than 32 feet or the width of the garage, whichever is greater.

**DWELLING.** A building used exclusively as a residence by not more than one family but in no case shall a travel trailer, motor home, trailer coach, automobile chassis, tent, or other portable building be considered a **DWELLING**.

**DWELLING, MULTIPLE-FAMILY.** A building consisting of three or more dwellings.

**DWELLING, SINGLE-FAMILY.** A building designed for, or occupied exclusively by, one family.

**DWELLING, TWO-FAMILY.** A building consisting of two dwellings.

**EASEMENT.** The right of an owner of property by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage, and similar uses.

**EFFICIENCY UNIT.** A dwelling unit consisting of one room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room.

**ELDERLY HOUSING.** Any housing intended for, and solely occupied by, persons 62 years of age or older. **ELDERLY HOUSING** shall provide significant facilities and services specifically designed to meet the physical or social needs of older persons, including: dining facilities; housekeeping services; security services; group transportation; and personal response services.

**ESSENTIAL SERVICES.** Services that are erected, constructed, altered, or maintained by public utilities or municipal agencies of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, poles, and other similar equipment or accessories reasonably in connection therewith for the furnishing of adequate service by such public utilities or municipal agencies.

**EXTRACTIVE OPERATION.** Premises from which any rock, gravel, sand, topsoil, or earth in excess of 50 cubic yards in any calendar year is excavated or removed for the purpose of disposition away from the premises except excavation in connection with the construction of a building or within public highway rights-of-way.

**FAMILY.** An individual or a group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single noncommercial housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

**FENCE.** A permanent or temporary barrier enclosing or bordering a plot of land or portion thereof composed of suitable human-made materials. The purpose of this barrier may be for preventing or controlling entrance or exit or

to mark boundaries.

**FLEA MARKET.** A space in which two or more persons sell new or used hard goods, furniture, antiques, novelties, or other merchandise within a permanent enclosed building.

**FLOODPLAIN.** The land adjacent to a body of water, which has been or may hereafter be covered by floodwater.

**GARAGE.** A structure which is accessory to a principal residential dwelling and which is used for the parking and storage of vehicles owned and operated by the residents thereof.

**GARAGE SALE.** A sale of primarily used goods, antiques, curios, clothing, and the like operated on residential property by the owner or occupant on an occasional permitted basis.

**GROSS FLOOR AREA.** The sum of the gross horizontal areas of the building measured from the interior faces of the exterior walls or from the center line of walls separating two buildings.

**GRADE.** The degree of rise or descent of a sloping surface. (See Figure 3.)

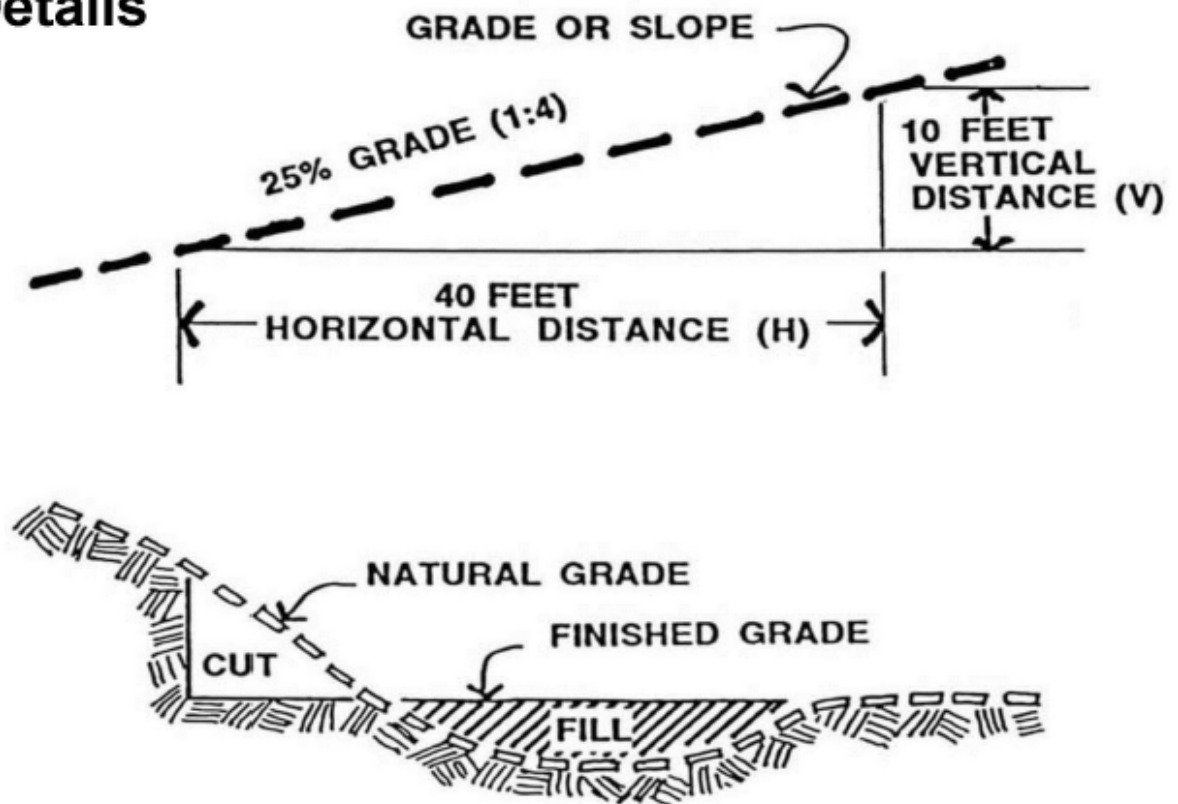
(1) **GRADE, AVERAGE.** The arithmetic average of the lowest and highest grade elevations in an area five feet from the foundation of a building or structure on all sides of the building.

(2) **GRADE, FINISHED.** The final elevation of the ground surface after development.

(3) **GRADE, NATURAL.** The elevation of the ground surface in its natural state, before human-made alterations.

Figure 3

## Grade Details



**HAZARDOUS SUBSTANCES.** Include hazardous chemicals as defined by the State Department of Public Health and the State Department of Labor; flammable and combustible liquids as defined by the Department of State Police, Fire Marshal Division; hazardous materials as defined by the U.S. Department of Transportation; critical materials, polluting materials, and hazardous waste as defined by the State Department of Natural Resources, and hazardous substances as defined in Public Act 457 of 1994, being M.C.L.A. §§ 324.101 et seq., as amended, and by

the Federal Comprehensive Environmental Response Compensation and Utility Act of 1980, 94 STAT 2767, as amended.

**HISTORIC DISTRICT.** An area, or group of areas not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture, created by the city for the purpose of preservation. The city may establish more than one such **HISTORIC DISTRICT**. For purpose of clarification, however, a historic district may also consist of a single district resource unrelated to its surroundings in historical, architectural, or archaeological significance and so designated by this chapter.

**HOME OCCUPATION.** An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**JUNK YARD.** A place, structure, parcel, or use of land where junk, waste, discard, salvage, or similar materials such as old iron or metal, wood, lumber, glass, paper, rags, cloth, leather, rubber, bagging, cordage, barrels, containers, and the like are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto wrecking yards, inoperative machines, used lumber yards, housing wrecking, and structural steel materials and equipment and including establishments for the sale, purchase, or storage of salvaged machinery and the processing of used, discarded, or salvaged materials, for any 30 consecutive days.

**KENNEL.** Any place or premises where three or more adult dogs, cats, or other domestic pets are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

**LOADING SPACE.** An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and/or unloading merchandise or materials.

**LODGING FACILITY.** Any establishment in which individual units are rented to transients for periods of less than 30 days for the purpose of sleeping accommodations. The term shall include hotels and motels but shall not include bed and breakfast operations, multiple-family dwellings, or rooming houses.

**LOT.** A parcel of land, excluding any portion in a street or other right-of-way, of at least sufficient size to meet minimum requirements for use, coverage, lot area, and to provide such yards and other open spaces as herein required. Such **LOT** shall have frontage on a public street, or on an approved private street, and may consist of: a single lot of record; a portion of a lot of record; any combination of complete and/or portions of lots of record; a parcel of land described by metes and bounds. (See Figure 4.)

**LOT AREA.** The total horizontal area within the lot lines of a lot, but excluding that portion within a street right-of-way.

**LOT COVERAGE.** The percentage of the lot area covered by the building area.

**LOT DEPTH.** The mean horizontal distance from the front line to the rear lot line.

**LOT IRON.** A length of iron rod driven vertically into the ground to indicate a property corner monument. The top of the iron rod may be left at or below natural grade. A cap identifying the registration number of the surveyor responsible for placing the monument should be placed atop the monument.

**LOT LINES.** Any line dividing one lot from another or from a public right-of-way, and thus constitutes the property lines bounding a lot.

(1) **FRONT LOT LINE.** In the case of an interior lot, it is that line separating said lot from the street. In the case of a corner lot or double frontage lot it is those lines separating said lot from either street.

(2) **REAR LOT LINE.** The lot line opposite the front lot line. In the case of a lot pointed at the rear, the **REAR LOT LINE** shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.

(3) **SIDE LOT LINE.** Any lot line other than the front or rear lot line. A **SIDE LOT LINE** separating a lot from another lot or lots is an interior **SIDE LOT LINE**.

**LOT OF RECORD.** A lot, the dimensions of which are shown on a subdivision plat recorded in the office of the Register of Deeds for the county, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a licensed professional surveyor, so designated by the state, and said description so recorded or on file with the county.

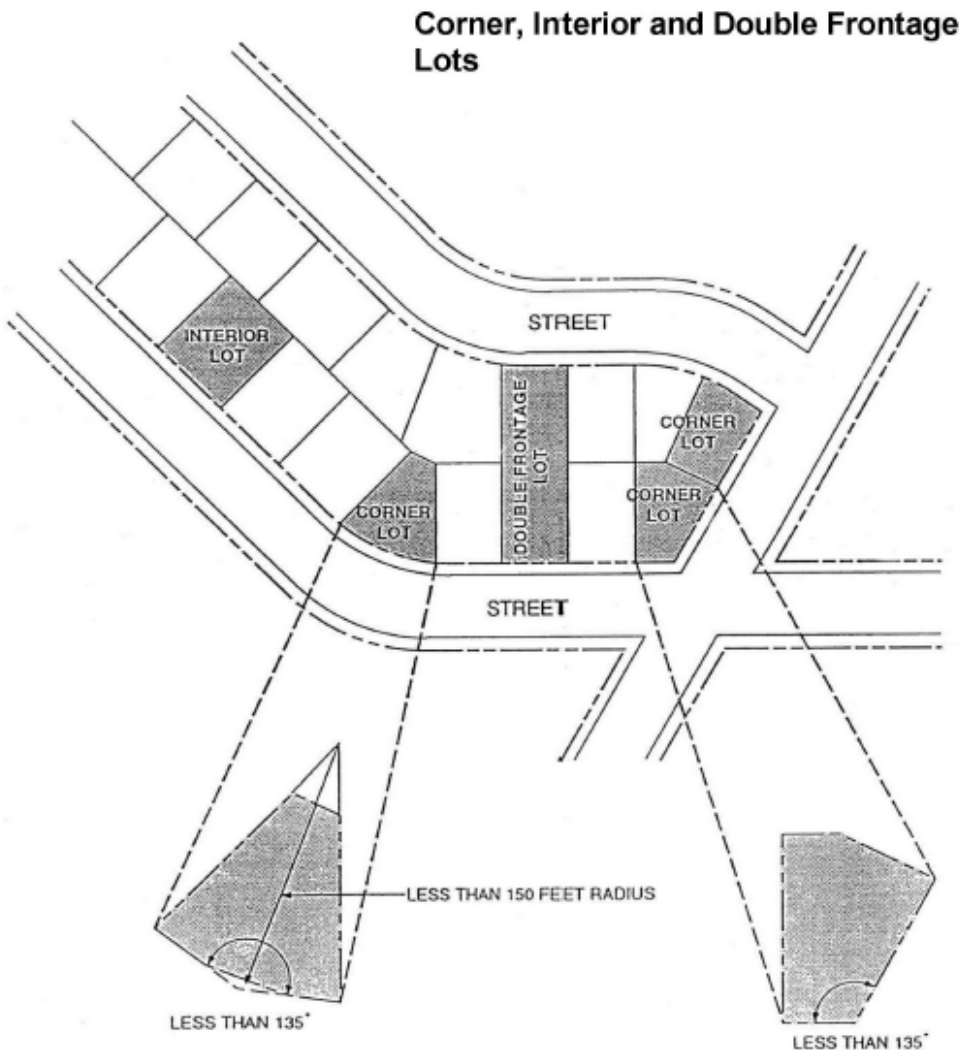
**LOT WIDTH.** The required horizontal distance between the side lot lines measured at the two points where the required front yard setback line intersects the side lot lines.

**LOT, CORNER.** A lot with frontage on two intersecting streets. (See Figure 4.)

**LOT, DOUBLE FRONTAGE.** A lot other than a corner lot having frontage on two more or less parallel streets. In the case of a row of **DOUBLE FRONTAGE LOTS**, one street will be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing structures in the same block fronting one or both of the streets, the required front yard setback shall be observed on those streets where structures presently front. (See Figure 4.)

**LOT, INTERIOR.** A lot other than a corner lot with only one lot line fronting on a street. (See Figure 4.)

**Figure 4**



**LOT, NONCONFORMING.** A lot of record created lawfully prior to the effective date of this chapter which does not meet the dimensional requirements of this chapter. A **NONCONFORMING LOT** of record may be used for uses permitted by right in this chapter, subject to approval of site plan, special use permit, or other permit required by this chapter. The Zoning Administrator shall be empowered to grant administrative variances on lawful **NONCONFORMING LOTS** of record.

**MANUFACTURING.** The use of land, buildings, or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing, or storing or adapting for sale or other use of any goods, substance, article, thing, or service.

**MANUFACTURED HOUSING.** The following terms shall apply.

(1) **MOBILE HOME.** A detached portable one-family dwelling, prefabricated on its own chassis and intended for long-term occupancy. The unit contains sleeping accommodations, a flush toilet, a wash basin, a tub or shower, and eating and living quarters. It is designed to be transported on its own wheels or flatbed arriving at the site where it is to be occupied as a complete dwelling without permanent foundation and connected to existing utilities.

(2) **MODULAR HOME.** A structure whose parts are manufactured separately off-site, but fitted together on a site with a permanent residential foundation.

(3) **PRE-MANUFACTURED HOME.** A structure which is capable of being occupied exclusively as a dwelling and which is comprised of prefabricated components which are manufactured off-site, transported, and erected on a lot.

**MASTER DEED.** The document recorded as part of a condominium subdivision plan to which are attached as exhibits deed covenants, bylaws, easement descriptions, survey, and related documents.

**MASTER PLAN.** A document containing future development policy, land use, and related plans, together with supporting documents, as most recently adopted by the City Planning Commission pursuant to Public Act 33 of 2008, being M.C.L.A. §§ 125.3801 through 125.3885, as amended.

**MEZZANINE.** An intermediate level or levels between the floor and ceiling of any story with floor area of not more than one-third of the area of the room or space in which the level is located.

**MICRO-CELL.** A wireless communications facility consisting of an antenna that is either: four feet in height and having an area of not more than 580 square inches; or, if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

**MOBILE HOME PARK.** Any parcel of land intended and designed to accommodate more than one mobile home for living use which is offered to the public for that purpose; and any structure, facility, area, or equipment used or intended for use incidental to that living use.

**MONUMENT.** An object placed to mark the physical location of a position. See **LOT IRON.**

**NET FLOOR AREA.** Gross floor area less interior spaces used for hallways, closets, mechanical, and electrical equipment, storage, stairwells, and restrooms. **NET FLOOR AREA** shall not be less than 80% of gross floor area, unless otherwise approved by the Planning Commission based on specified spaces or unique floor plan within a building.

**NONCONFORMING BUILDING.** A building or portion thereof lawfully existing at the effective date of this chapter, or amendments thereto, and which does not conform to the provisions of the chapter in the zoning district in which it is located.

**NONCONFORMING USE.** A nonconforming use is a use which lawfully occupied a building or land at the effective date of this chapter, or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.

**NURSERY.** Any land, space, building, or structure, or combination thereof, used for the storage of live trees, shrubs, or plants, but not including any land space, building, or structure, or any part thereof, used for the sale of fruits, vegetables, or harvested and cut Christmas trees.

**OFF-STREET PARKING AREA.** A land surface or facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two automobiles.

**OPEN SPACE DEVELOPMENT OPTION.** An option that permits development of a site in a manner that preserves a minimum of 20% of the gross acreage of a site in its natural state and/or restricted to active/passive



outdoor recreational purposes.

**ORDINARY HIGH WATER MARK.** The line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is distinguished from the upland as evidenced in the soil, the configuration of the surface of the soil, and vegetation. On an inland lake, it means the high established level.

**PARAPET WALL.** A low wall or railing at the edge of a roof.

**PARCEL.** A lot described by metes and bounds description, whether or not included in a recorded plat or condominium subdivision.

**PARKING SPACE.** One unit of a parking area provided for the parking of one vehicle, and shall be exclusive of driveways, aisles, or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

**PLANNED UNIT DEVELOPMENT (PUD).** May include such concepts as cluster development, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of this chapter through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

**PRINCIPAL BUILDING OR STRUCTURE.** The main building or structure in which the primary use is conducted.

**PUBLIC STREET.** Any right-of-way by easement or ownership and operated by a unit of government including, but not limited to, all major and local streets for which the city receives funds from the State Department of Transportation under provisions of Act 51. No part of any such right-of-way shall be considered when determining compliance with required setback, lot area, or other dimensional requirement of this chapter.

**PUBLIC UTILITY.** Any person, firm, corporation, or municipal agency authorized under federal, state, county, or municipal regulations to furnish electricity, gas, communications, transportation, water, or sewer services.

**RECREATIONAL VEHICLE.** Includes the following.

(1) **BOATS AND BOAT TRAILERS.** Includes boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.

(2) **FOLDING TENT TRAILER.** A canvas folding structure mounted on wheels and designed for travel and vacation use.

(3) **MOTOR HOME.** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. **MOTOR HOMES** generally contain sanitary, water, and electrical facilities.

(4) **OTHER RECREATIONAL EQUIPMENT.** Includes snowmobiles, all-terrain or special-terrain vehicles, utility trailers, plus the normal equipment to transport them on the highway.

(5) **PICKUP CAMPER.** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.

(6) **TRAVEL TRAILER.** A portable vehicle on a chassis, not exceeding 36 feet in length or nine feet in width, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. **TRAVEL TRAILERS** generally contain sanitary, water, and electrical facilities.

**RECREATIONAL VEHICLE PARK.** All lands and structures which are designed and operated to accommodate recreational vehicles and provide for outdoor recreation activities.

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

(1) **BAR/LOUNGE.** A type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a **BAR** or **LOUNGE** is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

(2) **RESTAURANT, CARRY-OUT.** A restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.

(3) **RESTAURANT, DRIVE-IN.** A restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages, or other food served directly to or permitted to be consumed by patrons in cars or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside the main building.

(4) **RESTAURANT, DRIVE-THROUGH.** A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a window, permitting the customer to remain in its vehicle, for consumption primarily off the premises. A **DRIVE-THROUGH RESTAURANT** may or may not include features of uses defined as “restaurant, carry-out” or “restaurant, fast-food”.

(5) **RESTAURANT, FAST-FOOD.** A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption where it is served, or at tables, booths, or stands inside or outside of the structure, or for consumption off the premises, but not in a motor vehicle at the site.

(6) **RESTAURANT, STANDARD.** A restaurant whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables.

(7) **SIDEWALK CAFÉ.** An area adjacent to or directly in front of a street-level eating or drinking establishment, located within the lot or the sidewalk area of the public right-of-way, used exclusively for dining, drinking, and pedestrian circulation. The encroachment area of a **SIDEWALK CAFÉ** may be separated from the remainder of the sidewalk by railings, fencing, or landscaping planter boxes or a combination thereof.

**RETAINING WALL.** A wall designed to resist the lateral displacement of soils and other materials.

**RIGHT-OF-WAY.** A legal right of passage over, under, and across real property typically associated with roads and railroads.

**ROOMING HOUSE.** A dwelling in which more than three persons either individually or as families are housed or lodged for hire without meals.

**SCREEN.** A structure providing enclosure or a visual barrier, such as a fence, wall, or berm, between the area enclosed and the adjacent property. A **SCREEN** may also consist of living materials such as trees and shrubs.

**SELF-STORAGE FACILITY.** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

**SETBACK.** The minimum required horizontal distance between the building or structure and the front, side, and rear lot lines and natural features.

**SHOPPING CENTER.** More than one commercial establishment, planned, developed, owned, and managed as a unit, with off-street parking provided on the property.

**SIGHT DISTANCE.** The length of roadway visible to the driver of a vehicle. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver without striking another vehicle or object in the roadway.

**SIGN.** A device which is affixed to, or otherwise located or set upon a building, structure, or parcel of land which directs attention to an activity or business. The definition includes interior **SIGNS**, which are directed at persons outside the premises of the **SIGN** owners and exterior **SIGNS**, but not **SIGNS** primarily directed at persons within the premises of the **SIGN** owner. The definition does not include goods for sale displayed in a business window. The following additional definitions are provided.

(1) **“A” FRAME SIGN.** A sign designed in an A-frame fashion, having back-to-back sign faces to identify businesses, and not permanently attached to the ground, building, or other structure. (See also **POSTER PANEL SIGN**.)

(2) **ABANDONED SIGN.** See **OBSOLETE SIGN**.

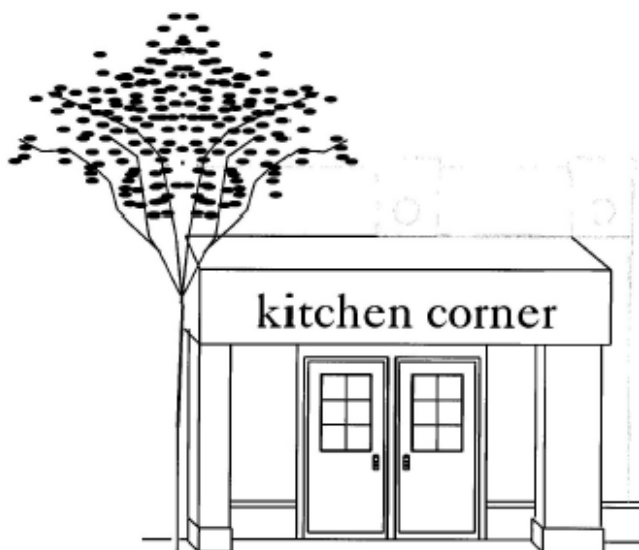
(3) **ANIMATED SIGN.** A sign, other than a changeable copy sign, whereby the sign itself or the information conveyed incorporates or involves action, motion, or the appearance of action or motion, such as flashing lights, color changes, moving parts, reflective materials, scrolling messages, or video-like features.

(4) **BANNER SIGN.** A sign made of fabric, plastic, or other non-rigid material without an enclosing structural framework.

(5) **BILLBOARD SIGN.** An off-premises sign as regulated by Public Act 106 of 1972, being M.C.L.A. §§ 252.301 through 252.323, as amended.

(6) **CANOPY SIGN.** Any sign that is part of, or attached to, a canopy, awning, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area and which does not extend vertically or horizontally beyond the limits of the canopy. For the purposes of this definition, a **CANOPY** shall be defined as a shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

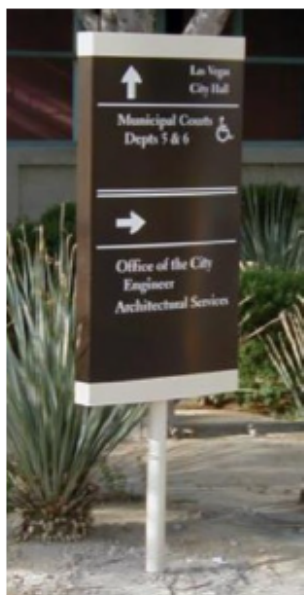
Canopy Sign



(7) **CHANGEABLE COPY SIGN.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. This definition may include a sign where sign information is remotely changed by electronic or electrical signal or a sign where sign copy is physically changed by the personal actions of the sign operator. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a **CHANGEABLE COPY SIGN** for the purposes of this chapter. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a **CHANGEABLE COPY SIGN** for the purposes of this chapter.

(8) **DIRECTIONAL SIGN.** A sign which gives directions, instructions, or facility information for the use on the lot or parcel on which the sign is located, such as parking or exit and entrance signs.

## Directional Sign



(9) **FREESTANDING SIGN.** A sign which is erected upon or supported by the ground, including “pole signs” and “ground signs”. Poster panel signs and sandwich signs shall not be considered a **FREESTANDING SIGN** for the purposes of this chapter.

(10) **GROUND SIGN.** A three dimensional, self supporting, base-mounted freestanding identification sign, consisting of two or more sides extending up from the base, and upon which a message, business, group of businesses, or center name is affixed.

## Ground Sign



(11) **INCIDENTAL SIGN.** A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of **INCIDENTAL SIGNS** include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate restrooms, and signs providing information on business affiliations.

(12) **MARQUEE SIGN.** A sign affixed flat against the surface of a marquee. For the purposes of this definition, a **MARQUEE** shall be defined as a permanent structure constructed of rigid materials that projects from the exterior wall of a building.

(13) **MOTOR VEHICLE SIGN.** A sign measuring more than two square feet in size that is mounted, placed, written, or painted on a vehicle or trailer, whether motor-driven or not.

(14) **MURAL SIGN.** A design or representation which is painted or drawn on a wall, which shall be further defined as the following.

(a) **COMMERCIAL MURAL SIGN.** A mural sign which does advertise an establishment, product, service, or activity.

(b) **NONCOMMERCIAL MURAL SIGN.** A mural sign which does not advertise an establishment, product, service, or activity.

(15) **NAMEPLATE SIGN.** A non-electric, on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

(16) **OBSOLETE SIGN.** A sign that advertises a product that is no longer made, an event that has already occurred, or that advertises a business that has closed.

(17) **OFF-PREMISES SIGN.** A sign located on a different lot or parcel from that which is identified on such sign.

(18) **POLE SIGN.** A sign supported on the ground by a pole, braces, or monument, and not attached to any building or other structure.

#### Pole Sign



(19) **POLITICAL SIGN.** A temporary sign used in connection with local, state, or national elections or referendums.

(20) **PORTABLE SIGN.** A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building, including signs with wheels, hot-air and gas-filled balloons, pennants, streamers, ribbons, pinwheels, nongovernmental flags, and searchlights. A poster panel sign shall not be considered a **PORTABLE SIGN** for the purposes of this chapter.

(21) **POSTER PANEL SIGN.** A sign that is located outside of a business on a daily basis for the purpose of providing the public with information about the business (e.g., products and services offered, daily specials, and the like). **POSTER PANEL SIGNS** include sandwich signs and "A" frame signs.

(22) **PROJECTING SIGN.** A sign other than a wall sign, that is affixed to any building or wall and whose leading edge extends more than 12 inches beyond such building or wall.

#### Projecting Sign





(23) **REAL ESTATE SIGN.** A temporary sign placed upon property for the purpose of advertising to the public the sale, rental, or lease of said property.

Real Estate Sign



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

(25) **RESIDENTIAL DEVELOPMENT ENTRY SIGN.** A permanent, on-premises sign identifying a vehicular entrance to a residential subdivision or residential complex.

Residential Development Entry Sign



(26) **ROOF SIGN.** Any sign wholly erected to, constructed, or maintained on the roof structure of any building.

(27) **SANDWICH SIGN.** A sign designed in an A-frame fashion, having back-to-back sign faces to identify businesses, and not permanently attached to the ground, building, or other structure. (See also **POSTER PANEL SIGN.**)

(28) **SIGN SURFACE.** The part of the sign upon, against, or through which the message is displayed or illustrated.

(29) **SPECIAL EVENT SIGN.** Temporary and portable signs containing public messages concerning noncommercial special events that are of a religious, charitable, social, or educational nature.

(30) **TEMPORARY SIGN.** A sign, banner, or other advertising device constructed of cloth, canvas, fabric, plastic, or other light temporary material, with or without structural frame, or any other sign intended for a limited period of display, but not including decorative display for holidays or public demonstration.

(31) **TIME/TEMPERATURE SIGN.** A sign which displays the current time or outdoor temperature or both, and which displays no other material except for the name of the business.

(32) **WALL SIGN.** Any sign that shall be affixed parallel to the wall or printed or painted on the wall of any building; provided, however, said **WALL SIGN** shall not project more than 12 inches from the wall, above the top of the wall, or beyond the end of the building. For the purpose of this chapter, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a **WALL SIGN**.

Wall Sign



(33) **WINDOW SIGN.** A sign installed inside a window and intended to be viewed from the outside.

**SITE CONDOMINIUM.** A condominium development containing residential, commercial, office, industrial, or other improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed. The following additional definitions are provided.

(1) **CONDOMINIUM ACT.** Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, as amended.

(2) **CONDOMINIUM DOCUMENTS.** The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

(3) **CONDOMINIUM LOT.** The condominium unit and the contiguous limited common element surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

(4) **CONDOMINIUM UNIT.** The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

(5) **COMMON ELEMENTS.** Parts of a property that are necessary or convenient to the existence, maintenance, and safety of a condominium or are normally in common use by all of the condominium residents. Each condominium owner has an undivided ownership interest in the general common elements.

(6) **GENERAL COMMON ELEMENTS.** The common elements other than the limited common elements.

(7) **LIMITED COMMON ELEMENTS.** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

(8) **MASTER DEED.** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by § 8 of the Condominium Act.

**SITE PLAN.** A plan showing all salient features of a proposed development, as required under § 154.024 so that it may be evaluated in order to determine whether it meets the provisions of this chapter. The processing of a **SITE PLAN** will include a preliminary and/or final approval as may be appropriate.

**SKETCH PLAN.** A preliminary drawing indicating general development of a lot or parcel.

**SPECIAL USE.** A use which is subject to special approval by the Planning Commission. A **SPECIAL USE** may be granted only in accordance with specific provision in this chapter. A **SPECIAL USE** is not considered to be a nonconforming use.

**STORAGE, OUTDOOR.** Placing new, used, or obsolete materials, products, or merchandise out of doors. **OUTDOOR STORAGE** is prohibited, except as otherwise provided in this chapter.

**STORY.** The portion of a building included between the surface of any floor and the surface of the floor above it or, if there is no floor above it, then the space between the floor and the ceiling above it. (See Figure 1.)

**STORY, ONE-HALF.** The part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half the floor area of said full story, provided the area contains at least 200 square feet with a clear height of at least seven feet, six inches.

**STREET.** A public thoroughfare, which affords the principal means of access to abutting property.

**STREET LINE.** The dividing line between the street right-of-way and the lot. When such right-of-way is not definable, a line shall be defined as 33 feet on either side of the center of the street.

**STRUCTURE.** Anything constructed or erected above ground level which is attached to something located on the ground. **STRUCTURES** typically include such things as buildings, amateur radio towers, sheds, and decks.

### ***SUBSTANTIAL IMPROVEMENT.***

(1) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either: before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred.

(2) For the purpose of this definition, ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects to external dimensions of the structure.

(3) This term does not include: any improvement of a structure to comply with existing state or local building, health, sanitary, or safety code specifications which are necessary to assure safe occupancy of the structure; or any alteration of a structure listed on the National or State Register of Historic Places or in a local historic district established under state law.

### ***TRIP GENERATION RATE.***

(1) The number of trip ends associated with a development based on building area, lot size, number of dwellings, or employees and other parameters.

(2) The number can be estimated using accumulated data or comparable development given in nationally accepted sources, such as the *Trip Generation Manual* prepared by the Institute of Traffic Engineers (ITE) or the Federal Highway Administration (FHWA).

***VISUAL BLIGHT.*** A negative physical appearance in a specific location or area.

### ***WIRELESS COMMUNICATION FACILITIES.***

(1) ***COLLOCATE.*** To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. ***COLLOCATION*** has a corresponding meaning.

(2) ***STEALTH.*** Any WCSS or WCE which is designed to enhance architectural elements, and WCSS designed to look other than like a tower such as light poles, power poles, and trees. ***STEALTH*** does not necessarily exclude the use of un-camouflaged lattice, guyed, or monopole tower designs.

(3) ***WIRELESS COMMUNICATIONS EQUIPMENT (WCE).*** The set of equipment and network components used in the provision of wireless communications services including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

(4) ***WIRELESS COMMUNICATIONS EQUIPMENT COMPOUND (WCEC).*** An area surrounding or adjacent to the base of a wireless communications support structure and within which the wireless communications equipment is located.

(5) **WIRELESS COMMUNICATIONS SUPPORT STRUCTURE (WCSS).** A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

### **YARD, FRONT.**

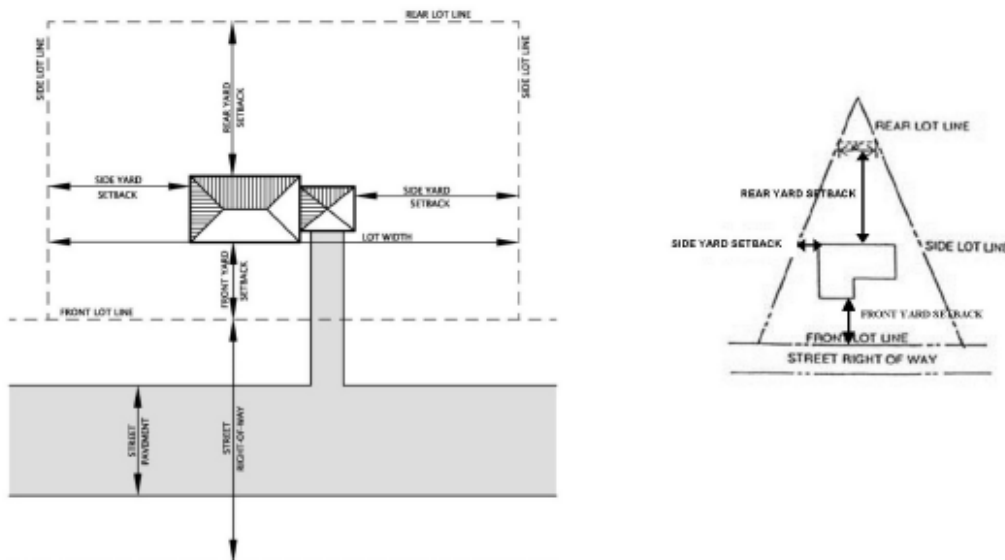
(1) A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the principal building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

(2) In all cases, the front lot line shall be considered to be that portion of the lot which abuts a public road right-of-way or private road easement (for currently nonconforming lots). (See Figure 5.)

**YARD, REAR.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building. (See Figure 5.)

**YARD, SIDE.** A yard between any building and the side lot line, extending from the front yard to the rear yard. The width of the required **SIDE YARD** shall be measured horizontally from the nearest point of the side lot line to the nearest point of principal building. (See Figure 5.)

**Figure 5**



**ZONING ADMINISTRATOR.** The City Manager of the City of Linden shall be appointed by City Council to administer this chapter. The City Manager may delegate administrative or enforcement duties to a subordinate.

(Ord. 285, passed 12-8-2003; Ord. 336, passed 6-11-2012; Ord. 355, passed 6-8-2015; Ord. 356, passed 6-8-2015; Ord. 380, passed 9-25-2017; Ord. 381, passed - -2017)

## **ADMINISTRATION AND ENFORCEMENT**

### **§ 154.020 ZONING ADMINISTRATION.**

The Zoning Administrator, or such deputies, shall be appointed by the City Council and designated to administer and enforce the provisions of this chapter.

(Ord. 285, passed 12-8-2003)

### **§ 154.021 DUTIES.**

The Zoning Administrator shall:

(A) Receive and review for completeness all applications for site plan review and special use permits which the Planning Commission is required to decide under this chapter and refer such applications to the Planning



Commission for determination;

(B) Receive and review for completeness all applications for appeals, variances, or other matters, which the Zoning Board of Appeals is required to decide under this chapter and refer such applications to the Zoning Board of Appeals for determination;

(C) Receive and review for completeness all applications for amendments to this chapter and refer such applications to the Planning Commission and City Council for determination;

(D) Make periodic site inspections of the city to determine ordinance compliance, and answer complaints on zoning ordinance violations. The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done; and/or shall take any other action authorized by this chapter to ensure compliance with or prevent violations of its provisions;

(E) Grant certificates of zoning compliance, review administratively site plans, and make inspections of premises necessary to carry out administration and enforcement of this chapter;

(F) Implement the decisions of the Planning Commission and City Council; and

(G) Serve as liaison between Planning Commission and Historic District Commission.

(Ord. 285, passed 12-8-2003)

### **§ 154.022 CERTIFICATES OF ZONING COMPLIANCE.**

(A) A building permit for erection, alteration, moving, or structural repair of any building or structure shall not be issued until a certificate of zoning compliance has been issued by the City Zoning Administrator. Issuance of such a certificate shall indicate the use(s) and plans for which the permit is requested comply with this chapter.

(B) It shall be unlawful to use or permit the use of any building or premises, or both, or part thereof, until a certificate of zoning compliance shall have been issued by the Zoning Administrator.

(C) The Zoning Administrator shall maintain a record of all certificates of zoning compliance and said record shall be open for public inspection.

(D) Certificates of zoning compliance authorize only the use, arrangement, and construction set forth in an approved application and plans, therefore no other use, arrangement, or construction is permitted. Use arrangement or construction at variance with the authorization shall be deemed a violation of this chapter. Any change in approved plans shall occur only as provided for in this chapter and shall require issuance of an amended certificate of zoning compliance.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.023 SPECIAL LAND USES.**

(A) *Application.* Applications for special land use permits authorized in this chapter shall be submitted to the Zoning Administrator on a form provided by the city. In addition to a complete application form, the applicant is required to pay all required fees and submit a preliminary site plan prepared in accordance with § 154.024. Incomplete submittals shall not be accepted by the Zoning Administrator.

(B) *Procedures.*

(1) Special land use permits may be granted by the Planning Commission at its discretion.

(2) The Zoning Administrator shall review the proposed application and preliminary site plan to determine if all required information has been supplied, and forward the completed application, preliminary site plan, and supporting data to the Planning Commission.

(3) Upon receipt of the proposed application, the Planning Commission shall hold a public hearing after the notice has been given as set forth in division (B)(4) below.

(4) (a) One notice that such a request has been received shall be published in at least one newspaper of general circulation within the city. Notice shall also be sent by first-class mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet regardless of whether the property or occupant is located in the city. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(b) The notice shall be given not less than 15 days before the date the application will be considered. The notice shall: describe the nature of the special land use request; indicate the property which is the subject of the special land use request; state when and where the special land use request will be considered; indicate when and where written comments will be received concerning the request; and the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(5) Following the public hearing, the Planning Commission may deny, approve, or approve with conditions a request for a special land use. The decision of the Planning Commission shall be incorporated in a statement of conclusions relative to the special land use under consideration. Any decision, which denies a request or imposes conditions upon its approval, shall specify the basis for the denial or the conditions imposed.

(6) The Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for ensuring that the purposes of this chapter and the general spirit and purpose of the district in which the special use is proposed will be observed.

(C) *Basis of determinations.* The Planning Commission shall review the proposed special use in terms of the standards stated within this chapter and shall establish that such use and the proposed location:

(1) Will be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan;

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area;

(3) Will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future;

(4) Will be an improvement in relation to property in the immediate vicinity and to the city as a whole;

(5) Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility;

(6) Will not create excessive additional public costs and will not be detrimental to the economic welfare of the city; and

(7) Will be consistent with the intent and purposes of this chapter.

(D) *Duration, voiding, and extensions of permit.*

(1) Unless otherwise specified by the Planning Commission, any special land use permit granted under this section shall be null and void unless the development proposed shall have its first building inspection within one year from the date of the granting of the permit. The Planning Commission may grant an extension thereof for good cause for a period not to exceed one year.

(2) The Zoning Administrator may suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his or

her agent and is in violation of any of the provisions of this chapter or of any other ordinances or regulations of the city.

(E) *Re-application.* No application for a special use permit which has been denied wholly or in part shall be re-submitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the Planning Commission.

(Ord. 285, passed 12-8-2003)

#### **§ 154.024 SITE PLAN REVIEW.**

The Planning Commission shall have the authority to review and to approve or reject all site plans (i.e., preliminary, final, and combined site plans). Prior to the issuance of building permits or commencement of construction, site plan review and approval is required in accordance with the procedures contained in this section.

(A) *When required.*

(1) Site plan review is required for all proposed uses, including change of use, and certain existing uses within the city where an alteration, addition, expansion, change, or conversion constitutes an increase or reduction to the existing structure or use of more than 500 square feet or 10%, whichever is less; or would require a variance from the provisions of this chapter, regardless of its size.

(2) A site plan shall not be required for individual single- or two-family dwellings, or residential accessory buildings.

(3) The city shall not issue a building permit until a final site plan has been approved and is in effect. A use, not involving a building or structure, shall not be commenced or expanded, nor shall the Zoning Administrator or duly appointed agent issue an occupancy permit for such use until a final site plan has been approved and is in effect.

(4) No grading, removal of trees, or other vegetation, landfilling, or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in this subchapter.

(B) *Preliminary sketch plan.*

(1) *Administrative Review.*

(a) The intent of this section is to permit the submittal of a preliminary sketch plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this chapter. The intent is to also provide for an administrative review by city staff of Planning Commission approved site plans for compliance with conditions as imposed by the Planning Commission.

(b) In lieu of a complete site plan prepared in accordance with divisions (C) and (D) below, a preliminary sketch plan may be submitted for the uses or activities identified below:

1. Accessory uses incidental to a conforming existing use where said use does not require any variance or further site modifications;
2. Expansion and/or addition of 1,500 square feet or less to an existing conforming structure or use;
3. Alterations to off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces does not change the number of parking spaces by more than 5% or to meet various federal, state, or ADA requirements;
4. Improvements or installation of walls, fences, lighting, or trash containers/enclosures;
5. Approval for establishment of a home occupation; and/or
6. Change of use in the Central Business District limited to a use not exceeding 2,500 square feet or a change of use in any other zoning district limited to a use not exceeding 1,500 square feet.

(c) 1. The procedure for administrative approval of a preliminary sketch plan shall involve the submittal of a preliminary sketch plan meeting the requirements of division (B)(2) below. Additionally, the required application form and fee shall be submitted. The Zoning Administrator shall review the preliminary sketch plan in accordance with the standards of division (D)(3). The Zoning Administrator shall make a report of administrative reviews to the Planning Commission.

2. The Zoning Administrator retains the option to require additional information or a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts, or sites experiencing problems with drainage, traffic, noise, aesthetics, or other general health and safety issues. If a complete site plan is required, the Zoning Administrator shall inform the applicant to submit a set of plans in accordance with this subchapter within 14 days of receipt of the application. The Zoning Administrator shall also have authority to refer any site plan eligible for administrative review to any consultants employed by the city for the purposes of site plan review.

3. The Planning Commission shall require the applicant to deposit a performance guarantee for all projects with greater than \$5,000 in site improvements including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, walls, and landscaping. Such performance guarantee shall be deposited in accordance with § 154.027.

(2) *Information required.* The general information required for all cases includes:

- (a) Details of the proposed changes to the use or structure in question;
- (b) Proprietors', applicants', and owners' names, addresses, and telephone numbers;
- (c) Location map with north point indicated;
- (d) Locations of existing landscaping, lighting, parking, if applicable, including the proposed method of refuse collection;
- (e) Gross acreage and building figures;
- (f) Zoning classification of petitioners' parcel and all abutting parcels;
- (g) An inspection of the site by both the Building Inspector and Fire Chief to ensure compliance with applicable building and fire codes. Documentation of an inspection shall be given to the Zoning Administrator; and
- (h) Estimated cost of proposed site improvements including roadways, lighting, utilities, sidewalks, drainage, fences, walls, and landscaping.

(C) *Preliminary site plan.*

(1) *Application.* Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, payment of the review fee, and 12 copies of the preliminary site plan drawing(s) properly signed and sealed by a licensed professional. The Administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan drawings to the Planning Commission, city planning and engineering consultants, and any other consultants, at least 21 days prior to its next regular meeting. The purpose of such preliminary review is to confirm general compliance with city standards as well as to suggest changes, if necessary, for final site plan approval.

(2) *Information required.* Each preliminary site plan submitted for review shall provide the following information:

- (a) Property owner and applicant name and address;
- (b) Scale, north arrow, and date of plan;
- (c) Location, description, dimensions, and area of the site; zoning classification; and demonstration of compliance with lot area, width, coverage, and setback requirements;
- (d) General topography and soils information and existing natural and human-made features to be retained or removed;

(e) Use, location, and dimensions of proposed buildings/structures including floor area, number of floors, height, number, and type of dwelling units (where applicable);

(f) Proposed streets/drives including general alignment, right-of-way, surface type, and width, based on ordinance requirements for proposed use;

(g) Proposed parking including location and dimensions of spaces and aisles, and surface type;

(h) Demonstration that all barrier-free requirements have been met;

(i) Adjacent land uses, property owners, and zoning and location of adjacent buildings and drives/streets;

(j) Proposed phasing;

(k) Location and width of any easements on the site; and

(l) General description and location of proposed service facilities, including water supply facilities, sanitary sewage disposal facilities, and stormwater control facilities.

(3) *Planning Commission action.* The Planning Commission shall approve, approve with conditions, or deny the preliminary site plan within 90 days from the date of the Planning Commission meeting at which the site plan is first heard. The Planning Commission shall set forth the reason for its action in the record of the meeting at which action is taken. The time limit may be extended upon a written request by the applicant and approval by the Planning Commission.

(4) *Effect of approval.* Approval of a preliminary site plan by the Planning Commission shall indicate its general acceptance of the proposed layout of buildings, streets and drives, parking areas, other facilities, and overall character of the proposed development.

(5) *Expiration of approval.* Approval of a preliminary site plan shall be valid for a period of 180 days from the date of approval and shall expire and be of no effect unless an application for a final site plan is filed with the Zoning Administrator within that time period. The Zoning Administrator or duly appointed agent shall, within 30 days of the date of action of the Planning Commission of the preliminary site plan, transmit a written certification of such approval to the applicant.

(D) *Final site plan.*

(1) *Application.* Following approval of a preliminary site plan, the applicant shall submit to the Zoning Administrator 12 copies of a final site plan as well as other data and exhibits hereinafter required, the review fee, and a completed application form. The Administrator, upon receipt of the application, shall transmit only complete submittals of the final site plan drawing(s) to the Planning Commission, city planning and engineering consultants, and any other consultants, prior to its next regular meeting.

(2) *Information required.* A final site plan submitted for review and approval shall contain all of the following data presented in a clear and legible format. Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24 inches by 36 inches with plan view drawn to a scale of no greater than one inch equals 50 feet for property less than three acres or no greater than one inch equals 100 feet for property three or more acres.

(a) *General information.*

1. Proprietors', applicants', and owners' names, addresses, and telephone numbers;
2. Date of preparation, including revisions;
3. Scale;
4. North point;
5. Location map drawn at a scale of one inch equals 2,000 feet with north point indicated;
6. Architect, engineer, surveyor, landscape architect, or planner's seal and signature;



7. Existing and proposed lot lines, building or structures, parking areas, drives, and the like on the parcel and within 100 feet of the site;
8. Centerline and existing and proposed right-of-way lines of any street;
9. Zoning classification of petitioner's parcel and all abutting parcels; and
10. Gross acreage figure.

(b) *Physical features.*

1. Acceleration, deceleration, and passing lanes and approaches;
2. Proposed locations of access drives, street intersections, driveway locations, sidewalks, and curbing;
3. Location of existing and proposed service facilities above and below ground, including:
  - a. Chemical and fuel storage tanks and containers;
  - b. Water supply facilities;
  - c. Sanitary sewage disposal facilities;
  - d. Stormwater control facilities and structures; and
  - e. Location of all easements.
4. Location of all structures with setback, yard dimensions, and gross area;
5. Dimensioned parking spaces and parking and loading calculations, drives type of surfacing and on-site circulation patterns;
6. Details of barrier-free parking, access, and similar site features;
7. Dimensioned floor plans, elevations, and proposed construction materials of all proposed buildings on the site;
8. Proposed site lighting information;
9. Location and description of all existing and proposed landscaping, berms, fencing, and screening walls;
10. Trash receptacle pad location, size, and method of screening;
11. Transformer pad location and method of screening;
12. Dedicated road or service drive locations;
13. Entrance details including sign locations, types, and size;
14. Designation of fire lanes; and
15. Any other pertinent physical features.

(c) *Natural features.*

1. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Genesee County, Michigan;
2. Existing topography with a maximum contour interval of two feet. Areas with slopes greater than 10% (one foot of vertical elevation for every ten feet of horizontal distance) shall be delineated. Topography on the site and beyond the site for a distance of 100 feet in all directions shall also be indicated;
3. Grading plan, showing finished contours at a maximum interval of one foot, correlated with existing contours so as to clearly indicate required cutting, filling, and grading;

4. Location of existing drainage courses and associated bodies of water, on and off site, and their elevations. The location of existing wetlands and floodplains shall be included;

5. Location, size, and type of all single trees having a diameter breast height (d.b.h.) of four inches or greater. Wooded areas shall be delineated by symbolic lines tracing the spread of the outermost branches and shall be described as the general sizes and kinds of trees contained; and

6. Keyed plan outlining soil erosion and sedimentation measures to be provided.

(d) *Additional requirements for residential developments.*

1. Density calculations by type of unit by bedroom counts;
2. Designation of units by type and number of units in each building;
3. Carport locations and details where proposed;
4. Specific amount, location, and type of recreation spaces; and
5. Number and location of visitor parking spaces to be provided.

(e) *Additional requirements for commercial and industrial developments.*

1. Loading/unloading areas;
2. Gross floor area; and
3. Number of employees in peak usage.

(3) *Standards for review.* In reviewing the final site plan, the Planning Commission shall determine whether the plan meets the following specifications and standards:

(a) The plan conforms to the approved preliminary site plan and with all zoning ordinance regulations;

(b) All required information is provided;

(c) The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare, and character of the city;

(d) A proper relationship exists between major thoroughfares and proposed service drives, driveways, and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides;

(e) The location of buildings is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas;

(f) Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, groundwater, and woodlands;

(g) Stormwater management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or watercourse, or cause alterations which could increase flooding or water pollution on or off site;

(h) Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet county and state standards;

(i) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater, or nearby water bodies in accordance with county and state standards;

(j) Landscaping, including grass, trees, shrubs, and other vegetation is provided to maintain and improve the aesthetic quality of the site and area; and

(k) The proposed use is in compliance with all city ordinances and any other applicable laws.

(4) *Planning Commission action.*

(a) The Planning Commission shall approve, approve with conditions, or deny the final site plan within 90 days of the date of the Planning Commission meeting at which the site plan is first heard. The time limit may be extended upon a written request by the applicant and approved by the Planning Commission. The Planning Commission may suggest and/or require modifications in the proposed final site plan as are needed to gain approval.

(b) In the interest of ensuring compliance with this chapter and protecting the health, safety, and welfare of the residents of the city, the Planning Commission, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in § 154.027 for the completion of improvements associated with the proposed use.

(5) *Effect of approval.* Approval of a final site plan authorizes applicant to apply for a building permit, certificate of zoning compliance, and/or certificate of occupancy. A building permit, certificate of zoning compliance, and/or certificate of occupancy will not be granted for site plans approved with conditions until the remaining issues have been addressed and resolved to the satisfaction of the Planning Commission.

(6) *Expiration of approval.* Approval of a final site plan shall expire and be of no effect one year following the date of approval unless construction has begun on the property in conformance with the approved final site plan. The applicant can request a one-year extension from the Planning Commission a month prior to the date of expiration. Approval shall also expire and be of no effect unless a building permit shall have been taken out within 180 days of the date of approval of the final site plan.

(E) *Combining preliminary and final site plans.* An applicant may, at his or her discretion and risk, combine a preliminary and final site plan application for approval. In such a situation the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in its opinion, the complexity and/or scale of the site for the proposed development so warrant.

(F) *Amendment of approved site plan.* The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The Zoning Administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing(s) be submitted showing such minor changes, for purposes of record.

(G) *Modification of plan during construction.* All improvements shall conform to the final site plan. Any changes, which result in a material alteration of the site plan approved by the Planning Commission, shall require re-submittal to the Planning Commission. The Planning Commission or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

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

(I) *Inspection.*

(1) The Building Inspector or the city's designee shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements such as utilities, sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspections. Prior to final site plan acceptance by the city, the site plan review checklist, approved by the Planning Commission, must be completed by the appropriate city staff documenting conformance with the final site plan.

(2) The Building Inspector/city's designee shall notify the Zoning Administrator, in writing, when a development for which a final site plan is approved has passed inspection with respect to the approved final site plan. The Building Inspector/city's designee shall notify the Zoning Administrator, in writing, of any development for which a final site plan was approved, which does not pass inspection with respect to the approved final site plan, and shall advise the Zoning Administrator of steps taken to achieve compliance. In such case, the Building Inspector/city's designee shall periodically notify the Zoning Administrator of progress towards compliance with the approved final site plan and when compliance is achieved.

(J) *Violations.* The approved final site plan shall regulate development of the property and any violation of this subchapter, including any improvement not in conformance of the approved final site plan, shall be deemed a violation of this chapter as provided in § 154.999, and shall be subject to all penalties therein.

(Ord. 285, passed 12-8-2003; Ord. 317, passed 11-10-2008; Ord. 335, passed 3-26-2012; Ord. 365, passed 6-8-2015; Ord. 377, passed 6-27-2016) Penalty, see § 154.999

## **§ 154.025 SITE CONDOMINIUM PROJECT REGULATIONS.**

(A) *Intent.* Pursuant to the authority conferred by the Condominium Act, being M.C.L.A. § 559.241, preliminary and final site plans shall be regulated by the provisions of this chapter and subject to review by the Planning Commission.

(B) *General requirements.*

(1) Each condominium lot shall be located within a zoning district that permits the proposed use.

(2) Each condominium lot shall front on and have direct access to a public street approved by the city.

(3) For the purposes of this chapter, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.

(4) In the case of a site condominium containing single-family, detached dwelling units, not more than one-dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use except in a PUD district. Required yards shall be measured from the boundaries of a condominium lot.

(C) *Site plan approval requirements.* Preliminary approval of the site plan and final approval of the site plan and condominium documents by the Planning Commission shall be required as a condition to the right to construct, expand, or convert a site condominium project. No permits for erosion control, building construction, grading, or installation of public water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan has been approved by the Planning Commission and is in effect. Preliminary and final approval shall not be combined.

(1) *Preliminary approval.*

(a) A preliminary site plan pursuant to the standards and procedures set forth in § 154.024 shall be submitted to the Planning Commission for preliminary review.

(b) If the site plan conforms in all respects to applicable laws, ordinances, and design standards, preliminary approval shall be granted by the Planning Commission.

(c) If the site plan fails to conform, the Planning Commission shall either deny the application, or grant preliminary approval with conditions, provided such conditions are met before final approval.

(2) *Final approval.*

(a) Following preliminary approval, the applicant shall submit a final site plan pursuant to the standards and procedures set forth in § 154.024(C). In addition to the final site plan, the condominium documents shall be submitted to the city for the review by the City Attorney and other appropriate staff and consultants. The condominium documents shall be reviewed with respect to all matters subject to regulation by the city including,

without limitation: ongoing preservation and maintenance of drainage, retention, wetland, and other natural and/or common areas; and maintenance of stormwater, sanitary, and water facilities and utilities.

(b) The applicant shall also submit engineering plans in accordance with applicable design standards for construction of the project. The city shall submit engineering plans to the City Engineer for review.

(c) Upon completion of the review of the condominium documents and engineering plans and receipt of the recommendations and findings from the City Attorney, and engineering and planning consultants, the site plan shall be submitted to the Planning Commission for final review.

(d) If the site plan, condominium documents, and engineering plans conform in all respects to applicable laws, ordinances, and design standards, final approval shall be granted by the Planning Commission.

(e) If the site plan, condominium documents, or engineering plans fail to conform, final approval shall be denied by the Planning Commission.

(f) In the interest of ensuring compliance with this chapter and protecting the health, safety, and welfare of the residents of the city, the Planning Commission, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in § 154.027 for the completion of improvements associated with the proposed use.

(D) *Required improvements.*

(1) All design standards and required improvements that apply to a conventional residential development, shall apply to any condominium development.

(2) Each condominium unit shall be connected to city water, sanitary, and storm sewers, designed and constructed in accordance with city utility standards.

(3) (a) Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

(b) The city may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year, on condition that the developer deposit with the City Clerk cash, a certified check, or an irrevocable bank letter of credit to the city, whichever the developer selects, in an amount as determined from time to time by resolution of the Planning Commission. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the state that the monuments and irons have been set as required, within the time specified. If the developer defaults, the Planning Commission shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.

(4) Road rights-of-way shall be described separately from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing of public utilities. The developer shall declare easements to the city for all public water and sanitary sewer lines and appurtenances.

(5) All improvements in a site condominium shall comply with the design specifications as adopted by the Planning Commission and any amendments thereto.

(E) *Information required prior to occupancy.* Prior to the issuance of occupancy permits for any condominium units, the applicant shall submit the following to the Zoning Administrator:

- (1) A copy of the recorded condominium documents (including exhibits);
- (2) A copy of any recorded restrictive covenants;
- (3) A copy of the site plan on laminated photostatic copy or Mylar sheet; and



(4) Evidence of completion of improvements associated with the proposed use including two copies of an as-built survey.

(F) *Revision of site condominium plan.* If the site condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued, where such permit is required.

(G) *Amendment of condominium documents.* Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the City Attorney and Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.

(H) *Relocation of boundaries.* Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in § 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.

(I) *Subdivision of condominium lot.* Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in § 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.026 USE OF CONSULTANTS.**

From time to time, the City Council, Planning Commission, or Zoning Board of Appeals may employ planning, engineering, legal, traffic, or other special consultants to assist in the review of special use permits, site plans, rezoning, or other matters related to the planning and development of the city. The cost of said consultants shall be charged to the applicant or petitioner.

(Ord. 285, passed 12-8-2003)

#### **§ 154.027 PERFORMANCE GUARANTEE.**

(A) In the interest of ensuring compliance with this chapter, protecting the natural resources and the health, safety, and welfare of the residents of the city and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Zoning Administrator shall require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this chapter including, but not limited to, streets, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

(B) **PERFORMANCE GUARANTEE** as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit, or corporate surety bond in the amount of the itemized estimated cost of the improvements to be made as determined by the applicant and verified by the city. The city shall be authorized to employ the city engineering and/or planning consultant to review cost estimates and conduct periodic inspection of the progress of improvements.

(C) The performance guarantee shall be deposited with the city prior to the issuance of a building permit for the development and use of the land. Upon the deposit of the performance guarantee, the city shall issue the appropriate building permit.

(D) The approval shall also prescribe the period of time within which the improvements are to be completed. The period will begin from the date of the issuance of the building permit.

(E) The Zoning Administrator, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been

satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.

(F) Upon the satisfactory completion, as determined by the city, of the improvement for which the performance guarantee was required, the city shall return to the applicant the performance guarantee deposited and any interest earned thereon. However, the city is not required to deposit the performance guarantee in an interest-bearing account.

(G) (1) In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the city, the city shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically, the right to enter upon the subject property to make the improvements.

(2) If the performance guarantee is not sufficient to allow the city to complete the improvements, the applicant shall be required to pay the city all of the additional costs of completing the improvements. Should the city use the performance guarantee, or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the city's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant.

(3) If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the city to ensure completion of an improvement, the applicant shall not be required to deposit with the city a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the city and prior to the issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the city regarding the performance guarantee.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.028 FEES.**

The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure, for building permits, certificates of occupancy, appeals, and other matters pertaining to this chapter. The city shall have the authority to include fees for the use of engineering, planning, legal, or other special consultants. The schedule of fees shall be posted in the city offices, and may be altered or amended only by the City Council. No permit or certificate shall be issued or special use site plan, rezoning, or variance acted upon unless or until such costs, charges, fees, or expenses have been paid in full.

(Ord. 285, passed 12-8-2003)

#### **§ 154.029 AMENDMENTS.**

(A) *Initiation of amendment.* The City Council may, from time to time, amend this chapter by changing or supplementing the district map, the districts on said map, or the boundaries of such districts, district regulations, or other provisions of this chapter. An amendment may be initiated by the City Council, by an interested person(s) or their agent(s), or by the Planning Commission, and when requested by an interested party shall be accompanied by a fee in an amount established by resolution of the City Council.

(B) *Amendment review procedure.* The amendment and application materials shall be prepared in accordance with the provisions of this section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission.

(1) *Technical review.* Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate city staff and applicable outside agencies and designated city consultants for review.

(2) *Public hearing.* A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in Public Act 110 of 2006, being M.C.L.A. §§ 125.3 et seq., as amended.

(3) *Planning Commission consideration.* Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this section, and shall report its findings and recommendation to the City Council.

(4) *City Council action.* Upon receipt of the report and recommendation from the Planning Commission, the City Council shall consider the proposed amendment. If determined to be necessary, the City Council may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official zoning map, the City Council shall approve or deny the amendment, based upon its consideration of the criteria contained in this section.

(C) *Re-application.* Whenever an application for an amendment to this chapter has been denied by the City Council, a new application for the same amendment shall not be accepted by the Planning Commission for consideration for a period of 365 days, unless, upon recommendation by the Zoning Administrator, the Planning Commission determines that one or more of the following conditions has been met:

(1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application;

(2) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; and/or

(3) The new application is materially different from the prior application.

(D) *Criteria for amendment of zoning district map.*

(1) In considering any petition for an amendment to the official zoning districts map, the Planning Commission and City Council shall consider the following criteria in making its findings, recommendations, and decision:

(a) Consistency with the goals, policies, and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered;

(b) Compatibility of the site's physical, geological, hydrological, and other environmental features with the uses permitted in the proposed zoning district;

(c) Evidence the applicant cannot receive a reasonable return on investment through developing the property with one or more of the uses permitted under the current zoning;

(d) Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values;

(e) The capacity of city's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the city;

(f) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district; and

(g) The apparent demand for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the city currently zoned to accommodate the demand.

(2) Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

(E) *Protests.*

(1) Upon presentation of a protest petition meeting the requirements of this division (E), an amendment to the zoning ordinance which is the object of the petition shall be passed only by a two-thirds vote of the City Council. The protest petition shall be presented to the City Council before final Council action on the amendment, and shall meet signatory requirements of divisions (E)(1)(a) or (E)(1)(b) below:

(a) The owners of at least 20% of the area of land included in the proposed change; or

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land in the proposed change.

(2) For the purposes of this division (E), publicly-owned land shall be excluded in calculating the 20% land area requirement.

(Ord. 357, passed 6-8-2015)

### **§ 154.030 CONDITIONAL REZONING.**

(A) *Intent.* It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of § 405 of the Zoning Enabling Act, Public Act 110 of 2006, being M.C.L.A. § 125.3405, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(B) *Application and offer of conditions.*

(1) An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

(2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

(3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(4) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(5) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this chapter.

(6) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.

(7) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.

(8) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(C) *Planning Commission review.* The Planning Commission, after public hearing and consideration of the standards for approval set forth in division (E) below, may recommend approval, approval with recommended

changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(D) *City Council review.* After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council's deliberations shall include, but not be limited to, a consideration of the standards for approval set forth in division (E) below. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with the State Zoning Enabling Act, being M.C.L.A. § 125.3401, refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(E) *Factors.* In reviewing an application for the rezoning or land where there is an offer of conditions, factors that should be considered by the Planning Commission and the City Council shall include the following:

(1) Whether the proposed rezoning is consistent with the goals, policies, and future land use map of the city's Master Plan;

(2) The compatibility of all the potential uses allowed in the proposed zoning district with surrounding land uses and zoning districts in terms of land suitability, impacts on the environment, density, and influence on property values;

(3) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning. Consideration of impact on drains and roads is specifically required; and

(4) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

(F) *Approval.*

(1) If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.

(2) The statement of conditions shall:

(a) Be in a form recordable with the Register of Deeds of the county in which the subject land is located or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the City Council;

(b) Contain a legal description of the land to which it pertains;

(c) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land;

(d) Incorporate by attachment or reference any diagram, plans, or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined;

(e) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof shall be recorded with the Register of Deeds of the county by the owner with a copy of the recorded document provided to the city within 45 days of its recording; and

(f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.

(3) Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The City Clerk shall maintain a listing of all lands rezoned with a statement of conditions.



(4) The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the owner with the Register of Deeds of the county. The owner shall provide a copy of the recorded document to the city within 45 days of the date of its recording. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(5) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

(G) *Compliance with conditions.*

(1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(2) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.

(H) *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 36 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the City Council if:

(1) It is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion;

(2) The City Council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and

(3) The written request shall be made to the City Council requesting the extension within six months of the end of the 36-month period.

(I) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under division (H) above, then the land shall revert to its former zoning classification as set forth in M.C.L.A. § 125.3405(2). The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(J) *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to division (I) above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Register of Deeds of the county in which the land is located a notice that the statement of conditions is no longer in effect.

(K) *Amendment of conditions.*

(1) During the time period for commencement of an approved development or use specified pursuant to division (H) above or during any extension thereof granted by the City Council, the Council shall not add to or alter the conditions in the statement of conditions.

(2) The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.

(L) *City right to rezone.*

(1) Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification.

(2) Any rezoning shall be conducted in compliance with this chapter and the State Zoning Enabling Act.

(M) *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. 357, passed 6-8-2015)

## ZONING DISTRICT REGULATIONS

### § 154.045 DISTRICT DESIGNATIONS.

For the purpose of the chapter, the city is hereby divided into the following districts:

<i>Zoning District</i>	<i>Description</i>
CBD	Central Business District
GC	General Commercial
LI	Limited Industrial
LS	Local Service
PUD	Planned Unit Development
R-1	Single-Family Residential
R-2	Single-Family Residential
R-3	Single-Family Residential
R-4	Multiple-Family Residential
R-5	Mobile Home Park

(Ord. 285, passed 12-8-2003)

### § 154.046 ZONING DISTRICT MAP.

(A) *Identified.* The zoning districts as provided in § 154.045 are bounded and defined as shown on the map entitled "Zoning District Map of the City of Linden" referred to herein as "zoning district map". The zoning district map, along with all notations, references, and other explanatory information, shall accompany and be made a part of this chapter.

(B) *Authority.* Regardless of the existence of purported copies of the zoning district map, which may be published, a true and current copy of the zoning district map available for public inspection shall be located in and maintained by the office of the City Clerk. The Clerk's copy shall be the final authority as to the current status of any land, parcel, lot, district, use, building, or structure in the city.

(C) *Interpretation of district boundaries.* Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning district map, the following rules shall apply:

(1) A boundary indicated as approximately following the centerline of a highway, alley, or easement shall be construed as following such centerline;

(2) A boundary indicated approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line;

(3) A boundary indicated as approximately following a municipal boundary line shall be construed as following such line;

(4) A boundary indicated as following a railroad line shall be construed as being located midway in the right-of-way;

(5) A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in the shoreline shall be construed as following the shoreline existing at the time the interpretation is made;

(6) The boundary indicated as following the centerline of a stream or river, canal, lake, or other body of water shall be construed as following such centerline;

(7) A distance not specifically indicated on the official zoning map shall be determined by the scale of the map; and

(8) Where an existing physical feature is at variance with that shown on the official zoning map or any other circumstances not covered by divisions (C)(1) through (C)(7) above, the Zoning Board of Appeals shall interpret the location of the zoning district boundary.

(Ord. 285, passed 12-8-2003)

### **§ 154.047 APPLICATION OF DISTRICT REGULATIONS.**

(A) The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, building, structure, or uses throughout each district.

(B) No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this chapter. Wherever the requirements of this chapter are at variance with the requirements of any other adopted regulations, or ordinances, the most restrictive or those imposing the higher standards shall govern. Except as hereinafter provided, district regulations shall be applied in the following manner.

(1) *Uses in districts.*

(a) *Permitted uses.* Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning district or are similar, as determined by the Planning Commission, to such listed uses.

(b) *Accessory uses and buildings.* Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses.

(c) *Special uses.* Special uses are permitted as listed or if similar, as determined by the Planning Commission, to the listed special uses.

(2) *Application of area and width regulations.*

(a) The area or width of a lot shall not be reduced below the minimum requirements herein established for the district in which such lot is located.

(b) Every parcel of land shall meet the minimum lot width requirements set forth in § 154.049 and shall have frontage on and direct access to a public street which has been accepted for maintenance by the city.

(3) *Application of yard regulations.*

(a) No part of a yard required for any building for the purposes of compliance with this chapter shall be included as a part of a yard or other open space similarly required for another building.

(b) All front yard setback lines shall be the minimum perpendicular distance measured from the right-of-way of the road upon which a lot or parcel fronts to the nearest point of the principal structure.

(c) All side and rear yard setback lines shall be the minimum perpendicular distance between the nearest point on the side or rear of the structure and the side or rear lot line opposite thereof.

(d) On corner lots the required front yards shall be provided along both street frontages.

(e) No building, structure, fence, or other permanent improvement shall be permitted to be erected or located within a public right-of-way except for those improvements authorized by the city.

(4) *Application of height regulations.*

(a) No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, as set forth in § 154.049.

(b) Roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar mechanical equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, and screens, flagpoles, chimneys, smokestacks, water tanks, or similar structures may be erected above the height limits herein prescribed. No such structure shall exceed by more than 15 feet the height limit of the district in which it is located.

(c) Wireless communication facilities shall be subject to the regulations set forth in § 154.098.

(5) *Location and number of buildings on lot of record.*

(a) Every building erected, altered, or moved shall be located on a lot of record as defined herein.

(b) Only one single-family dwelling shall be permitted per lot. Where more than one single-family dwelling is located on a lot of record at the time of adoption of this chapter, said dwelling shall not be divided from the lot except in conformity with the requirements of this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.048 PURPOSES AND USES WITHIN ZONING DISTRICTS.**

(A) *R-1, R-2, and R-3, Single-Family Residential Districts.*

(1) *Purpose.* These districts are provided for in those areas of the city served by public water and a public sanitary sewer and where the principal use is intended to be single-family dwellings developed at various lot sizes. In addition to the dwellings permitted in this zoning district, certain non-residential and public uses may be permitted through special use approval.

(2) *Permitted uses.*

(a) A single-family dwelling and any use, building, or structure accessory thereto;

(b) Public parks and playgrounds;

(c) Family day care home;

(d) Adult foster care small group homes serving six persons or less and adult foster care family homes;

(e) Private, elementary, middle, and high schools; and/or

(f) Churches, synagogues, and other places of worship.

(3) *Special uses.*

(a) Open space development subject to the provisions of § 154.086;

(b) Golf courses, including accessory golf driving ranges;

(c) Country clubs, public swimming pools and recreation clubs, private parks and playgrounds;

(d) Private nursery schools and kindergartens;

(e) Group day care homes and day care centers subject to the provisions of § 154.089;

(f) Adult foster care small group homes between six and 12 persons and adult foster care large group homes subject to the provisions of § 154.090;

(g) Two-family dwellings;

(h) Bed and breakfast establishments in the R-3 District, subject to the provisions of § 154.097;

(i) Public buildings and facilities; and/or

(j) Sale of weapons.

(B) *R-4, Multiple-Family Residential District.*

(1) *Purpose.* This district is composed of those areas of the city where the principal use is intended to be multiple-family dwellings. Areas zoned R-4 shall be served by public water and public sanitary sewers, and which abut or are adjacent to such other uses, buildings, structures, or amenities, which support, complement, or serve such a multiple-family density. In addition to the dwellings permitted in this zoning district, certain non-residential and public uses may be permitted through special use approval.

(2) *Permitted uses.*

(a) All permitted uses allowed in the R-1, R-2, and R-3 Districts;

(b) Multiple-family dwellings and any use, building, or structure accessory thereto;

(c) Elderly housing; and/or

(d) Two-family dwellings.

(3) *Special uses.*

(a) Group day care homes and day care centers subject to the provisions of § 154.089;

(b) Adult foster care small group homes between six and 12 persons and adult foster care large group homes subject to the provisions of § 154.090;

(c) Adult foster care congregate facilities subject to the standards of § 154.090;

(d) Nursing homes and convalescent centers; and/or

(e) Sale of weapons.

(C) *R-5, Mobile Home Park Residential District.*

(1) *Purpose.* The intent of this district is to provide for mobile home residential development in areas where the street network, public services, and infrastructure are capable of supporting such development. Areas zoned R-5 shall be located in areas which are compatible with the character and density of adjacent uses.

(2) *Permitted uses.*

(a) Mobile home parks subject to the provisions set forth in § 154.088; and/or

(b) Parks and playgrounds.

(3) *Special uses.*

(a) All special uses allowed in the R-1, R-2, R-3, and R-4 Districts; and/or

(b) Sale of weapons.

(D) *LS, Local Service District.*



(1) *Purpose.* The district is designed primarily for the convenience of persons residing in the city by providing office, limited retail, and business service uses that serve the adjacent and surrounding neighborhoods. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with uses in the surrounding area. To these ends, certain uses are excluded which would function more effectively in other districts.

(2) *Permitted uses.*

- (a) Executive, administrative, professional, accounting, writing, clerical, stenographic, drafting, and sales offices;
- (b) Medical and dental offices, including clinics and medical laboratories;
- (c) Banks, credit unions, savings and loan associations;
- (d) Public parks and playgrounds;
- (e) Public buildings and facilities;
- (f) Photographic studios;
- (g) Food services including grocery, meat market, bakery, restaurant, delicatessen, and fruit market, and similar self-service units but not including any business of a drive-in type;
- (h) Retail sales of drug and health care products, hardware, gifts, dry goods, notions, sporting goods, clothing, furniture, and appliances;
- (i) Retail office supply, computer, and business machine sales;
- (j) Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services;
- (k) Florist shops;
- (l) Personal service establishments, such as barber and beauty shops; watch, clothing, and shoe repair; furniture repair; locksmith; and similar establishments;
- (m) Private service clubs, social organizations, and lodge halls;
- (n) Funeral homes; and/or
- (o) Churches, synagogues, and other places of worship.

(3) *Special uses.*

- (a) Veterinary offices and hospitals, including accessory boarding, provided no outdoor exercise runs or pens are permitted;
- (b) Retail sale of alcoholic beverages;
- (c) Joint working and living quarters (work/live unit), subject to § 154.099;
- (d) Sale of weapons; and/or
- (e) Day care centers subject to the provisions of § 154.089.

(E) *GC, General Commercial District.*

(1) *Purpose.* This district is intended to accommodate office, business service, and retail uses that serve a larger market than LS District including the city and portions of the surrounding townships. It is the purpose of these regulations to permit development of the enumerated functions in a manner which is compatible with uses in the surrounding area. To these ends, certain uses are excluded which would function more effectively in other districts.

(2) *Permitted uses.*

- (a) All permitted and special uses allowed in LS Local Service District, except for joint working and living quarters;
- (b) Grocery stores, meat market, bakery, delicatessen, and fruit market, and similar retail sales of food and beverages;
- (c) Retail sales of candy and confections, antiques, gifts, dry goods, notions, toys, musical instruments, and clothing;
- (d) Retail sales of drug and health care products, hardware, sporting goods, furniture, paint and home decorating products, and appliances;
- (e) Retail sale of alcoholic beverages;
- (f) Radio, television, and electrical appliance repair, and shops of plumbers, electricians, and other similar services and trades;
- (g) Standard and/or carry out restaurants;
- (h) Laundromats and dry cleaning establishments; and/or
- (i) Planned shopping centers.

(3) *Special uses.*

- (a) Bar/lounge serving alcoholic beverages and/or providing entertainment;
- (b) Fast-food, drive-in, and drive-through restaurants;
- (c) Lodging facilities;
- (d) Sale of new and used automobiles, boats, mobile homes, farm machinery, and other vehicles provided outdoor sales comply with the requirements set forth in § 154.092;
- (e) Automobile service stations and washes subject to the requirements set forth in § 154.094;
- (f) Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks, billiard halls, and miniature golf;
- (g) Farm supply and feed stores;
- (h) Sale of building materials, nursery stock, and garden supplies provided outdoor sales comply with the requirements set forth in § 154.068;
- (i) Kennels, including commercial boarding and breeding facilities;
- (j) Sale of weapons; and/or
- (k) Day care centers subject to the provisions of § 154.089.

(F) *CBD, Central Business District.*

(1) *Purpose.* This district is designed to provide for a variety of office, business service, entertainment, and retail uses which occupy the prime retail frontage, by serving the comparison, convenience, and service needs of the market area which includes the city and surrounding townships. The regulations of the CBD District are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting uses which tend to break up such continuity.

(2) *Permitted uses.*

- (a) All permitted uses allowed in the LS and GC District;
- (b) Theaters, when completely enclosed;

- (c) Private service clubs, social organizations, and lodge halls;
- (d) Lodging facilities;
- (e) Multiple-family dwellings on the second floor and above;
- (f) Public parks and playgrounds; and/or
- (g) Public buildings and facilities.

(3) *Special uses.*

- (a) Bar/lounge serving alcoholic beverages and/or providing entertainment;
- (b) Fast-food restaurants; and/or
- (c) Sale of weapons.

(G) *LI, Limited Industrial District.*

(1) *Purpose.* This district is designed to accommodate industrial, storage, and other uses that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is the purpose of these regulations to permit development of the enumerated functions to protect surrounding areas from incompatible industrial activities, to restrict the intrusion of non-related uses such as residential, agricultural, business, and commercial, except retail businesses that normally do not require the customer to call at the place of business, and to encourage the discontinuance of uses presently existing in the District which are nonconforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in other districts and which would interfere with the operation of the uses permitted in this District.

(2) *Permitted uses.*

- (a) Printing and blueprinting;
- (b) Light manufacturing, processing, assembly, testing, and repair of the following:
  1. Communication, transmission, and reception equipment such as coils, tubes, semi-conductors, navigation control equipment, and systems guidance equipment;
  2. Data processing equipment and systems;
  3. Graphics and art equipment;
  4. Metering instruments;
  5. Optical devices, equipment, and systems;
  6. Stereo, audio units, radio equipment and systems;
  7. Photographic equipment;
  8. Radar, infrared, and ultraviolet equipment and systems;
  9. Scientific and mechanical instruments such as calipers and transits; and/or
  10. Testing equipment.
- (c) Light manufacturing, processing, or assembling of the following:
  1. Biological products, drugs, medicinal chemicals, and pharmaceutical preparation;
  2. Electrical machinery, equipment and supplies, electronic equipment and accessories; and/or
  3. Office, computing, and accounting machines.

- (d) Research and design centers for the development of pilot or experimental products, together with related offices for such research facilities;
- (e) Data processing and computer centers;
- (f) Warehousing, refrigerated, and general storage, but not including self-storage facilities;
- (g) Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services;
- (h) Training and/or educational centers where such centers are designed and intended to provide training at the business, technical, and/or professional level;
- (i) Computer and business machine sales when conducted in conjunction with and accessory to a permitted principal use;
- (j) Printing, publishing, or related activities;
- (k) Manufacture and repair of signs, and heating and ventilating equipment; and/or
- (l) Recycling operations.
- (3) *Special uses.*
- (a) Restaurants and cafeteria facilities for employees;
- (b) Trucking and transit terminals;
- (c) Contractors' establishments subject to the requirements set forth in § 154.093;
- (d) Metal fabrication, and tool and die shops;
- (e) Automobile repair facilities and collision shops;
- (f) Self-storage facilities, subject to the requirement of § 154.091;
- (g) Sale of building materials, nursery stock, and garden supplies provided outdoor sales comply with the requirements set forth in § 154.068 and/or
- (h) Sale of weapons.

(Ord. 285, passed 12-8-2003; Ord. 335, passed 3-26-2012; Ord. 358, passed 6-8-2015; Ord. 360, passed 6-8-2015; Ord. 366, passed 6-8-2015; Ord. 370, passed 6-8-2015)

## § 154.049 SCHEDULE OF AREA, HEIGHT, WIDTH, AND SETBACK REGULATIONS.

(A) *Schedule of area, height, width, and setback regulations.*

<i>Zoning District</i>	<i>Min. Lot Size</i>		<i>Max. Building Height Space</i>		<i>Min. Yard Setback</i>				<i>Max. Lot Coverage</i>	<i>Footnotes</i>
	<i>Area (Sq. Ft.)</i>	<i>Lot Width</i>	<i>Stories</i>	<i>Feet</i>	<i>Front</i>	<i>Side Least</i>	<i>Side Total</i>	<i>Rear</i>		
R-1, Single-Family Residential	15,000	100'	2-1/2	35	25'	10'	20'	50'	30%	See divisions (B)(1), (B)(3), (B)(8), and (B)(9) below
R-2, Single-Family Residential	9,600	80'	2-1/2	35	25'	8'	18'	35'	30%	See divisions (B)(1), (B)(3),

										and (B)(8) below
R-3, Single-Family Residential	8,400	70'	2-1/2	35	25'	8'	18'	35'	30%	See divisions (B)(1), (B)(3), (B)(8), and (B)(9) below
R-4, Multiple-Family Residential	SF: 8,400	70'	2-1/2	35	25'	8'	18'	35'	30%	See divisions (B)(1), (B)(2), (B)(3), and (B)(8) below
	2F: 12,000	100'	2-1/2	35	25'	8'	18'	35'	40%	
	MF: 20,000	300'	2-1/2	35	25'	25'	50'	50'	55%	
R-5, Mobile Home Park	10 acres	See § 154.088	2-1/2	35	See § 154.088	-	See § 154.088	-	-	-
LS - Local Service	12,000	80'	2-1/2	35	25'	10'	20'	20'	40%	See divisions (B)(5) and (B)(8) below
GC - General Commercial	15,000	100'	2-1/2	35	35'	10'	20'	20'	40%	See divisions (B)(5) and (B)(8) below
CBD - Central Business District	-	-	3	40	-	-	-	-	-	See divisions (B)(4) and (B)(8) below
LI - Limited Industrial	1 acre	150'	2	40	50'	50'	100'	50'	40%	See divisions (B)(6) and (B)(8) below
Table notes:										
SF: single-family dwellings										
2F: two-family dwellings										
MF: multiple-family dwellings										

(B) *Footnotes to schedule of area height, width, and setback regulations.*

(1) All dwelling units and occupied buildings shall be served with the city public water supply system and a public sanitary sewer system after the effective date of this chapter.

(2) Multiple-family requirements are as follows.

(a) *Lot area.* Every lot or parcel of land occupied by a multiple-family structure shall contain a minimum of 20,000 square feet and a total area per dwelling unit of 3,500 square feet.

(b) *Distance between buildings.* In addition to the required setbacks from property boundaries, the following minimum distances shall be required between each multiple family structure (See Figure 6):

1. Where buildings are front to front or front to rear, two times the height of the taller building, and not less than 50 feet;

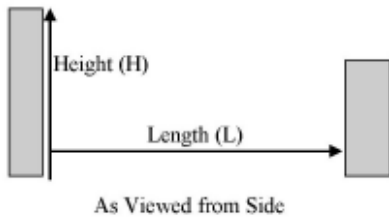


2. Where buildings are side to side, one times the height of the taller building, but not less than 25 feet; and

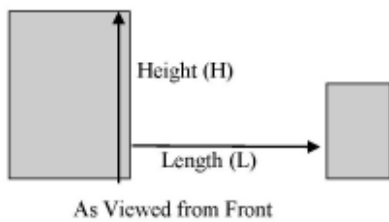
3. Where buildings are front to side, rear to side, or rear to rear, one and one-half times the height of the taller building but not less than 35 feet.

(c) *Front of the building definition.* In applying the above standards, the **FRONT OF THE BUILDING** shall mean that face of the building having greatest length and contains the primary entrance to the building; the rear is that face opposite the front. The side is the face having the smallest dimension.

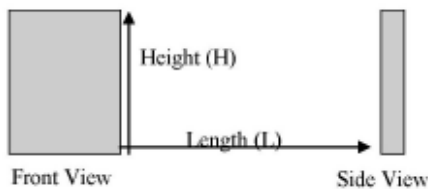
**Figure 6**



a) Front to Front/Front to Rear:  
 2 times the height of the taller building, and not less than 50'  
 $L = 2 \times H$  (min. 50')



b) Side to Side:  
 1 times the height of the taller building, not less than 25'  
 $L = H$  (min. 25')



c) Front to Side/Rear to Side/Rear to Rear:  
 1 ½ times the height of the taller building, not less than 35'  
 $L = 1.5 \times H$  (min. 35')

(3) The minimum floor area of dwelling units shall be as follows:

<i>Type of Dwelling</i>	<i>Total Gross Floor Area (Sq. Ft.)</i>
<b><i>One-family:</i></b>	
R1 District	1,800
R2 District	1,150
R3 District	960
R4 District	960
<b><i>Two-family:</i></b>	
Two-family, per dwelling unit	800
<b><i>Multiple-family:</i></b>	
Efficiency Unit	500
1-bedroom unit	700
2-bedroom unit	900
3-bedroom unit	1,100

4-bedroom unit	1,300
Each additional bedroom	90

(4) Any principal building located within the CBD which abuts a dwelling located within the R-1, R-2, or R-3 Districts shall have a minimum setback from the common property line of ten feet.

(5) Any principal building in the LS and GC Districts, which abuts a R-1, R-2, R-3, R-4, or R-5 District shall have a minimum setback of 50 feet from any abutting property line.

(6) Any principal building in the LI District which abuts a R-1, R-2, R-3, R-4, or R-5 District shall have a minimum setback of 100 feet from any abutting property line.

(7) All new lots in the R-3 District shall have a minimum width of 70 feet. All existing lots between 50 and 69 feet in width are based on previous ordinances and shall not be considered as nonconforming lots of this chapter. Therefore, additions and similar alterations may be permitted for houses located on 50- through 69-foot-wide lots, provided that these alterations meet all other schedule of regulation requirements.

(8) All lots established after the effective date of this chapter shall have a lot depth not greater than four times the actual lot width.

(9) All new lots in the R-1 District shall have a minimum lot width of 100 feet and minimum size of 15,000 square feet. All existing lots with widths of at least 80 feet and sizes of at least 9,600 square feet which were approved based on previous ordinances shall not be considered as nonconforming lots of this chapter. Therefore, additions and similar alterations may be permitted for houses located on such lots, provided that these alterations meet all other schedule of regulation requirements.

(10) Within the front yard, the total driveway surface area for single- and two-family dwellings shall not exceed 40% of the total front yard area.

(Ord. 285, passed 12-8-2003; Ord. 374, passed 9-14-2015; Ord. 381, passed - - 2017) Penalty, see § 154.999

## GENERAL ZONING PROVISIONS

### § 154.060 INTENT.

The intent of this subchapter is to provide for those regulations which generally apply regardless of the particular zoning district and to those special uses which may be permitted in certain zoning districts.

(Ord. 285, passed 12-8-2003)

### § 154.061 ACCESSORY BUILDINGS AND STRUCTURES.

NOTE: Section 154.061 was amendment to include a new Subsection A, 9. See amendment text included at the end of this document.

(A) *Requirements applicable to accessory buildings and structures within residential districts.*

(1) No accessory building or structure shall be built upon a lot or parcel prior to the establishment of a principal building.

(2) A building or structure not attached to a principal building shall be considered an accessory building or structure.

(3) The sum total floor area of all accessory buildings and structures shall not exceed 50% of the total floor area of all stories of the principal building. See § 154.049 for maximum lot coverage allowances.

(4) No accessory building or structure shall exceed 15 feet in height measured from finished grade to the highest point of flat roofs, to the coping line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs. Where the building may be situated on sloping terrain, this height shall be measured from the average level of the finished grade at the building wall.

(5) In no instance shall an accessory structure be located within a dedicated easement or right-of-way. The applicant shall be responsible for determination of the location of all applicable rights-of-way or easements.

(6) Accessory structures shall be erected only in a rear yard. If the lot is a corner lot, accessory structures shall remain behind all building lines adjacent to streets.

(7) No accessory building or structure shall be constructed within ten feet of any other building located on the same lot or parcel.

(8) Detached accessory buildings and structures shall be located no closer than five feet to any side or rear lot line. The setback for detached accessory buildings and structures which exceed 25% of the total floor area of the principal building and 15% of the total lot area shall be increased to ten feet.

(B) *Private swimming pools.* Private swimming pools shall be subject to the following.

(1) No portion of the swimming pool or associated structures shall be permitted to encroach upon any right-of-way.

(2) Front yard and side yard setbacks shall comply with required setbacks specified for the zoning district wherein the pool is located. Rear yard setbacks shall be a minimum of 15 feet.

(3) All swimming pools shall be enclosed in accordance with applicable building codes.

(C) *Requirements applicable to accessory buildings within all other districts.* Accessory buildings shall be subject to the same placement and height requirements as principal structures in the district in which located.

(D) *Amateur radio antennas, satellite dish antenna, and other similar structures.* It is the intent of this section to regulate placement, size, height, and installation of satellite dish antennas in order to preserve the character, scale, and aesthetics of the city. These regulations shall apply to all satellite antenna systems used for home-earth stations by private users and also to short wave and other mass antenna arrays erected on poles and towers, irrespective of whether the same utilize supporting cables or other reinforcement.

(1) Satellite dishes one meter or less in diameter and antennas 12 feet or less in height shall not require permits from the city, but shall be subject to the following: ground-mounted antenna systems are permitted only in rear yards and are required to be set back at least five feet from any side yard line and at least ten feet from any rear yard line.

(2) It is hereby determined that satellite dishes one meter or more in diameter and antennas 12 feet or more in height are of such character that their construction, installation, and use requires the review and approval of the City Planning Commission prior to the installation thereof. Such antennas systems and structures shall be subject to the following.

(a) Applications for a permit to install an antenna system and/or structure shall be submitted to the City Zoning Administrator. Each application for such permit shall include the following:

1. Plot plan showing the location of all elements of the antenna system and of all other buildings, structures, and accessory uses on the same lot and on all lots that are abutting the proposed location;
2. Sketch or actual pictures of the elements included in the proposed antenna system;
3. Detail to indicate parts of the proposed antenna system; and
4. Statement of the visual or environmental impact on the abutting properties at the proposed location and a description of proposed screening or other measures that will minimize these impacts on abutting properties and the residents thereof.

(b) 1. The Zoning Administrator shall submit the application, together with his or her report and recommendations thereon, to the City Planning Commission.

2. The Planning Commission may grant, deny, or approve said request with conditions.

3. Denial of such a request shall be based upon a finding that the proposed installation would have a substantial detrimental effect upon one or more adjoining public or private properties or would otherwise be contrary to the public safety, health, or welfare of the residents of the city.

(c) Ground-mounted antenna systems are permitted only in rear yards and are required to be set back at least five feet from any side yard line and at least ten feet from any rear yard line.

(Ord. 285, passed 12-8-2003; Ord. 359, passed 6-8-2015; Ord. 364, passed 6-8-2015) Penalty, see § 154.999

### **§ 154.062 EMERGENCY TEMPORARY DWELLINGS.**

(A) *When permitted.* Emergency temporary dwellings may be permitted upon a finding by the city that the principal residential structure has been destroyed in whole or in part by fire, explosion, or natural disaster and therefore is uninhabitable and the standards set forth herein have been met.

(B) *Permit application and review.*

(1) An application for a permit for the emergency temporary use and installation of a mobile home, modular, or prefabricated dwelling unit shall be made to the Zoning Administrator. The application shall be accompanied by a plot plan showing the location of the proposed structure.

(2) The application shall be reviewed by the Zoning Administrator. Approval of the application may be granted upon a finding that all of the following conditions are met:

(a) The principal residential structure has been destroyed in whole or in part by fire, explosion, or natural disaster and therefore is uninhabitable; and

(b) The temporary dwelling unit shall be connected to public sewer and water.

(3) The granting of a permit for an emergency temporary dwelling unit shall be for a period of up to one year from the date of approval. Any conditions of approval shall be specified in writing on the permit.

(4) To guarantee compliance with the provisions of the ordinance and removal of the emergency temporary dwelling upon expiration of the permit, the Zoning Administrator may require a cash bond to be posted prior to the issuance of a permit.

(Ord. 285, passed 12-8-2003)

### **§ 154.063 SINGLE-FAMILY DWELLINGS, MOBILE HOMES, AND PREFABRICATED HOUSING.**

No single-family dwelling (site built), mobile home, modular housing, or prefabricated housing located outside a mobile home park or mobile home subdivision shall be permitted unless said dwelling unit conforms to the following standards.

(A) *Square footage.* Each such dwelling unit shall comply with the minimum square footage requirements of this chapter for the zone in which it is located.

(B) *Dimensions.* Each such dwelling unit shall have a minimum width across any front, side, or rear elevation of 20 feet and shall comply in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.

(C) *Foundation.* Each such dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of such dimensions to adequately support the dwelling. All dwellings shall be securely anchored to the foundation in order to prevent displacement during windstorms.

(D) *Undercarriage.* Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

(E) *Sewage disposal or water supply.* Each such dwelling unit shall be connected to either public sewer and water or approved private systems.

(F) *Storage area.* Each such dwelling unit shall contain a storage capability area either in a basement located under the dwelling, in an attic area, or in a separate or attached structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be at least 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(G) *Architecture and compatibility.*

(1) The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator. The Zoning Administrator may also refer any determination of compatibility to the Planning Commission. Any determination of compatibility shall be based upon the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within 500 feet of the subject dwelling. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity.

(2) All homes shall have a roof overhang of not less than six inches on all sides. Roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling shall be provided. The dwellings shall not have less than two exterior doors with the second one being in either the rear or side of the dwelling. Steps shall also be required for exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

(H) *Additions.* Each such dwelling unit shall contain no addition or room or other area, which is not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(I) *Code compliance.* Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the *Mobile Home Construction and Safety Standards* as promulgated by the United States Department of Housing and Urban Development, being 24 C.F.R. part 3280, and as from time to time such standards may be amended or superseded. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

(J) *Building permit.* All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Building Code provisions and requirements.

(K) *Exceptions.* The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this chapter and pertaining to such parks. Mobile homes which do not conform to the standards of this section shall not be used for dwelling purposes within the city unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.064 HOME OCCUPATIONS.**

(A) *Permitted home occupations.* The following uses shall be permitted as home occupations:

(1) Home offices for such professionals as architects, doctors, brokers, engineers, insurance agents, lawyers, Realtors, accountants, computer programmers, writers, salespersons, and similar occupations;

(2) Personal services, including barber shops, beauty parlors, manicure and pedicure shops, grooming, catering, and chauffeuring services;

(3) Music, dance, art and craft classes, tutoring, and studios for artists, sculptors, musicians, and photographers;

(4) Workshops for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, model making, cabinetry, and woodworking;

(5) Repair services, limited to watches and clocks, small appliances, instruments, computers, electronic devices, and similar small devices;

(6) Telephone answering or telemarketing; and



(7) Any other use determined by the Planning Commission to be similar to, and compatible with, the above listed uses.

(B) *Prohibited home occupations.* The following uses are expressly prohibited as a home occupation:

(1) Automobile truck, recreation vehicle, boat, motorcycle, or small engine repair, bump and paint shops, salvage or storage yards;

(2) Kennels or veterinary clinics;

(3) Medical or dental clinics;

(4) Retail sales of merchandise;

(5) Eating and/or drinking establishments;

(6) Undertaking and funeral homes; and

(7) Adult uses and sexually-oriented businesses.

(C) *Use standards.*

(1) A home occupation must be clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes. No more than 25% of the floor area of the dwelling and 25% of the floor area of any accessory structure shall be devoted to a home occupation.

(2) A home occupation use shall not change the character of the residential nature of the premises, both in terms of use and appearance.

(3) A home occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary, or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.

(4) A home occupation shall not generate sewage or water use in excess of what is normally generated from a single-family dwelling in a residential area.

(5) No employees shall be permitted other than members of the immediate family resident in the dwelling unit.

(6) All activities shall be carried on within an enclosed structure. There shall be no outside display of any kind, or other external or visible evidence of the conduct of a home occupation.

(7) A small announcement sign not to exceed two square feet in area and attached to the front wall of the principal structure shall be permitted. All other signs are prohibited.

(8) No vehicular traffic shall be permitted for the home occupation, other than that which is normally generated for a single-dwelling unit in a residential area, both as to volume and type of vehicles.

(9) Exterior storage of equipment, accessory items, or outdoor display of any kind are prohibited in connection with a home occupation.

(10) The establishment of a home occupation shall not necessitate exterior modification, except as may be required to accommodate physically handicapped persons, or as may be required by the Building Code.

(11) Customer or client visits, and deliveries associated with the home occupation shall be limited to between the hours of 7:00 a.m. and 8:00 p.m.

(D) *Permits.*

(1) (a) A permit must be obtained to lawfully operate a home occupation.

(b) Application shall be made to the Zoning Administrator, who shall approve such requests which demonstrate compliance with the requirements of this section.

(c) In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and approval where site conditions may create difficulty in adherence to the standards contained herein.

(2) Should a lawfully established home occupation no longer meet the conditions outlined above or other conditions stipulated for approval, a violation shall be cited against the operator of the home occupation. The operator of the home occupation shall have ten working days to correct the referenced violations. If the violations are not corrected within that time, the permit to operate the home occupation shall be revoked and all related activities must cease.

(3) Home occupation permits shall be limited to the applicant who legally resides in the residence.

(Ord. 285, passed 12-8-2003; Ord. 368, passed 6-8-2015) Penalty, see § 154.999

### **§ 154.065 ESSENTIAL SERVICES.**

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city. The construction of buildings associated with essential services shall be subject to the provisions of § 154.024. Otherwise, the construction, maintenance, and alteration of essential services shall be exempt from the provisions of this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.066 BUILDINGS TO BE MOVED.**

(A) No permit shall be granted for the moving of buildings or structures from without or within the limits of the city to be placed on property within said limits unless the Building Official shall have made an inspection of the building to be moved and has found that it is structurally safe, will not adversely affect the character of existing buildings in the neighborhood of the new location, and will fully comply with the Building Code and other codes regulating public health, safety, and general welfare. A performance bond as established by the Planning Commission of sufficient amount to ensure the cost of completing the building for occupancy within a period of not less than six months from date of permit shall be furnished before permit is issued.

(B) Any building moved within a district and placed upon a foundation or any building moved into a district shall be subject to all the limitations and requirements herein set forth relating to uses, construction, permits, and certificates.

(Ord. 285, passed 12-8-2003)

### **§ 154.067 TEMPORARY USES.**

Seasonal sales, construction offices, and other temporary uses shall require a permit from the Zoning Administrator, unless otherwise specified below, subject to the following standards and conditions.

(A) *Christmas tree sales.* Christmas tree sales are permitted in any business or industrial district for a period not to exceed 60 days. No yard or setback requirements apply, provided that no trees shall be displayed within 30 feet from the intersection of the curb line of any two streets.

(B) *Contractor's offices and equipment sheds.* Contractor's offices and equipment sheds, accessory to a construction project, are permitted and may continue only during the duration of such project. Such building must be removed from the construction site prior to any certificate of occupancy issued to permit occupancy of a building.

(C) *Real estate sales offices.* Real estate offices are permitted where they are located on-site and are incidental to a new housing development, provided that such uses continue only until the sale or lease of all dwelling units in the development. Such uses may not include sleeping or cooking accommodations unless located in the model dwelling unit.

(D) *Seasonal farm produce sales.* Seasonal sales of farm produce are permitted in all zoning districts. Front yard requirements are applicable to structures incidental to such sales. Structures must be removed at the end of the season during which they are used.

(E) *Carnivals and circuses.* Carnivals or circuses, in CBD, LS, GC, or LI districts, are permitted only for a period that does not exceed two weeks. Front yard requirements are not applicable, provided that the location of structures or equipment does not interfere with site vision lines along any public street.

(F) *Garage or porch sales.* Garage or porch sales shall be regulated by § 154.063.

(G) *Rummage sales or special events.* Where a rummage sale or special event is conducted or operated by a nonprofit or charitable organization, such rummage sale or special event shall be allowed in any district, and shall not require approval by the Zoning Administrator, provided that such use shall not exceed ten consecutive days in duration and adequate off-street parking shall be located on the lot.

(H) *Temporary outdoor retail sales.* All temporary outdoor retail sales, including food vendors, seasonal sales, live plants, and parking lot sales are permitted within the GC and CBD Districts, provided that such use shall not exceed 500 square feet in size, exceed ten consecutive days in duration, nor shall it occur more than four times in a calendar year on a site. Temporary outdoor retail sales shall not be conducted in the required setback area of any lot. Off-street parking shall be provided and no parking shall be permitted in the right-of-way. One parking space for each 125 square feet of floor space devoted to the temporary outdoor retail sales shall be provided.

(Ord. 285, passed 12-8-2003; Ord. 359, passed 6-8-2015) Penalty, see § 154.999

### **§ 154.068 OUTDOOR DISPLAYS OF MATERIALS INTENDED FOR RETAIL SALE OR RENTAL.**

(A) The outdoor display of products or materials intended for retail sale or rental may be permitted only in the CBD, LS, and GC Districts, subject to the following conditions.

(B) Outdoor display shall not include any signage in addition to that permitted with the permitted use.

(1) *General standards.*

(a) An outdoor display shall be considered as an accessory use to the principal use conducted on the premises.

(b) The exterior of the premises shall be kept clean, orderly, and maintained.

(c) The city shall not be held liable or responsible for any type of damage, theft, or personal injury that may occur as a result of an outdoor display.

(d) In the administration of these provisions, the Zoning Administrator shall be permitted to refer a request to the Planning Commission for review and approval where site conditions may create difficulty in adherence to the standards contained herein.

(2) *Standards within the CBD District.* An outdoor display may be located in front or adjacent to the establishment. An outdoor display that extends beyond the property lines of the applicant shall require the permission of the affected property owners.

(3) *Public sidewalks.* If an outdoor display is located on a public sidewalk, a minimum of five feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside. An outdoor display on a public sidewalk shall be confined to normal business hours.

(4) *Standards within the LS and GC District.*

(a) An outdoor display may be located within any required yard but shall not be located within any public road right-of-way.

(b) An outdoor display shall not occupy or obstruct the use of any fire lane, required off-street parking, or landscaped area required to meet the requirements of this chapter.

(5) *Building materials, nursery stock, and garden supplies.*

(a) Outdoor sales areas shall not be located within the required front setback, except for sales of living nursery stock. Ornamental displays associated with the sale of nursery stock shall be permitted; however, in no case

shall the outdoor storage or sale of bulk materials, such as topsoil, mulch, or gravel, whether packaged or not, be permitted within the front yard setback.

(b) Outdoor sale and display areas that abut residentially zoned or used property shall be screened in accordance with § 154.111(E).

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.069 KEEPING OF ANIMALS.**

#### *(A) Household pets.*

(1) The keeping of household pets, including dogs, cats, fish, birds, hamsters, and other animals generally regarded as household pets is permitted as an accessory use within any zoning district in which dwellings are a permitted principal use.

(2) For all lots or parcels less than one acre in area, not more than three dogs and/or cats (six months or older) shall be kept or housed.

(3) Accessory structures, including kennels, runs, houses, pens, and the like constructed for the keeping of household animals shall comply with the applicable regulations in § 154.061 and the following.

(a) Accessory structures for the keeping of household animals may only be located in the rear yard and may not encroach upon the front and side yards established by any existing principal or accessory structure(s), or the front or side yard requirements for principal structures listed in § 154.049, whichever is greater. In no case shall an accessory structure for the keeping of household animals be located closer than 50 feet from a principal structure on an abutting property.

(b) Accessory structures or yards for the keeping of household animals shall be kept clean and provide a humane area, including the proper provision of food and water, as well as removing and properly disposing of all waste material from which any odor may arise, in a timely and frequent basis.

#### *(B) Horses.*

(1) Horses may be kept or housed in any zoning district in which dwellings are a permitted principal use, provided the horses are kept on a lot or parcel which is a minimum of five acres in size.

(2) The number of horses permitted shall be determined as follows: one horse per five acres for the first horse; and one additional horse for each additional acre of land thereafter.

(3) All horses shall have enclosed stable space available on site, such stables shall comply with the applicable regulations in § 154.061 and require site plan review in accordance with § 154.024.

(4) Areas in which horses are kept shall be completely enclosed by a fence meeting the requirements of § 154.112.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.070 DOWNTOWN LINDEN HISTORIC DISTRICT OVERLAY.**

#### *(A) Purpose.* The purposes of the Downtown Linden Historic District Overlay are to:

(1) Encourage and direct development within the boundaries of the Downtown Linden Historic District Overlay and implement the city's historic district guidelines;

(2) Encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of Downtown Linden and to maintain the desired character of the city; and

(3) Encourage the renovation of buildings and that new buildings are compatible with their context and the desired character of the city.

(B) *Applicable area.* The Downtown Linden Historic District encompasses the area as illustrated in the Downtown Linden Historic District Overlay Map which is attached as an amendment to and made part of the official zoning map of the city (see attachment A to the ordinance codified herein).

(C) *General standards.*

(1) The provisions of this section shall apply to all new construction or significant alteration that includes, but is not limited to, addition of stories or floors and additions that increase the building footprint.

(2) This section does not exempt any other approvals that may be necessary by the Historic District Commission including, but not limited to, colors and signage.

(3) The design of buildings shall be regulated by the provisions of the Downtown Linden District Overlay and the city's historic district guidelines, approved November 16, 2005, as amended. All other requirements on the location, size, and setbacks of buildings must meet the provisions of this chapter.

(4) This section shall govern the design of all privately owned land within the Downtown Linden Historic District Overlay.

(5) The provisions of the Downtown Linden Historic District Overlay, when in conflict with other provisions of this chapter, shall take precedence.

(D) *Approval process.*

(1) The provisions of § 154.024 shall apply to all applicable projects, as defined in division (B) above, within the Downtown Linden Historic District.

(2) All applicable projects shall be reviewed by the City Historic District Commission and receive a certificate of appropriateness prior to review by the Planning Commission.

(Ord. 285, passed 12-8-2003; Ord. 317, passed 11-10-2008)

## **SPECIAL ZONING PROVISIONS**

### **§ 154.085 INTENT.**

The intent of this subchapter is to provide for those regulations which apply to those specific land uses, which may be treated either as permitted or special land use in certain zoning districts.

(Ord. 285, passed 12-8-2003)

### **§ 154.086 OPEN SPACE DEVELOPMENT OPTION.**

The open space development option may be applied for as a special use in R-1, R-2, and R-3 Districts subject to the standards set forth in § 154.023 and this section.

(A) *Intent.* The intent of the open space development option is to permit the development of residential patterns which, through design innovation, will: allow greater flexibility; encourage a more creative approach to the development of single-family residential areas; encourage a more efficient, aesthetic, and desirable use of the land; provide a more desirable living environment through the preservation and conservation of natural features such as topography, wetlands, woodlands, bodies of water, and other natural assets; and encourage the provision of open space so that benefits may accrue directly to the residents of the development.

(B) *Qualification of parcels.* The parcel must be located in a district zoned for residential use and must meet one or more of the following characteristics listed below. Requests for qualification under these conditions must be supported by documented evidence supplied by the applicant in either narrative or graphic form:

(1) The parcel contains natural assets, which would be preserved through the use of a clustered development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, wetlands, bodies of water, unusual topographic features, or other natural assets, which should be preserved;

(2) The parcel contains major topographic conditions which would require mass grading resulting in loss of significant natural features; and/or

(3) The parcel contains substantial portions of floodplain and wetlands.

(C) *Site design requirements.* All developments submitted under this option shall conform to the following site design requirements.

(1) Development is permitted as either attached or detached dwelling units, provided the number of attached units shall not exceed 20% of the total number of units.

(2) (a) When completed, the development shall have 20% of the gross acreage in the development devoted to open space, which shall remain in its natural state and/or be restricted to active and/or passive outdoor recreational purposes. Dedication of open space shall comply with the standards set forth in § 154.087. Designated open space shall include area within any greenbelts required by divisions (C)(3) and (C)(4) below, subject to the restrictions contained herein.

(b) The computation of designated open space shall not include: rights-of-way or easements designated for road purposes; areas within the minimum setbacks of a dwelling unit; land which is underwater (lakes, streams, watercourses, and other similar bodies of water); any area to be improved into a lake or pond; and/or more than 25% of the area of regulated wetlands.

(3) (a) In addition to any required minimum setback specified in division (C)(6) below, a greenbelt, the minimum width as set forth below, shall be required along any adjacent public street. The greenbelt shall be measured from the street right-of-way. The Planning Commission, at its discretion, may permit either reductions or variations in width of the greenbelt taking into consideration topographic and/or other natural resource conditions, density of existing vegetation to be preserved, and size and shape of the development site.

(b) The following minimum greenbelt from adjacent public streets shall be applied.

<i>Minimum Width of Greenbelt from Adjacent Public Streets</i>	
<i>District</i>	<i>Feet</i>
R-1	50
R-2	35
R-3	35

(4) In order to provide an orderly transition of density when an open space development abuts a single-family residential district of equal or lower density, the Planning Commission, at its discretion, may require one or more of the following measures: designation of open space along the common boundaries; screening in accordance with the requirements of § 154.111(E); and/or an area or row of lots of commensurate size as neighboring residential lots.

(5) The number of dwelling units within any development permitted hereunder shall not exceed the number of dwelling units permitted in the zoning district in which the proposed development is located without application of the open space development option. The applicant must submit a concept plan that illustrates a site layout without the open space development option and all applicable ordinances and laws observed.

(6) Minimum setback requirements are established in a manner which permits variation in the siting of individual dwelling units in order to encourage creativity in design and compatibility with natural resource features. The minimum setback requirements for each dwelling unit shall be shown on the site plan as follows.

(a) In the case of single-family detached dwellings, the following minimum setbacks shall be applied.

<i>Minimum Yard Setbacks Per Unit</i>
---------------------------------------



<i>District</i>	<i>Front</i>	<i>Rear</i>	<i>Side</i>	
			<i>Least</i>	<i>Total</i>
R-1	20	30	5	15
R-2	20	30	5	15
R-3	20	30	5	15

(b) In the case of single-family attached dwellings, the following minimum setbacks shall be required.

<i>Minimum Setback</i>		
<i>District</i>	<i>From Internal Streets Right-of-way</i>	<i>From Perimeter Property Boundaries</i>
R-1	20	50
R-2	20	50
R-3	20	50

(7) Any lot contained within an open space development shall have frontage on and direct access to a public street which has been accepted for maintenance by the city. The extent of street frontage shall be determined by the Planning Commission, at its discretion, taking into consideration topographic and/or other natural resource considerations, size, and shape of the development site, and public safety factors.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.087 OPEN SPACE PRESERVATION.**

(A) (1) Whenever the preservation of open space is required by this chapter, the applicant shall provide a demonstrated means that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the city and the land uses continue as approved in the open space development plan.

(2) The dedicated open space shall be set aside by the applicant through an irrevocable conveyance that is found acceptable to the City Attorney, such as:

- (a) Recorded deed restrictions; and/or
- (b) Covenants that run perpetually with the land.

(B) Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

- (1) Indicate the proposed allowable use(s) of the dedicated open space;
- (2) Demonstrate to the satisfaction of the city that dedicated open space shall be maintained;
- (3) Provide standards for scheduled maintenance of the open space; and/or

(4) Provide for maintenance to be undertaken by the city in the event that the dedicated open space is inadequately maintained, or is determined by the city to be a public nuisance, with the assessment of costs upon property owners within the proposed development.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.088 MOBILE HOME PARK REQUIREMENTS.**

(A) The Mobile Home Code, as established by the Mobile Home Commission and the State Department of Public Health Rules under the authority of the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 through 125.2350, as amended, regulates development of mobile home parks. All mobile home parks must be constructed according to the standards of the Code.

(B) In addition to the rules and standards of the state, the city imposes the following conditions:

(1) Mobile home parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 through 125.2350, as amended, and subsequently adopted rules and regulations governing mobile home parks;

(2) Mobile home parks shall not be permitted on parcels less than ten acres in size;

(3) Individual mobile home sites within a mobile home park shall have a minimum lot size of 5,500 square feet per mobile home being served. This 5,500 square foot minimum may be reduced by 20%, provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through this reduction of the site below 5,500 square feet, an equal amount of land shall be dedicated as open space. In no case shall the open space requirements be less than that required under R125.1946, Rule 946 of the M.A.C.;

(4) The on-site storage of boat trailers, boats, camping units, horse trailers, and similar recreational equipment shall be prohibited on mobile home sites and in designated open space areas. The mobile home park may provide, within the confines of the park, a common outdoor storage area for the storage of the above mentioned equipment;

(5) (a) Mobile home parks shall be landscaped as follows:

1. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development;

2. If the park abuts a non-residential development, the park need not provide screening; and

3. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

(b) The landscaping shall consist of evergreen trees or shrubs a minimum three feet in height, which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.

(6) Mobile home parks shall be subject to preliminary plan review requirements and overseen by the Planning Commission in accordance with Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 through 125.2350, as amended; and/or

(7) A permit shall not be required for the construction or erection of canopies or awnings which are open on three sides. A building permit shall be required, however, before the construction or erection of any screened, glassed-in, or otherwise enclosed awning or canopy.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.089 DAY CARE FACILITIES.**

(A) *Intent.* It is the intent of this section to establish standards for day care facilities, which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood.

(B) *Application of regulations.*

(1) A state licensed family day care home shall be considered a residential use of property and a permitted use in all residential districts.

(2) The Planning Commission may, by issuance of a special use permit, authorize the establishment of group day care homes and day care centers as specified in district regulations and subject to the standards herein.

(C) *Standards for group day care homes.* Group day care homes shall be considered as a special land use subject to the requirements and standards of § 154.023 and the following additional standards:

- (1) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located and shall be connected to public sewer and water, where available;
- (2) The property is maintained in a manner that is consistent with the character of the neighborhood;
- (3) An outdoor play area of at least 500 square feet shall be provided on the premises. Said play area shall not be located within the front yard setback. This requirement may be waived by the Planning Commission if a public play area is within 500 feet of the subject parcel;
- (4) All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet;
- (5) The hours of operation do not exceed 16 hours within a 24-hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the drop-off and pick-up of children is not disruptive to neighboring residents;
- (6) One off-street parking space per employee not a member of the group day care home family shall be provided; and
- (7) Appropriate licenses with the state shall be maintained.

(D) *Standards for day care centers.* Day care centers shall be considered as a special land use subject to the requirements and standards of § 154.023 and the following standards:

- (1) The day care center shall be served by public sewer and water, where available;
- (2) A separate drop-off and pick-up area shall be provided adjacent to the main building entrance, located off of a public street and the parking access lane, and shall be of sufficient size so as to not create congestion on the site or within a public roadway;
- (3) Off-street parking shall be provided at a rate of one space per employee plus one space for every five children enrolled at the facility;
- (4) A fenced outdoor play area of at least 1,000 square feet shall be provided on the premises. Said play area shall not be located within the front setback. This requirement may be waived by the Planning Commission if public play area is available 500 feet from the subject parcel; and
- (5) Appropriate licenses with the state shall be maintained.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.090 ADULT FOSTER CARE FACILITIES.**

(A) *Intent.* It is the intent of this section to establish standards for adult foster care facilities, which will ensure compatibility with adjacent land uses and maintain the character of the neighborhood.

(B) *Application of regulations.*

- (1) A state licensed adult foster care small group home serving six persons or less and adult foster care family home shall be considered a residential use of property and a permitted use in all residential districts.
- (2) The Planning Commission may, by issuance of a special use permit, authorize the establishment of adult foster care small group homes serving between six and 12 persons and adult foster care large group homes serving between 13 and 20 in the following zoning districts: R-1; R-2; R-3; R-4; and R-5.
- (3) The Planning Commission may, by issuance of a special use permit, authorize the establishment of an adult foster care congregate facility serving more than 20 adults in the R-4 District.

(C) *Standards for adult foster care small group homes serving between six and 12 persons and adult foster care large group homes.* Such homes shall be considered as a special land use subject to the requirements and standards of § 154.023 and the following additional standards:

- (1) A site plan, prepared in accordance with § 154.024, shall be required to be submitted;
- (2) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or care givers;
- (3) The property is maintained in a manner that is consistent with the character of the neighborhood;
- (4) One off-street parking space per employee and/or caregiver shall be provided;
- (5) At its sole discretion, the Planning Commission may determine that landscape screening in accordance with § 154.111(E) is required; and
- (6) Appropriate licenses with the state shall be maintained.

(D) *Standards for adult foster care congregate facilities.* Such facilities shall be considered as a special land use subject to the requirements and standards of § 154.023 and the following standards:

- (1) A site plan, prepared in accordance with § 154.024, shall be required to be submitted;
- (2) The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located, provided there is a minimum site area of 1,500 square feet per adult, excluding employees and/or care givers;
- (3) Parking requirements as required for convalescent homes and similar facilities, set forth in §§ 154.175 through 154.184 shall be met;
- (4) All landscape requirements set forth in § 154.111 shall be met; and
- (5) Appropriate licenses with the state shall be maintained.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.091 SELF-STORAGE FACILITIES.**

Self-storage facilities shall be subject to the following requirements and conditions.

(A) No activity other than rental of storage units and the rental of outside storage space for recreational vehicles shall be allowed. No commercial, wholesale, retail, industrial, or other business use on, or operated from, the facility shall be allowed, other than those sales conducted to liquidate stored items as performed by owner.

(B) The storage of any toxic, explosive, corrosive, flammable, or hazardous materials is prohibited. Fuel tanks on any motor vehicle, boat, lawn mower, or similar property will be drained or removed prior to storage. Batteries shall be removed from vehicles before storage.

(C) Other than the storage of recreational vehicles, all storage shall be contained within a building. All recreational vehicle storage shall be screened from the view of neighboring properties and public roads in accordance with § 154.111.

(D) Exterior walls of the ends of all storage units shall be of masonry or face-brick construction.

(E) All storage units must be accessible by paved access drives clearly marked to distinguish traffic flow. A minimum 24-foot wide drive shall be provided between buildings. Site circulation shall be designed to accommodate fire trucks, as well as trucks that will customarily access the site.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.092 SALES OF NEW AND USED AUTOMOBILES, BOATS, MOBILE HOMES, FARM MACHINERY, AND OTHER VEHICLES.**

Sales for new and used automobiles, boats, mobile homes, farm machinery, and other vehicles shall be subject to the following provisions.

- (A) No strings of flags, pennants, or bare light bulbs shall be permitted.
- (B) No vehicles or merchandise for sale shall be displayed or stored within any required front yard setback.
- (C) No broadcast of continuous music or announcements over any loudspeaker or public address system shall be permitted.
- (D) Separation shall be made between the pedestrian sidewalk and vehicular parking and maneuvering areas with the use of curbs, wheel stops, greenbelts, or traffic islands.
- (E) All activities related to vehicle washing, service, and repair equipment shall be entirely enclosed within a building.
- (F) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with uses located adjacent to and across the site.
- (G) Inoperative or unlicensed vehicles or discarded or salvaged materials shall not be stored outside.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.093 GENERAL, BUILDING, AND LANDSCAPE CONTRACTORS OFFICES AND YARDS.**

(A) A contractor's office building shall be of permanent construction. Temporary construction trailers shall be permitted only during the duration of a construction project, in accordance with § 154.067(B). Outdoor storage shall be strictly and clearly accessory to the contractor's principal office use of the property. Only products, materials, and equipment owned and operated by the principal use shall be permitted for storage.

(B) Storage shall not be located within the required front yard. Such storage shall not be located in any required parking or loading space.

(C) Storage shall be screened from the view of public street, and adjacent properties zoned either residential, commercial, or office. Screening measures shall meet the requirements of § 154.111(E).

(D) The location and size of areas for storage, nature of items to be stored therein, and details of the enclosure, including description of materials, height, and typical elevation of the enclosure shall be provided as part of the information submitted under § 154.024.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.094 AUTOMOBILE SERVICE STATIONS AND WASHES.**

Automobile service stations and washes shall be subject to the following standards.

(A) Separation shall be made between the pedestrian sidewalk and vehicular parking and maneuvering areas with the use of curbs, wheel stops, greenbelts, or traffic islands.

(B) All activities related to vehicle washing, service, and repair equipment shall be entirely enclosed within a building.

(C) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with uses located adjacent to and across from the site.

(D) Inoperative or unlicensed vehicles shall not be stored outside for more than seven days. Such storage shall not occur in front of the building front line.

(E) Vehicle sales shall not be permitted on the premises of any automobile service station or wash.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.095 AUTOMOBILE REPAIR AND COLLISION SHOPS.**

Automobile repair and collision shops shall be subject to the following standards.

(A) The outside storage of automobiles to be repaired shall be screened from off-site view by walls (including building walls) or fences at least eight feet in height. However, a screening wall or fence less than eight feet high, but not less than six feet high, existing on the date of enactment of this provision may serve in lieu of such eight-foot wall or fence. Fences or walls of six feet in height is permitted in the front yard so long as it does not inhibit the vision of drivers entering or exiting the site. All outside storage areas, including the material and surface of screening walls or fences, shall be specifically shown on the site plan, and be approved by the Planning Commission.

(B) Wrecked, damaged, or otherwise inoperable motor vehicles shall be stored in said parking/storage area for a period not to exceed 96 hours. No more than a total of three such vehicles per service bay shall be stored at any time.

(C) Storage of materials, supplies, equipment, or similar items shall be in an enclosed building.

(D) Dismantling and/or salvaging of vehicles for parts recovery is prohibited.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.096 SIDEWALK CAFÉ SERVICES AND SALES.**

A sidewalk café service operated by a restaurant or other food establishment which sells food for immediate consumption may be permitted in the Central Business District (CBD), subject to the following conditions.

(A) A site plan depicting the location and layout of the café facility shall be required. Approval for the use is to be done administratively by the Zoning Administrator. A permit shall remain in effect, unless a change in ownership occurs or the operation of the café fails to meet the standards contained herein.

(B) A sidewalk café may be located in the front yard of or adjacent to the establishment. A sidewalk café that extends beyond the property lines of the applicant shall require the permission of the affected property owners.

(C) If a sidewalk café is located on a public sidewalk, a minimum of five feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Adequate space shall be provided for vehicle entry between on-street parking spaces and the sidewalk café.

(D) A sidewalk café shall be allowed only during normal operating hours of the establishment.

(E) The exterior of the premises shall be kept clean, orderly, and maintained or the permit may be revoked. All food preparation shall be inside of the premises.

(F) The city shall not be held liable or responsible for any type of damage, theft, or personal injury which may occur as a result of a sidewalk café operation.

(G) All sidewalk cafés shall comply with applicable regulations of the County Health Department and the state.

(H) Use of sidewalks for other than sidewalk café service, particularly for sidewalk sales, is also permitted in the CBD, subject to the above conditions and the following: the time limit for sidewalk sales and other such uses shall be limited. The sidewalk sales shall not exceed 48 hours. In addition, the use of the sidewalk for such at a particular location shall be limited to three times a year.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.097 BED AND BREAKFAST ACCOMMODATIONS.**

(A) Each premises must be occupied and operated by its owner.

(B) The proposed use shall not cause a nuisance to adjoining residences due to noise, odor, lighting, or traffic.

(C) No bed and breakfast sleeping room shall be permitted that does not comply with the construction code.

(D) No separate cooking facilities shall be used for bed and breakfast stay.



(E) The stay of bed and breakfast occupants shall be no more than 14 consecutive days and not more than 30 days in any one calendar year.

(F) The operator of each facility shall keep a list of the names of all persons staying at the bed and breakfast; the list shall be available for inspection by the Zoning Administrator.

(G) One bathroom for every three sleeping rooms shall be provided, with a minimum of two bathrooms.

(H) One hard surface parking space such as asphalt or concrete shall be provided off-street in the side or rear yard area for each bed and breakfast bedroom.

(I) One non-illuminated wall sign made of wood shall be permitted, not to exceed six square feet in display area.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.098 WIRELESS COMMUNICATION FACILITIES.**

### *(A) Findings.*

(1) The Federal Telecommunications Act of 1996 (“the Act”), being 47 U.S.C. Ch. 5, Subchs. I, II and VI, grants the Federal Communications Commission (FCC) exclusive jurisdiction over:

(a) The regulation of the environmental effects of radio frequency (RF) emissions from telecommunications facilities; and

(b) The regulation of radio signal interference among users of the RF spectrum.

(2) The city’s regulation of WCEC, WCE and WCSS in the city will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the act.

(B) *Purposes.* The general purpose of this section is to regulate the placement, construction, and modification of WCEC, WCE and WCSS in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city. Specifically, the purposes of this chapter are:

(1) To regulate the location of WCEC, WCE, and WCSS in the city;

(2) To protect residential areas and land uses from potential adverse impact of WCEC, WCE, and WCSS;

(3) To minimize adverse visual impact of WCEC, WCE, and WCSS through careful design, siting, landscaping, and innovative camouflaging techniques;

(4) To promote and encourage the collocation of WCE as a primary option rather than construction of new WCSS;

(5) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new WCSS structures to support WCE;

(6) To avoid potential damage to property caused by WCEC, WCE, and WCSS by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and

(7) To ensure that WCEC, WCE, and WCSS are compatible with surrounding land uses.

### *(C) Collocation of wireless communications equipment (WCE).*

(1) To encourage collocation and to minimize the number of WCSS within the city, WCE shall be considered a permitted accessory use and not subject to local zoning approval by the city when all of the following criteria are met:

(a) The WCE will be collocated on an existing WCSS or an existing equipment compound;

(b) The existing WCSS or existing equipment compound is in compliance with local zoning requirements or received prior approval by the city;

(c) The proposed collocation will not:

1. Increase the overall height of the WCSS by more than 20 feet or 10% of its original height, whichever is greater;
2. Increase the width of the WCSS by more than the minimum necessary to permit collocation; and
3. Increase the area of the existing WCEC to greater than 2,500 square feet.

(d) The proposed collocation complies with the terms and conditions of any previous final approval of the WCSS or equipment compound by the city.

(2) WCE installations that are part of a proposed collocation activity that meet the requirements of divisions (C)(1)(a) and (C)(1)(b) above, but do not meet the requirements of division (C)(1)(c) above or division (C)(1)(d) above, shall be subject to special use approval procedures outlined in § 154.023. The Zoning Administrator shall determine that the special use permit application is administratively complete within 14 business days of its receipt. The Planning Commission shall also approve or deny the application not more than 60 days after the application is considered to be administratively complete.

(3) WCE installations that are part of a proposed collocation activity and which also fully meet the requirements of division (C)(1) above shall be considered a permitted use of property and not subject to special use procedures or any other zoning approval by the city. Plans for such installation shall be administratively reviewed by the Zoning Administrator to verify compliance with such requirements. The Zoning Administrator shall complete his or her administrative review of the proposed installation plans within 14 business days of his or her receipt of such plans.

*(D) Installation of wireless communications equipment (WCE) not part of a proposed collocation activity.*

(1) The installation of a new WCE not part of a proposed collocation activity shall comply with the following provisions.

(a) WCE shall require no personnel on the premises except as is necessary for maintenance and repair of the WCE and/or supporting WCSS.

(b) Equipment shelters, cabinets, and similar structures located within a WCEC shall not be greater than 15 feet in height and shall meet all requirements for accessory buildings specified in § 154.061.

(c) All WCE shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical, taking into consideration the location of the WCE and the line of sight angle and its visibility and distance from the right-of-way and neighboring uses.

(d) WCE proposed to be located on a historic landmark or in a designated historic district may be denied if the WCE would visually detract from the historic character of the historic landmark or district.

(e) This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, and the like).

(2) The installation of WCE not part of a proposed collocation activity meeting the requirements of division (D)(1) above shall be considered to be a permitted use of property not subject to special use permit approval or any other zoning approval by the city. Plans for such installation shall be administratively reviewed by the Zoning Administrator to verify compliance with such requirements. The Zoning Administrator shall complete his or her administrative review of the proposed installation plans within 14 business days of his or her receipt of such plans.

*(E) Development of a new wireless communication equipment compound (WCEC) and wireless communication support structure (WCSS).*

(1) A WCEC and WCSS shall be allowed as a special use of land in the General Commercial and Limited Industrial zoning districts subject to the approval procedures of § 154.023 and additional requirements herein.

(2) WCSS are exempt from the maximum height restrictions of the districts where located. WCSS shall be permitted to a height of 150 feet.

(3) The applicant must include a statement in the application of its good faith intent to allow the collocation of the WCE of other entities, provided that the cost of modifying the WCEC and WCSS to accommodate the collocation WCE is borne by the collocating entity.

(4) An application to develop a WCEC and WCSS shall include:

(a) The name, address, and telephone number of the owner and lessee of the parcel of land upon which the WCEC is situated. If the applicant is not the owner of the parcel of land upon which the WCEC is situated, the written consent of the owner shall be evidenced in the application;

(b) The legal description, parcel number, and address of the parcel of land upon which the WCEC is to be situated;

(c) The application shall include a map showing existing and known proposed WCSS within the city, and further showing existing and known WCSS within areas surrounding the borders of the city in the location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility;

(d) A description of the design plan proposed by the applicant in the city. Applicant must identify its utilization of the most recent technological design, including micro-cell design, as part of the design plan. The applicant must demonstrate the need for a WCSS and why design alternatives, such as the use of micro-cell, cannot be utilized to accomplish the provision of the applicant's telecommunications services;

(e) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the WCE on city-owned WCSS located within the city limits and/or a one-half mile radius of the proposed WCEC site;

(f) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the WCE on WCSS owned by others located within the city limits and/or a one-half mile radius of the proposed WCEC site;

(g) Written technical evidence from a licensed engineer(s) that the proposed WCE cannot be installed or collocated on another person's WCSS owned by other persons located within the city limits and/or a one-half mile radius of the proposed WCEC site;

(h) A written statement from a licensed engineer(s) that the construction and placement of the WCSS will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties;

(i) Written, technical evidence from a licensed engineer(s) that the proposed structure will be structurally sound and, at minimum, in conformance with the Building Code, and any other standards outlined in this chapter;

(j) Written, technical evidence from a licensed engineer(s) acceptable to the Fire Chief and the Building Official that the proposed site of the WCEC does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals;

(k) In order to assist city staff and the Planning Commission in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the WCSS with a photo-realistic representation of the proposed WCSS as it would appear viewed from the closest residential property and from adjacent roadways;

(l) The Act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the city to condition or deny on the basis of RF impacts the approval of any telecommunications facilities (whether mounted on towers or antenna support structures) which meet FCC standards. In order to provide information to its citizens, the city shall make available upon request copies of ongoing FCC information and RF emission standards for telecommunications facilities transmitting from towers or antenna support structures. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards; and

(m) Written documentation demonstrating compliance with the Bishop International Airport Joint Airport Zoning Ordinance 98-1 and copies of any permits required under such ordinance. For a tower in the vicinity of any other airport, copies of permits from the MDOT Office of Aeronautics as may be required under the state's Tall Structure Act, Public Act 259 of 1959, being M.C.L.A. §§ 259.481 through 259.493, as amended.

(5) The Planning Commission may require an applicant to supplement any information that the Commission considers inadequate or that the applicant has failed to supply. The Commission may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this division (E). The Zoning Administrator shall determine whether the special use permit application is administratively complete within 14 business days of its receipt. The Planning Commission shall approve or deny the application not more than 90 days after the application is considered administratively complete.

(F) *Setbacks.*

(1) All WCSS up to 100 feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. WCSS in excess of 100 feet in height shall be set back one additional foot per each foot of tower height in excess of 100 feet.

(2) Setback requirements for WCSS shall be measured from the outermost edge of the WCEC to the property line of the parcel of land on which it is located.

(3) Setback requirements may be modified, as provided in division (P) below, when placement of a WCSS in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the WCSS.

(4) WCEC shall be separated from all residentially zoned lands by a minimum of 200 feet or 200% of the height of the proposed WCSS, whichever is greater.

(5) Proposed WCEC must meet the following minimum separation requirements from existing WCEC or WCEC which have a special use permit but are not yet constructed at the time a special use permit is granted pursuant to this code.

(a) Monopole WCSS shall be separated from all other WCSS, whether monopole, self-supporting lattice, or guyed, by a minimum of 750 feet.

(b) Self-supporting lattice or guyed WCSS shall be separated from all other self-supporting or guyed WCSS by a minimum of 1,500 feet.

(c) Self-supporting lattice or guyed WCSS shall be separated from all monopole WCSS by a minimum of 750 feet.

(G) *Method of determining WCSS height.* Measurement of WCSS height for the purpose of determining compliance with all requirements of this section shall include the WCSS structure itself, the base pad, and any other telecommunications facilities attached thereto. WCSS height shall be measured from natural grade.

(H) *Illumination.* WSS shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).

(I) *Exterior finish.* WCSS not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

(J) *Landscaping.* All landscaping on a parcel of land containing WCEC, WCE, and WCSS shall be in accordance with the applicable landscaping requirements in the zoning district where the facilities are located. The city may require landscaping in excess of the requirements in this code of ordinances in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.

(K) *Access.* A parcel of land upon which a WCEC is located must provide access to at least one paved vehicular parking space on site.

(L) *Stealth design.* All towers shall be of stealth design.

(M) *Modification of wireless communication support structures (WCSS).*

(1) A WCSS existing prior to the effective date of this chapter, which was in compliance with the city's zoning regulations immediately prior to the effective date of this chapter, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt and shall comply with all of the requirements of this chapter including:

(a) The WCSS is being modified or demolished and rebuilt for the sole purpose of accommodating, within six months of the completion of the modification or rebuild, additional WCE comparable in weight, size, and surface area to the WCE of any company currently installed on the WCSS;

(b) An application for a special use permit is made to the Planning Commission. The Zoning Administrator shall determine that the application for approval is administratively complete within 14 business days of its receipt. The Planning Commission shall approve or deny the application not more than 90 days after the application is considered administratively complete. The granting of a special use permit pursuant to this section allowing the modification or demolition and rebuild of an existing nonconforming WCSS shall not be considered a determination that the modified or demolished and rebuilt WCSS is conforming; and

(c) The height of the modified or rebuilt WCSS attached thereto does not exceed the maximum height allowed under this chapter.

(2) Except as provided in this section, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than 180 days. This chapter shall not be interpreted to legalize any structure or use existing at the time this chapter is adopted which structure or use is in violation of this code of ordinances prior to enactment of this chapter.

(N) *Inspections.*

(1) The city or its agents shall have authority to enter onto the property upon which a WCEC is located to inspect the WCSS for the purpose of determining whether it complies with the Building Code and all other construction standards provided by this code of ordinances and federal and state law.

(2) The city reserves the right to conduct such inspections at any time, upon reasonable notice to the WCEC owner. All expenses related to such inspections by the city shall be borne by the WCEC owner.

(O) *Maintenance.*

(1) WCEC owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(2) WCEC owners shall install and maintain WCSS, WCE, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

(3) All WCSS and WCE shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

(4) All maintenance or construction of WCSS and WCE shall be performed by licensed maintenance and construction personnel.

(5) All WCSS shall maintain compliance with current RF emission standards of the FCC.

(6) In the event that the use of a WCSS is discontinued by the WCEC owner, the WCEC owner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued and the WCSS and WCE removed.

(P) *Criteria for site plan development modifications.*

(1) Notwithstanding the requirements provided in this section, a modification to the requirements may be approved by the Planning Commission as a special use. In requesting such modification, the following information

shall be provided:

(a) A description of how the plan addresses any adverse impact that might occur as a result of approving the modification;

(b) A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification;

(c) A technical study that documents and supports the criteria submitted by the applicant upon which the request for modification is based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties;

(d) For a modification of the setback requirement, the application shall identify all parcels of land where the proposed WCSS could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts; and

(e) The Planning Commission may require the application to be reviewed by an independent licensed engineer under contract to the city to determine whether the study supports the basis for the modification requested. The cost of review by the independent licensed engineer shall be reimbursed to the city by the applicant.

(2) The Planning Commission shall consider the application for modification based on the following criteria:

(a) The WCSS as modified will be compatible with and not adversely impact the character and integrity of surrounding properties;

(b) Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification; and

(c) In addition, the Planning Commission may include conditions on the site where the WCEC and WCSS is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed facility and mitigate any adverse impacts which arise in connection with the approval of the modification.

(3) In addition to the requirements of division (P)(1) above, in the following cases, the applicant must also demonstrate, with written evidence, the following:

(a) In the case of a requested modification to the setback requirement, division (F) above, that the setback requirement cannot be met on the parcel of land upon which the WCSS is proposed to be located and the alternative for the person is to locate the WCSS at another site which is closer in proximity to a residentially zoned land;

(b) In the case of a request for modification to the separation and buffer requirements from other WCSS of division (F) above, that the proposed site is zoned General Commercial or Limited Industrial and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in division (F) above;

(c) In the case of a request for modification of the separation and buffer requirements from residentially zoned land of division (F) above, if the applicant provides written technical evidence from a licensed engineer(s) that the proposed WCSS and WCE must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the WCEC and WCSS from being visible to residentially zoned property; and

(d) In the case of a request for modification of the height limit for WCSS, that the modification is necessary to:

1. Facilitate collocation of WCE in order to avoid construction of a new WCSS; or

2. To meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed WCSS is the minimum height required to function satisfactorily, and no WCSS that is taller than such minimum height shall be approved.



(Q) *Abandonment.*

(1) If any WCSS shall cease to be used for a period of 270 consecutive days, the Zoning Administrator shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the Planning Commission that such site has been abandoned. The owner shall have 30 days from receipt of said notice to show, by a preponderance of the evidence, that the WCSS has been in use or under repair during the period. If the owner fails to show that the WCSS has been in use or under repair during the period, the City Council shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within 75 days, dismantle and remove the WCSS.

(2) To secure the obligation set forth in this section, the applicant, and/or owner, shall post a bond, at the time of issuance of the building permit, in the minimum amount of \$50,000. Said bond shall be renewed annually. Such amount shall be determined by the Planning Commission based on the anticipated cost of removal of the WCSS.

(Ord. 285, passed 12-8-2003; Ord. 369, passed 6-8-2015) Penalty, see § 154.999

**§ 154.099 JOINT WORKING AND LIVING QUARTERS.**

(A) *Purpose.* This section provides standards for the development of new work/live units and for the reuse of existing commercial structures to accommodate work/live opportunities where allowed by the applicable zoning district regulations of the Local Service District (LS). A work/live unit shall function predominantly as work space with incidental residential accommodations that meet basic habitability requirements.

(B) *Design and development standards.*

(1) Work/live units shall be subject to the following criteria, as well as all standards of the LS District.

(2) General prerequisites include the following: at the time of application approval and for the reasonable foreseeable future, the commercial site and surrounding area are suitable for joint residential and commercial use; the project is designed to provide flexible work space in conjunction with living areas that are conducive to work environment; and residential and commercial uses are integrated in such a manner as to address noise, hazardous materials, and other health and safety issues on-site as well as off-site.

(C) *Space requirements.*

(1) The project site must remain primarily in commercial use. At no time shall more than 50% of the combined floor area of buildings identified for reuse or new buildings constructed on a project site be dedicated or used for work/live units. All remaining floor area on a project site shall be dedicated and reserved exclusively for other commercial and uses allowable in the LS District.

(2) All designated work space shall be designed to accommodate commercial uses as evidenced by the provision of flooring, interior storage, ventilation, storefront windows, roll-up doors, and/or other physical improvements of the type commonly found in exclusively commercial facilities used for the same work activity.

(3) The living area of the work/live unit shall be at least 500 square feet and shall not be occupied so that each person residing therein shall have less than 200 square feet of living space.

(4) The living area of the work/live unit shall be attached to or part of the primary building in which a business is normally operated.

(D) *Integration of commercial and living space.* The commercial use shall be the primary focus of the front of the building. Living space shall be physically integrated into the work/live unit and shall not be separately rented, leased, or sold. Mezzanines and lofts within the unit may be used as living space subject to compliance, with the other provisions of this section.

(E) *Parking requirements.* Work/live units shall comply with the parking standards set forth in §§ 154.175 through 154.184. A minimum of two spaces for the residential use shall be included as part of the parking calculation. The Planning Commission may modify this requirement to decrease or increase the required parking as appropriate to allow for the reuse of existing structures with limited parking or to accommodate authorized employees and/or customer or client visits.

(F) *Operating requirement.*

(1) A work/live unit shall be occupied and used only by the owner of the business within the unit and his or her immediate family (specifically defined as spouse and children/stepchildren).

(2) The owner or developer of any structure containing work/live units shall provide written notice to all work/live occupants and users that the surrounding area may be subject to levels of dust, fumes, noise, or other effects associated with commercial uses at higher levels than would be expected in more typical residential areas. Noise and other standards shall be those applicable to commercial properties in the LS District.

(3) An ongoing business must exist to allow residential occupancy of the work/live unit. If the business ceases to operate, the special land use permit shall end and the living area must be vacated within six months of the last day of business.

(4) The business and residential areas must be maintained separately and no business activity inclusive of, but not limited to, storage of any inventory or servicing or maintenance of any product shall be allowed in the residential area.

(5) Special use permits under this section shall be issued for a period of one year and must be renewed annually by application of the occupants. No fee shall be required for this renewal.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## ENVIRONMENTAL PROTECTION AND DESIGN PROVISIONS

### § 154.110 PURPOSE.

Environmental standards are established in order to preserve the short- and long-term environmental health, safety, and quality of the city. No parcel, lot, building, or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards. No use, otherwise allowed, shall be permitted within any district, which does not conform to the following standards of use, occupancy, and operation. These standards are established as minimum requirements to be maintained.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### § 154.111 LANDSCAPING, GREENBELTS, BUFFERS, AND SCREENING.

(A) *Intent.* The intent of this section is to:

- (1) Protect and preserve the appearance, character, and value of the community;
- (2) Minimize noise, air, and visual pollution;
- (3) Improve the overall aesthetics and appearance, divide the expanse of pavement, and define parking areas and vehicular circulation within off-street parking lots and other vehicular use areas;
- (4) Require buffering of residential areas from more intense land uses and public road rights-of-way;
- (5) Prevent soil erosion and soil depletion and promote sub-surface water retention;
- (6) Encourage an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce a more aesthetic and cohesive design; and
- (7) Encourage the integration of existing woodlands in landscape plans.

(B) *Landscaping definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BERM.** A landscaped mound of earth, which blends with the surrounding terrain.

**BUFFER.** A landscaped area composed of living material, a screen wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.

**CONFLICTING NON-RESIDENTIAL LAND USE.** Any non-residential use, such as office, commercial, industrial, research, parking, or public road right-of-way land use which abuts a residential land use.

**CONFLICTING RESIDENTIAL USE.** Any residential land use developed at a higher density, which abuts a residential land use developed at a lower density.

**GREENBELT.** A landscaped area, established at a depth of the minimum required front yard setback within a zoning district, which is intended to provide a transition between a public road right-of-way and an existing or proposed land use and/or between a conflicting land use and an existing or proposed land use.

**OPACITY.** The state of being impervious to sight.

**PLANT MATERIAL.** A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines, and ground cover, including annual and perennial bedding plants.

(C) *Application of requirements.*

(1) These requirements shall apply to all uses for which site plan review is required under § 154.024 and subdivision plat review as required under the Subdivision Control Ordinance.

(2) No site plan, site condominium plan, or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

(D) *Landscape plan requirements.* A separate detailed landscape plan shall be required to be submitted to the city as part of the site plan review or tentative preliminary plat review. The landscape plan shall demonstrate that all requirements of this section are met and shall include, but not necessarily be limited to, the following items:

(1) Location, spacing, size, root type, and descriptions for each plant type;

(2) Typical straight cross section including slope, height, and width of berms;

(3) Typical construction details to resolve specific site conditions, such as landscape retaining walls and tree wells used to preserve existing trees or maintain natural grades;

(4) Details in either text or drawing form to ensure proper installation and establishment of proposed plant materials;

(5) Identification of existing trees and vegetative cover to be preserved;

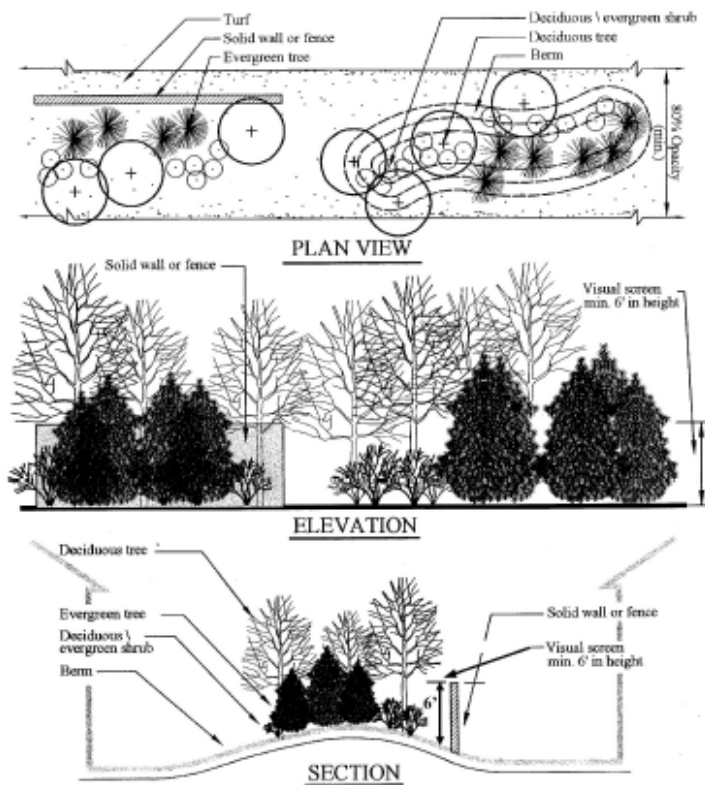
(6) Identification of grass and other ground cover and method of planting; and

(7) Identification of a landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this chapter.

(E) *Screening between land uses.* (See Figure 7.) Upon any improvement for which a site plan is required, a landscape buffer shall be constructed to create a visual screen at least six feet in height along all adjoining boundaries between either a conflicting non-residential or conflicting residential land use and residentially zoned or used property. The width of the buffer may vary, provided that all standards of this section are met. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least 80%. Opacity shall be measured by observation of any two square yard area of landscape screen between one foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three years. Where a need to provide a greater noise or dust barrier or to screen more intense development is determined by the Planning Commission, a solid wall, fence, or landscaped berm, or combination thereof, shall be required. Such screen shall be a minimum of six feet in height as measured on the side of the proposed wall having the higher grade. When a wall is required by the Planning Commission, the required wall shall be located on the lot line except where underground utilities interfere and except in instances where this chapter requires conformity with front yard setback

requirements. Upon review of the landscape plan, the Planning Commission may approve an alternate location of a wall. The Planning Commission shall approve the construction materials of the wall or fence, which may include face brick, integral color split-face masonry, stone, or wood.

**Figure 7**



(F) *Parking lot landscaping.*

(1) *Required landscaping within parking lots.* Separate landscape areas shall be provided within parking lots in accordance with the following requirements (see Figure 8):

(a) A minimum of one tree shall be provided for every eight parking spaces, provided that a landscape island shall be provided for no more than 16 continuous spaces;

(b) Landscaping shall be arranged in curbed islands within the parking lot, which shall not be less than 50 square feet in area;

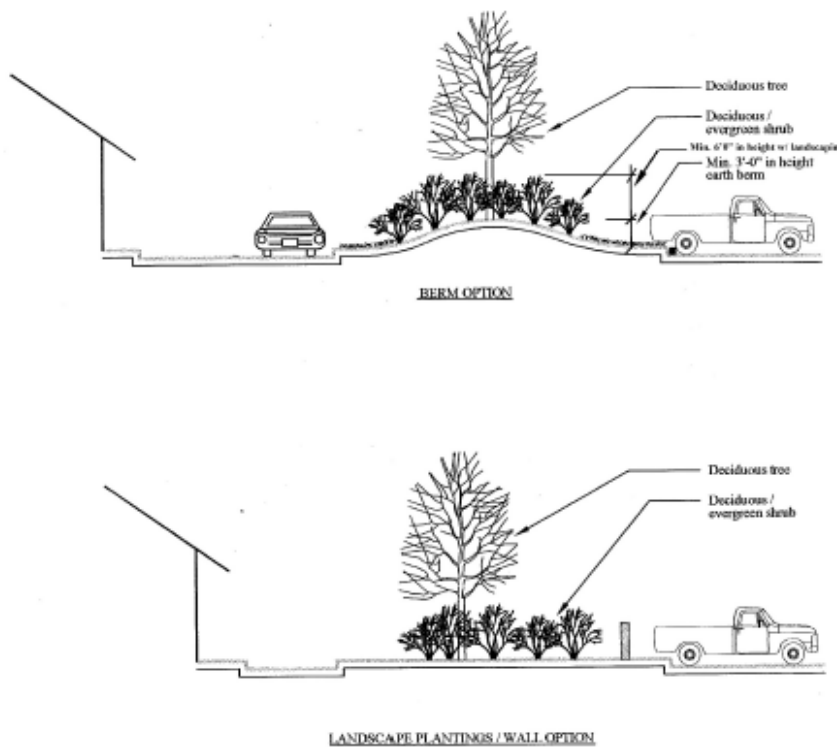
(c) A minimum distance of three feet from the backside of the curb and the proposed centerline of the landscape plantings shall be provided. Where vehicles overhang a landscape island or strip, a minimum distance of five feet from the backside of the curb and the proposed centerline of the landscape plantings shall be provided;

(d) The Planning Commission, at its discretion, may approve alternative landscape plantings at the perimeter of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing; and

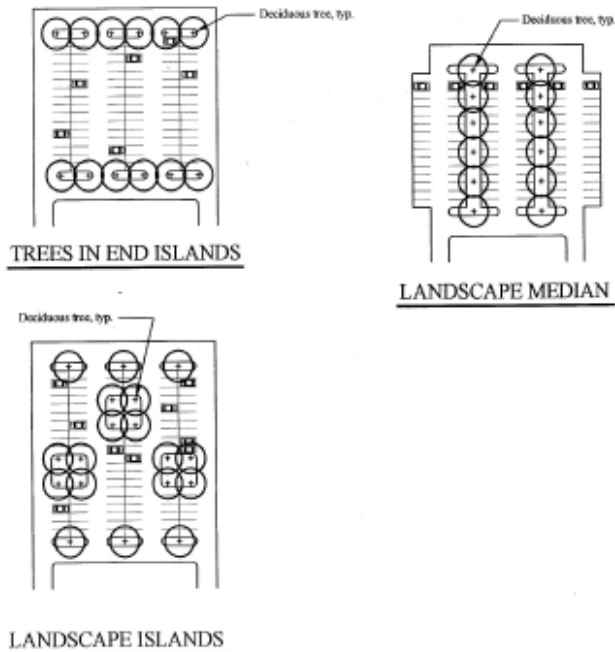
(e) All landscaped areas shall be protected with raised concrete curbs.

(2) *Required landscaping at the perimeter of parking lots.* Separate landscape areas shall be provided at the perimeter of parking lots in accordance with the following requirements (see Figure 9): parking lots, which are considered to be a conflicting land use as defined by this chapter shall meet the screening requirements set forth in division (E) above (see Figure 7); parking lots shall be screened from view with a solid wall or landscaped berm at least three feet in height along the perimeter of those sides which are visible from a public road (see Figure 9); and all landscaped areas shall be protected with raised concrete curbs.

**Figure 8**



**Figure 9**



(G) *Greenbelts*. A greenbelt shall be provided which is an area established at a depth of the required front yard setback within a zoning district and landscaped in accordance with the following requirements (see Figure 10):

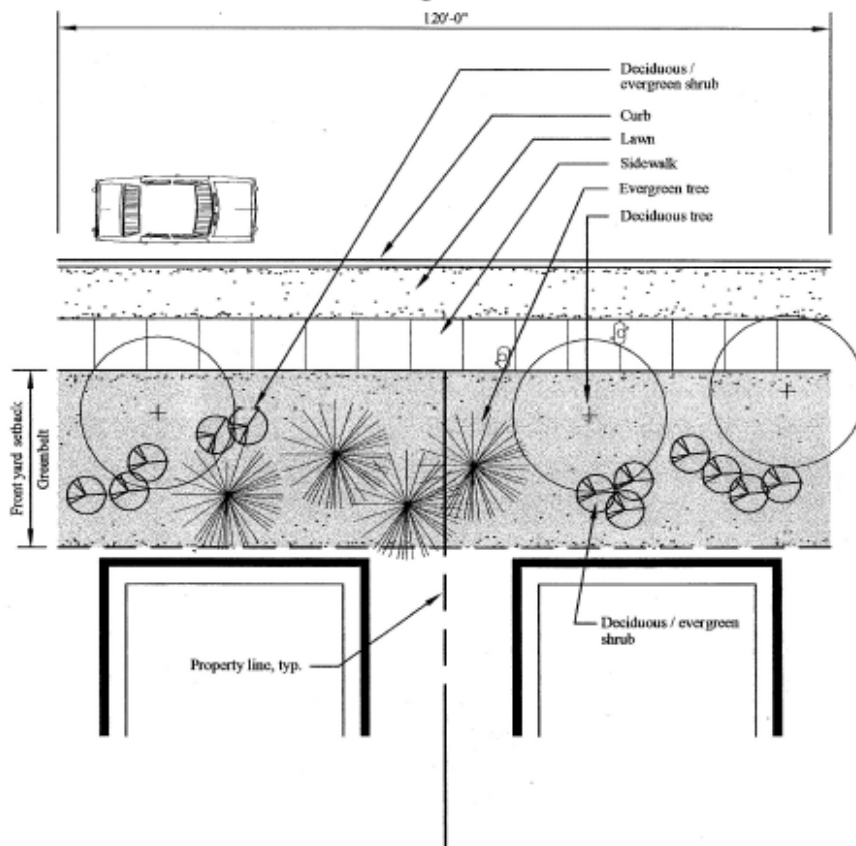
- (1) The greenbelt shall be landscaped with a minimum of one tree for every 30 lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Non-ornamental deciduous trees within a greenbelt shall be a minimum caliper of two and one-half inches or greater. Evergreen trees within a greenbelt shall be a minimum height of six feet;

(2) If ornamental deciduous trees are substituted for either non-ornamental deciduous trees or evergreen trees, they shall be provided at a minimum of one tree for every 20 lineal feet, or fraction thereof, of frontage abutting a public road right-of-way. Ornamental deciduous trees within a greenbelt shall be a minimum caliper of two inches or greater;

(3) In addition to the required trees within the greenbelt, the remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and other natural landscape materials; and

(4) Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

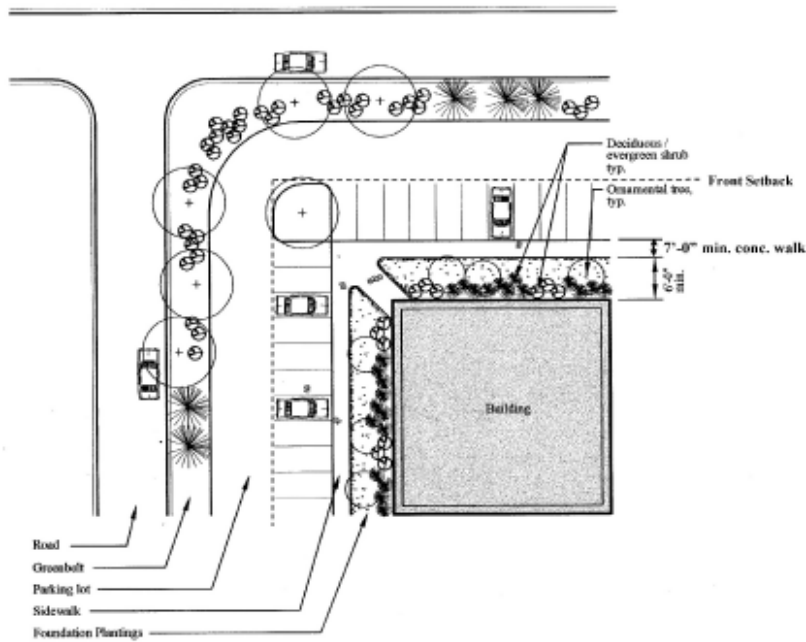
**Figure 10**



(H) *Site landscaping.* In addition to any landscape greenbelt and/or parking lot landscaping required by this section, 20% of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing tree cover, planting of new trees and plant material, landscape plazas and gardens, and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air conditioning units, and loading areas. (See Figure 11.)

**Figure 11**





(I) *Subdivision and site condominium landscaping.* Landscaping for single-family residential subdivisions and site condominiums shall be provided in accordance with the following requirements.

(1) *Street trees.* The frontage of all internal public or private streets shall be landscaped with a minimum of one tree for every 50 lineal feet, or fraction thereof. Such street trees shall meet the minimum size and spacing requirements set forth in division (L) below.

(2) *Screening between land uses.* Where a subdivision or site condominium contain uses which are defined as conflicting land uses by this section, the screening requirements set forth in division (E) above shall be met.

(3) *Screening from public roads.* Where a subdivision or site condominium abuts a public road right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in division (E) above shall be met.

(4) *Other site improvements.* A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the development, stormwater retention and/or detention areas, community buildings and other recreational areas, and any other site improvement which would be enhanced through the addition of landscaping.

(J) *Screening of trash containers.* (See Figure 12.)

(1) Outside trash disposal containers shall be screened on all sides with an opaque fence or wall, and gate at least as high as the container, but no less than six feet in height, and shall be constructed of material which is compatible with the architectural materials used in the site building or project.

(2) Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the buildings or projects they serve.

(3) Containers and enclosures shall be located away from public view insofar as possible.

(4) Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.

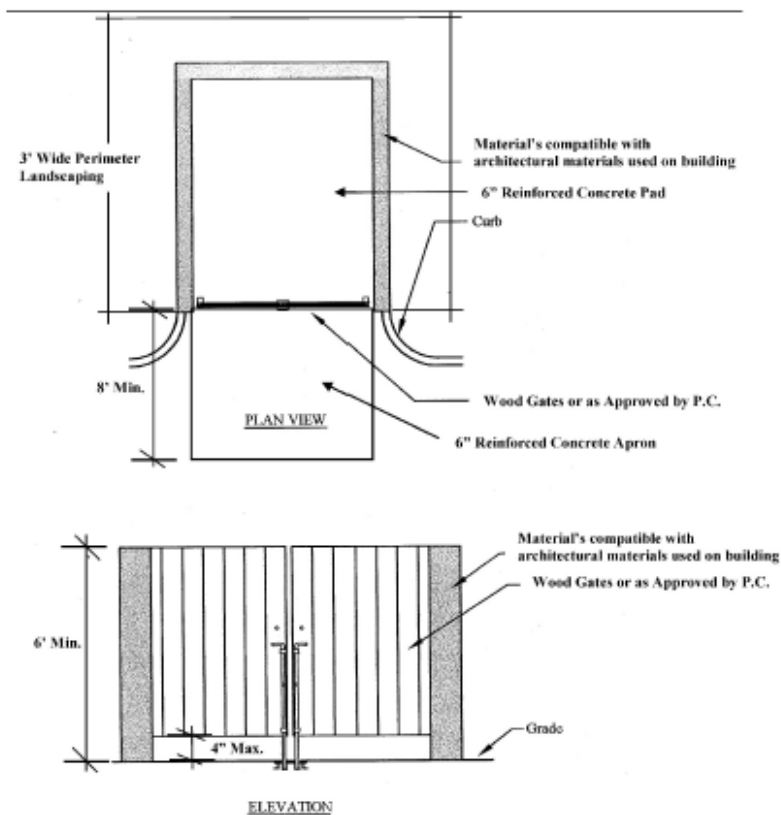
(5) Concrete pads of appropriate size and construction shall be provided for containers or groups of containers. Concrete aprons shall also be provided for bin loading.

(6) For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.

(7) Screening and gates shall be of a durable construction. Gates shall be made of wood or other durable material and shall be reinforced with a steel sub-structure.

(8) Landscaping shall be provided within three feet of the perimeter of the trash container, and shall consist of evergreen trees or large evergreen shrubs consistent with division (K) below.

**Figure 12**



(K) *Landscape elements.* The following minimum standards shall apply.

(1) *Quality.* Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to the county, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.

(2) *Composition.* A mixture of plant material, such as evergreen, deciduous trees, and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.

(3) *Berms.* Berms shall be constructed with slopes not to exceed a one to three gradient. Berm slopes shall be protected with sod, seed, mulch, or other form of natural living ground cover.

(4) *Existing trees.* The preservation and incorporation of existing trees is encouraged. Where existing trees are used to satisfy the requirements of this section, the following requirements shall apply:

(a) Paving or other site improvements shall not encroach upon the dripline of the existing tree(s) to be preserved;

(b) If existing plant material is labeled "To Remain" on site plans by the applicant or required by the city, protective techniques such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Planning Commission; and

(c) In the event that healthy trees which are used to meet the minimum requirements of this chapter or those labeled to remain are cut down, destroyed, damaged, filled, or excavated at the dripline, as determined by the city, the contractor shall replace them with trees which meet ordinance requirements.

(5) *Installation, maintenance, and completion.*

(a) All landscaping required by this chapter shall be planted before obtaining a certificate of occupancy or the appropriate financial guarantee, as set forth in § 154.027, shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.

(b) All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.

(c) The owner of property required to be landscaped by this chapter shall maintain such landscaping in a strong and healthy condition, free from refuse, debris, and insects. All materials used to satisfy the requirements of this chapter which become unhealthy or dead shall be replaced within one year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply. Mulching up to the base of trees shall be prohibited.

(L) *Minimum size and spacing requirements.* Where landscaping is required the following schedule sets forth minimum size and spacing requirements; for representative landscape materials.

<i>Tree Size and Spacing Requirements</i>									
<i>Trees</i>	<i>Minimum Size Allowable (Height/Caliper)</i>				<i>Recommended On-center Spacing (In Feet)</i>				
	<i>6'</i>	<i>3'-4'</i>	<i>2"</i>	<i>2.5"</i>	<i>30</i>	<i>25</i>	<i>15</i>	<i>10</i>	
<i>Evergreen Trees:</i>									
Douglas fir	T							T	
Fir	T							T	
Hemlock	T							T	
Pine	T							T	
Spruce	T							T	
<i>Large Deciduous Trees:</i>									
Ash				T		T			
Beech				T		T			
Birch				T			T		
Ginko (male only)				T		T			
Honeylocust (seedless,thornless)				T		T			
Linden				T			T		
Maple				T		T			
Oak				T		T			

Sycamore				T		T			
<b><i>Narrow Evergreen Trees:</i></b>									
Arborvitae		T							T
Juniper (selected varieties)		T							T
Red cedar		T							T
<b><i>Small Deciduous Trees (Ornamental):</i></b>									
Flowering cherry, plum, pear			T				T		
Flowering crabapple			T					T	
Flowering dogwood (disease resistant)			T					T	
Hawthorn			T					T	
Hornbeam			T				T		
Magnolia			T					T	
Mountain ash			T					T	
Redbud			T				T		

<b><i>Shrub Size and Spacing Requirements</i></b>									
<b><i>Shrubs</i></b>	<b><i>Minimum Size Allowable (Height/Caliper)</i></b>				<b><i>Recommended On-center Spacing (In Feet)</i></b>				
	<b><i>6'</i></b>	<b><i>3'-4'</i></b>	<b><i>24'-36'</i></b>	<b><i>18"-24"</i></b>	<b><i>10</i></b>	<b><i>6</i></b>	<b><i>5</i></b>	<b><i>4</i></b>	<b><i>3</i></b>
<b><i>Large Deciduous Shrubs:</i></b>									
Buckthorn/tallhedge		T						T	
Cotoneaster (peking and spreading)			T					T	
Dogwood (red osier and grey)			T				T		
Euonymous (burning bush)			T				T	*	
Flowering quince			T				T		
Honeysuckle			T			T			
Lilac			T			T			
Privet			T				T		
Pyracantha				T				T	

Sumac			T				T		
Viburnum varieties			T				T		
Weigela		T							T
<b><i>Large Evergreen Shrubs:</i></b>									
Alberta spruce		T							T
Chinensis juniper varieties			T				T		
Hicks yew				T					T
Mugho pine				T			T		
Pyramidal yew		T				T			
Sabina juniper				T				T	
Spreading yew			T					T	
<b><i>Small Deciduous Shrubs:</i></b>									
Barberry				T				T	
Cotoneaster				T					T
(rockspray, cranberry)				T				T	
Dwarf winged euonymus				T				T	*
Fragrant sumac				T					
Japanese quince				T					T
Potentilla				T					T
Spirea				T					T
<b><i>Small Evergreen Shrubs:</i></b>									
Boxwood				T					T *
Brown's ward's sebion yews				T					T
Euonymous spreading varieties				T				T	
Horizontalis juniper varieties				T			T		
Table notes:									
*: for hedge plantings									

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.112 FENCES, WALLS, AND SCREENS.**

(A) Any person desiring to build or cause to be built a fence upon property within the city shall first apply to the Zoning Administrator for a permit. Application for such permit shall contain any and all information, including site plan and opacity, which are required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this chapter.

(B) Except as otherwise required by this chapter, the following regulations shall apply.

(1) In any residential district, fences in the required front yard shall not exceed three feet in height and 65% solid surface. Fences in the side or rear yards shall not exceed six feet in height.

(2) In LS, GC, CBD, and LI Districts, no fence, wall, or other screening structure shall exceed eight feet in height and shall only be placed in side or rear yards.

(3) The use of barbed wire, spikes, nails, or any other sharp point or instrument of any kind on top or on the sides of any fence is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary in the interests of public safety.

(4) No fence shall be constructed or maintained which is charged or connected with an electrical current.

(5) Screen and/or retaining walls shall be designed and constructed in accordance with applicable Building Code requirements. Retaining walls shall include face brick and similar materials to ensure that walls are of a high aesthetic quality.

(6) Temporary construction fences and fences required for protection around excavations shall comply with the Building Code. Such fences shall be permitted for as long as 90 days following issuance of the building permit.

(7) Clear vision requirements are:

(a) No fence, wall, screen, hedge, sign, or other structure or planting shall obstruct visibility between the heights of 30 inches and ten feet above the sidewalk grade within 25 feet of the intersection of two or more streets; and

(b) On any interior lot, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of a driveway, either on a parcel or on an adjacent parcel, between the height of 30 inches and ten feet measured a distance of 20 feet back from the point where the driveway intersects the street.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.113 AIRBORNE EMISSIONS.**

(A) *Smoke and air contaminants.* It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of air quality standards adopted by federal and/or state regulatory authorities.

(B) *Odors.*

(1) Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor.

(2) The provisions of this section are not intended to apply to farming activities.

(C) *Gases.* The escape or emission of any gas, which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.114 NOISE AND VIBRATION.**



(A) Noise, which is objectionable as determined by the city due to volume, frequency, or beat shall be muffled, attenuated, or otherwise controlled, subject to the following.

(1) Objectionable sounds of an intermittent nature, or sounds characterized by high frequencies, shall be controlled so as not to become a nuisance to adjacent uses.

(2) Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.

(3) Noise levels shall not exceed 75 decibels between the hours of 6:00 a.m. and 10:00 p.m. and shall not exceed 60 decibels between the hours of 10:00 p.m. and 6:00 a.m., and must comply with the levels set forth in the following table.

<b><i>Sound Levels in Decibels at Property Lines</i></b>		
<b><i>Sound Level</i></b>	<b><i>Adjacent to R-1, R-2, R-3, R-4, and R-5 Districts</i></b>	<b><i>Adjacent to LS, GC, CBD and LI Districts</i></b>
0 to 75	58	73
75 to 150	54	69
150 to 300	50	65
300 to 600	46	61
600 to 1,200	40	55
1,200 to 2,400	33	43
2,400 to 4,800	26	41
Over 4,800	20	35

(4) Noise levels noted in division (A)(3) above may be exceeded with City Council approval for special events and circumstances.

(B) No use shall generate any ground transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply.

<b><i>Particle Velocity, Inches Per Second</i></b>	
<b><i>Frequency in Cycles per Second</i></b>	<b><i>Displacement in Inches</i></b>
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

(C) Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.115 USE, STORAGE, AND HANDLING OF HAZARDOUS SUBSTANCES; STORAGE AND DISPOSAL OF SOLID, LIQUID, AND SANITARY WASTES.**

(A) It shall be unlawful for any person, firm, corporation, or other legal entity to pollute, impair, or destroy the air, water, soils, or other natural resources within the city through the use, storage, and handling of hazardous substances and/or wastes or the storage and disposal of solid, liquid, gaseous, and/or sanitary wastes.

(B) Any person, firm, corporation, or other legal entity operating a business or conducting an activity which uses, stores, or generates hazardous substances shall obtain the necessary permits or approval from the appropriate federal, state, or local authority having jurisdiction.

(C) (1) Any person, firm, corporation, or other legal entity operating a business or conducting an activity which uses, stores, or generates hazardous substances shall complete and file a hazardous chemicals survey on a form supplied by the city in conjunction with the following: upon submission of a site plan and inventory of hazardous wastes; upon any change of use or occupancy of a structure or premises; and upon any change of the manner in which such substances are handled, and/or in the event of a change in the type of substances to be handled.

(2) All site plans for business or facilities which use, store, or generate hazardous substances shall be reviewed by the Fire Department, City Engineer, and any other appropriate experts determined necessary by the Planning Commission prior to approval by the Planning Commission.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.116 ELECTRICAL DISTURBANCE, ELECTROMAGNETIC, OR RADIO FREQUENCY INTERFERENCE.**

No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.117 SITE AND EXTERIOR LIGHTING STANDARDS.**

(A) *Light and glare from indirect sources.* The design and/or screening of the development shall ensure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property. Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

(B) *Exterior lighting from direct sources.*

(1) Ground illumination shall not exceed one and one-half foot-candles average maintained. The light intensity at ground level shall not exceed one-tenth foot-candles at the property line adjacent to residentially zoned or used property and one foot candle measured at the property line adjacent to all other uses.

(2) Free standing light standards including base shall not exceed 20 feet in total height and if located in the city's Historic District, standards and light fixtures shall be of a period design approved by the Historic District Commission prior to final site plan approval by the Planning Commission.

(3) All light fixtures shall be of a sharp cut-off design. Fixtures that allow light to shine on adjoining property or create horizontal glare shall not be approved. Lighting designs that allow light to shine into a public street or right-of-way shall not be approved.

(4) Free standing light fixtures shall be of a design to direct light into the development and away from adjacent property. House side shields shall be required in residential areas adjacent to any illuminated sites.

(5) Illumination of buildings, monuments, or flags shall not exceed 15 foot-candles average maintained. All fixtures shall be shielded or designed to prohibit glare from shining into any residential area, street, or public right-

of-way.

(6) Lighting designer and/or fixture manufacturer shall provide a drawing with photometric layout of the proposed design to show actual initial foot-candle levels on a plot plan sealed by a professional engineer or architect licensed in the state. Submitted drawing shall include detailed fixture schedule, which shall include manufacturer's name, catalog number, lamp type, and wattage. A complete set of manufacturer's catalog specification sheets for each fixture type used on lighting design shall be included with photometric submittal.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.118 FIRE HAZARD.**

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.119 SAFETY.**

Existing hazards or potential hazards and nuisances, such as construction sites, junk yards, landfills, sanitary landfills, demolition sites, unused basements, abandoned wells or cisterns and sand, gravel, and stone pits or piles are to be enclosed by suitable fencing or barriers so as not to endanger public health, safety, and welfare.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.120 STORMWATER MANAGEMENT.**

(A) (1) All developments and earth changes subject to review under the requirements of this chapter shall be designed, constructed, and maintained to prevent flooding and protect water quality. The particular facilities and measures required on-site shall reflect the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site.

(2) Where it is determined that the public storm drainage system lacks sufficient capacity to control drainage to off-site properties and drainageways, the city may require on-site detention storage of stormwater in accordance with the standards of the city and County Drain Commission.

(B) Stormwater management shall comply with the following standards.

(1) The design of storm sewers, detention facilities, and other stormwater management facilities shall comply with the standards of the County Drain Commission or the city design standards, whichever is more restrictive.

(2) Stormwater management conveyance, storage, and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to stormwater runoff and soil erosion from the proposed development.

(3) The use of swales and vegetated buffer strips is encouraged in cases where it is safe as a method of stormwater conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants.

(4) Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent or downstream property owners.

(5) Discharge of runoff from any site, which may contain oil, grease, toxic chemicals, or other polluting materials is prohibited. If a property owner desires to propose measures to reduce and trap pollutants, the owner must meet the requirements of the State Department of Environmental Quality and the County Drain Commissioner, based upon professionally accepted principles, such a proposal shall be submitted and reviewed by the City Engineer, with consultation of appropriate experts.

(6) Drainage systems shall be designed to protect public health and safety and to be visually attractive, taking into consideration viable alternatives.

(7) Maintenance of detention basins shall be the responsibility of the property owner.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.121 REGULATION OF FLOODPLAIN AREAS.**

### *(A) Purpose.*

(1) The floodplains of the city are subject to periodic inundation of floodwaters, which result in loss of property, health, and safety hazards, disruption of commerce and governmental service, and impairment of tax base.

(2) It is the purpose of this section to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968, being 42 U.S.C. §§ 4001 through 4218, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency (FEMA), as published in the Federal Register, Vol. 41, No. 207, October 26, 1976, and redesignated at 44 F.R. 31177, May 31, 1979.

(3) The provisions of this section are intended to:

(a) Help protect human life, prevent or minimize material losses, and reduce the cost to the public for rescue and relief efforts;

(b) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause excessive increases in flood heights or velocities;

(c) Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction;

(d) Protect individuals from buying lands which are designated to be unsuited for intended purposes because of flooding; and

(e) Permit reasonable economic use of property located within a designated floodplain area.

### *(B) Delineation of floodplain areas.*

(1) Designated floodplain areas shall overlay existing zoning districts delineated on the zoning district map of the city. The boundaries of the floodplain areas are identified in the report entitled the "Flood Insurance Study, City of Linden" prepared by FEMA with an effective date of 1980, as may be revised from time to time. The study and accompanying maps are adopted by reference, appended, and declared to be part of this chapter.

(2) The standard applied to establishing the floodplain area is the base floodplain delineated by the base flood. In areas associated with riverine flooding, a floodway is designated within the floodplain area.

(3) Where disputes as to the location of a floodplain area boundary arise, the Zoning Board of Appeals shall resolve the dispute in accordance with §§ 154.215 through 154.219.

### *(C) Application of regulations.*

(1) In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within designated floodplain areas. Conflicts between the requirements of this section and other requirements of this chapter or any other ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this section. In such cases, the more stringent requirement shall be applied.

(2) Upon application for land use permits, the Zoning Administrator shall determine whether said use is located within a designated floodplain area utilizing the documents cited in division (B) above. The issuance of a land use permit within the floodplain area shall comply with the following standards:

(a) The requirements of this section shall be met;

(b) The requirement of the underlying districts and all other applicable provisions of this chapter shall be met; and

(c) All necessary development permits shall have been issued by appropriate local, state, and federal authorities, including a floodplain permit, approval, or letter of authority from the state's Floodplain Regulatory Authority, found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), Public Act 451 of 1994, being M.C.L.A. §§ 324.11501 et seq., as amended. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

(3) Floodplain management administrative duties are as follows.

(a) With regard to the National Flood Insurance Program, and the regulation of development within the flood hazard area zone as prescribed in division (D) below, the duties of the Zoning Administrator shall include, but are not limited to:

1. Notification to adjacent communities and the Department of Environmental Quality of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;

2. Verification and recording of the actual elevation in relation to National Geodetic Vertical Datum (NGVD) of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of flood proofed structures, the elevation to which the structure was flood proofed; and

3. Recording of all certificates of flood proofing, and written notification to all applicants to whom variances are granted in flood hazard area zone indicating the terms of the variance. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.

(b) All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.

(c) It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering the ordinance in the absence of data from FEMA.

(D) *Floodplain standard and requirements.*

(1) The following general standards and requirements shall be applied to all uses proposed to be located within the floodplain area:

(a) All new construction and substantial improvements within a floodplain, including the placement of prefabricated buildings and mobile homes, shall:

1. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
2. Be constructed with materials and utility equipment resistant to flood damage; and
3. Be constructed by methods and practices that minimize flood damage.

(b) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems;

(c) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters;

(d) All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage;

(e) Adequate drainage shall be provided to reduce exposure to flood hazards;

(f) The City Engineer or his or her representative shall review development proposals to determine compliance with the standards in this section, and shall transmit his or her determination to the Zoning

Administrator;

(g) Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this subchapter;

(h) The flood carrying capacity of any altered or relocated watercourse not subject to state and federal regulations designed to ensure flood carrying capacity shall be maintained; and

(i) Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by FEMA shall take precedence over data from other sources.

(2) The following specific standards shall be applied to all uses proposed to be located within the floodplain area but not within the floodway portion of the floodplain area. All new construction and substantial improvements of non-residential structures shall have either:

(a) The lowest floor, including basement, elevated at least one-tenth foot above the base flood level; and

(b) Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with base flood in the location of the structure.

(3) The following general standards and requirements shall be applied to mobile homes located within floodplain areas:

(a) Anchoring must meet HUD specifications, per rule 605;

(b) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the County Sheriff Department for mobile home parks and mobile home subdivisions; and

(c) Mobile homes within Zones A1-30 on the Flood Insurance Rate Map shall be located in accord with the following standards.

1. All mobile homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.

2. Adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.

3. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for piers more than six feet above ground level.

4. In mobile home parks and mobile home subdivisions which exist at the time this division (D)(3) is adopted, where repair, reconstruction, or improvement of streets, utilities, and pads equals or exceeds 50% of the value of the streets, utilities, and pads before the repair, the standards in the divisions above shall be complied with.

(4) The following standards shall be applied to all uses proposed to be located within the floodway portion of the floodplain area.

(a) Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the Department of Environmental Quality that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), Public Act 451 of 1994, being M.C.L.A. §§ 324.11501 et seq., as amended.

(b) The placement of mobile homes shall be prohibited.



(c) The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this section.

(E) *Warning and disclaimer of liability.*

(1) The degree of flood protection required by provisions of this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study.

(2) Larger floods may occur on rare occasions.

(3) These provisions do not imply that areas outside the floodplain or land uses permitted within such districts will be free from flooding or flood damages nor shall the city or any officer or employee thereof be liable for any flood damages that result from reliance on the provisions of this section or any administrative decision lawfully made thereunder.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.122 BUILDING GRADES.**

(A) Any building requiring yard space shall be located at such an elevation that a finished grade shall be maintained to cause the flow of surface water to run away from the walls of the building. All grades shall be established and maintained so that surface water runoff damage does not occur to adjoining properties prior to, during, and after construction.

(B) When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the project engineer shall use the existing established finished grade or the minimum established grade, in determining the proper grade around the new building. The yard around the new building shall be graded in such a manner as to meet existing codes and to preclude normal runoff of surface water to flow onto the adjacent property.

(C) Final grades shall be approved by the City Engineer who may require a grading plan, which has been duly completed and certified by a professional engineer or land surveyor.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **PLANNED UNIT DEVELOPMENT DISTRICT**

### **§ 154.135 PURPOSE AND INTENT.**

Planned unit development (PUD) district regulations are intended to provide for various types of land uses planned in a manner which shall: encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the city; and bring about a greater compatibility of design and use. The provisions of this subchapter provide enabling authority and standards for the submission, review, and approval of applications for planned unit developments.

(Ord. 285, passed 12-8-2003)

### **§ 154.136 PUD REGULATIONS.**

(A) A planned unit development (PUD) may be applied for in any zoning district. The granting of a planned unit development application shall require a rezoning by way of amendment of this chapter upon the recommendation of the Planning Commission and approval of the City Council.

(B) Any land use authorized in this chapter may be included in a planned unit development, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development.

(C) The applicant for a planned unit development must demonstrate each of the following criteria as a condition to being entitled to planned unit development treatment:

(1) Granting of the planned unit development will result in at least one of the following:

(a) A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations;

(b) Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or

(c) A nonconforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.

(2) The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets, and utilities;

(3) The proposed development shall be consistent with the public health, safety, and welfare of the city;

(4) The proposed development shall not result in an unreasonable negative environmental impact on the subject site or surrounding land;

(5) The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties;

(6) The proposed development shall be under single ownership and/or control such that there is a single person having responsibility for completing the project in conformity with this chapter; and

(7) The proposed development shall be consistent with the goals and policies of the Master Plan.

(Ord. 285, passed 12-8-2003)

#### **§ 154.137 PROCEDURE FOR REVIEW.**

(A) *Pre-application conference.* Prior to the submission of an application for planned unit development approval, the applicant shall meet with the Zoning Administrator, together with any staff and consultants the Administrator deems appropriate. The applicant shall present at such conference, or conferences, at least a sketch plan of the proposed planned unit development, as well as the following information: total number of acres in the project; a statement of the number of residential units, if any; the number and type of non-residential uses, the number of acres to be occupied by each type of use; the known deviations from ordinance regulations to be sought; the number of acres to be preserved as open or recreational space; and all known natural resources and natural features to be preserved.

(B) *Preliminary plan.*

(1) Following the pre-application conference, the applicant shall submit a preliminary site plan of the proposed planned unit development. The preliminary site plan shall be prepared in accordance with the standard set forth in § 154.024(C). A narrative report shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in § 154.136(C) have been met.

(2) The preliminary plan shall be noticed for public hearing as a zoning amendment before the Planning Commission. Following the hearing, the Planning Commission shall review the preliminary site plan and shall take one of the following actions.

(a) *Approval.*

1. Upon finding that the preliminary plan meets the criteria and standards set forth in §§ 154.135 and 154.136, the Planning Commission shall grant preliminary approval. Approval shall constitute approval of the uses and design concept as shown on the preliminary plan and shall confer upon the applicant the right to proceed to preparation of the final plan.

2. Approval of the preliminary plan by the Planning Commission shall not constitute rezoning of the property to PUD nor bind the City Council to approval of the final plan.

(b) *Tabling.* Upon finding that the preliminary plan does not meet the criteria and standards set forth in §§ 154.135 and 154.136, but could meet such criteria if revised, the Planning Commission may table action until a revised preliminary plan is resubmitted.

(c) *Denial.* Upon finding that the preliminary plan does not and cannot meet the criteria and standards set forth in §§ 154.135 and 154.136, the Planning Commission shall deny preliminary approval.

(C) *Final plan.* Within six months following receipt of the Planning Commission comments on the preliminary plan, the applicant shall submit a final plan and supporting materials conforming with this section. If a final plan is not submitted by the applicant for final approval within six months following receipt of Planning Commission comments, the preliminary plan approval becomes null and void.

(1) *Information required.* A final site plan and application for a PUD shall contain the following information:

- (a) A site plan meeting all requirements of § 154.024(D);
- (b) A separately delineated specification of all deviations from this chapter, which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development subchapter;
- (c) A specific schedule of the intended development and construction details, including phasing or timing;
- (d) A specific schedule of the general improvements to constitute a part of the development including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features;
- (e) A specification of the exterior building materials with respect to the structures proposed in the project; and
- (f) Signatures of all parties having an interest in the property.

(2) *Planning Commission and action.*

(a) The final plan shall constitute an application to amend this chapter, and shall be noticed for public hearing as a zoning amendment before the Planning Commission, and otherwise acted upon by the Planning Commission and the City Council, as provided by law.

1. *Approval.* Upon finding that the final plan meets the criteria and standards set forth in §§ 154.135 and 154.136, the Planning Commission shall recommend approval to the City Council.

2. *Tabling.* Upon finding that the final plan does not meet the criteria and standards set forth in §§ 154.135 and 154.136, but could meet such criteria if revised, the Planning Commission may table action until a revised final plan is resubmitted.

3. *Denial.* Upon finding that the final plan does not and cannot meet the criteria and standards set forth in §§ 154.135 and 154.136, the Planning Commission shall recommend denial to the City Council.

(b) The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the planned unit development project including, without limitation, recommendations with respect to matters on which the City Council must exercise discretion.

(3) *City Council action.*

(a) Upon receiving a recommendation from the Planning Commission, the City Council shall review the final plan. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in §§ 154.135 and 154.136, the City Council shall approve, table or deny the final plan.

(b) Prior to approval of a final plan, the City Council shall require all standards and conditions of approval to be incorporated in a development agreement. The agreement shall be prepared by the City Attorney, reviewed by the City Planner, approved by the City Council, and signed by both the city and the applicant.

(Ord. 285, passed 12-8-2003; Ord. 361, passed 6-8-2015)

## **§ 154.138 PROJECT DESIGN STANDARDS.**

(A) *Residential design standards.*

(1) The property shall be a minimum size of two acres.

(2) (a) Residential density shall not be greater than the maximum density permitted in the zoning district in which the property is situated immediately prior to reclassification under this subchapter.

(b) Additional density for residential uses may be allowed at the discretion of the Planning Commission and based upon a demonstration by the applicant of consistency with the Master Plan and of planning and design excellence resulting in a material benefit to the city, adjacent land uses, and/or the ultimate users of the project, where such benefit would otherwise be unlikely to be achieved without the application of the PUD regulations including, without limitation, innovative design producing significant energy efficiency, pedestrian or vehicular safety, long term aesthetic beauty, and protection and preservation of natural resources and features.

(B) *Non-residential design standards.*

(1) The property shall be a minimum size of one acre.

(2) Non-residential uses may be permitted in combination with other non-residential uses or as part of a common development with residential uses.

(3) The non-residential uses, including parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principles.

(C) *General design standards.*

(1) (a) All regulations applicable to setbacks, parking and loading, general provisions, and other requirements shall be met in relation to each respective land use in the development based upon zoning districts in which the use is listed as a principal permitted use. In all cases, the strictest provisions shall apply.

(b) Notwithstanding division (C)(1)(a) above, deviations with respect to such regulation may be granted as part of the overall approval of the planned unit development, provided features or elements demonstrated by the applicant and deemed adequate by the Planning Commission are designed into the project plan for the purpose of achieving the objectives of this subchapter.

(2) To the maximum extent feasible, the development shall be designed so as to preserve the natural resources and natural features. The benefit, which would reasonably be expected to accrue from the proposal, shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state, and national concern for the protection and preservation of the natural resources or features and the following criteria:

(a) The availability of feasible and prudent alternative methods of accomplishing any development;

(b) The extent and permanence of the beneficial or detrimental effects of the proposed activity; and

(c) The size, quality, and rarity of the natural resources or natural features which would be impaired or destroyed.

(3) A perimeter setback and berming shall be required from the Planning Commission for the purpose of buffering the development in relation to surrounding properties. If the planned unit development project includes non-residential uses adjacent to a district authorizing residential uses, and/or if the project is larger than one acre in area, such perimeter setback shall be established with a dimension from the property line of up to 50 feet at the discretion of the Planning Commission, taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.

(4) Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.

(5) Underground installation of utilities shall be required, including electricity and telephone, as found necessary by the Planning Commission.

(6) Pedestrian walkways shall be separated from vehicular circulation, as found necessary by the Planning Commission.

(7) Signage, lighting, landscaping, building materials for the exterior of all structures, and other features of the project shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.

(8) Where non-residential uses adjoin off-site residentially zoned property, noise reduction, and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls, shall be employed. The Planning Commission, at its discretion, shall review and approve the design and location of such mechanisms.

(9) The City Council upon the recommendation of the Planning Commission shall resolve all ambiguities as to applicable regulations using this chapter, the Master Plan, and other city standards or policies as a guide.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.139 CONDITIONS.**

(A) Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

(B) Conditions imposed shall be designed to: protect the public health, safety, and welfare; preserve natural features and resources; and be necessary to meet the intent and purpose of this chapter, and ensure compliance with the standards of this chapter. All conditions imposed shall be made a part of the record of the approved planned unit development.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.140 PHASING AND COMMENCEMENT OF CONSTRUCTION.**

(A) *Phasing.* Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. All conditions that are phase specific shall be completed during development of the subject phase, and cannot be postponed for completion during other phases. In addition, in developments which include residential and non-residential uses, the relative mix of uses, and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable at the discretion of the City Council after recommendation from the Planning Commission.

(B) *Commencement and completion of construction.* To ensure completion of required improvements, the city is authorized to impose performance guarantees in accordance with § 154.027. Construction shall be commenced within one year following final approval of a planned unit development and shall proceed substantially in conformance with the schedule set forth by the applicant, as required by division (A) above. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the City Council upon good cause shown if such request is made to the City Council prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the City Council, based on a recommendation from the Planning Commission, shall be authorized to rezone the property in any reasonable manner and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and ordinance provisions.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.141 EFFECT OF APPROVAL.**

(A) When approved, the planned unit development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment.

(B) Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the County Register of Deeds, evidence of which shall be supplied to the Zoning Administrator.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## SIGNS

### § 154.155 INTENT AND PURPOSE.

(A) The intent of this subchapter is to regulate the location, size, construction, and manner of display of signs and outdoor advertising in order to minimize their harmful effects on the public health, safety, and welfare. While this subchapter recognizes that signs and outdoor advertising are necessary to promote commerce and public information, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of the business and residential areas of the city, conflicts between different types of land use, and reduction in traffic safety to pedestrians and motorists. This subchapter is intended to provide a process for the application of sign regulations that will allow creatively designed signs to make a positive visual contribution to the overall image of the city, while also mitigating the impacts of large or incompatible signs.

(B) To achieve its intended purpose, this subchapter has the following objectives:

- (1) To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent businesses;
- (2) To keep the number of signs and sign messages at the level reasonably necessary to identify a business and its products;
- (3) To keep signs within a reasonable scale with respect to the buildings they identify;
- (4) To reduce visual distraction and obstructions to motorists traveling along, entering, or leaving streets;
- (5) To promote a quality manner of display which enhances the character of the city;
- (6) To prevent the proliferation of signs which promote visual blight; and
- (7) To eliminate the potential for any adverse effects on the neighboring properties.

(Ord. 336, passed 6-11-2012)

### § 154.156 GENERAL CONDITIONS.

(A) *Location.* All signs must advertise a business or service on the premises upon which the sign is located and to which the sign is accessory, unless otherwise specified herein.

(B) *Illumination.*

- (1) No sign shall be illuminated by other than electrical or solar powered means.
- (2) The light from illuminated signs shall be directed and shielded in a manner that will not interfere with vehicular traffic or the enjoyment and use of adjacent properties. Particular attention shall be paid to the effect of illuminated signs on neighboring residential uses. The light from illuminated signs shall also comply with the ground illumination standards of § 154.117(B)(1).
- (3) Internal illumination shall be permitted under the following circumstances:
  - (a) Individual back-lit letters which are silhouetted against softly illuminated walls;
  - (b) Individual letters with translucent faces, containing soft lighting elements inside each letter;
  - (c) Metal-faced box signs with cut-out letters and soft-glow fluorescent tubes;
  - (d) Non-moving, non-color changing light-emitting diodes (LED) used in electronic or electrically controlled changeable copy signs; and



(e) Exposed tube neon illumination, provided such sign does not include blinking, flashing, scrolling, animation, or any other actual or simulated movement.

(4) Exposed tube neon illumination is only allowed within the GC and CBD Districts, provided such sign does not include blinking, flashing, scrolling, animation, or any other actual or simulated movement.

(5) Within a residential district, all signs shall be indirectly illuminated; therefore, no internal illumination is permitted.

(6) Rear-illuminated (backlit) awnings are prohibited.

(C) *Safety.*

(1) All signs shall be erected and maintained in compliance with all applicable building codes, and other applicable ordinances governing construction within the city. In the event of a conflict between this chapter and other laws, the most restrictive shall govern.

(2) All signs shall be so placed as to not interfere with the visibility or effectiveness of any official traffic sign or signal; driver vision at any access point or intersection; or, pedestrian movement on any public sidewalk.

(3) No sign shall be erected, relocated, or maintained so as to obstruct fire fighting or prevent free access to any door, window, or fire escape.

(D) *Landscape quality and preservation.* In the application of this chapter, it is the intent to protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:

(1) Do not interfere with scenic views;

(2) Do not create a nuisance to persons using the public right-of-way;

(3) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement;

(4) Are not detrimental to land or property values; and

(5) Contribute to the special character of particular areas or districts in the city.

(E) *Signs prohibited in all districts.* Signs prohibited in all districts are as follows:

(1) Roof signs;

(2) Animated signs; this provision is not intended to exclude a time/temperature sign, as defined, provided no other animated messages are displayed;

(3) Signs affixed to trees, rocks, shrubs, or similar natural features, except, signs denoting a site of historic significance or providing the address of the site;

(4) Signs which imitate traffic signals, traffic direction signs, or similar traffic control devices, and signs which make use of words such as “Stop”, “Look”, “Danger”, or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic;

(5) Motor vehicle signs, except for motor vehicle signs of a political nature. Signs permanently painted on, magnetically attached, or, otherwise permanently displayed upon a vehicle, licensed and operating on the public streets and highways, identifying the owner’s occupation or livelihood, shall be permitted;

(6) Signs other than those erected by a public agency which are located within or overhang the public right-of-way or on public property, unless otherwise specified herein;

(7) Off-premises signs;

(8) Any sign or sign structure which: is structurally unsafe; constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment; is capable of causing electric shock to persons who come in contact with it; and is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights;

(9) Any sign unlawfully installed, erected, or maintained;

(10) Pole signs;

(11) Portable signs; and

(12) Marquee signs.

(F) *Signs exempt in all districts.* Signs exempt in all districts include the following:

(1) Nameplates signs not exceeding two square feet in size;

(2) Political signs may be erected 36 days prior to an election. Such signs shall be erected on private property only and no less than 100 feet from any entrance to a building in which a polling place is located. All such signs shall be removed two days following Election Day;

(3) Directional signs, provided they shall not exceed two square feet in size, shall contain no advertising, and shall not be illuminated;

(4) Non-illuminated real estate signs of less than six square feet of display area, when located in any residential zoning district, or not exceeding 20 square feet of display area when located in any other zoning district, and not exceeding a height of six feet in all districts. No more than one such sign shall be permitted per street frontage or water frontage;

(5) Non-illuminated real estate development signs not exceeding 32 square feet of display area and a height of six feet during the period of construction. Such signs shall be removed within 30 days of the issuance of the certificate of occupancy. Signs designating “the future site of” a proposed use or establishment shall not be considered eligible under this division (F);

(6) “No Trespassing” signs not exceeding four square feet of display area;

(7) Incidental signs;

(8) Time/temperature signs; and

(9) Signs advertising garage and yard sales, where licensed by the city in § 116.01 of this code of ordinances, provided they are located on the property where the garage or yard sale is occurring and provided all such signs are removed two days following the garage or yard sale.

(G) *Measurement.*

(1) *Measuring sign area.*

(a) Sign area shall be measured as the square footage of the sign face and any frame or other material or color forming an integral part of the display or used to differentiate it from the background against which it is placed.

(b) When a sign consists solely of lettering or other sign elements printed, painted, or mounted on a wall of a building without any distinguishing border, panel, or background, the calculation for sign area shall be measured by enclosing the most protruding edges of the sign elements within a parallelogram.

(c) The area of a double-faced freestanding or projecting sign shall be computed using only one face of the sign provided that: the outline and dimensions of both faces are identical; and the faces are back to back so that only one face is visible at any given time.

(2) *Measuring sign height.*

(a) The permitted height of all signs supported by the ground shall be measured from the level of the ground, finished surface, adjacent to the sign.

(b) The permitted height of signs shall not be measured from an area of the ground that has been built up or constructed in a manner that would have the effect of allowing a higher sign height than permitted by these regulations (e.g., the height of signs erected on a berm shall be measured from the finished grade adjacent to the berm).

(Ord. 341, passed 3-23-2013; Ord. 336, passed 6-11-2012; Ord. 362, passed 6-8-2015) Penalty, see § 154.999

## **§ 154.157 PERMITTED SIGNS IN THE CENTRAL BUSINESS DISTRICT (CBD).**

(A) Portions of the city are contained within an area described and zoned as the Central Business District (CBD).

(B) Sign regulations for any new use, expanded use, or intensified use of property located entirely or partially within the CBD shall be determined as set forth in this section.

(1) *General requirements.*

(a) Banners containing messages or slogans promoting the city's Central Business District, charitable organization, civic events, and other public activities shall be permitted subject to review by the Zoning Administrator.

(b) In the event that multiple independent businesses occupy the same building, the number of signs, the location of signs, and the total area of signs shall remain the same as if there were one business. However, a single sign may be displayed which contains multiple logos or business names.

(2) *Design requirements.*

(a) All signs within the Central Business District (CBD) shall be designed to be compatible with the architectural style of the district and consistent with the city's CBD sign guidelines provided herein. Logos (registered, TM, SM) shall be exempt from the design requirements with the exception of non-registered portions of a sign, which shall be subject to said design guidelines, including poles, standard brackets, decorative trim, associated landscaping, and other appurtenances.

(b) Standards shall include compatibility with building architecture, use of antique lighting, and identifying symbology. Signs should be easy to read and uncluttered; and text should be sized for the respective distance of the readers.

(c) The following additional design standards shall apply:

1. Sign illumination shall not cause direct glare onto a public street and shall comply with the ground illumination standards of § 154.117(B)(1). All signs shall be indirectly illuminated; therefore, no internal illumination is permitted;

2. A sign handwritten or painted on cardboard, plywood, sheet metal, or other material is prohibited for window placement; and

3. Sign colors shall blend with the building facade and be compatible with the property's use.

(d) Sign approval from the Historic District Commission shall be required.

(3) *Projecting signs.* Projecting signs may be allowed subject to the following requirements:

(a) Projecting signs shall be made of materials that are consistent with the historic period and character of the building to which they are attached. Allowable sign materials may include, but are not limited to, durable wood, metal, stainless steel, bronze or brass, stone or brick, and synthetic materials treated to appear as wood or natural material. However, in no case shall exterior sign materials include sheet plastic, plastic substrates, aluminum, interior grade wood, or unfaced plywood;

(b) Projecting signs shall clear grade level below the sign by a minimum of eight feet;

(c) Projecting signs shall not exceed a display area of ten square feet (see also division (B)(5)(c) below);

(d) A maximum of two projecting signs per business are permitted, with a maximum of one such sign per facade; and

(e) Projecting signs shall project no more than five feet from the building, or one-third of the sidewalk width, whichever is less.

(4) *Canopy signs.* Canopy signs may be allowed, subject to the following requirements:

- (a) Canopy signs shall not extend into any public right-of-way more than seven feet or over the sidewalk more than one-half the width of the sidewalk, whichever is less;
- (b) The minimum clearance of such sign is eight feet, six inches measured from the sidewalk surface;
- (c) Letters, graphics, or logos may not cover more than 20% of the canopy surface area, or 45 square feet, whichever is less. Canopy signs shall only be made of coated or uncoated canvas; and
- (d) No canopy sign shall be allowed on a building facade that includes a wall sign.

(5) *Wall signs.* Wall signs may be allowed subject to the following conditions:

- (a) Wall signs shall be made of materials that are consistent with the historic period and character of the building to which they are attached. Allowable sign materials may include, but are not limited to, durable wood, metal, stainless steel, bronze or brass, stone or brick, and synthetic materials treated to appear as wood or natural material. However, in no case shall exterior sign materials include sheet plastic, plastic substrates, aluminum, interior grade wood or unfaced plywood;
- (b) A maximum of two wall signs are allowed per building. Only one wall sign shall be allowed on the front facade of a building. A second wall sign shall be allowed on either the side or rear facade of a building. The maximum area of any wall signs shall not exceed 10% of the wall area that the sign is affixed to, or 45 square feet, whichever is less, provided that the total of area of all exterior (wall and projecting) signs in combination shall not exceed 60 square feet;
- (c) Where a wall sign is located on the same facade as a projecting sign, the combined area of both signs shall not exceed 10% of the wall area that the signs are affixed to, or 45 square feet, whichever is less;
- (d) All wall signs shall be safely and securely attached to the building by means of metal anchors, bolts, or expansion screws. In no case shall any wall sign be secured with wire, straps of wood, or nails;
- (e) The sign shall not be placed to obstruct any portion of a window, doorway, transom, or other architectural detail;
- (f) No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached; and
- (g) All signs shall be indirectly illuminated; therefore, no internal illumination is permitted.

(6) *Poster panel, "A" frame, and sandwich signs.* Poster panel, "A" frame, and sandwich signs may be allowed subject to the following standards:

- (a) The signs shall be made of durable quality materials as approved by the Sign Review Committee;
- (b) The signs shall be removed daily;
- (c) Only one such sign per occupied storefront shall be permitted;
- (d) The signs shall have a maximum of two faces, each face ten square feet or less in area. The maximum height of the sign shall be four feet;
- (e) A poster panel, "A" frame, or sandwich sign shall be permitted on a public sidewalk in the CBD, provided a minimum of five feet of unobstructed, pedestrian access along the sidewalk is maintained. Adequate space shall be provided for vehicle entry between on-street parking spaces and the sign; and
- (f) Letters, graphics, or images shall be professionally hand-lettered, die-cut self-adhesive, manual changeable copy, or blackboard hand-lettered.

(7) *Ground signs.*

- (a) Ground signs shall be permitted in the CBD subject to the standards of division (B)(1) above and § 154.158.

(b) Allowable ground sign materials may include, but are not limited to, durable wood, metal, stainless steel, bronze or brass, stone or brick, and synthetic materials treated to appear as wood or natural material. However, in no case shall exterior sign materials include sheet plastic, plastic substrates, aluminum, interior grade wood, or unfaced plywood.

(8) *Window signs.*

(a) Except for signs whose sole function is to indicate whether or not the establishment is open as regulated under division (B)(8)(e) below, all window signs in the Central Business District shall be subject to approval by the Zoning Administrator after review by the Historic District Commission.

(b) Permanent window signs which promote product shall be made of clear materials, such as transparent plastic, with lettering painted or attached to them. Incidental signs shall be exempt from this regulation.

(c) If window signs occupy more than 50% of the window area in which they are displayed, they shall be treated as wall signs and shall conform to all provisions applicable to wall signs, with the exception of division (B)(5)(d) above. However, in no case shall windows providing interior views to passersby be more than 75% covered.

(d) If window signs occupy more than 50% of the window area in which they are displayed, they shall be treated as wall signs and shall conform to all provisions applicable to wall signs. However, in no case shall windows providing interior views to passersby be more than 75% covered.

(e) Window signs in the Central Business District shall not be illuminated except as provided in division (B)(8)(f) below.

(f) Signs whose sole function is to indicate whether or not the establishment is open shall be a permitted window sign, subject to the following:

1. No more than one such sign shall be permitted per storefront;
2. Such sign is no more than two square feet in area; and
3. Illumination of such signs shall: be limited to no more than two colors; and have a static display and not include blinking, flashing, scrolling, animation, or any other actual or simulated movement.

(g) A temporary sign or banner sign installed inside a window shall be regulated under § 154.160(B).

(Ord. 341, passed 3-23-2013; Ord. 336, passed 6-11-2012; Ord. 362, passed 6-8-2015) Penalty, see § 154.999

**§ 154.158 PERMITTED GROUND SIGNS (ALL DISTRICTS EXCEPT CBD).**

(A) *General requirements.*

(1) One ground sign shall be permitted per lot which has frontage on only one public road.

(2) Two ground signs shall be permitted per premises which has frontage on two public roads. One sign shall not exceed the area requirements set forth herein. The second sign shall not exceed 50% of the area requirements set forth herein.

(3) A ground sign shall have a setback of ten feet from a public road right-of-way and a setback distance equal to the height of the sign from all other property boundaries.

(B) *Specific requirements.* Ground signs shall be permitted by district in accordance with the following requirements.

<i>District</i>	<i>Height (Feet)</i>	<i>Area (Sq. Ft.)</i>
CBD	4	20 For all other requirements, see § 154.157(B)(7)

GC District All permitted and special land uses	6	50
LI District All permitted and special land uses	6	30
LS District All permitted and special land uses	6	20
R-1, R-2, R-3, R-4, and R-5 Districts All residential developments, permitted non-residential uses, and special land uses	4	20

(Ord. 285, passed 12-8-2003; Ord. 367, passed 6-8-2015) Penalty, see § 154.999

### **§ 154.159 PERMITTED WALL SIGNS (ALL DISTRICTS EXCEPT CBD).**

The following wall signs shall be permitted in the following districts in accordance with the regulations herein.

*(A) General requirements.*

(1) All wall signs shall be safely and securely attached to the building by means of metal anchors, bolts, or expansion screws. In no case shall any wall sign be secured with wire, straps of wood, or nails.

(2) (a) One wall sign shall be permitted per lot. One additional wall sign may be permitted if at least one of the following conditions exists:

1. The lot has frontage on more than one public right-of-way;

2. The lot includes a building with more than one wall providing an individual means of access to the public; and

3. The lot includes a building where the only means of access to the public is provided from a wall other than the front wall.

(b) Where two wall signs are permitted, the total allowable square footage of the two wall signs in combination shall not exceed 150% of the maximum allowable square footage for the district as specified in division (B) below.

(3) For lots containing individual buildings with distinct and separate uses, one wall sign shall be permitted for each such building. However, the total allowable square footage of all wall signs in combination shall not exceed the maximum allowable square footage for the district as specified in division (B) below.

(4) For shopping centers located in the LS and GC districts, one wall sign shall be permitted per store front. The maximum area for each wall sign shall not exceed one square foot per lineal foot of frontage of the store front.

*(B) Specific requirements.* Wall signs shall be permitted by district in accordance with the following requirements, unless otherwise noted in this chapter.

<i><b>District</b></i>	<i><b>Height (Feet)</b></i>	<i><b>Area</b></i>
CBD	-	See § 154.157(B)(5)
GC District All permitted and special uses	4	1 square foot for each lineal foot of building frontage not to exceed a total of 100 square feet
LI District All permitted and special uses	4	1 square foot for each lineal foot of building frontage not to exceed a total of 40 square feet



LS District	4	1 square foot for each lineal foot of building frontage not to exceed a total of 40 square feet
R-1, R-2, R-3, R-4 and R-5 Districts All permitted non-residential uses and special land uses	2	1 square foot for each lineal foot of building frontage not to exceed a total of 20 square feet

(Ord. 285, passed 12-8-2003; Ord. 367, passed 6-8-2015) Penalty, see § 154.999

### **§ 154.160 PERMITTED TEMPORARY SIGNS.**

The following temporary signs shall be permitted in accordance with the regulations herein.

(A) *Temporary signs and banners signs (all districts).*

(1) In all districts, the Zoning Administrator may allow a new business, as part of its start-up phase, to use a temporary sign for up to a 45-day period. All temporary signs permitted under this provision shall otherwise comply with all requirements pertaining to height and area for the zoning district in which the sign is located.

(2) Within the CBD, GC, and LS Districts, the Zoning Administrator may allow one banner sign per premises for up to 30 days and no more than four times during the calendar year. Only those businesses with direct pedestrian access from the public right-of-way shall be permitted to have a banner sign. The banner sign shall not exceed 20 square feet in area in the CBD or 50% of the allowable wall sign size in the GC and LS Districts. Neither the height nor the width of a banner sign shall exceed ten feet. Banner signs shall not be located in a public right-of-way, must be affixed to the principal building of the business and shall be located and designed to avoid interference with or distraction to vehicular and pedestrian traffic.

(3) A weekend or holiday banner sign may be allowed and does not require a sign permit, provided the sign is erected after the opening of business on the weekend or holiday and removed prior to the end of business on the weekend or holiday. Further, such signs shall not exceed 20 square feet in area and neither the height nor the width of such signs shall exceed ten feet. Such signs shall not be located in a public right-of-way, must be affixed to the principal building of the business and shall be located and designed to avoid interference with or distraction to vehicular and pedestrian traffic.

(4) All other temporary signs and banner signs are strictly prohibited.

(5) The color of temporary signs within the Central Business District (CBD) shall be selected from a historic color palate as approved by the City Historic District Commission.

(B) *Special event signs (all districts).*

(1) Special event signs, not exceeding 48 square feet of display area, may be permitted subject to approval by the Zoning Administrator.

(2) The Zoning Administrator may permit signs in excess of 48 square feet when such is deemed necessary.

(Ord. 285, passed 12-8-2003; Ord. 372, passed 6-8-2015) Penalty, see § 154.999

### **§ 154.161 MISCELLANEOUS PERMITTED SIGNS.**

(A) *Additional signage for drive-in and drive-through establishments (all districts).*

(1) Additional signage for drive-in establishments shall be permitted subject to the following:

(a) Such signage shall only be located adjacent to, and shall be oriented to only be visible from, designated drive-in parking spaces. No such signage shall be located within a required front yard.

(b) No more than one sign per designated drive-in parking space is allowed, not to exceed 12 square feet in area and six feet in height.

(c) Internally illuminated signs, including electronic or digital signage, shall only be allowed within the GC District and shall be at least 50 feet from any Residential District.

(d) Approval by the Sign Review Committee shall be required.

(2) Additional signage for drive-through establishments shall be permitted subject to the following:

(a) Such signage shall only be located adjacent to, and shall be oriented to only be visible from, designated drive-through lanes. No such signage shall be located within a required front yard.

(b) No more than two signs per designated drive-through lane are allowed, one not exceeding the maximum allowable area for ground signs for the district in which the property is located, and the second not exceeding 50% of the maximum allowable area for ground signs for the district in which the property is located. Such signs may not exceed eight feet in height.

(c) Internally illuminated signs, including electronic or digital signage, shall only be allowed within the GC District and shall be at least 50 feet from any Residential District.

(d) Approval by the Sign Review Committee shall be required.

(B) *Changeable copy signs (LS, GC, and LI Districts)*. Changeable copy signs shall be permitted when incorporated into a permitted wall or ground sign provided that the area devoted to changeable copy does not exceed 50% of the wall or ground sign area.

(1) Lettering used on changeable copy signs directed to local streets shall not exceed three inches in height.

(2) Lettering used on changeable copy signs directed to major arterial streets shall not exceed six inches in height.

(3) The message on a changeable copy sign controlled by electronic or electrical signal shall not change more than eight times per day and shall not incorporate or involve action, motion, or the appearance of action or motion, such as the use of flashing lights, progressive color changes (only one color per message is allowed), scrolling messages, or video-like features.

(4) A changeable copy sign controlled by electronic or electrical signal shall not be allowed within the CBD District, any residential district, or within 50 feet of any residential district.

(C) *Historic markers (all districts)*.

(1) If a structure within the city has been designated a State Historical Site or listed in the National Register of Historic Places, then a marker designating that fact, obtained from the appropriate state or federal agency, shall be permitted in addition to any other sign or signs which may lawfully be placed on the structure or the property on which the structure is located.

(2) Anyone wishing to place a historic marker on a structure or property shall complete and file a sign permit application with the Zoning Administrator. No fee shall be charged for a historic marker application.

(D) *Window signs (all districts except CBD)*.

(1) Permanent window signs which promote product shall be made of clear materials, such as transparent plastic, with lettering painted or attached to them. Incidental signs shall be exempt from this regulation.

(2) Window signs do not require sign permits, nor count in the calculation of total building signage permitted. However, window signs shall not exceed more than 30% of the total window area on the floor level and no more than 50% coverage per window.

(3) If window signs occupy more than 50% of the window area in which they are displayed, they shall be treated as wall signs and shall conform to all provisions applicable to wall signs. However, in no case shall windows providing interior views to passersby be more than 75% covered.

(4) Window signs shall not be illuminated except as provided in division (D)(5) below.

(5) Signs whose sole function is to indicate whether or not the establishment is open shall be a permitted window sign, subject to the following:

- (a) No more than one such sign shall be permitted per storefront;
- (b) Such sign is no more than two square feet in area; and

(c) Illumination of such signs may only occur within a non-residential district and shall: be limited to no more than two colors; and have a static display and not include blinking, flashing, scrolling, animation, or any other actual or simulated movement.

(6) A temporary sign or banner sign installed inside a window shall be regulated under § 154.160(A).

(E) *Mural signs (all districts).*

(1) Commercial mural signs, as defined in this chapter, may be allowed after review and approval by the Planning Commission, and are further subject to the following standards:

- (a) No such mural may be placed on any building or structure that includes nonconforming signs;
- (b) Only one wall, facade, or surface of a building or structure may be used for the mural;

(c) The wall, facade, or surface that is used for the mural shall be counted as one sign. The mural will count towards the total wall signage allowed for the business; however, the Planning Commission in its sole discretion may permit murals of larger size. Larger murals shall be permitted when it is determined to demonstrate at least one of the following:

- 1. Accentuates the historic features of the building;
- 2. Masks an unattractive building facade;
- 3. Creates an aesthetically pleasing amenity; and
- 4. Superior in aesthetics to an attached wall sign.

(d) The owner of record of the building or structure on which the proposed mural is to be placed shall, in writing, consent to the placement of said mural on the property, and shall agree to restore the wall, facade, or surface upon which the mural is placed to its prior existing condition if and at such time the mural is not maintained by the applicant. The permit application shall include a statement detailing the applicant's plans for the maintenance of the mural; and

(e) In the review of a commercial mural sign, the Planning Commission shall grant approval only if the following criteria are met:

- 1. The placing of the proposed mural at the location selected by the applicant would not constitute a significant traffic safety hazard;
- 2. Neither the mural, nor the placement of the mural, would endanger the public health, safety, or general welfare; and
- 3. Neither the mural, nor the placement of the mural, would be injurious to the use and enjoyment of other property in the immediate vicinity of the proposed location.

(2) Noncommercial mural signs, as defined in this chapter, may be allowed after review and approval by the Sign Review Committee, and are further subject to the following standards:

- (a) Approval by the Historic District Commission is obtained when such sign is located within the city's Historic District;
- (b) Only one wall, facade, or surface of a building or structure may be used for the mural;
- (c) Murals shall only be permitted on the side or rear walls of buildings;

(d) Murals shall be allowed only on building walls that do not contain wall signs on the same wall as occupants of the building;

(e) Murals depicting offensive or obscene materials, or partially nude or seminude persons, shall be prohibited;

(f) Materials utilized in painting a mural shall have proven durability and shall be maintained or removed if not maintained; and

(g) The unauthorized inscribing, spraying of paint, or making symbols using chalk, dye, ink, paint, spray paint, or similar materials on public or private places, structures, or other surfaces shall not be permitted.

(F) *Residential development entry signs (all districts).*

(1) For each residential development of four or more dwelling units for which a building permit has been issued, a ground sign may be located adjacent to each public street entrance, at least ten feet from the adjacent public street right-of-way. Such sign location(s) shall have been depicted on a preliminary plat, site condominium plan, or a final site plan approved by the Planning Commission and shall meet standards set forth in this chapter.

(2) Whenever a landscape wall with entrance signage is proposed at or near the entrance to a residential development, the following requirements will apply: the length of the wall may not exceed 25% of the width of the lot on which it is located nor more than 10% of total frontage if a corner lot; a landscape wall shall be designed and located to assure proper vision and site distance at the nearest intersection of public streets or a public street and private driveway; the landscape wall height shall not exceed four feet; and illumination of the landscape wall shall be subject to the standards of § 154.156(B).

(G) *Poster panel, "A" frame, and sandwich signs (all districts except CBD).* Poster panel, "A" frame, and sandwich signs may be allowed subject to the following standards.

(1) The signs shall be made of quality materials.

(2) The signs shall be removed daily.

(3) Only one such sign per occupied storefront shall be permitted.

(4) The signs shall have a maximum of two faces, each face ten square feet or less in area. The maximum height of the sign shall be four feet.

(5) Letters, graphics, or images shall be professionally hand-lettered, or die-cut self-adhesive, manual changeable copy, or black board hand-lettered.

(6) A poster panel, "A" frame, or sandwich sign shall be permitted within the right-of-way only if the sign has no negative effects on public safety and visibility for all vehicles and pedestrians is unobstructed. A minimum of five feet of unobstructed, pedestrian access along the sidewalk is required.

(Ord. 285, passed 12-8-2003; Ord. 372, passed 6-8-2015; Ord. 380, passed 9-25-2017) Penalty, see § 154.999

## **§ 154.162 ADMINISTRATION.**

(A) This subchapter shall be administered by the Zoning Administrator or his or her designated representative.

(B) *Permits required.*

(1) It shall be unlawful to display, erect, relocate, or alter any sign without obtaining a sign permit, except for exempt signs as regulated in § 154.156(F) and other signs specifically noted as not requiring a permit in this chapter.

(2) A permit shall not be required for alterations to an existing sign that are limited to the information communicated on the sign without increasing the sign's size or structural modification, provided all other requirements of this chapter are met. However, a permit shall be required for all such alterations to existing signs located within the CBD District.

(3) Where a sign permit has been issued by the city, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of said permit without prior approval of the Zoning Administrator. A written record of such approval shall be entered upon the original permit application and maintained in the files of the city.

(4) The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his or her authorized agent, or a sign contractor. Such applications shall be made in writing on forms furnished by the city and shall be signed by the applicant.

(5) The application for a sign permit shall be accompanied by the following plans and other information:

(a) The name, address, and telephone number of the owner or persons entitled to possession of the sign and of the sign contractor or erector;

(b) The location by street address of the proposed sign structure;

(c) Complete information as required on application forms including a site plan and elevation drawings, colors, and caption of the proposed sign, and such other data as are pertinent to the application;

(d) Plans indicating the scope and structural detail of the work to be done, including details of all connections, supports, and footings, and materials to be used;

(e) Methods of illumination for the proposed sign, if any;

(f) Required information for an electrical permit for all electrical signs if the person installing the sign will make the electrical connection; and

(g) A statement of estimated costs of the sign.

(6) (a) Prior to the issuance of a sign permit, the Zoning Administrator or designee shall refer the sign permit application to the Sign Review Committee. The Sign Review Committee shall consist of the following individuals: Zoning Administrator; City Manager; and one member of the Planning Commission, as approved by a majority vote of the Planning Commission.

(b) The Sign Review Committee shall review a sign permit application for compliance with this chapter. A sign permit shall not be issued by the Zoning Administrator until all members of the Sign Review Committee have determined that the sign permit application is in compliance with this chapter. A member of the Sign Review Committee shall have the authority to refer a sign permit application to the Planning Commission and/or City Planning Consultant for additional review or comment prior to the decision of the Sign Review Committee.

(c) Signs proposed to be erected in the CBD District and requiring a permit shall be reviewed by the city's Historic District Commission prior to review by the Sign Review Committee.

(d) A summary of sign review responsibilities is provided as follows.

<i>District</i>	<i>Sign Type</i>	<i>Section No.</i>	<i>Review Responsibility</i>
Any district	Exempt signs	154.156(F)	No permit required
CBD	Projecting signs	154.157(B)(3)	HDC and SRC
CBD	Canopy signs	154.157(B)(4)	HDC and SRC
CBD	Wall signs	154.157(B)(5)	HDC and SRC
CBD	Poster panel, "A" frame, and sandwich signs	154.157(B)(6)	HDC and SRC
CBD	Ground signs	154.157(B)(7)	HDC and SRC
CBD	Window signs	154.157(B)(8)	HDC and ZA
Outside CBD	Ground signs	154.158	SRC
Outside CBD	Wall signs	154.159	SRC

Any district	Temporary signs and banner signs	154.160(A)	ZA
Any district	Weekend/holiday promotional sales banner signs	154.160(A)(3)	No permit required
Any district	Special event signs	154.160(B)	ZA
Any district	Menu board	154.161(A)	SRC
LS, GC, and LI Districts	Changeable copy signs	154.161(B)	SRC
Any district	Historic marker	154.161(C)	SRC
Outside CBD	Window signs	154.161(D)	No permit required
Any district	Commercial mural signs	154.161(E)(1)	PC
Any district	Noncommercial mural signs	154.161(E)(2)	SRC
Any district	Residential development entry signs	154.161(F)	SRC
Outside CDB	Poster panel, "A" frame, and sandwich signs	154.161(G)	SRC
<p>Table notes:  HDC: Historic District Commission  PC: Planning Commission  SRC: Sign Review Committee  ZA: Zoning Administrator</p>			

(7) Sign permit applications shall be accompanied by the required sign permit fee, as established by the City Council.

(Ord. 285, passed 12-8-2003; Ord. 353, passed 3-9-2015; Ord. 372, passed 6-8-2015) Penalty, see § 154.999

### **§ 154.163 INSPECTIONS, MAINTENANCE, AND REMOVAL OF SIGNS.**

(A) *Inspections.* Signs for which a permit is required will be inspected upon completion and may be inspected periodically by the Building Department representative for compliance with these regulations and with any applicable ordinances of the city.

(B) *Maintenance.* All signs and components thereof shall be kept in good repair and in a safe, neat, clean, and attractive condition.

(C) *Removal.*

(1) The Zoning Administrator may order the removal of any permanent sign and its supporting structural components erected or maintained in violation of these regulations. The Zoning Administrator shall give 30 days' notice in writing, to the owner of such sign and its supporting structure requiring him or her to bring such sign into compliance within 60 days. Any sign erected of a temporary nature shall require written notice of only three days.

(2) Upon failure to comply with this notice, the Building Official or designee may remove the sign and its supporting structure. The Building Official or designee may remove a sign and its supporting structure immediately and without notice if, in his or her opinion, the condition of the sign and its supporting structure presents an immediate threat to the safety of the public. The cost of such removal by the city shall be assessed against the owner of such sign or the owner of the building, structure, or premises.

(3) Signs within a public right-of-way or on city property may be removed by the city without notice and may be disposed of.

(D) *Obsolete signs.*

(1) An obsolete sign and its supporting structure shall be removed by the property owner or lessee of the premises upon which the sign is located when the business which it advertises has been discontinued for at least 90



days. Except as provided in divisions (D)(2) and (D)(3) below, such removal shall occur within 30 days after written notice from the Zoning Administrator.

(2) A sign which is in conformity with the other provisions of this chapter may remain in place if such sign is obscured by the use of a blank panel attached within the frame of the sign and shall be permitted to remain for a period not to exceed 120 days.

(3) Where a successor to an inactive business agrees, within 30 days of the date of written notice by the Zoning Administrator, to maintain the sign as provided for by these regulations, this removal requirement shall not apply, provided that the existing sign and structure conforms to all current sign requirements.

(E) *Nonconforming signs.*

(1) *Policy.* It is the policy of the city to require that all signs within the city be brought into compliance with the terms of this chapter.

(2) *Valid permit required.* The status afforded to signs and sign structures pursuant to this division (E) shall not be applicable to any sign or sign structure for which a sign permit was initially required but for which no sign permit was ever issued. Such sign and/or sign structures are deemed illegal and are subject to the provisions of division (C) above.

(3) *Existing sign rendered nonconforming.* Nonconforming signs are those signs that do not comply with the size, placement, construction, or other standards or regulations of this chapter, but were lawfully established prior to its adoption. A nonconforming sign may be continued and shall be maintained in good condition as described elsewhere in this subchapter, however, the following alterations are regulated.

(a) A nonconforming sign shall not be structurally altered or repaired so as to prolong its useful life or so as to change its shape, size, type, or design unless such change shall make the sign conforming.

(b) A nonconforming sign shall not be replaced by another nonconforming sign.

(c) A nonconforming sign shall not be expanded, relocated, or modified in any way that would increase the degree of nonconformity of such sign.

(d) A nonconforming sign shall not be reestablished after obsolescence as defined in division (D) above.

(e) A nonconforming sign must not be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50% of the appraised replacement cost as determined by the Zoning Administrator or if 50% or more of the face of the sign is damaged or destroyed.

(Ord. 285, passed 12-8-2003; Ord. 372, passed 6-8-2015) Penalty, see § 154.999

## **OFF-STREET PARKING, LOADING, AND ACCESS CONTROL**

### **§ 154.175 INTENT AND PURPOSE.**

The purpose of this subchapter is to ensure the provision of off-street parking facilities that are sufficient in number, adequately sized, and properly designed to meet the range of parking needs and demands that are associated with land uses now in place in the city or with land uses allowed by this chapter.

(Ord. 285, passed 12-8-2003)

### **§ 154.176 GENERAL PROVISIONS.**

(A) *Where required.* In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered, or changed existing use after the effective date of this chapter, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this chapter.

(B) *Existing off-street parking at effective date of ordinance.* Off-street parking existing at the effective date of this chapter which serves an existing building or use, shall not be reduced or increased in size to less than that required under the terms of this chapter.

(C) *Required greenbelt and setbacks.* Off-street parking, including maneuvering lanes, shall not be located within the required front greenbelt in accordance with § 154.111(F) and the schedule of regulations. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum five-foot setback is maintained between off-street parking and the side and rear lot lines of all adjoining properties.

(D) *Parking duration.* Except when land is used as storage space in connection with the business of a repair or service garage, a 24-hour time limit for parking in non-residential, off-street parking areas shall prevail, it being the purpose and intention of the foregoing that the requirement of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit, the storage or prolonged parking on any such parking area in any such district wrecked or junked cars, or for creating a junk yard or a nuisance in such areas.

(E) *Units and methods of measurement.* For the purpose of determining off-street parking requirements, the following units of measurement shall apply.

(1) *Floor area.* Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that floor area within the principal building used for parking, incidental service and storage, housing of mechanical equipment, heating systems, and similar uses need not be included.

(2) *Employees.* For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.

(3) *Places of assembly.* In stadiums, sports arenas, churches, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each 18 inches of such shall be counted as one seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together, per the requirements of the Building Code.

(4) *Fractional requirements.* When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction shall require one parking space.

(F) *Location of parking.*

(1) *Single- and two-family dwellings.*

(a) The off-street parking facilities required for single- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this subchapter.

(b) Off-street parking shall not be permitted within the right-of-way adjacent to the lot except within the street or driveway approach.

(c) Off-street parking shall not be permitted within the front yard, except within a properly constructed driveway, as defined in this chapter.

(d) Where no properly constructed driveway exists, an exception to subsection (c) above, shall be made for an existing driveway within the front yard that is not properly constructed. In such case, off-street parking shall be allowed within an area no wider than 12 feet, or the width of an existing garage, whichever is greater, centered on such existing driveway, but not within any area between the dwelling and street.

(e) The requirement of subsection (c) above, shall not apply to parking for temporary special events normally associated with the residential use of the property such as graduation and holiday parties.

(2) *Multiple-family residential.* The off-street parking facilities for multiple-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as set forth in this subchapter. In no event shall any parking space be located nearer than ten feet to any main building.

(3) *Other land uses.* The off-street parking facilities required for all other uses shall be located on the lot or within 500 feet of the permitted uses requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.

(4) *Restriction on parking on private property.* It shall be unlawful for any person, firm, or corporation to park any motor vehicle on any private property without the authorization of the owner or agent of such property.

(Ord. 285, passed 12-8-2003; Ord. 381, passed - - 2017) Penalty, see § 154.999

### **§ 154.177 OFF-STREET PARKING REQUIREMENTS.**

(A) *Generally.* The amount of required off-street parking spaces for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the schedule set forth in § 154.178. Parking requirements listed in § 154.178 shall not include off-street stacking spaces for drive-through facilities set forth in § 154.181.

(B) *Similar uses and requirements.* When a use is not specifically mentioned, the requirements of off-street parking for a similar use shall apply as determined by the Planning Commission.

(C) *Collective provisions.* Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided:

(1) Such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with § 154.178. However, the Planning Commission may reduce the total number of spaces by up to 25% upon a determination that the peak space requirements for the individual uses occur at distinctly different times;

(2) Each use served by collective off-street parking shall have direct access to the parking without crossing any public rights-of-way; and

(3) Written easements which provide for continued use and maintenance of the parking shall be submitted to the city for approval.

(D) *Parking exemption.* As of the effective date of this chapter, buildings and uses located within the Central Business District (CBD) shall be exempt from providing off-street parking. However, in no case shall a building or use be expanded to remove off-street parking established before the effective date of this chapter. Parking areas constructed in the CBD shall meet all design requirements of this chapter.

(E) *Flexibility in application.*

(1) (a) The city recognizes that, due to the specific requirements of any given development, inflexible application of the parking standards set forth in § 154.178 may result in development with inadequate parking or parking far in excess of that which is needed.

(b) The former situation may lead to traffic congestion or unauthorized parking on adjacent streets or neighboring sites. The latter situation may result in excessive paving and stormwater runoff and a waste of space, which could be left as open space.

(2) The Planning Commission, based on a recommendation from the Planning Consultant may permit deviations from the requirements of § 154.178 and may require more or allow less parking whenever it finds that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question.

(3) (a) The Planning Commission shall attach conditions to the approval of a deviation from the requirement of § 154.178 that bind such approval to the specific use in question.

(b) Where a deviation results in a reduction of parking, the Planning Commission may further impose conditions which ensure that adequate reserve area is set aside for future parking, as needed.

(Ord. 285, passed 12-8-2003; Ord. 371, passed 6-8-2015) Penalty, see § 154.999

**§ 154.178 TABLE OF OFF-STREET PARKING REQUIREMENTS.**

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the following table.

<i>Use</i>	<i>Required No. of Parking Spaces</i>	<i>Per Each Unit of Measure as Follows:</i>
<b><i>Automotive Uses</i></b>		
Automotive repair facilities and collision shops	3	Per each service stall, plus 1 per each employee at peak shift, plus 1 per each service vehicle
Automobile service stations with convenience store	1	Per each pump unit, plus 3 per each service stall, plus 1 per each employee at peak shift, plus 1 per each 150 sq. ft. of floor area devoted to retail sales and customer service
Automobile service stations without convenience store	1	Per each pump unit, plus 3 per each service stall, plus 1 per each employee at peak shift
Car washes (automatic)	1	Per 200 sq. ft. of floor area of customer waiting and service areas, plus 1 per each vacuum station, plus 1 per each employee at peak shift, plus stacking spaces required per § 154.181
Car washes (self-serve)	1	Per each wash stall, plus 1 per each vacuum station, plus 1 per each employee at peak shift, plus stacking spaces required per § 154.181
Sales of automobile, boats, mobile homes, farm machinery, and other vehicles	1	Per each 200 sq. ft. of showroom floor area, plus 1 per each employee at peak shift, plus 1 per each service stall
<b><i>General Commercial Uses</i></b>		
Bars/lounges	1	Per each 3 persons based upon the maximum occupancy load as established by Fire and/or Building Codes, plus 1 per each employee at peak shift
Convenience stores and video stores	1	Per 150 sq. ft. of floor area
Fast-food restaurants	1	Per each 125 sq. ft. of floor area, plus 1 per each employee at peak shift, plus stacking spaces required per § 154.181
Garden stores and nurseries, farm supply and feed stores, building material sales	1	Per each 800 sq. ft. of floor area
Grocery stores, drugstores, and other self-serve retail establishments	1	Per 150 sq. ft. of floor area
Lodging facilities	1	Per each guest bedroom, plus 1 per employee at peak shift, plus amount required for accessory uses, such as a restaurant or cocktail lounge
Movie theaters	1	Per each 4 seats based on the maximum seating capacity, plus 1 per each employee at peak shift
Planned shopping center	1	Per 200 sq. ft. of floor area for the first 15,000

		sq. ft., plus 1 per 250 sq. ft. of floor area in excess of 15,000 sq. ft.	
Retail sale of furniture, appliances, hardware	1	Per each 150 sq. ft. of floor area, plus 1 per each employee at the peak shift	
Retail stores, not specifically enumerated herein	1	Per each 150 sq. ft. of floor area specified herein	
Standard restaurants	1	Per each 3 seats, based on maximum occupancy per Building Code, plus 1 per each employee at peak shift	
<b><i>Industrial Uses</i></b>			
Contractors office	1	Per each employee at peak shift	
Industrial or manufacturing establishments	1	Per each employee at peak shift, or 1 per each 800 sq. ft. of floor area (whichever is greater)	
Self-storage facilities	1	Per each employee at peak shift, plus 1 per each 250 sq. ft. of office area	
Warehouses and storage buildings	1	Per each employee at peak shift, or 1 per each 2,000 sq. ft. of floor area (whichever is greater)	
<b><i>Institutional Uses</i></b>			
Child care center or nursery schools	1	Per each 5 students, plus	
	Churches/other institutions for religious worship	1	Per each 3 seats based on maximum seating capacity in the main place of assembly therein, as established by Fire and/or Building Codes
Day care homes	1	Per each employee and/or caregiver	
Elementary and middle schools	1	Per each teacher, plus 1 per each 25 students, plus 1 per each employee at peak shift, plus 1 per 3 seats for auditoriums, stadiums, and the like	
High schools, trade schools, colleges, and universities	1	Per each teacher, plus 1 per each 10 students, plus 1 per each employee peak shift, plus 1 per three seats for auditoriums, stadiums, and the like	
Hospitals	1	Per each 4 beds, plus 1 per staff doctor, plus 1 per each employee at peak shift	
Libraries and museums	1	Per each 500 sq. ft. of floor area	
Nursing homes and convalescent centers	1	Per each 5 beds, plus 1 per each staff doctor, plus 1 per each employee at peak shift	
Private clubs and lodges	1	Per each 3 individual members allowed within the maximum occupancy load as established by Fire and/or Building Codes	
Stadiums, sports arenas, and auditoriums	1	Per each 3 seats based on maximum seating capacity per Building Code	
<b><i>Office and Service Uses</i></b>			
Banks	1	Per each 200 sq. ft. of floor area, plus stacking spaces required per § 154.181	

Barber and beauty shops	3	Per each chair
Business and professional offices	1	Per each 200 sq. ft. of floor area
Funeral home or mortuary	1	Per 50 sq. ft. of floor area
Laundromats	1	Per 2 wash machines
Medical and dental office	1	Per each 150 sq. ft. of floor area
Photographic studios; watch, clothing, and shoe repair; and similar personal service establishments	1	Per 250 sq. ft. of floor area
<b><i>Recreational Uses</i></b>		
Bowling alleys	4	Per bowling lane, plus 1 per employee at peak shift, plus amount required for accessory uses such as a restaurant or cocktail lounge
Community building	1	Per each 3 seats based on the maximum occupant load per the Building Code
Golf course, open to the general public	5	Per each hole, plus 1 per each tee of driving range, plus 1 per each employee at peak shift, plus amount required for accessory uses such as a restaurant or cocktail lounge
Private country club, swim or golf clubs, fitness center, or other similar uses	1	Per each 2 memberships, plus 1 per each employee at peak shift, plus amount required for accessory uses such as a restaurant or cocktail lounge
<b><i>Residential Uses</i></b>		
Adult foster care homes	1	Per each 3 beds, plus 1 per each employee at peak shift
Elderly housing	1	Per each dwelling unit, plus 1 per each 10 dwelling units, plus 1 per each employee at peak shift
Mobile home parks	2	Per each trailer unit, plus 1 per each 3 dwelling units, plus 1 per each employee at peak shift
Multiple-family dwelling	2	Per each dwelling, plus 1 per each 10 dwelling units
Single- or two-family dwelling	2	Per each dwelling unit

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.179 OFF-STREET PARKING LOT DESIGN AND CONSTRUCTION.**

(A) The construction of any parking lot shall be in accordance with the requirements of the provisions of this chapter and completed before a certificate of occupancy is issued.

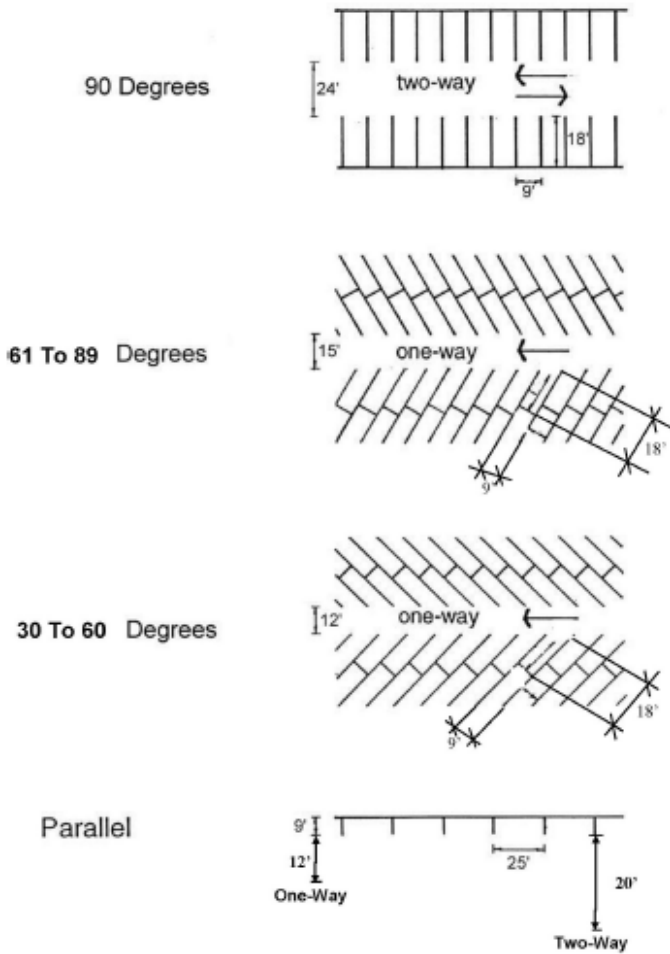
(B) Unless incorporated in a site plan, prepared and approved in accordance with § 154.024, plans for the development of any parking lot must be submitted to the Zoning Administrator, prepared at a scale of not less than 50 feet equals one inch for submittal to the Planning Commission for approval. All information, including existing and proposed grades, drainage, pipe sizes, parking of all dimensions, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used, signage, use, building area, parking calculations and the layout of the proposed parking lot, and all other necessary information



required by § 154.024, must be provided. All such parking lots, driveways, or loading areas required for uses other than single- or two-family residential shall be hard-surfaced with asphalt or concrete pavement. Drainage for parking lots shall conform to the standards set forth in § 154.120 and city design standards. All illumination for all such parking lots shall meet the standards set forth in § 154.117. Parking lot landscaping and buffering requirements shall meet the standards set forth in §§ 154.111(D) and 154.111(E). Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. To prevent encroaching upon pedestrian walkways or damaging required landscaping, curbing or other appropriate barriers shall be provided. No portion of a parking space and/or maneuvering aisle shall obstruct or encroach upon a pedestrian walkway. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum regulations. (See Figure 13.)

<i>Maneuvering Lane Width</i>				
<i>Parking Pattern</i>	<i>One-way</i>	<i>Two-way</i>	<i>Parking Space Width</i>	<i>Parking Space Length</i>
0 degrees - parallel	12'	20'	9'	25'
30 degrees - 60 degrees	12'	N/A	9'	18'
61 degrees - 89 degrees	15'	N/A	9'	18'
90 degrees	N/A	24'	9'	18'

**Figure 13**



(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

**§ 154.180 OFF-STREET LOADING REQUIREMENTS.**

(A) On the same premises with every building or part thereof, erected and occupied for any uses involving the receipt or distribution of trucks and/or delivery vehicles, material, or merchandise, adequate space for loading and unloading shall be provided.

(B) (1) Off-street loading and unloading space, unless completely and adequately provided for within a building, shall be of sufficient area and height clearance to accommodate vehicles using the loading space, based upon evidence supplied by the applicant and verified by the Planning Commission. Loading and unloading space provided by truck wells located below surface grade shall be protected by pipe railings per Building Code. Drainage shall be provided to prevent the collection of stormwater at the bottom of the truck well. The loading and unloading space shall be a minimum of 12 feet wide by 40 feet long. The space shall not be located in the front yard of a building and shall not be located closer than 50 feet to any residentially zoned parcel. The Planning Commission may permit deviations from this standard with conditions where it deems appropriate.

(2) The number of spaces provided shall be in accordance with the following schedule.

<i>Gross Floor Area (Sq. Ft.)</i>	<i>Loading and Unloading Spaces Required in Terms of Sq. Ft. Gross Floor Area</i>
0 - 20,000	1 space
20,001 - 100,000	1 space plus 1 space for each 20,000 sq. ft. in excess of 20,000 sq. ft.

100,000 and over

5 spaces

(C) (1) The city recognizes that due to the specific requirements of any given development, inflexible application of off-street loading requirements set forth in division (B) above may result in development with inadequate loading space or loading space in excess of that which is needed. The former situation may lead to traffic congestion or unauthorized loading on and/or off site. The latter situation may result in excessive paving and stormwater runoff and a waste of space, which could be left as open space.

(2) The Planning Commission may permit deviations from the requirements of division (B) above based upon a finding that such deviations are more likely to provide a sufficient number of off-site loading spaces and of adequate size to accommodate the specific characteristics of the use in question.

(3) The Planning Commission shall attach conditions to the approval of a deviation from the requirements of division (B) above that bind such approval to the specific use in question. Where a deviation results in a reduction of off-street loading, the Planning Commission shall further impose conditions, which ensure that adequate usable reserve area is set aside for further off-street loading, if needed. Where area is set aside for reserve off-street loading, it shall be easily developed, not devoted to a use other than open space, and shall be designed to accommodate attendant facilities vehicle such as maneuvering lanes and drainage.

(D) The following additional standards apply to commercial or similar vehicles in residential zoning districts: parking of commercial vehicles in residential zoning districts, which are rated over one ton capacity is prohibited; and open storage of commercial vehicles over one-ton capacity, including semi-trucks and trailers, mobile homes, tractors, bulldozers, earth movers, or other similar equipment is prohibited in any residential zoning district.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

#### **§ 154.181 OFF-STREET STACKING SPACE FOR DRIVE-THROUGH FACILITIES.**

All businesses which provide drive-through facilities for serving customers within their automobile shall provide adequate off-street stacking space and lanes which meets the following requirements.

(A) Each stacking space shall be computed on the basis of eight feet in width and 20 feet in length. Each stacking lane shall be ten feet in width;.

(B) Clear identification and delineation between the drive-through facility and parking lot shall be provided. Drive-through facilities shall be designed in a manner which promotes pedestrian and vehicular safety.

(C) For all drive-through facilities which have a single stacking lane, an escape lane shall be provided which allows other vehicles to pass those waiting to be serviced.

(D) Required stacking spaces may not occupy required or actual front yard setbacks, unless otherwise permitted by the Planning Commission.

(E) The number of stacking spaces per service lane shall be provided for the following uses. When a use is not specifically mentioned, the requirements for off-street stacking space for a similar use shall apply. The Planning Commission may permit deviations from this requirement if it is demonstrated that such deviations are appropriate and will improve the site.

<i>Use</i>	<i>Stacking Spaces Per Service Lane</i>
Banks	6
Car washes (automatic) entry	8
Car washes (automatic) exit	1
Car washes (self-service) entry	3
Car washes (self-service) exit	1

Dry cleaning	4
Fast-food restaurants	8
Photo service	4

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### § 154.182 TRAFFIC IMPACT ANALYSIS.

The Planning Commission may require a traffic impact analysis in order to analyze the effect of development upon existing street traffic. The traffic impact analysis shall be paid for by the developer and shall examine existing and proposed traffic flows, trip generation studies, impacts on major intersections, turning movement analysis, roadway capacity, parking generation, and site ingress/egress. The traffic impact analysis shall be prepared by a registered professional engineer or transportation planner.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### § 154.183 ACCESS MANAGEMENT.

#### (A) *Automobile access.*

(1) *Access barrier.* Access to public roads shall be controlled in the interest of public safety. Each building or group of buildings used for non-residential purposes, and its parking or service area, shall be physically separated from public roads by a greenbelt, curb, or other suitable barrier against unchanneled motor vehicle access or egress, except for access ways authorized herein. In addition to providing the access barrier, greenbelt requirements shall be provided in accordance with § 154.111.

(2) *Driveway performance standards.* Driveways shall conform to the following performance standards.

(a) Driveway design and placement must be in harmony with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound traffic during a normal peak traffic period.

(b) Sufficient on-site storage must accommodate at least three queued vehicles waiting to park or exit without using a portion of the public right-of-way obstructing existing vehicle sight distance, or otherwise interfering with street traffic.

(c) Provisions for circulation between adjacent parcels are encouraged through coordinated or joint parking systems and driveways.

(d) Driveways shall be designed to accommodate all vehicle types having occasion to enter and exit the site, including delivery vehicles. There shall be clear delineation and/or separation, where appropriate, of entry and exit lanes within driveways.

(e) Driveway placement must be such that loading and unloading activities will in no way hinder vehicle ingress or egress.

#### (B) *Pedestrian access.*

(1) *General standard.* The parking and circulation system within each development shall accommodate the movement of vehicles, bicycles, pedestrians, and transit, throughout the proposed development and to and from surrounding areas, safely and conveniently, and shall contribute to the attractiveness of the development. The on-site pedestrian system must provide continuity, street crossings, visual interest, and security as defined by the standards in this section.

(2) *Safety considerations.* To the maximum extent feasible, pedestrians shall be separated from vehicles.

(a) Where complete separation of pedestrians and vehicles is not feasible, potential hazards shall be minimized by the use of techniques such as special paving, grade separations, pavement marking, signs or striping, bollards, pedestrian safety island, landscaping, lighting, or other traffic calming measures to clearly delineate pedestrian areas, for both day and night use.

(b) Where bicycle paths are required or are specifically part of a site plan and pedestrians and bicyclists share walkways, the pedestrian/bicycle system shall be designed to be wide enough to easily accommodate the amount of pedestrian and bicycle traffic volumes that are anticipated. A minimum width of eight feet shall be required and shall meet American Association of State Highway and Transportation Officials (AASHTO) guidelines. Additional width of up to four feet may be required to accommodate higher volumes of bicycle and pedestrian traffic.

(3) *Curb cuts and ramps.* Curb cuts and ramps shall be located at convenient, safe locations for the physically disabled, for bicyclists, and for people pushing strollers or carts. The location and design of barrier-free spaces, curb cuts, and ramps shall meet the requirements of the State Barrier Free Code and the Americans With Disabilities Act and, to the extent possible, shall avoid crossing or funneling pedestrian traffic through loading areas, drive-through lanes, and outdoor trash storage/collection areas.

(4) *Site amenities.* Development plans shall include site amenities that enhance safety and convenience and promote walking or bicycling as an alternative means of transportation. Site amenities may include bike racks, drinking fountains, canopies, and benches.

(5) *Walkways.*

(a) *Directness and continuity.* Walkways within the site shall be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and shall not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access. Such connecting walkways shall either be grade separated from the parking lot or clearly delineated as to avoid pedestrian/vehicular conflicts with a paved surface not less than six feet in width. Drive aisles leading to main entrances shall have walkways on at least one side of the drive aisle.

(b) *Street crossings.* Where it is necessary for the pedestrian access to cross maneuvering aisles or internal roadways, the crossings shall emphasize and place priority on pedestrian access and safety. The pedestrian crossings must be well marked using such pavement treatments, signs, striping, signals, lighting, pedestrian safety islands, landscaping, and other traffic calming techniques.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **§ 154.184 OUTDOOR STORAGE OF RECREATION VEHICLES.**

In all residential districts, a recreational vehicle may be parked or stored subject to the following conditions.

(A) Storage or parking shall not be permitted on vacant lots or parcels.

(B) Unless within a completely enclosed building, a recreational vehicle shall be parked or stored in one of the following manners:

(1) Within the side or rear yard, but no closer than five feet from any side or rear lot line; or

(2) In those instances where the side or rear yard is not accessible or has insufficient clearance for the passage of a recreational vehicle, the Zoning Administrator may allow the parking or storage of a recreational vehicle in the front yard. In those instances where a recreational vehicle is to be parked or stored in a front yard, only the driveway portion of such yard shall be utilized and in no instance shall such recreational vehicle be parked or stored in a manner which obstructs pedestrian or vehicular visibility.

(C) No recreational vehicle shall be used for living, sleeping, or housekeeping purposes on the premises, except for occasional living purposes to accommodate visitors not to exceed a maximum period of two weeks.

(D) No recreational vehicle shall be stored on a public street or right-of-way or private road easement.

(E) A recreational vehicle stored outside shall be in a condition for the safe and effective performance of its intended function.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **NONCONFORMING USES, STRUCTURES, AND LOTS**

### **§ 154.195 INTENT.**

Certain existing lots, structures, and uses of lots and structures were lawful before this chapter was adopted, but have become nonconformities under the terms of this chapter and its amendments. It is the intent of this chapter to permit such nonconformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such nonconformities to conforming status. Nonconformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Nonconformities are declared by this chapter to be incompatible with the structures and uses permitted in the various districts.

(Ord. 285, passed 12-8-2003)

### **§ 154.196 NONCONFORMING LOTS.**

(A) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located.

(B) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of said parcel or lot shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.197 NONCONFORMING USES OF LAND.**

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

(A) No such nonconforming uses shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(C) If such nonconforming use of land ceases operation for more than six consecutive months, or for 18 months during any three-year period, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.198 NONCONFORMING STRUCTURES.**

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

(A) No such structure may be enlarged or altered in a way which increases its nonconformity.

(B) Should such structure be destroyed by any means to an extent of more than 50% of replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.



(C) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.199 NONCONFORMING USES OF STRUCTURES AND LAND.**

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

(A) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(B) Any nonconforming use may be extended throughout any interior part of a building which was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(C) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations pertaining to the uses permitted in the district in which such structure is located, and the nonconforming use may not thereafter be resumed. Section 154.198 of this section shall apply to any nonconformity relating to the structure(s).

(D) If such nonconforming use of land ceases operation for more than six consecutive months, or for 18 months during any three-year period, any subsequent use of such land shall conform to the regulations specified by the ordinance pertaining to the uses permitted in the district in which such land is located. Structures occupied by seasonal uses shall be excepted from this provision only so long as seasonal uses shall continue.

(E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(F) (1) If no structural alterations are made, any nonconforming use of structure, or structure and premises, may be changed to another nonconforming use of the same or a more restricted classification provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use.

(2) In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.

(3) Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.200 REPAIRS AND MAINTENANCE.**

(A) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding 50% of the replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

(B) (1) A nonconforming structure, nonconforming portion of a structure, or a structure containing a nonconforming use which is physically unsafe or unlawful due to lack of repairs and maintenance, as determined by the Building Official may be restored to a safe condition.

(2) Where enlargement or structural alternation is necessary to allow compliance with health and safety laws or ordinances, the cost of such work shall not exceed 25% of the structure's fair market value, as determined by the assessor at the time such work is done.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.201 USES ALLOWED AS SPECIAL APPROVAL USES, NOT NONCONFORMING USES.**

Any use for which special approval is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

### **§ 154.202 CHANGE OF TENANCY OR OWNERSHIP.**

A change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises is permitted provided no change in the nature or character of such nonconforming uses occur except in conformity with the provisions of this chapter.

(Ord. 285, passed 12-8-2003) Penalty, see § 154.999

## **ZONING BOARD OF APPEALS**

### **§ 154.215 AUTHORITY.**

A Zoning Board of Appeals is hereby established, the membership, powers, and duties of which are prescribed in Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended. The Zoning Board of Appeals in addition to the general powers and duties conferred upon it, by said Act, in specific cases and subject to appropriate conditions and safeguards, shall interpret and determine the application of the regulations established under this chapter in harmony with their purpose and intent as hereinafter set forth.

(Ord. 285, passed 12-8-2003)

### **§ 154.216 MEMBERSHIP.**

(A) The Zoning Board of Appeals shall consist of six members: a member of the Planning Commission; and five citizens of the city appointed by the City Council who shall be representative of the various interests and population distribution of the city.

(B) (1) The member of the Planning Commission shall serve a term concurrent with his or her term on the Commission.

(2) The five additional members shall serve for three-year terms. These three-year terms shall be staggered so that not more than two members are appointed each year.

(3) Should a vacancy occur, the City Council shall appoint a replacement within 30 days to fill the unexpired term.

(C) The Zoning Board of Appeals as constituted on the effective date of this chapter shall continue and, upon completion of current terms, appointments by the City Council shall be based upon the manner and terms heretofore set forth.

(Ord. 285, passed 12-8-2003)

### **§ 154.217 MEETINGS.**

(A) All decisions of the Board shall be made at a meeting open to the public. All deliberations of the Board constituting a quorum of its member shall take place at a meeting open to the public except as provided in compliance with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended.

(B) A majority of the members of the Board shall constitute a quorum for purposes of transacting the business of the Board and the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended. Each member of the Board shall have one vote.

(C) Regular meetings of the Board shall be called as needed in response to receipt of a notice of appeal, so long as the meeting is scheduled within 20 days of the notice of appeal. The meeting can be called by the Zoning Administrator, the Chair of the Appeals Board or, in his or her absence, the Vice-Chair. Public notice of the date, time, and place of a public meeting of the Board shall be given in the manner required by Public Act 267 of 1976, being M.C.L.A. §§ 15.261 through 15.275, as amended.

(D) The business of the Board of Appeals shall be conducted in accordance with its adopted bylaws.

(E) The Chair or, in his or her absence, Vice-Chair may administer oaths and compel the attendance of witnesses.

(Ord. 285, passed 12-8-2003)

### **§ 154.218 POWERS AND DUTIES.**

(A) *General.* The Board has the power to act on matters as provided in this chapter and Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended. The specific powers of the Board are enumerated in the following divisions of this section.

(B) *Voting.*

(1) The concurring vote of a majority of the members of the Board shall be necessary to reverse an order, requirements, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of two-thirds of the members of the Board shall be necessary to grant a variance from uses of land permitted in an ordinance.

(2) A member shall be disqualified from a vote in which a conflict of interest exists. Failure of a member to disclose a conflict of interest and be disqualified from a vote shall constitute malfeasance in office.

(C) *Administrative review.* The Board shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator or other duly authorized enforcing agent, in enforcing any provision of this chapter.

(D) *Interpretation.*

(1) The Board shall hear and decide requests for interpretation of this chapter or the zoning map taking into consideration the intent and purpose of the ordinance and the Master Plan.

(2) A record shall be kept by the Board of all decisions for interpretation of this chapter or zoning map and land uses which are approved under the terms of this section. The Board shall request the Planning Commission to review any ordinance amendment it deems necessary.

(E) *Variances.*

(1) Upon an appeal, the Board is authorized to grant a variance from the strict provisions of this chapter, whereby extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. Further, in granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance as outlined below. When granting any variance, the Board must ensure that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

(2) The applicant must present evidence to show that if this chapter is applied strictly, practical difficulties will result to the applicant and that:

(a) The ordinance restrictions unreasonably prevent the owner from using the property for a permitted purpose;

(b) The variance would do substantial justice to the applicant as well as to other property owners in the district, and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be more consistent with justice to other property owners;

(c) The plight of the landowner is due to the unique circumstances of the property; and

(d) The alleged hardship has not been created by any person presently having an interest in the property.

(Ord. 285, passed 12-8-2003; Ord. 363, passed 6-8-2015)

### **§ 154.219 PROCEDURE FOR APPEAL.**

(A) An applicant requesting any action by the Board shall commence such request by filing a notice of appeal, on the form supplied by the city, accompanied by such appeal fee as determined by the City Council, and all plans, studies, and any other information and data as applicable, all of which shall be made a part of the record.

(B) Any dimension variance requested within the city shall be accompanied by a survey representing the dimension (distance and/or area) which is deficient and nonconforming. The dimension shall be directly measured and certified by a professional surveyor licensed to practice in the state. As it relates to areas, the surveyor shall indicate all field measured dimensions of such parcel and provide the representative calculation. As it relates to property line setbacks or building separations, the dimensions shall be a direct measurement versus calculated. This section may not require a full property line survey of the entire parcel in question but does require a survey as necessary to represent and support the variance request.

(C) Every appeal from a determination of the Zoning Administrator or other duly authorized enforcing agent shall be made by the applicant within 30 days of the date of the order issuance or refusal to issue permit, requirement, or refusal.

(D) The Board shall fix a time for a hearing on the appeal, and shall notify the applicant of the time and place of such hearing. Notice of all public hearings conducted by the Board shall appear in a newspaper of general circulation in the city at least 15 days prior to the hearing where the appeal pertains to a specific parcel(s) of property. Notice of the public hearing shall be sent to the persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single- and two-family dwellings within 300 feet regardless of whether the owner or occupant is located in the city, the notice to be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used.

(E) Any person may appear in person at the public hearing, or be represented by an agent or attorney, and present any evidence in support of his or her appeal. The Board of Appeals shall have the power to require the attendance of witnesses, administer oaths, compel testimony, and otherwise cause the production of books, papers, files, and other evidence pertaining to matters properly coming before the Board of Appeals.

(F) The Board shall not decide an appeal until after a public hearing.

(G) The Board may reverse, affirm, vary, or modify, any order, requirement, or determination, as to which it has the power to consider, and have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit.

(H) (1) The Board may impose conditions with any decision. Such conditions imposed shall meet all of the following requirements:

(a) Be designed to protect natural resources, public health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;

(b) Be related to the valid exercise of the police power, and purposes, which are affected by the proposed use or activity; and

(c) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those

standards.

(2) Violations of any of these conditions shall be deemed a violation of this chapter, enforceable as such, and/or may be grounds for revocation or reversal of such decision.

(I) All decisions of the Board shall be in writing and so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts, and findings of the Board. The applicant shall be advised of the decision after the public hearing unless the Board moves for a continuation of such hearing.

(J) Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct, and the conditions upon which the decision was based are maintained.

(K) The Board may reconsider an earlier decision if, in the opinion of the Board, circumstances justify taking such action.

(L) (1) No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period of longer than one year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(2) No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one year, unless such use is established within such period; provided, however, that such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

(M) Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the circuit court in accordance with Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 et seq., as amended.

(Ord. 285, passed 12-8-2003; Ord. 363, passed 6-8-2015) Penalty, see § 154.999

## PLANNING COMMISSION

### § 154.230 AUTHORITY.

A Planning Commission for the city is established.

(Ord. 285, passed 12-8-2003)

### § 154.231 MEMBERSHIP.

(A) The Commission shall consist of nine members who shall be representative of important segments of the city, such as the economic, governmental, educational, and social development of the city, in accordance with the major interests as they exist in the city, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the local unit of government to the extent practicable. The Mayor and/or up to three members of the City Council, or any combination thereof, may be appointed to the Planning Commission as ex officio members; however, not more than one-third of the members of the Planning Commission shall be ex officio members. All members, except the Mayor, shall be appointed by the Mayor, subject to the approval of a majority vote of the members elect of the City Council. Except for the Mayor, City Council member(s), one member of the Zoning Board of Appeals, and one member of the Historic District Commission, no member of the Commission shall hold any other municipal office. The Commission members shall serve without compensation, except for necessary expenses in connection with their work. The term of each appointed member shall be three years. The Mayor and the City Council member(s) shall serve only so long as they are members of the City Council. Appointed members of the Planning Commission may, after public hearing, be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office.

(B) Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor, subject to the approval by a majority vote of the members elect of the City Council.

(Ord. 285, passed 12-8-2003; Ord. 351, passed 9-15-2014)



### **§ 154.232 OFFICERS AND RULES.**

The Commission shall elect its Chairperson from among the appointed members and shall create and fill such other of its offices as it may determine. The term of the Chairperson shall be one year, with eligibility for reelection. The Commission shall hold at least one regular meeting each month. The City Clerk shall act as Secretary to the Commission. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations which record shall be a public record.

(Ord. 285, passed 12-8-2003)

### **§ 154.233 EMPLOYEES, CONTRACTS, AND EXPENDITURES.**

The City Planning Commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the city. The Commission may also contract with city planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Council, which shall provide the funds, equipment, and accommodations necessary for the work of the Commission.

(Ord. 285, passed 12-8-2003)

### **§ 154.234 POWERS AND DUTIES.**

The City Planning Commission shall have such powers and duties as are granted to a city planning commission by the statutes of the state, to adopt and amend the City Master Plan, conduct surveys and studies, approval, modification, or disapproval of plats, the power to make recommendations regarding zoning and rezoning, and the authority to conduct site plan review procedures for the city.

(Ord. 285, passed 12-8-2003)

### **§ 154.235 CONTINUITY IN TERMS OF OFFICE.**

In order to establish continuity in the terms of office of members of the Planning Commission other than the Mayor and the representative of the City Council, its members shall initially be appointed for staggered terms. According to the original language of approval, three terms would expire in 1988, two would expire in 1987, and two would expire in 1986. The Mayor and City Council representative to the Planning Commission, as stated in § 154.231, shall not be elected to the Planning Commission for a term longer than their respective terms of office on the City Council.

(Ord. 285, passed 12-8-2003)

### **§ 154.999 PENALTY.**

(A) *Enforcement Officer.* The Zoning Administrator, Code Enforcement Officer, Chief of Police or designee of any of them shall be responsible for enforcing violations of this chapter.

(B) *Public nuisance; nuisance per se.* A violation of this chapter is hereby declared to be a public nuisance subject to abatement by the city in any court of competent jurisdiction.

(C) *Municipal civil infractions.* In addition to any other remedies allowed in this chapter, a violation of this chapter is hereby designated as a municipal civil infraction and be subject to the civil fines, sanctions, remedies and procedures set forth in Chapter 33.

(1) *General penalty clause.* A violation of this chapter is hereby designated as a municipal civil infraction and violators shall be subject to the civil fines, sanctions, remedies and procedures as set forth in Chapter 33 and Michigan law.

(2) *Fines paid at Violations Bureau.*



(a) If the civil fine is paid at the Municipal Violations Bureau, the initial fine shall be \$50 or other amount set by resolution of City Council.

1. In the case of another offense within one year of the date of the initial infraction, the civil fine shall be \$100 or other amount set by resolution of City Council. (This shall be known as the second offense.)

2. In the case of another offense within one year of the date of the second offense, the civil fines shall be \$200 or other amount set by resolution of City Council. (This shall be known as the third offense.)

3. In the case of another offense within one year of the date of the third offense, the civil fine shall be \$500 or other amount set by resolution of City Council. (This shall be known as the fourth offense.) All subsequent offenses shall be \$500 or other amount set by resolution of City Council.

(b) All such fines are due and payable at the Violations Bureau no later than 14 days after the date of the violation notice. The Violations Bureau is hereby authorized to accept civil fines in the amounts specified. In case of payment at the Violations Bureau, no costs shall be imposed or collected.

(Ord. 285, passed 12-8-2003; Ord. 383, passed - - 2018)

**ORDINANCE NO. 397**

AN ORDINANCE TO AMEND CHAPTER 154 (ZONING) OF THE CITY OF LINDEN CODE OF ORDINANCES TO ADDRESS THE USE OF CARGO CONTAINERS AS ACCESSORY BUILDINGS; EFFECTIVE DATE; PUBLICATION

THE CITY OF LINDEN ORDAINS:

**Section 1. Amendment** of Section 154.061 (Accessory Buildings and Structures).


Section 154.061 of Chapter 154 is hereby amended to add a new subsection A, 9 to read as follows:


- (9) The placement and use of any cargo container as an accessory building or structure is prohibited. For the purposes of this subsection, a cargo container shall be defined as a reusable vessel that was originally designed for or used in the packing, shipping, movement or transportation of freight, articles, good or commodities, which is capable of being mounted or moved by rail, truck or ship, including any other portable containers or pods used for storage with similar appearance and characteristics of cargo containers. This provision shall not apply to the temporary use of storage containers for construction activities on properties with an active building permit.

**Section 2. Effective Date.** This Ordinance shall become effective ten (10) days following publication.


Enacted at a regular meeting of the City Council of the City of Linden held on the 14 day of December 2020.

THE CITY OF LINDEN:

  
\_\_\_\_\_  
Danielle N. Cusson, Mayor

  
\_\_\_\_\_  
Tessa Sweeney, Clerk

**Certification.** Tessa Sweeney, City Clerk, certifies that the foregoing is a true copy of Ordinance No. 397, which was enacted by the City Council of the City of Linden at a regular meeting held on December 14, 2020.

  
\_\_\_\_\_  
Tessa Sweeney, City Clerk

**CITY OF LINDEN  
ORDINANCE NO. 403**

An ordinance amending Section 154.007, Section 154.048,(E),(3), Section 154.048,(F),(3) and Section 154.048,(G),(2), and adding a new Section 154.100 to Chapter 154 (Zoning) of the Code of Ordinances pertaining to Breweries, Wineries and Distilleries.

**THE CITY OF LINDEN ORDAINS THAT:**

**Section 1. Amendment of Section 154.007 of Chapter 154 of the Code of Ordinances.**

The City Council hereby amends Section 154.007 of Chapter 154 of the Code of Ordinances to add the following new definitions:

**ALCOHOL MANUFACTURING FACILITIES.** Alcohol manufacturing facilities shall include the following:

(1) **BREW PUB.** A "brewpub", as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.

(2) **MICRO-BREWERY.** An establishment of a "micro brewer", as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.

(3) **BREWERY.** An establishment of a "brewer", as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.

(4) **SMALL WINERY.** An establishment of a "small wine maker", as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.

(5) **WINERY.** An establishment of a "wine maker", as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.

(6) **SMALL DISTILLERY.** An establishment of a "small distiller", as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.

(7) **DISTILLERY.** An establishment of a "distiller", as defined in the Michigan Liquor Control Code, Public Act 58 of 1998, as amended, which is regulated and licensed by the State of Michigan.

(D) Off-street loading space shall be provided as required by § 154.180.

(E) All production activities (brewing, wine-making or distilling) shall be conducted within an enclosed structure. Within the CBD and GC Districts, the floor space dedicated to production activities shall not exceed fifty percent (50%) of the total building floor space.

(F) Within the CBD District, the outdoor storage of machinery, equipment, barrels, kegs, or similar materials associated with the operation shall be prohibited. Within the GC and LI Districts, outdoor storage shall only be allowed within an area in the rear yard surrounded by a solid, unpierced fence or wall not less than six (6) feet in height. No materials may be stored to a height greater than the height of the fence or wall.

(G) Appropriate licenses with the State of Michigan shall be maintained.

### Section 6. Effective Date.

This Ordinance shall become effective ten (10) days following publication

At a regular meeting of the Linden City Council held on June 27, 2022, adoption of the foregoing ordinance was moved by Albert and supported by Howe.

Voting for: Simons, MacDermaid, Albert, Cusson, Howe

Voting against: None

The Mayor declared the ordinance adopted.

Kristyn Kanyak  
Kristyn Kanyak  
Deputy Clerk

Danielle Cusson  
Danielle Cusson  
City Mayor

### CERTIFICATION

The foregoing is a true copy of Ordinance No. 403 which was enacted by the Linden City Council at a regular meeting held on June 27, 2022.

Kristyn Kanyak  
Kristyn Kanyak, Deputy Clerk

**CITY OF LINDEN  
ORDINANCE NO. 408**

An ordinance amending Section 154.007, Section 154.048,(E),(3) and Section 154.048,(G),(2) of Chapter 154 (Zoning) of the Code of Ordinances pertaining to Kennels and Animal Shelters.

**THE CITY OF LINDEN ORDAINS THAT:**

**Section 1. Amendment of Section 154.007 of Chapter 154 of the Code of Ordinances.**

The City Council hereby amends Section 154.007 of Chapter 154 of the Code of Ordinances to add the following new definitions:

***ANIMAL CONTROL SHELTER.*** A facility operated by a municipality for the impoundment and care of animals that are found in the streets or at large, animals that are otherwise held due to the violation of a municipal ordinance or state law, or animals that are surrendered to the animal control shelter.

***ANIMAL PROTECTION SHELTER.*** A facility operated by a person, humane society, society for the prevention of cruelty to animals, or any other nonprofit organization for the care of homeless animals.

**Section 2. Amendment of Section 154.007 of Chapter 154 of the Code of Ordinances.**

The City Council hereby amends Section 154.007 of Chapter 154 of the Code of Ordinances to revise the existing definition of KENNEL to read as follows:

***KENNEL.*** Any place or premises where three or more adult dogs, cats, or other domestic pets are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale. A kennel does not include an ***ANIMAL CONTROL SHELTER*** or an ***ANIMAL PROTECTION SHELTER*** as defined herein.

**Section 3. Amendment of Section 154.048, (E), (3) of Chapter 154 of the Code of Ordinances.**

The City Council hereby amends Section 154.048, (E), (3) of Chapter 154 of the Code of Ordinances by adding a new special use within the GC, General Commercial District as follows:

- (m) Animal control shelters and animal protection shelters;

**Section 4. Amendment of Section 154.048, (G), (2) of Chapter 154 of the Code of Ordinances.**

The City Council hereby amends Section 154.048, (G), (2) of Chapter 154 of the Code of Ordinances by adding a new permitted use within the LI, Limited Industrial District as follows:

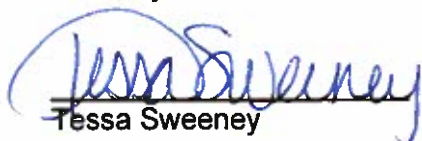
- (n) Kennels, animal control shelters and animal protection shelters;

**Section 5. Effective Date.**

This Ordinance shall become effective ten (10) days following publication

At a regular meeting of the Linden City Council held on April 24 2023, adoption of the foregoing ordinance was moved by Honda and supported by Macdermaid.

Voting for:  
Voting against:  
The Mayor declared the ordinance adopted.

  
\_\_\_\_\_  
Tessa Sweeney  
City Clerk

  
\_\_\_\_\_  
Danielle Cusson  
City Mayor

**CERTIFICATION**

The foregoing is a true copy of Ordinance No. 408 which was enacted by the Linden City Council at a regular meeting held on April 24, 2023.

  
\_\_\_\_\_  
Tessa Sweeney, City Clerk



**CITY OF LINDEN  
ORDINANCE NO. 409**

An ordinance amending Section 154.007, Section 154.048,(E),(3) and Section 154.048,(G),(2) of Chapter 154 (Zoning) of the Code of Ordinances pertaining to Sign Review Committee approval authority.

**THE CITY OF LINDEN ORDAINS THAT:**

**Section 1. Amendment of Section 154.162, (B), (6) of Chapter 154 of the Code of Ordinances.**

The City Council hereby amends Section 54.162, (B), (6) of Chapter 154 of the Code of Ordinances to read as follows:

(6) (a) Where required by the table below, prior to the issuance of a sign permit, the Zoning Administrator or designee shall refer the sign permit application to the Sign Review Committee. The Sign Review Committee shall consist of the following individuals: Zoning Administrator; City Manager; and one member of the Planning Commission, as approved by a majority vote of the Planning Commission.

(b) The Sign Review Committee shall review a sign permit application for compliance with this chapter. A sign permit shall not be issued by the Zoning Administrator until all members of the Sign Review Committee have determined that the sign permit application is in compliance with this chapter. A member of the Sign Review Committee shall have the authority to refer a sign permit application to the Planning Commission and/or City Planning Consultant for additional review or comment prior to the decision of the Sign Review Committee.

(c) Signs proposed to be erected in the CBD District and requiring a permit shall be reviewed by the city's Historic District Commission.

(d) The authority for the review and approval of sign types by district is indicated in the table below:

<b>District</b>	<b>Sign Type</b>	<b>Review Responsibility</b>
Any District	Exempt Signs	No permit required
CBD	Projecting Signs	HDC & ZA
CBD	Canopy Signs	HDC & ZA
CBD	Wall Signs	HDC & ZA
CBD	Poster Panel, "A" Frame and Sandwich Signs	HDC & ZA
CBD	Ground Signs	HDC & ZA
CBD	Window Signs	HDC & ZA
Outside CBD	Ground Signs	SRC
Outside CBD	Wall Signs	SRC
Any District	Temporary Signs and Banner Signs	ZA
Any District	Weekend/Holiday Promotional Sales Banner Signs	No permit required

Any District	Special Event Signs	ZA
Any District	Menu Board	ZA
LS, GC and LI Districts	Changeable Copy Signs	SRC
Any District	Historic Marker	ZA
Outside CBD	Window Signs	No permit required
Any District	Commercial Mural Signs	PC
Any District	Non-Commercial Mural Signs	SRC
Any District	Residential Development Entry Signs	SRC
Outside CDB	Poster Panel, "A" Frame and Sandwich Signs	ZA
<b>Key:</b> ZA = Zoning Administrator SRC = Sign Review Committee HDC = Historic District Commission PC = Planning Commission		


**Section 2. Effective Date.**

This Ordinance shall become effective ten (10) days following publication

At a regular meeting of the Linden City Council held on April 24 2023, adoption of the foregoing ordinance was moved by MacDermaid and supported by Armstrong.


Voting for:  
 Voting against:  
 The Mayor declared the ordinance adopted.

  
 Tessa Sweeney  
 City Clerk

  
 Danielle Cusson  
 City Mayor

**CERTIFICATION**

The foregoing is a true copy of Ordinance No. 409 which was enacted by the Linden City Council at a regular meeting held on April 24, 2023.

  
 Tessa Sweeney, City Clerk