



Chapter 50: Zoning Ordinance Winter '23

THE CITY OF KALAMAZOO



imagine
kalamazoo
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How to Use These Regulations

This Zoning Code provides a variety of zoning districts to support development and redevelopment and the alignment of land use with our transportation network in Kalamazoo. Follow the steps on the adjacent page to determine what zoning standards apply to your property.

In addition to traditional zoning districts, this Code also includes districts that apply form-based regulations. The Live Work 1, Live Work 2, Neighborhood Node, Downtown 1, Downtown 2, and Downtown 3 zoning districts set development standards that focus not only on the use of the building, but also the building's form and impact on the block and adjacent street. These regulations go beyond basic setback lines and maximum height to consider such elements as building entrance, minimum amount of transparent windows, and both minimum and maximum heights. The intent of each zoning district can be found in 50-3 Zoning Districts and Maps. Information on the development standards for each district is found in 50-5 Zoning Standards.

This Zoning Code also considers the street network when setting standards for where uses may be located and building, access, and parking locations. In order to create active and inviting public places and support economic vitality at a variety of scales and locations, buildings and uses on lots and the adjacent streets must work together, rather than be in conflict. To this end, the City has created a Street Design Manual to guide its work in designing City streets and to support development that impacts the City's rights-of-way. A street type map is included with the Zoning Map.

The Planning Division is always available to answer questions at 269-337-8044.

1 Zoning District & Street Type

What zoning district is your property located?
On what street type is your property located?



Locate your property on the Zoning Map (refer to Figure 1.2-1) and the City's Online GIS system available from www.cityofkalamazoo.org/maps.

Locate the street type(s) adjacent to your property (refer to **Figure 1.2-2**) and the Street Design Manual for additional background at www.imaginekalamazoo.com/projects/streetdesignmanual

Maps may be also obtained from the Planning Division.

2 Permitted Use.

What is your desired use? Is it permitted in this location?



Refer to the **4.1-1 Use Table** to review what uses are permitted in each Zoning District. Many uses have specific design standards by district, these are described in **50-4.4 Use Definitions and Standards**

3 Zoning Standards.

What are the requirements for developing or rehabbing a building in this location?



Go to **50-5 Zoning Standards**. The standards for each district are noted in one of two tables:

1. Table 5.1-1 Permitted Lot Types by District

- these are the standards for the form-based districts
- in most districts, more than one Lot Type is permitted; Lot Type descriptions are found in **50.5-6 Lot Types**
- each Lot Type has its own standards specific to that Lot Type, including detailed illustrations.

Select the lot type for your project and use these standards to design your project

2. Table 5.1-2 Dimension Standards by District

- standards for these districts are listed in this table

All the zoning standards, regardless of which zoning district applies to your property are defined in **50.5-2 to 5**.

When rehabbing an existing building refer to section **50-1.4**

Nonconformances to determine what activities would result in meeting the requirements of Chapter 50.

Article 50-1. General Requirements.

50-1.1 Purpose.

A. The intent of these requirements is to:

- (1) Create a flexible, market driven approach to the districts defined to promote public health, safety, and general welfare.
- (2) Realize the community's vision as detailed in the Master Plan, including permitting a variety of uses, increased variety of housing infill, and promoting active walkable nodes and corridors through the inclusion of building form requirements.

B. This document should reflect the current adopted Master Plan; if substantial changes occur, this text should be reviewed and amended.

50-1.2 General Provisions.

A. Zoning Maps. The zoning districts detailed in these regulations are mapped according to Figure 1.2-1. Throughout this Code, many standards are tied to both the mapped zoning districts and the street type, the street types are mapped according to Figure 1.2-2.

B. Conflicts. If a conflict arises between the regulations in Chapter 50 and those in Appendix A, the regulations of Chapter 50 take precedent unless otherwise approved by the City Planner.

C. Existing Structures. *The standards in this document apply to both new and existing buildings, as detailed in each Article.* The form-based zoning districts are intended to allow existing structures to remain while integrating new development through the use of the form-based standards.

insert NEW zoning map here

Figure 1.2-1 Zoning Map. A digital version of this map is available online through the City's eCode and GIS sites; paper versions of the map can be found in the Planning Division's office.

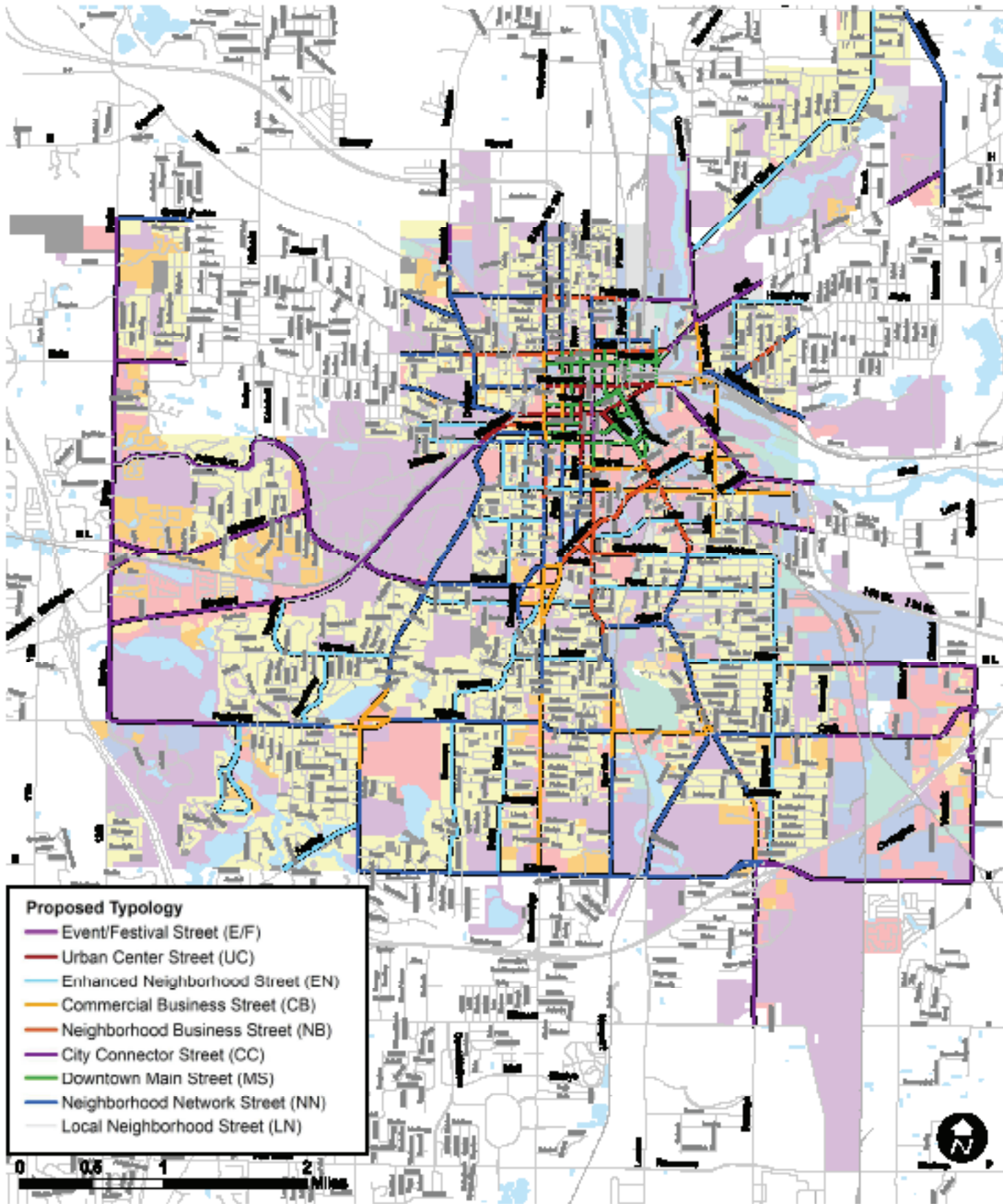


Figure 1.2-2 Street Type Map.

Definitions will be renumber edited

50-1.3 Definitions.

- A. **Agriculture.** Growing of food crops indoor or outside for personal use, donation, or sale; ~~this excludes~~ *excluding* the growth of marihuana plants for medicinal or recreational purposes.
- B. **Alley.** A public or private right-of-way intended for accessing rear yards, utilities, trash pick up, and vehicular access to parking or loading areas. The City Planner can approve having existing Courts serve the same functions as Alleys, as it relates to the requirements of this code.
- C. **Basal Area.** A method of determining Woodland density by measuring the cross-sectional area of individual tree stems over a particular unit area.
- D. **Best Management Practices (BMP).** Commercial or professional procedures that are *generally* accepted or prescribed *industry standards* as being correct or most effective.
- E. **Build-to Zone.** The designated area on a lot that the front or corner side façade of a building must be located. The zone dictates the minimum and maximum distances a building may be placed from the front or corner side lot line.

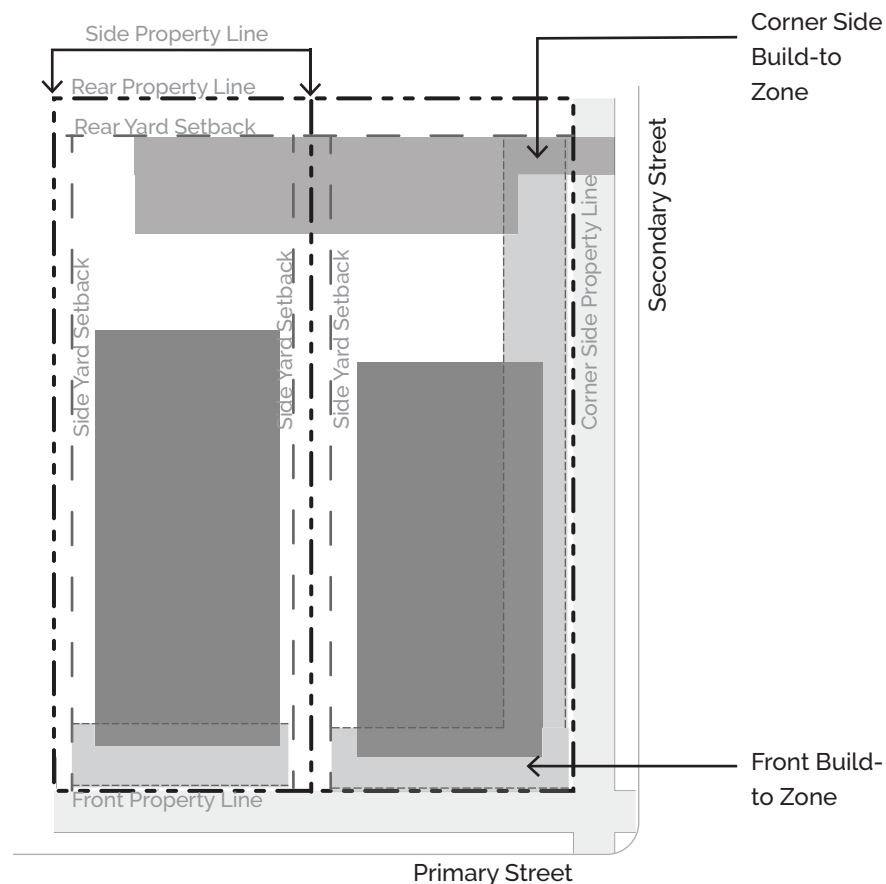


Figure 1.3-1 Build-to Zone, Property Lines, & Yards.

Refer to Figure 1.3-1 Build-to Zone, Property Lines, and Yards.

F. *Canopy*, Tree. The upper layer of a Woodland formed by the crowns of mature trees.

G. *Courtyard*. An open-to-the-sky outdoor area enclosed by a building on at least two (2) sides. Parking is not permitted in a Courtyard.

H. *Critical Root Zone (CRZ)*. The zone encompassing the majority of a tree's roots. It is calculated by measuring the diameter of a tree trunk at breast height and measuring outward from the trunk eighteen (18) inches for every inch of trunk diameter. Refer to Figure 1.3-2 Measuring Critical Root Zone.

I. *Cultivate*. To propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

J. *Develop*. The construction, removal, or renovation of a primary or accessory structure or other impervious surfaces on a lot.

K. *Diameter at Breast Height (DBH)*. The diameter of a tree trunk measured at 4.5 feet above ground level. Refer to Figure 1.3-3 Measuring DBH.

L. *Disturbance*. Includes any of the following: 1) placement of impervious surface or structure; 2) exposure or movement of soil, including removal or addition of soil or other natural or manufactured materials; or 3) clearing, cutting, or removing of vegetation except when any of these activities are done in order to maintain or improve ecosystem health, mitigate or prevent erosion and sedimentation, or mitigate harm, such as by removal of invasive or diseased vegetation, to the natural feature.

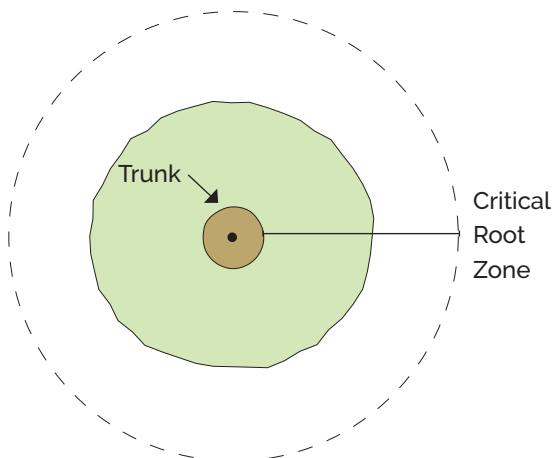


Figure 1.3-2 Measuring Critical Root Zone

Figure 1.3-3 Measuring Diameter at Breast Height

M. *Ecosystem*. A biological community of interacting organisms and their physical environment.

N. *Ecosystem Assessment, Woodland*. A method for quickly gathering information about the plant density, species diversity, and/or condition of a Woodland habitat.

O. *Endangered Species*. Any species recognized by the State of Michigan and/or Federal government as being in danger of extinction throughout all or a significant portion of its range.

P. *Entrance Treatment*. The permitted treatments of the ground story façade, including entrance and window transparency. Refer to 5.2 Entrance Treatment.

Q. *Equivalent License, Marihuana Establishment*. Any of the following when held by a single licensee:

- (1) grower license of any class under both the MRTMA and MMFLA;
- (2) processor licenses under both the MRTMA and MMFLA;
- (3) secure transporter licenses under both the MRTMA and MMFLA;
- (4) safety compliance facility licenses under both the MRTMA and MMFLA; and
- (5) a retailer license under the MRTMA and a provisioning center license under the MMFLA

R. *Façade*. The exterior face of a building, including but not limited to the wall, windows, doorways, and design elements. The front façade of a building faces the front property line.

S. *Façade, Street Facing*. Façade of a building facing a public or private space, such as a street or park. This does not include building facades along alleys, which would be considered rear facades.

T. *Graminoids*. Grasses, sedges, and rushes.

Grocery Store. A grocery store is a type of retail use that includes the sale of food, food products, beverages, and household items. A grocery store has a minimum total square footage of five thousand (5,000) square feet of which at least thirty (30) percent or three thousand (3000) square feet, which ever is greater is dedicated to the sale of a combination of food, including fresh fruit, fresh vegetables, and dairy; food products; non-alcoholic beverages; and household items, such as pet supply, hardware, and over-the-counter medical items

U. *Habitat*. The natural home or environment of an animal, plant, or any other living organism.

V. *Habitat Corridor*. An area of land containing wildlife habitat, generally native vegetation, which joins or provides passage between two or more larger areas containing similar wildlife habitat, and the entire corridor thus formed.

W. *Industrial Hemp*. *As defined in Section 3 of the MRTMA MCL 33327953*. Any part of the plant, whether growing or not, ~~Cannabis sativa L or the genus cannabis with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marijuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant regardless of moisture content. Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal and consumer products with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.~~

X. *Invasive Species*. Any living organism that is not native to an ecosystem and causes the ecosystem harm.

Y. *Lot Type*. A lot type is defined by the combination of building siting, form, façade treatment, parking and access, and use. Refer to Chapter 5.

Z. *Lot of Record*. *A lot created in a subdivision plat as shown on the records of the Kalamazoo County register of deeds or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the Kalamazoo County register of deeds.*

Marihuana. *As defined in Section 3 of the MRTMA MCL 33327953*. All parts of the plant ~~Cannabis sativa L. or of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marijuana concentrate and marijuana-infused products. For purposes of this ordinance, marijuana does not include~~ *the following:*

- ~~(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination.~~
- ~~(2) Industrial hemp.; or~~
- ~~(3) Any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.~~

AA. *Marihuana Establishment, Adult Use*. An adult use marijuana commercial business operation licensed pursuant to

the MRTMA and permitted to operate by City ordinance.

BB. *Marihuana Establishment, Medical*. A medical marihuana commercial business operation licensed pursuant to the MMFLA and permitted to operate by City ordinance.

CC. *Marihuana-Infused Products*. A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption in a manner other than smoke inhalation.

DD. *Master Plan*. City of Kalamazoo *guiding Planning* document that outlines the community's vision primarily as it relates to land use and transportation.

EE. *MMFLA*. The acronym for the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq.

FF. *MRTMA*. The acronym for the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27051 et seq.

GG. *Nativar*. A cultivar of a native plant species.

HH. *Native Species*. A species that normally lives and thrives in a particular place as a result of natural processes, not human introduction, disturbance, or intervention. For the purposes of this Article, a particular place is defined as Kalamazoo County.

II. *Natural Communities*. Groups of plants and animals and their physical environment that have experienced minimal human-caused disturbance or recovered from that disturbance.

JJ. *Natural Features*. Features defined in the Natural Feature Protection Overlay *in 50.6.1* specifically Wetlands, Water Resources, Trees, Woodlands, Floodplains, Slopes, Natural Heritage Areas, and Habitat Corridors.

KK. *Natural Vegetation*. Plants that grow naturally, especially but not limited to those that provide habitat for wildlife; deep-roots to stabilize banks, shorelines, and slopes; or canopy for shade.

LL. *NREPA*. *The acronym for* Michigan's Natural Resources and Environmental Protection Act, 451 of 1994, as amended, MCL 324.101 - 324.90106.

MM. *Occupied Space*. The first fifteen (15) feet inside a building measured from the front facade and on corner side facades. In this space, uses such as interior parking, residential units, storage, or utility areas may be restricted. Refer to Article 5 Zoning Standards for more information.

NN. *Orbs*. Non-woody plants and wildflowers other than grasses.

OO. *Ordinary High Water Mark*. The upper limit that the water level reaches during regular changes in water level. Refer to Figure 6.2-1 Wetland and Water Resources Setbacks.

PP. *Parcel, Parent*. The parcel or tract of land lawfully in existence on the effective date of the Natural Features Protection Overlay District. *As used in this definition the terms "parcel" and "tract" are as defined in Land Division Act, MCL 560.102.*

QQ. *Playground*. Any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus *apparatuses* intended for the recreation of children including, but not limited to, sliding boards, swing sets, and teeterboards.

RR. *Preserve*. An area of land under common ownership by a tax-exempt nonprofit organization where a management plan for conservation, wildlife, historic resources, or ecological resources or values is actively implemented.

SS. *Process or Processing*. The activity to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

TT. *Property Line*. Also referred to as lot line. Refer to Figure 1.3-1 Build-to Zone, Property Lines, and Yards.

UU. *Property Line, Front*. Also referred to as a front lot line. The intersection of the right-of-way and the property or lot; the *area location* from which the front build-to zone is set. Figure 1.3-1 Build-to Zone, Property Lines, and Yards.

- (1) When a primary street abuts a through or corner lot, the front property line is that property line along the primary street.
- (2) When a lot abuts two (2) or more primary streets or does not abut any primary streets, the front property line shall be determined by the City Planner.

VV. *Restoration*. The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed.

WW.: *Riparian Area*. The area adjacent to a Water Resource or Wetland.

XX. *Runoff*. The portion of precipitation that does not soak into the ground or evaporate.

YY. *Scale*. Typically defined by the adjacent buildings and rights-of-way, scale refers to the size or massing of a structure or street.

ZZ. *Semi-pervious Materials*. A ground surface covering that allows for at least forty (40) percent absorption of water into the ground or vegetation, such as porous pavement, pavers, crushed stone, or gravel.

AAA. Sign. A structure, device, letter, word, model, banner, balloon, pennant, insignia, emblem, logo, painting, placard, poster, trade flag or representation, illuminated or non-illuminated, that is visible from a public place, including, but not limited to, highways, streets, alleys or public property, or is located on private property and exposed to the public, that directs attention to a product, service, place, activity, person, institution, business or solicitation. Refer to 50-9 Signs.

BBB. Sign, Abandoned. A sign that no longer correctly advertises or directs a person to a bona fide business, person, goods, product, activity or service.

CCC. Sign, Changeable Copy. Changeable copy signs include both those with a message changed manually or automatically, the latter being defined as Electronic Message Displays.

DDD. Sign, Cold-Air Inflatable Balloon. A temporary/portable sign composed of a nonporous bag of tough, light-weight material filled with unheated oxygen that may or may not float in the atmosphere.

EEE. Sign, Electronic Message Display. A sign or portion of a sign, that displays an electronic image or video, which may or may not include text, including any sign or portion of a sign that uses changing lights or similar forms of electronic display such as LED to form a sign message with text and or images wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. This definition includes without limitation television screens, plasma screens, digital screens, flat screens, LED displays, video boards, and holographic displays. The following definitions are related to Electronic Message Displays.

(1) Dissolve. A mode of message transition on an electronically changeable copy sign accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

(2) *Fade.* A mode of message transition on an electronically changeable copy sign accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

(3) *Flash.* A mode of message transition on an electronically changeable copy sign accomplished by varying the light intensity, where the message instantly and repeatedly reduces or increases intensity.

(4) *Scroll.* A mode of message transition on an electronically changeable copy sign accomplished by the movement of a message.

FFF. Sign, Helium-Inflatable Balloon. A temporary and portable sign composed of a nonporous bag of tough, light material filled with helium that may or may not float in the atmosphere.

Sign, Multiple Tenant. A freestanding sign that is comprised of a sign structure that includes multiple panels or signs for multiple users.

GGG. Sign, Off-Premises. A sign other than an on-premises sign.

HHH. Sign, Off-Premises Structures. A freestanding column, including associated supports and framework, that supports an off-premises sign independent of any building.

III. Sign, On-Premises. A sign identifying or advertising a business, person, activity, or service located on the premises where the sign is located.

JJJ. Sign, Roof. A sign erected upon, against or directly above a roof, or on top of or above the parapet of a building. Roof signs are not a permitted sign type.

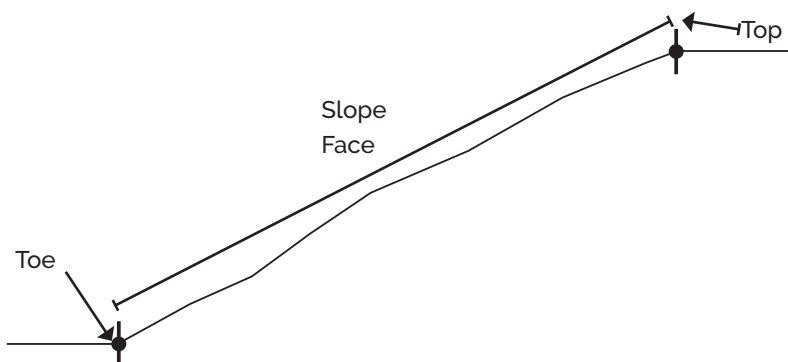


Figure 1.3-43 Parts of a Slope

Site Characteristics. Minor, physical development features on a lot, including signage, landscaping, parking, driveway location, and other physical, but non-structural elements of a site.

KKK. BBB Slope. The area of the ground surface where there is a change in elevation over a horizontal distance.

LLL. CCC. Slope Analysis. An analysis based upon a topographic survey used to calculate the grade of slopes.

KKK. DDD. Slope Face. The surface area of the slope from Top to Toe of Slope. Refer to Figure 1.3-43 Parts of a Slope.

LLL. EEE. Slope Percent Grade. The vertical change in the elevation of the ground surface (rise) divided by the specific horizontal distance (run) multiplied by 100.

MMM. FFF. Slope, Toe of. The lowest part of a slope. Refer to Figure 1.3-43 Parts of a Slope. Refer to Figure 1.3-3 Parts of a Slope.

NNN. GGG. Slope, Top of. The highest part of a slope. Refer to Figure 1.3-43 Parts of a Slope. Refer to Figure 1.3-3 Parts of a Slope

OOO. HHH. Stormwater Best Management Practices (BMP). Tools used to prevent or reduce stormwater runoff and/or associated pollutants as determined by professional associations, State of Michigan, or Federal government, such as the Michigan Low Impact Development Manual.

PPP. III. Stormwater Runoff. Runoff and any other surface water drainage that flows into natural or man-made drainage ways.

QQQ. JJJ. Street, Types. The types of right-of-ways and associated treatment of vehicular, bicycle, and pedestrian ways within, as *envisioned* illustrated by the 2025 Master Plan *and detailed in the Street Design Manual*. The Street Types *are defined and illustrated in the Street Design Manual and include City Connector, Event/Festival, Urban Center, Downtown Main, Commercial Business, Neighborhood Business, Neighborhood Network, Enhance Neighborhood, and Local Streets.* ~~are: Priority Street, Main Street, Connector Street, SubUrban Street, and Neighborhood Street.~~ Refer to Figure 1.2-2 Street Types Map..

Street Type, City Connector. City Connector Street Types are located near the edges of the City, often serving as a transition from highways or more rural roadways into the city proper. They support a mix of land uses that are predominantly accessed by personal vehicle. Refer to the Street Design Manual for design standards.

Street Type, Commercial Business. Commercial Business Street Types are located on significant transportation corridors, often passing through commercial nodes that are more suburban or auto-oriented (compared to Neighborhood Business Street Types and Neighborhood Nodes). Refer to the Street Design Manual for design standards.

Street Type, Enhanced Neighborhood. Enhanced Neighborhood Street Types traverse through the interior of neighborhoods, often serving as an internal spine for neighborhood connections. Enhanced Neighborhood Streets provide access to and through neighborhoods and often have higher traffic volumes than the local neighborhood streets. Refer to the Street Design Manual for design standards.

Street Type, Event/Festival. Event/Festival Street Types are special streets within the city that are dominated by pedestrian-centric activity. Typically, they are curbless or designed as shared spaces, enabling flexible use of the entire street corridor for special events. Event/Festival Streets support mixed land use development. Refer to the Street Design Manual for design standards.

Street Type, Local Neighborhood. Local Neighborhood Street Types are lowest speed and volume street type. They predominantly support residential land uses. Refer to the Street Design Manual for design standards.

Street Type, Main Street. Main Street Types balance a broad range of needs and demands: an inviting pedestrian-oriented streetscape, supportive spaces for adjacent businesses, parking, loading, cyclists, and transit riders. Main Streets constitute the majority of downtown and downtown-adjacent streets. Refer to the Street Design Manual for design standards.

Street Type, Neighborhood Business. Neighborhood Business Street Types are typically major connecting streets in the city where clusters of small-scale, mixed-use nodes are located. These areas are walkable, supporting a mix of uses and travel modes. Refer to the Street Design Manual for design standards.

Street Type, Neighborhood Network. Neighborhood Network Street Types are primary transportation corridors that provide connectivity throughout the city but traverse through predominately residential areas. Refer to the Street Design Manual for design standards.

Street Type, Urban Center. Urban Center Street Types are highly active streets with an intense combination of active ground-floor uses, pedestrian activity, and vehicle volumes. Urban Center Streets are found in Downtown Kalamazoo. Refer to the Street Design Manual for design standards.

~~KKK. Street, Connector. Links neighborhoods and institutions together. Transit, on-street bicycle facilities such as protected lanes or paint-designated lanes, and on-street parking may all be present. Sidewalks and upgraded~~

crossings at key intersections provide for pedestrians along this often busy, very mixed-use street. Driveways for vehicular access to properties are expected, but limited through key neighborhood commercial nodes and corridors. A center turn lane maybe be required. This street type balances all travel modes. For additional information refer to the Connected City Chapter of the 2025 Master Plan.

LLL. Street, Main. Typically found Downtown surrounding Priority Streets, it serves intensive, active mixed-use blocks. A street type with slow vehicular traffic, regular pedestrian crossings and wide sidewalks. Sidewalks are improved with streetscape, lighting, and wayfinding signage to support pedestrian movements. On-street parking and on-street bicycle facilities are both common. Driveway access to adjacent properties should be limited to prevent pedestrian-vehicle conflicts. The priority user is the pedestrian. For additional information refer to the Connected City Chapter of the 2025 Master Plan.

MMM. Street, Neighborhood. This street type typically has slow vehicular traffic, limited to no transit service, and bicycle facilities that are incorporated into the roadway with signed routes or sharrows. Regular driveway access is excepted on this street type. On-street parking serves the adjacent land uses which can range from industrial to commercial to residential. In residential blocks, landscaped curb lawns and street trees are common; there may not be sidewalk on both sides of the street in this setting. For additional information refer to the Connected City Chapter of the 2025 Master Plan.

~~RRR. NNN. Street, Primary.~~ A street designated as having priority over other streets in terms of setting the front lot line, locating building entrance, and façade treatment. ~~On corner lots, the primary street is determined by the street type with the following order of priority: priority street, main street, connector street, and neighborhood street.~~ When a lot fronts three (3) or more streets and/or two (2) or more of the same street type, the primary street will be designated by the City Planner *or their designee*. ~~through Site Plan Review.~~

OOO. Street, Priority. Downtown street type with slow vehicular traffic, regular pedestrian crossings and very wide sidewalks. Transit, on-street parking, and on-street bicycle facilities are typical, as is a high level of streetscape, lighting, and wayfinding signage to support active, urban commercial and mixed-use blocks. The priority user is the pedestrian. For additional information refer to the Connected City Chapter of the 2025 Master Plan.

SSS. PPP. ~~Street, Secondary.~~ A street designated as not having priority over other streets. Secondary streets typically serve as preferred location for vehicular access points and buildings fronting secondary streets may have a reduction in the facade requirements.

QQQ. Street, Suburban. Multiple vehicle lanes with higher speeds, this street type often has a center turn lane and no on-street parking. Transit serve this street type and the adjacent uses, which lean toward more intensive

commercial or mixed-use projects. Pedestrian and bicyclists move in off-street, facilities separated from the vehicular travel lanes. The priority user is the vehicle. For additional information refer to the Connected City Chapter of the 2025 Master Plan.

~~TTT~~-RRR: *Story, Ground*. Also referred to as ground floor. The first floor of a structure that is level to or elevated above the finished grade, measured at the front and corner facades. This excludes partially above-ground basement areas. Refer to Figure 5.3-1 Measuring Height.

~~UUU~~-SSS: *Story, Half*. A floor located partially below grade and partially above or a floor located within the roof structure facing that has transparency facing a street.

~~VVV~~-FFF: *Story, Upper*. The floors of a structure located above the ground story. Also referred to as upper floor.

~~WWW~~-UUU: *Structure, Primary*. A structure that contains the lot's primary use and is located in the front-build to zone. A lot may contain more than one primary structure, refer to 5.6 Lot Types.

~~XXX~~-VVV: *Structure, Accessory*. A structure that contains a secondary or accessory use on a lot. Accessory structures are typically smaller in size than the primary structure and located toward the rear of the lot. Refer to 4.5 Accessory Uses and Structures.

~~YYY~~-WWW: *Surface, Pervious*. An area that allows for the absorption of water into the ground or vegetation. Also referred to as permeable are.

~~ZZZ~~-XXX: *Surface, Impervious*. Areas covered with surfaces that do not allow at least forty (40) percent absorption of water into the ground, including areas for driveways, parking lots, and walkways and structures.

~~AAA~~-YYY: *Surface, Semi Pervious*. An area that allows for at least forty (40%) absorption of water into the ground or vegetation. Semi-pervious materials can include such materials as porous pavement, pavers, crushed stone, or gravel.

~~BBB~~-ZZZ: *Threatened Species*. Any species recognized by the State of Michigan and/or Federal government which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

~~CCC~~-AAA: *Turf Grass*. Any variety of commercial grasses grown and maintained to form turf.

DDDD. BBBB. Understory. The layer or layers of woody vegetation — including understory trees and shrubs — that naturally grow beneath a Tree Canopy.

EEEE. Usable Outdoor Space. Outdoor open space that can be functionally used by tenants or residents in the building with which it is associated. Examples include: private or shared balconies, patios, porches, dog run, play area, and other similar outdoor spaces.

FFFF. ~~CCCC.~~ Use, Accessory. May also be referred to as secondary use. This use typically takes up less space than the principal use and is often located in an accessory structure or in side or rear yards.

GGGG. ~~DDDD.~~ Use, Primary. May also be referred to as the principal use. The dominant use of a lot. It is typically located in the lot's primary structure along the front property line.

HHHH. EEEE. Vegetated Buffer. A permanent, maintained strip of vegetation designed to help absorb and slow the velocity of surface Stormwater Runoff, and filter out sediment and other pollutants.

III. FFFF. Wetland Determination. An on-site investigation to determine whether the presence of water, hydric soils, and wetland vegetation occur in such a manner as to meet the definition of a Wetland.

JJJ. GGGG. Wild-type. A straight species native plant that has not been commercially cultivated for a specific characteristic, which provides for natural genetic diversity, disease resistance, climate resiliency, and reliable pollinator habitat.

KKKK. HHHH. Youth Center. Any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities."

LLLL. ~~###.~~ Zoning District, Base. Also referred to as underlying zoning. The zoning regulations applied to a parcel according to the Zoning Map.

MMMM. ~~JJJ.~~ Zoning District, Overlay. A set of standards placed on a parcel in addition to the standards of the Base Zoning District.

50-1.4 Nonconformances.

A. *General Requirements.* This section establishes rules governing uses, structures, signs, and lots that were legally established before the creation of this Ordinance but that do not conform to one or more requirements of this Ordinance.

(1) *Authority to Continue.* Nonconforming uses, structures, and lots that legally existed on INSERT MONTH DAY 2023, or that become nonconforming after an amendment to this Ordinance may be continued only in accordance with the provisions of this section.

(2) *Determination of Nonconforming Status.* The burden of establishing that a nonconformance is a legal nonconformity is the responsibility the owner of the nonconformity.

(3) *Repairs and Maintenance.* Incidental repairs and normal maintenance of nonconformities is permitted unless such repairs increase the extent of the nonconformance or are otherwise prohibited by this Ordinance. Nothing in this section shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of a public official.

(4) *Change of Tenancy or Ownership.* A nonconformance is not affected by changes of tenancy, ownership or management.

(5) ~~The r~~Regulations of Chapter 50 shall be met in the following circumstances:

~~(a) Change in Use.~~ The use nonconformance exception ends when a change of use will result in a fifty (50) percent or greater change in capacity or intensity, such as an increase in gross floor area, seating, or residential units.

~~(b) Change in Structure.~~ The structural nonconformance exception ends when the associated structure is modified to change the gross floor area by fifty (50) percent or more.

B. *Nonconforming Uses.* Nonconforming uses are those uses that were legally established but no longer comply with the use regulations of the zone district in which they are located. The following rules apply to nonconforming uses:

(1) *Expansion.* A nonconforming use may be enlarged within the same structure provided that the structure is not increased in size to accommodate the use and that it is in compliance with the standards in this section.

(2) *Conversion of Conforming Use.* Once a nonconforming use is converted to a conforming use it may not be changed back to a nonconforming use.

(3) *Loss of Nonconforming Status.*

~~(a) Increasing a Nonconforming Use.~~ The use nonconformance exception ends when a change of use will result in a fifty (50) percent or greater change in capacity or intensity, such as an increase in gross floor area, seating, or residential units.

~~(b) Damage and Restoration of Structure Containing a Nonconforming Use.~~ If a conforming structure containing a

nonconforming use is damaged by more than fifty (50) percent of its actual cash value at the time damage occurs as determined by the City Assessor, the nonconforming use shall not be reestablished unless in compliance with the standards of this Ordinance.

[1] Exceptions. When reconstructed within one (1) year of the damage, the following nonconforming uses can continue when damaged

[a] A nonconforming use in a conforming structure damaged by less than fifty (50) percent.

[b] Nonconforming uses in a conforming structure containing up to four (4) residential units.

(c) Abandonment. Once abandoned, a nonconforming use shall not be reestablished or resumed.

[1] A nonconforming use shall be presumed abandoned and its rights as a nonconforming use extinguished when any one of the following has occurred:

[a] The owner has in writing or by public statement indicated intent to abandon the use.

[b] A conforming use has replaced the nonconforming use.

[c] The structure housing the nonconforming use has been removed.

[d] The structure or its permanent equipment has changed in a manner that clearly indicates a change in use or activity to something other than the nonconforming use.

[e] The use has been discontinued, vacant or inactive for a continuous period of at least one year, regardless of ownership.

[2] Evidence of abandonment, may be rebutted upon a showing the following:

[a] The land and structure has been maintained in accordance with all applicable regulations.

[b] Owner or operator has been engaged in other activities that would demonstrate there was not intent to abandon.

[c] All applicable licenses have been maintained.

[d] Tax documents have all been filled.

C. Nonconforming Structures. Nonconforming structures are those structures that were legally established but no longer comply with the standards of the zone district in which they are located. The following rules apply to nonconforming uses:

(1) Use. A nonconforming structure may be used for any use permitted in the zone district in which it is located. Refer to 50-4 Uses.

(2) Change in Structure. A nonconforming structure may be enlarged or changed if the expansion does not increase the amount of nonconformity or incrementally brings the structure closer to conformity.

(3) Loss of Nonconforming Status.

(a) Change in Structure. The structural nonconformance exception ends when the associated structure is modified to increase the gross floor area by fifty (50) percent or more.

(b) Damage and Restoration of Structures. Primary structures damaged by more than fifty (50) percent of its actual cash value at the time damage occurs as determined by the City Assessor, shall not be reestablished except in compliance with all regulations applicable to the zone district in which it is located.

(c) Exceptions. When reconstructed within one (1) year of the damage, the following nonconforming structures can continue when damaged:

[1] A nonconforming structure damaged by less than fifty (50) percent.

[2] Nonconforming accessory structures in existence on INSERT MONTH DAY 2023 associated with a residential use.

[3] Nonconforming structures containing up to four (4) residential units.

D. Nonconforming Lot. Nonconforming lots are those lots that were legally established, such as lots of record, but no longer comply with the minimum area or width standards of the zone district in which they are located.

(1) Vacant Lots. If a nonconforming lot was vacant at the time it became legally nonconforming, it may be used for any use allowed in the underlying zone district provided that setback or build-to zone standards can be met.

(2) Developed Lots. If a nonconforming lot contained a structure at the time it became nonconforming, then the building or structure may be maintained or expanded in accordance with the standards of 50-1.4(C) Nonconforming Structures.

E. Nonconformities Created by Government Action. When the Michigan Department of Transportation, the Kalamazoo County Road Commission, the City of Kalamazoo, or any other governmental entity acquires additional right-of-way for the purpose of street construction, street relocation, street widening, or utilities, and the result creates a structural nonconformity, any existing lot or structure is permitted to be altered, enlarged, or rebuilt in accordance with the standards of 50-1.4(C) Nonconforming Structures.

F. Nonconforming Site Characteristics. Site characteristics may continue in accordance with the following.

(1) Ten Percent Exception. A site characteristic is not considered nonconforming if the size of the nonconformance is less than ten (10) percent of the requirement.

(2) Change In Use. The nonconforming site characteristic exception ends if a change of use will result in a fifty (50) percent or greater change in capacity or intensity, such as an increase in gross floor area, seating, or residential units.

(3) Change in Structure. The nonconforming site characteristic exception ends if the associated structure is modified to change the gross floor area by fifty (50) percent or more.

(4) Exception for Multi-Tenant Signs. Multi-tenant signs are exempt from this requirement in that an individual or tenant is permitted to install a new sign or change out signage within an existing multiple tenant sign provided that the new signage does not increase the amount of nonconformance.

G. Street Facing Façades. When a building located within the build-to zone is renovated, including with no change to the overall square footage of the structure, the regulations of 5.5 Street Facing Facades shall be met when any of the following occur.

(1) Installation of new entrance or change in location of entrance on a street facing façade.

(2) Change in window location or size on a street facing façade by thirty (30) percent or more.

(3) Change or replacement of more than thirty (30) percent of façade materials on a street facing façade with a different material.

Article 50-2. Review Bodies.

Reserved

Article 50-3. Zoning Districts.

50-3.1 Zone Districts. Refer to Figure 1.2-1 for the Zoning Map of the following districts.

A. Neighborhood Node District. Neighborhood Nodes are intended to create walkable, vibrant mixed-use commercial areas in Kalamazoo neighborhoods with a focus on building forms that promote inviting public places. Neighborhood Nodes allow a wide range of commercial uses on the ground floor with commercial and residential uses allowed on upper floors. Neighborhood Node locations can be found in the Master Plan, Future Land Development Map.

B. Live-Work 1 District. Live-Work 1 promotes a wide mix of commercial and residential uses in a scale and with a building form compatible with Kalamazoo neighborhoods and corridors. Live Work 1 standards focus on the building form, specifically along the street, while allowing a flexible list of uses within the building.

C. Live-Work 2 District. Live-Work 2 is intended to promote a wide mix of uses, including residential, commercial, and craftsman industrial users. Typically located adjacent to the Downtown or traditional industrial areas, Live-Work 2 is similar to Live-Work 1, but allows for more urban scaled development.

D. Downtown 1. Downtown 1 supports the key retail blocks of Downtown Kalamazoo by promoting a mix of uses with the most active permitted on the ground floor. This district is intended for the active, walkable *core* principle blocks that focus on retail, entertainment, and service uses, storefronts, pedestrian-scaled signage, and access to shared parking facilities.

E. Downtown 2. This district is similar to Downtown 1, but with more flexibility in its form and permitted uses. It is intended for blocks directly adjacent to those in Downtown 1.

F. Downtown 3. Promotes a wide mix of uses, including residential, commercial, and civic uses in building forms that support the scale and intensity of Downtown Kalamazoo.

G. Commercial Node. Commercial Node district supports the development and redevelopment of medium-sized commercial and mixed-use centers serving the adjacent neighborhood and other neighborhoods in the City, as noted in the 2025 Master Plan. The district is typically found at or near the intersection of major corridors. A wide range of retail, service, and office uses are permitted; residential uses are permitted with design standards. While much of the current development in these districts is set back with parking along the front property lines, the zoning standards encourage new development to be closer to the sidewalk recognizing that these centers serve those traveling by car on the major corridors, as well as on foot, bike, and in buses.

H. Community Commercial District 2. Community Commercial 2 district supports small to medium-scale commercial and mixed-use development typically found on major corridors where they intersect with residential streets and blocks. Retail, service, and office uses are permitted; residential uses are permitted with design standards. Though much of the existing development in this district is set back with parking in the front; the scale of the buildings and the location at the end of residential blocks makes these areas ripe for increased walkability. The zoning standards in this district reflect this to support users traveling by foot, bike, bus, and car.

H. Community Commercial District. Community Commercial district supports medium to large-scale commercial and mixed-use development with a city-wide or regional market focus. This district is typically found on major corridors, such as *city* community connectors, and often near highway access. A wide range of retail, service, and office uses are permitted. Residential uses are permitted with design standards.

50-3.2 Overlay Zone Districts. Refer to Figure 3.2-1 Zoning Overlay District Map of the following overlay districts *and refer to 50-6 for the standards associated with these districts.*

A. Natural Feature Protection (NFP) Overlay District. Natural Features Protection (NFP) Overlay District is an overlay district providing additional development standards for parcels containing or adjacent to Natural Features. Refer to 50-6.2.

B. Institutional Campus (IC). Institutional Campus Overlay District supports the development and continued growth and evolution of institutions or businesses in a campus setting, such as a college or university, institutional uses such as hospitals or large religious assemblies, and large office and/or industrial campuses. This overlay district requires the approval of a campus master plan that establishes a framework for growth and development and standards that may differ from the base zoning over which it is applied. Refer to 50-6.3.

C. Planned United Development (PUD). Planned United Development Overlay District is an overlay district that be used for any type of project, residential, commercial, public, or industrial or a mix of uses, to support unique projects that do not align with anyone base zoning district. This overlay district requires the review and approval of a PUD Plan that outlines how the development will differ from the base district over which it is applied. Refer to 50-6.4.

Article 50-4. Uses.

50-4.1 General Provisions. The following general provisions apply to the uses outlined in Table 4.1-1 Use Table:

A. Permitted Uses. Uses are either permitted by-right, permitted with development standards, or permitted if a special use permit is granted from the Planning Commission.

B. Lot Type Required. All uses shall be located within a permitted Lot Type, unless otherwise specified. Refer to Article 5 Zoning Standards: Lot Types for additional use standards that may differ based on a ground or upper floor location within a building.

C. Required Licenses. Any facility that is required to be licensed by the State of Michigan shall have a valid license at all times. It is a violation of this Code to operate at any time without a valid license.

50-4.2 Organization. The uses listed in the Table 4.1-1 are grouped into general categories and *Uses not listed in Table 4.1-1* shall be interpreted as follows:

A. Unlisted Similar Uses. If a use is not listed, but is similar in character and impact to a use *that is* in the permitted, permitted with development standards, or permitted with a special use permit, it may be interpreted by the City Planner as similar.

Table 4.1-1 Use Table

	NNode	LW1	LW2	D1	D2	D3	CNode	CC2	CC
Residential/Lodging									
Bed & Breakfast		P	P	PD	P	P		P	
Hotel/Motel	P	P	P	P	P	P	P		P
Nursing Home/Assisted Living/Rehabilitation Center/ Adult Foster Care		PD	P	PD	P	P		PD	P
Residential (1 & 2 units)	PD	P	PD	PD	PD	P	PD	P	PD
Residential (3 & 4 units)	PD	P	P	PD	P	P	PD	P	PD
Residential: Multifamily (5 & more units)	PD	P	P	PD	P	P	PD	P	PD
Rooming House	PD	P	P	PD	P	P	PD	P	PD
Transitional Residence		P	P					P	PD
Civic/Institutional Uses									
Assembly	PD	P	P	PD	P	P	P	P	P
Assembly, Religious	S	S	S		P	S		PD	P
College and University	P	P	P		P	P		P	P
Hospital		P	P		P	P			P
Library & Museum	P	P	P	P	P	P	P	P	P
Parks & Open Space		P	P		PD	P		P	P
Police & Fire Station	P	P	P		P	P		P	P
School		P	P			P		P	P
Commercial									
<i>Adult Regulated Use</i>									
Agriculture		PD	PD					PD	P
Day Care <i>Center</i>	PD	PD	PD		PD	PD	PD	PD	PD
Entertainment Sports (Participant - indoor)	P	P	P	P	P	P	P	P	P
Entertainment Sports (Participant - outdoor)		S	S		S	S		PD	P
General Retail	P	P	P	P	P	P	P	P	P
General Services	P	P	P	P	P	P	P	P	P
Kennels		PD	PD			PD		PD	P
Office	P	P	P	P	P	P	P	P	P
Outdoor Sales & Storage		S	S					S	S- PD
Package Liquor	PD	PD		PD	PD	PD	PD	PD	PD
Parking (stand alone)		PD	PD		PD	PD		PD	PD
Vehicle Service		PD	PD			PD		PD	PD
Industrial									
Craftsman Industrial	PD	PD	PD	PD	PD	PD	PD	PD	PD
Industrial			PD						
Warehouse & Distribution			S						S

	NNode	LW1	LW2	D1	D2	D3	CNode	CC2	CC
Marihuana, Adult-Use Establishments									
Grower - <i>All classes</i>									PD
Processor									
Safety Compliance		P	P		PD	P		P	P
Secure Transporter									PD
Retailer		PD		PD	PD	PD		PD	PD
Microbusiness- <i>All classes</i>			PD					PD	PD
Designated Consumption Lounge				PD	PD	PD			PD
Marihuana, Medical									
Grower - <i>All classes</i>									
Processor									
Safety Compliance		P	P		PD	P		P	P
Secure Transporter								PD	PD
Provisioning Center		PD		PD	PD	PD		PD	PD

4.1-1 Use Table Key

P Permitted S Special Use

PD Permitted - Development Standards Required

Blank cell means the use is not permitted

B. Unlisted Dissimilar Uses. If a use is not listed and cannot be interpreted as similar to a listed use, the use is not permitted.

50-4.3 Use Table. Table 4.1-1 outlines the permitted uses by zoning district. Uses are permitted in one of the following ways.

A. Permitted. Uses in the table noted with "P" are permitted by right in the zoning district(s) in which they are listed.

B. Permitted, Development Standards Required. Uses in the table noted with "PD" are permitted by right in the zoning district(s) in which they are listed provided that they are developed with the listed development standards. The development standards listed are intended to manage potential impacts associated with it, making it appropriate in a location where it might otherwise have not been allowed.

C. Special Use. Uses in the table noted with "S" are permitted with the approval of a special use permit from the Planning Commission in the zoning district(s) in which they are listed.

50-4.4 Use Definition and Standards. The following details the uses listed in Table 4.1-1 and describes any development standards necessary:

A. Residential/Lodging Uses.

(1) Bed and Breakfast. An establishment providing short term lodging and service of at least one (1) meal per day to guests. The owner or operator must live on the same lot or a lot directly adjacent to the lot containing the bed and breakfast.

(2) Hotel/Motel. An establishment that permits short term lodging with or without an in-room kitchen where the rooms are accessed from an interior corridor or hallway (hotel) or exterior passageway (motel). Restaurant, meeting spaces, and retail are commonly associated with this use.

(3) Nursing Home/Assisted Living/Rehabilitation Center/Adult Foster Care. Residence that provides short or long term lodging with services such as meals, personal care, supervision of self-administered medication, medical care, and therapy. This type of facility would not meet the definition of a hospital. In the districts where it is Permitted with Development Standards ("PD"), the following *standards apply* is required:

(a) A rehabilitation center is permitted for up to six (6) persons.

(b) In Downtown 1, this use is not permitted on the ground floor,

(4) Residential. Dwelling units located within a primary structure on a lot. In the districts where residential is Permitted with Development Standards ("PD"), the following *standards apply*: applies:

(a) In Nodes, ~~and~~ Downtown 1 (D1) *Districts*, residential units are not permitted in a building's ground floor occupied space (refer to 50.1-3.MM Occupied Space). Refer to Article 5 Zoning Standards for details and exceptions.

(b) In Live Work 2 (LW2) and Downtown 3 (D3), Yard - Detached Lot Type is permitted only when ~~it~~ *the building(s)* contains two (2) or more units.

(c) In Community Commercial (CC), residential is permitted ~~except~~ as follows:

[1] Detached, single unit residential is not permitted.

[2] Residential units are not permitted in the ground floor occupied space that directly fronts the front property line.

[3] Residential uses in the CC District are only permitted in conjunction with commercial uses, creating a mix of uses on the site.

(d) In Community Commercial (CC) and Community Commercial 2 (CC2) Districts, residential units must have access to usable outdoor space on site.

(5) Residential, Multi-Family. Five (5) or more dwelling units located within a primary structure on a lot. In the districts where Residential Multi-Family is Permitted with Development Standards ("PD"), the following standards apply:

(a) Multi-Family Units are not permitted in a building's ground floor occupied space (refer to 50.1-3.MM Occupied Space). Refer to Article 5 Zoning Standards for details and exceptions.

(b) In Community Commercial (CC), *Multi-Family residential is permitted as follows.*

[1] Multi-Family units are not permitted in the ground floor occupied space that directly fronts the front property line.

[2] Residential uses in the CC District are only permitted in conjunction with commercial uses, creating a mix of uses on the site.

(c) In Community Commercial (CC) and Community Commercial 2 (CC2) Districts, residential units must have access to usable outdoor space on site.

(6) Rooming House. A type of group living use in which space is let primarily for sleeping purposes, with or without meals, by the owner or agent to persons who are not related to the owner or operator by blood, marriage, or adoption. In the districts where a rooming house is Permitted with Development Standards ("PD"), the following standards apply:

(a) Rooming House units are not permitted in a building's ground floor occupied space (refer to 50.1-3.MM Occupied Space). Refer to Article 5 Zoning Standards for details and exceptions.

(b) In Community Commercial (CC), *a rooming house is permitted as follows:*

[1] Rooming House units are not permitted in the ground floor occupied space that directly fronts the front property line.

[2] Rooming houses in the CC District are only permitted in conjunction with commercial uses, creating a mix of uses on the site.

(7) Transitional Residence. A residential facility that provides temporary accommodations and on-site management, including 24-hour care, for its residents. Transitional residences can accommodate both individuals and families and can serve a variety of populations, such as the homeless, domestic violence victims, or those recovering from addictions. Residency often requires attendance at classes, trainings, or counseling sessions which may occur on-site. Residents typically do not keep personal vehicles on site. In districts where a transitional residence is Permitted with Development Standards ("PD"), the following standards *apply* applies:

(a) In Community Commercial (CC), *a transitional residence is permitted as follows:*

[1] Transitional Residence units are not permitted in the ground floor occupied space that directly fronts the front

property line.

[2] Transitional residences in the CC District are only permitted in conjunction with commercial uses, creating a mix of uses on the site.

B. Civic/Institutional Uses

(1) Assembly. A use that has organized services, meetings, or programs to educate, entertain, or promote discussion amongst the community. It can be a public or private facility. Examples of Assembly include a club, lodge, theatre or community center. In the districts where assembly is Permitted with Development Standards ("PD"), the following ~~standards apply:~~ ~~required:~~

(a) Private Membership. Clubs and lodges and other similar uses with limited hours or private membership are not permitted in the ground floor occupied space ~~of the ground floor~~ in Node Districts.

(b) Downtown 1. Assembly uses are not permitted in the occupied space of the ground floor.

(2) Assembly, Religious. An assembly use that focuses on religion, a house of worship. Residential uses accessory to the religious assembly use, such as convent, rectory, or caretaker's residence, are permitted with this use. In the districts where Religious Assembly is Permitted with a Special Use Permit ("S") or Permitted with Development Standards ("PD"), the following standards apply:

(a) Facilities that accommodate less than fifty (50) persons are permitted without obtaining a special use permit.

(3) College and University. An educational institution authorized to award associate, baccalaureate, or other higher degrees and certificates.

(4) Hospital. A state licensed facility providing in-patient accommodations; a wide range of medical and surgical care; and other in-patient health services for sick or injured persons. Permitted secondary uses with this type of facility may include laboratories, outpatient department, training facilities, central services, offices, residences, dining areas, and retail.

(5) Library and Museum. An establishment housing educational, cultural, artistic, or historic information resources, and exhibits that is open to the public. Permitted secondary uses with this type of facility include retail space, food sales, dining, and meeting rooms.

(6) Parks and Open Spaces. An area of land designed and equipped for passive or active recreation or open air gathering. ~~In the districts where Parks and Open Space is Permitted with Development Standards ("PD"), the following standards apply:~~

~~(a) In the D2 District, special design attention should be given to the street wall and character of a block when locating and designing a park and open space.~~

(7) Police and Fire Stations. A facility that provides protection to a district or entity according to fire, life, and safety code sections. Permitted secondary uses with this type of facility include storage of equipment, indoor and outdoor

parking of vehicles, offices, and residences. Police and Fire Stations are exempt from any entrance bay and vehicle access standards noted in 5.6. Lot Types; the use of these standards is encouraged to support this use blending within the neighborhood location.

(8) School. A public or private education facility, including elementary, middle, and high schools. Schools may include space for classrooms, laboratories, gymnasium, pools, theaters, dining services, and outdoor athletic or recreational facilities.

C. Commercial

(1) Adult Regulated Uses. ~~Adult Regulated Uses:~~

(a) Purpose.

[1] In the development and execution of this ordinance, it is recognized that there are some uses, commonly known as adult uses or sexually oriented businesses, which, because of their very nature, have serious objectionable operational characteristics. The impacts of these objectionable characteristics are exacerbated when several adult uses are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential use or zone, religious assembly, school, park, playground or public recreational area, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to prevent these adverse effects and to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls contained within this ordinance are for the purpose of preventing the negative secondary effects associated with adult uses and to prevent a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood.

[2] It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings.

[1] This Ordinance is based on evidence of the adverse secondary effects of adult uses that are within the common knowledge of municipalities and is widely reported in judicial opinions, media reports, land use studies, and crime impact reports made available to the City Commission, several of which are set forth in this

Ordinance. Additionally, the City Commission relies on repeated judicial findings of municipalities' reasonable reliance on this body of secondary effects evidence to support time, place, and manner regulations of sexually oriented businesses. The City Commission relies upon and incorporates the findings of secondary effects discussed in the following nonexhaustive list of cases from the U.S. Supreme Court: *Pap's A.M. v City of Erie*, 529 U.S. 277 (2000); *City of Los Angeles v Alameda Books, Inc.*, 122 S. Ct 1728 (2002); *City of Renton v Playtime Theatres, Inc.* 475 U.S. 41 (1986); *Young v American Mini Theatres*, 426 U.S. 50 (1976); *Barnes v Glen Theatre, Inc.*, 501 U.S. 560 (1991); *FW/PBS, Inc. v City of Dallas*, 493 U.S. 215 (1990); *California v LaRue*, 409 U.S. 109 (1972).

[2] The City Commission also relies on relevant decisions of federal appellate and trial courts: *DLS, Inc. v City of Chattanooga*, 107 F 3d 403 (6th Cir. 1997); *Currence v City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Broadway Books v Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v Nichols*, 137 F 3d 435 (6th Cir. 1998); *DejaVu v Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v City of Dayton*, 7923 F 2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v City of Akron*, 40 F 3d 129 (6th Cir. 1994); *O'Connor v City and County of Denver*, 894 F 2d 1210 (10th Cir. 1990); *DejaVu of Nashville, Inc., et al v Metropolitan Government of Nashville and Davidson County*, 274 F 3d 377 (6th Cir. 2001); *ZJ. Gifts D-2, LLC v City of Aurora*, 136 F 3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v City of Rochester*, 225 F 3d 1413 (Eighth Cir. 1994); *World Wide Video of Spokane, Inc. v City of Spokane*, 227 F 3d 1143 (E.D. Wash. 2002); *Threesome Entertainment v Strittmother*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Kentucky Restaurant Concepts, Inc v City of Louisville and Jefferson County*, 209 F. Supp. 2d 672 (W.D. Ky. 2002).

[3] Additionally, the City Commission expressly relies upon Michigan cases relating to adult businesses, municipal regulatory authority, and public nuisances including, but not limited to, the following cases: *Rental Property Owners Association of Kent County v City of Grand Rapids*, 455 Mich 246, 566 NW2d 514 (1996); *Michigan ex rel Wayne County Prosecutor v Dizzy Duck*, 449 Mich 353, 535 NW2d 178 (1995); *City of Warren v Executive Art Studio*, 1998 Mich App LEXIS 2258 (1998); *Tally v City of Detroit*, 54 Mich App 328 (1974); *Jatt, Inc v Clinton Township*, 224 Mich App 513 (1997).

[4] The City Commission notes that media reports document the harms associated with adult businesses as well. See, e.g., *Muskegon Man Convicted in Beating Death of Adult Bookstore Manager*, Associated Press State & Local Wire, Sept. 9, 1999; *Katie Merx, X-Rated Inkster Theater Razed: Officials, Cops, Residents Cheer Demolition of Melody, An Embarrassment for 22 Years*, The Detroit News, August 19, 1999, at D3 (discussing documented sexual activity in and around adult business); *Craig Garrett, Suburbs Declare War on Smut Shops*, The Detroit News, June 30, 1999, at A1 (describing how adult theater patrons would solicit young people in the area for sex); *Justin Hyde, Warren Leaders Want to Pursue Product Liability Against Porn Shop*, Associated Press State & Local Wire, Feb. 4, 1999 (child rapist arrested in peep show establishment).

[5] The City Commission further relies on reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona — 1984; Minneapolis, Minnesota-1980; Houston, Texas — 1997; Indianapolis, Indiana — 1984; Amarillo, Texas — 1977; Garden Grove, California — 1991;

Los Angeles, California — 1977; Whittier, California — 1978; Austin, Texas — 1986; Seattle, Washington — 1989; Oklahoma City, Oklahoma — 1986; Cleveland, Ohio — 1977; Dallas, Texas — 1997; McCleary Report, Alliance, Ohio — 2002; Tucson, Arizona — 1990; Testimony, Warner-Robins, Georgia — 2000; St. Croix County, Wisconsin — 1993; Bellevue, Washington — 1998; Newport News, Virginia — 1996; St. Cloud, Minnesota — 1994;; New York Times Square Study — 1994; Phoenix, Arizona — 1995-1998; and also on findings of physical abuse from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence" by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View" by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota). Based on the cases and reports documenting the adverse impact of adult businesses, the City Commission finds:

[a] Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on property values, urban blight, pornographic litter, and sexual assault and exploitation.

[b] Sexual acts, including masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, especially those that provide private or semi-private booths, rooms, or cubicles for viewing films, videos, or live sexually explicit shows.

[c] Each of the foregoing negative secondary effects constitutes a harm that the City has a substantial governmental interest in preventing and/or abating.

(c) Applicability. The following adult regulated uses are subject to these controls:

- [1] Adult arcade or mini-motion-picture theaters;
- [2] Adult bookstores, adult novelty stores, or adult video stores;
- [3] Adult booths;
- [4] Adult cabarets;
- [5] Adult motels;
- [6] Adult motion-picture theaters;
- [7] Adult outdoor motion-picture theaters;
- [8] Adult model studios;
- [9] Adult physical culture businesses;
- [10] Adult theaters; and
- [11] Adult personal service businesses.

(d) Conditions. All adult regulated uses shall comply with all of the following conditions:

[1] No person or entity shall operate or maintain or cause to be operated or maintained an adult regulated use within 750 feet of:

[a] A religious assembly;

[b] A public or private educational facility, including but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. School shall include the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

[c] Family day care homes or group day care homes;

[d] An entertainment use that has as its principal use children or family entertainment as demonstrated by business activity that caters predominantly to on-site patronage by minors and is open for such business at least 25 hours per week;

[e] A lot or parcel of land in any zone primarily devoted to a residential use;

[f] Any other adult regulated use as defined in this chapter.

[g] A public park or recreational area that has been designated for park or recreational activities, including but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball, tennis court, wilderness areas, or other similar public land within the City that is under the control, operation, or management of the City or other unit of government;

[h] A zoning district boundary of a residential district as defined in the City Zoning Ordinance.

[1] For purposes of the uses listed in Subsections 4.a.(1) through (6) above, the distance limitations above shall be measured in a straight line without regard to intervening structures or objects from the lot occupied by the adult regulated use to the nearest point of the lot occupied by any of the uses so listed in Subsection 4.a.(1) through (6).

[2] For purposes of Subsections 4.a.(7) and (8), the distance limitations shall be measured in a straight line without regard to intervening structures or objects from the property line of the lot occupied by the adult regulated use to the nearest point of the property line occupied by the public park or other recreational areas so listed in Subsection 4.a.(7) or the zoning district boundary of the residential district as provided in Subsection 4.a.(8).

[3] No building, premises, structure, or other facility that contains any adult regulated use shall contain any other kind of adult regulated use. The Zoning Board of Appeals may grant permission for more than one adult regulated use to operate in a single building, provided that an equal or greater number of adult regulated uses are removed from elsewhere in the City. The location where an adult regulated use is removed pursuant to this section shall not be reused for any adult regulated use in the future. If the Zoning Board of Appeals grants permission for more than one adult regulated use to operate in a single building, it shall not be construed to be a violation of Subsection 4.a.(6).

[4] Adult regulated uses shall comply with all sign requirements in § 4.2.B: Adult Regulated Uses, and in Chapter 7: Signs.

[5] No advertisement, display of product or entertainment on the premises, signs or other exhibits that display "specified sexual activities" and/or "specified anatomical areas" shall be displayed in window areas or other area where the same can be viewed by pedestrians and motorists on any street, sidewalk, or other public place.

[6] No person shall reside in, or permit any person to reside in, the premises of an adult regulated use.

[7] No person operating an adult regulated use shall knowingly permit any person under the age of 18 to be on the premises of said business, either as an employee or as a customer.

[8] No person shall become the lessee or sublessee of any property for the purpose of using said property for an adult regulated use without the express written permission of the owner of the property for such use and appropriate approvals from the City of Kalamazoo.

[9] The building and site, including building openings, entries, exits and windows, shall be designed, constructed, and maintained so that material, entertainment, and/or performances that display "specified sexual activities" and/or "specified anatomical areas" cannot be observed by pedestrians and motorists on any street, sidewalk, or public right-of-way, or from an adjacent land use.

[10] The adult regulated use shall satisfy all requirements for a full site plan and all landscaping requirements of the City Zoning Ordinance. The adult regulated use shall also demonstrate that the site meets all of the traffic and access management standards of the City of Kalamazoo. The site plan shall include a diagram that shows all land use zoning districts and any of the uses described in Subsection 4.a above which are located within 750 feet of the proposed adult regulated use.

[11] No adult regulated use shall operate until it has satisfied all provisions of this chapter, all other applicable provisions of the Zoning Ordinance, and any other federal, state or local regulations.

(e) Change of Use by Lessee or Sublessee. No lessees or sublessee of any property shall convert that property from any other use to an adult regulated use unless the location of the property conforms to the standards in Subsection 4 above.

(f) Certain Uses Exempt. The following uses are exempt from the provisions of the terms and conditions of this chapter and are subject to the other provisions of the City Zoning Ordinance, and the following uses shall not be construed to be included in any of the definitions of this chapter:

[1] Accredited hospitals, nursing homes, sanitariums or other licensed health care facilities, physicians, surgeons, chiropractors, osteopaths, physical therapists, registered nurses, and other establishments or professionals duly licensed under the laws of the state while engaged in the activities for which they are so licensed.

[2] Barbers, beauticians, barber shops, and beauty parlors licensed under the laws of the state that also offer massages, provided that massages involved are limited to the head, shoulders, scalp, neck, hands, and feet. Such establishments that also provide activities that fall under the definition of "adult personal service business" in this chapter shall, however, be governed by the provisions, terms, and conditions of this chapter.

- [3] Public and parochial school and college or professional athletic coaches and trainers while acting within the scope of their school employment; and
- [4] Professional massage therapy enterprises, where each massage therapist has met the following criteria:
 - [a] Proof of graduation from a school of massage licensed by the State of Michigan or another state with equivalent standards, consisting of at least 500 classroom hours of instruction and practical training that include 300 hours of theory and practice of massage therapy, 100 hours of anatomy and physiology, and 100 hours of elective subjects; or proof of completion of a comprehensive course of study in a massage training program at an American community college or university that requires at a minimum the training and curriculum above; and
 - [b] Proof of current professional membership in the American Massage Therapy Association, International Myomassethics Federation, Associated Bodywork and Massage Professionals, or other national massage therapy organization with comparable prerequisites for certification, including liability insurance and testing.
- [5] Nonprofit organizations operating a community center, swimming pool, tennis court, or other educational,

General Retail Uses
Apparel & Accessories
Art, Craft, Hobby Store
Automotive Supply (no service)
Bakery
Bicycle, Scooter, Moped Sales
Book Magazine, Newspaper
Convenience Store
Drug Store/Pharmacy
Florist
Home Furnishing & Accessories
Grocery Store, Specialty Foods
Hardware Store
Office Supplies
Paper, Stationary Store
Pet & Pet Supply Shop
Sporting Goods Sales & Rental
Toy Shop
Video Games & Electronic Sales

General Service Uses
Animal Board, Day Care (no outdoor kennels)
Bank, Financial Services
Catering
Dance or Music Studio
Dry Cleaning, Laundry-mat
Eating & Drinking Establishment, Cafe, Coffee Shop, Brewpub, Tavern, Lounge
Fitness (ex: Gym, Yoga, Pilates, Dance Studio)
Framing
Funeral Home
Locksmith
Mail system, copying, printing
Medical Services, Optical, Urgent Care
Pet Grooming
Personal Services (salon, spa, barber shop)
Repair of Small Goods, household goods, electronics
Tailor & Seamstress
Tattoo, Piercing
Training Center
Travel Agency

Table 4.4-1. Examples of General Retail & Service Uses.

cultural, recreational, or athletic facilities that are used primarily for the welfare of the residents of the area.

[6] Unlawful Activities. Nothing contained in this chapter is intended, or shall be construed, to permit or authorize activities that are unlawful under state law or City ordinance.

(2) Agriculture. Growing of food crops indoor or outdoors for personal use, donation, or sale (on or off site); this excludes the growth of marihuana plants for medicinal or recreational purposes (*Refer to 4.5.E and F for Marihuana regulations*). In the districts where Agriculture is Permitted with Development Standards ("PD"), the following standards apply:

(a) Size. Maximum lot size is 10,000 square feet *apply*.

(b) Lot Type. No Lot Type is required *applies* unless a hoop house, green house, or farm stand are constructed, then 5.6.G Outdoor Market Lot Type *shall* apply.

(c) Other Secondary Buildings. Sheds, garages, and other Secondary Buildings not noted in 50.4-4.C(1)(b) shall follow the standards for Accessory Structures, refer to 50-4.5.B

(d) Intensity. Use of outdoor farm machinery is not permitted.

(3) Day Care *Center*. A use providing care, protection, and supervision for children or adults on a regular basis away from their primary residence for periods of less than twenty-four (24) hours. In the districts where a day care is Permitted with Development Standards ("PD") the following is required.

(a) Outdoor Play Area. At least one (1) outdoor play area will be provided on-site as follows.

[1] Size. The size of this play area will be measured at a rate of 100 square feet for each child the facility is permitted to have at maximum attendance.

[2] Enclosure Requirement. The *on-site* play area must be enclosed on all sides by building or fencing.

[3] Shared Space. In Downtown, Live Work, and Node Districts, public parks or private parks with written permission, can be used to meet the outdoor play area requirement, provided that the park is located within a walkable distance of the day care facility.

~~(b) In-Home Day Care Facilities. Day care facilities located in a residence, also referred to as a in-home day care facility, containing seven or more participants require a special use permit.~~

(4) Entertainment and Sports. An establishment that provides sports and recreation activities for participants. These may occur indoor, including such indoor facilities as bowling alleys, escape rooms, pool, billiards, arcade, and outdoors, such as mini golf, ropes courses, swimming pools, and driving ranges. *In the districts where Entertainment and Sports is Permitted with a Special Use Permit ("S") or Permitted with Development Standards ("PD"), outdoor facilities must follow the Outdoor Market Lot Type standards.*

(5) General Retail. A category of uses involving the sale of goods and merchandise. General Retail includes such uses as those listed in table 4.4-1.

(6) General Services. A category of uses that provides patrons services and often retail products related to those services. General Services includes such uses as those listed in table 4.4-1.

(7) Kennels. Care of domestic and small animals, such as dogs and cats, that can include day or overnight care. Kennels can be located inside a building or outside and may also provide grooming and training services. In the districts where a kennel is Permitted with Development Standards ("PD"), the following standards apply.

(a) Outdoor Facilities. Outdoor kennels are not permitted.

(b) Accessory Use. In *Live Work 1 (LW1)*, *Community Commercial 2 (CC2)* and Downtown 3 (D3), kennels are only permitted as an accessory use to a pet store, pet adoption center, veterinary service, or similar use.

(8) Office. A category of uses that involve the transactional affairs of a profession service, industry, or government. Patrons of these uses typically have set appointment or meeting times; these businesses do not typically rely on walk-in customers.

(g) Outdoor Sales and Storage. A use that involves the sale, rental, and minor repair of items where the majority of the goods are stored or displayed outdoors. This includes such uses as sale and rental of vehicles with less than 10,000 pounds gross cargo weight, motor homes, and boats and the sale of building or landscape materials such as plants, gravel, or rocks. In the districts where outdoor sales and storage is Permitted with Special Use Permit ("S") or *Permitted with Development Standards ("PD")*, the following standard applies.

(a) Screening. Storage of all outdoor items must be screened from view from side and rear property lines; storage of loose materials such as rock, gravel, or soil must be additionally screened from the front and corner side property lines.

(b) Structure. A building is required to house the office, sales management, on-site security, or other similar functions.

(c) Loose items. The following standards apply to the storage of loose items, such as rocks, dirt, and other landscape materials and scrap or recycling materials.

[1] Outdoor storage of loose items is not permitted in Live Work 1 (LW1) or Community Commercial 2 (CC2).

[2] Outdoor storage of loose items may not be stacked higher than the fencing or wall surrounding the material; except in Manufacturing 2 District (M2).

(d) Outdoor sales lots of vehicles are only permitted in Live Work 1 (LW1) or Community Commercial 2 (CC2) on lots larger than half an acre.

(c) Structure Location. *Except in Community Commercial (CC) District, the Outdoor Market Lot Type standards must be followed and* the front facade of the building shall be located within ten (10) feet of the front property line.

Refer to 5.6.G Outdoor Market Lot Type.

(10) Packaged Liquor. A retail establishment licensed by the Michigan Liquor Control Commission selling packaged alcoholic liquors, including beer, wine, and spirituous liquors, for consumption off-site. This use does not include establishments meeting the definition of an eating and drinking establishment or grocery stores. In the districts where packaged liquor is Permitted with Development Standards ("PD"), the following *standards apply*: is required.

- (a) A minimum distance of 2,460 feet is required between locations of packaged liquor uses.
 - (b) A minimum distance of 500' is required from parcels containing a religious assembly and school use.
 - (c) Calculations to determine the required distance are made along the adjacent street center lines by measuring between two (2) fixed points located on the center line(s) that are determined by drawing perpendicular lines from the closest edge of the building containing the use in question to the center line of the adjacent street.
- (11) Parking Lot (Stand Alone). A lot in which the primary use is parking of vehicles for public use or private use of adjacent businesses and residences. In the districts where parking lot is Permitted with Development Standards ("PD"), the following *standards apply*: is required..

- (a) Parking lots may not be used as towing service storage and storage for inoperable vehicles.
- (b) Corner Lot. In Live Work 1 (LW1), Live Work 2 (LW2), *Community Commercial 2 (CC2)*, Downtown 2 (D2), and Downtown 3 (D3), a parking lot is not permitted on a corner lot.
- (c) *Street Type Limitations.*
 - [1] *Prohibited Locations.* ~~Priority Streets.~~ A parking lot is not permitted on a lot that fronts a *Priority Event/Festival and Urban Center* Street.
 - [2] *Required Treatment When Fronting on a Street.*
 - [a] *Additional Approval.* A parking lot is not permitted on a lot that fronts a *Downtown Main* ~~Main or Connector~~ street without a special use permit unless it is directly adjacent to the building that it serves.
 - [d] *Landscape and Screening.* ~~Landscape and screening are required, refer to 50-8.4. Fences, Walls, and Screening. Fencing up to forty-two (42) inches in height is permitted in the landscape buffer along a street. Refer to Appendix A 6.3 Screens & Fencing for more information on fences.~~

(12) Vehicle Services. A category of uses that involve the servicing of vehicles and/or the sale of fuel. General retail is often associated with vehicle service uses. This category includes, vehicle service shops, car wash, and gas stations. In the districts where Vehicle Service is Permitted with Development Standards ("PD"), the following standards apply:-

- (a) Use Limitations.
 - [1] Gas Stations.
 - [a] Gas stations require a special use permit.
 - [b] Sale of packaged liquor at gas stations is permitted but must adhere to the development standards required for the packaged liquor use. Refer to 50.4-4.C(10).
 - [c] Gas stations not permitted in Live Work 2.
 - [2] Car Wash.
 - [a] A car wash requires a special use permit, *except in Community Commercial (CC)*.
 - [a] Outdoor vacuuming is not permitted on lots adjacent to an open space, park, or preserve. Outdoor

vacuuming is not permitted on lots adjacent to a residential zoning district.

(b) Car washes are not permitted in Live Work 2.

(b) Vehicle Bays. Bays may not face a primary street

(c) Outdoor Activities.

[1] Outdoor vacuuming areas are permitted in the side and rear yards *only*.

[2] *Outdoor vacuuming is not permitted on lots adjacent to an open space, park, or preserve. Outdoor vacuuming is not permitted on lots adjacent to a residential zoning district.*

[3] Washing areas are not permitted outside.

[4] Repair or service activities or equipment are not permitted outside.

[5] Outdoor storage of vehicles awaiting service is not permitted. Vehicles awaiting pick up are permitted on site for up to three (3) days and shall be located in the rear or side yard.

(d) Screening. Perimeter landscaping or fencing is required along side and rear yards. *Refer to 50-8.4. Fences, Walls, and Screening.*

(e) Over-sized Vehicles. Services for semi-trucks and other oversized vehicles is *only* permitted *in Community Commercial (CC) and Manufacturing (M) Districts.*

(f) Lot Types. *In Live Work 1 (LW1), Downtown 3 (D3), and Community Commercial 2 (CC2)* Gas Stations shall follow the Outdoor Market Lot Type and have the front facade of the building located within *fifteen (15) feet of the front property line*. Refer to 5.6.G Outdoor Market Lot Type.

Table 4.4-2. Examples of Craftsman Industrial

Craftsman Industrial
Apparel, Accessories, & Finished Fabrics
Art, Glass, Textiles, Ceramics, Pottery, Woodworking
Brewing, Distilling, & Roasting
Commercial Copying & Printing
Construction, Special Trades
Electronic Assembly
Food Preparation & Production- Bakery, Beverages, Desserts, Canning, Preserving, Pasta, Dairy, etc
Furniture & Fixtures, Household Textiles, Home Furnishing & Accessories
Metal Products - Engraving, welding
Music Instruments, Recording Studio
Small Good Manufacturing & Repair

D. Industrial.

(1) Craftsman Industrial. A use involving small scale manufacturing, production, assembly, and/or repair that includes a showroom or retail space open to the public with no environmental or nuisance impact; may also be referred to as maker spaces. Refer to table 4.4-2 for examples of uses permitted in Craftsman Industrial. In the districts where Craftsman Industrial is Permitted with Development Standards ("PD"), the following standards apply :

(a) Retail Component.

[1] At least ten (10) percent of the floor area must be public showroom or retail space.

[2] Retail and/or showroom component shall be located along the front facade of the building and utilize a storefront or stoop

entrance treatment. Refer to 5.5 Street Facing Facades.

(b) Size Requirements. Maximum facility size of 10,000 square feet is permitted in Live-Work 1 (LW1), Node *districts, Community Commercial 2 (CC2)*, Downtown 1 (D1), and Downtown 2 (D2) districts.

(c) Outdoor Storage. Outdoor storage of goods is permitted in Live-Work 2 and Community Commercial (CC) with Craftsman Industrial uses provided the area used for storage is less than or equal to five (5) percent of the site's lot area. Refer to 4.5.C(9) for additional requirements.

(2) Industrial. A category of uses that allow for the production, processing, assembling, and packaging of goods. This category of uses does not have environmental or nuisance conditions that are detectable at the property lines of the site. Associated with the category are uses such as offices, warehousing, and loading or service bays. In the districts where Industrial is Permitted with Development Standards ("PD"), the following standards apply :

(a) Entrance Bays. Entrance bays are not permitted on facades facing primary streets unless they are located more than fifty (50) feet beyond the building's front facade.

(b) Outdoor Activities.

[1] Fuel pumps are not permitted.

[2] Outdoor Storage is permitted. Refer to 4.5.C(~~7~~9) for additional requirements..

(c) Size. Maximum size of manufacturing facility is 20,000 square feet, this calculated area excludes office, showroom, or retail space. Larger facilities require review through a special use permit.

(3) Warehouse and Distribution. An industrial use involving significant commercial vehicle access and large-scale storage, both indoors and outside. In the districts where Warehouse and Distribution is Permitted with Special Use Permit ("S"), the following standards apply:

(a) Size Requirements. Maximum facility size is 20,000 square feet.

(b) Outdoor Activity. Fuel pumps and outdoor storage are permitted as follows.

[1] Must be located in the rear yard.

[2] Must be screened from all adjacent uses. *Refer to 50-8.4. Fences, Walls, and Screening*, according to ~~6.2~~ Landscaping and Open Spaces in Appendix A.

[3] Outdoor Storage shall follow the standards in 4.5.C(9).

(c) Vehicle Entrance Bays. Entrance bays are not permitted on facades facing primary streets *in the Live Work 2 (LW2) District*.

E. Adult-Use Marihuana. A category of uses permitting adult use establishments licensed pursuant to the MRTMA and Chapter 20B of the City Ordinances.

(1) General Provisions. The following apply to all adult use marihuana establishments, unless otherwise noted.

(a) General Requirements.

[1] All location criteria and required separation distances apply to both new marihuana establishments and to any proposed change in the location of an existing marihuana establishment.

[2] All location criteria and required separation distances apply to both marihuana establishments and similar protected uses located in adjacent governmental jurisdictions.

[3] A marihuana establishment is prohibited from operating in any residential zoning district or in a residential unit.

[4] Drive throughs are not permitted with any establishment.

[5] Co-Location. Where permitted, marihuana establishments may operate from a location shared with an equivalent licensed marihuana establishment. The following are required for this co-location.

[a] Entrances to each establishment shall be physically separated.

[b] Each establishment must have distinct and identifiable areas designated within the structure.

[c] Each establishment suite or tenant space must have a separate address

[d] Each establishment must have separate inventory, record keeping, and point of sale operations.

~~[6] [5]~~ A licensee may not operate a marihuana establishment at any place in the City other than the address provided in the application on file with the City Clerk.

~~[7] [6]~~—A licensee must operate the licensed establishment in compliance with all applicable State and City regulations for that type of establishment.

(b) Location Criteria. All marihuana establishment types must meet the following location criteria, except Safety Compliance Operations:

[1] Required Distance.

[a] A marihuana establishment must not operate within one thousand (1,000) feet of a pre-existing private or public school, providing education in kindergarten or any grades 1 through 12.

[b] A marihuana establishment must not operate within five hundred (500) feet of a pre-existing State-licensed childcare center, public playground, public pool, or youth center.

[2] Measuring the Required Distance. The required distance is measured in a straight line from the nearest property line of a protected use to the nearest portion of the building or unit in which the marihuana establishment is located.

(c) Shared Location. Marihuana establishments may operate from a location shared with an equivalent licensed marihuana facility, except where a separation distance is required.

(2) Grower Establishments. Growers are licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments. The three (3) grower license types are Class A (authorized to grow up to 100 plants); Class B (authorized to grow up to 500 plants); and Class C authorized to grow up to 2000 plants). An Excess Grower holds five (5) Class C Adult Use Marihuana Grower & at least two (2) Class C Medical Marihuana Grower licenses.

In the zoning districts where a Grower Establishment is Permitted with Development Standards, the following standards apply:

- (a) Class A Grower Establishments are permitted as follows:
 - [1] In Zones Community Commercial (CC), Limited Manufacturing (M1), and General Manufacturing (M2).
 - [2] In Zone CC, all grow operations must be conducted within an enclosed building.
- (b) Class B and Class C Grower Establishments are permitted in Zones Limited Manufacturing (M-1), and General Manufacturing (M-2).
- (c) Excess Grower Establishments are permitted in Zone General Manufacturing (M2).
- (d) Permitted Outdoor Activities. All Grower facilities and operations must be within an enclosed building, except cultivation may occur in an outdoor area under the following conditions.
 - [1] Area is contiguous with the facility building.
 - [2] Area is fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view.
 - [3] Marihuana plants cannot grow above the height of the fence or barrier.
 - [4] The fence is secured and only accessible to authorized persons and emergency personnel.
 - [5] Area is located at least five hundred (500) feet from a residential zone district.
- (3) Processor Establishments. Processors are licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments. In the zoning districts where a Processor Establishment is Permitted with Development Standards, the following standards apply:
 - (a) Permitted in Limited Manufacturing (M1), and General Manufacturing (M2).
 - (b) All processing operations must be conducted within an enclosed building.
- (4) Safety Compliance Operations Establishment. Safety Compliance Establishments are licensed to test marihuana, including certification for potency and the presence of contaminants. In the Districts where Safety Compliance Facility is Permitted with Development Standards, the following standards apply:
 - (a) Permitted in the following zones. Community Commercial (CC), *Community Commercial 2 (CC2)* Live Work 1 (LW1), Live Work 2 (LW2), Downtown 3 (D3), Business Technology, and Research (BTR), Limited Manufacturing (M1), and General Manufacturing (M2).
 - (b) Street Type Limitations. In Downtown 2 (D2), a safety compliance facility cannot be located in the occupied space along a *Priority Event/Festival and Urban Center* Street side of a building.
- (5) Secure Transporter Establishment. Secure Transporter Establishments are licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments. In the zoning districts where Secure Transporter Establishment is Permitted with Development Standards, the following standards apply:

- (a) Permitted in Zones Community Commercial (CC), Limited Manufacturing (M1), and General Manufacturing (M2).
 - (b) In Zone CC, warehousing activity is only permitted as an accessory use to the principal permitted Secure Transporter use.
- (6) Retailer Establishment. Retailer Establishments are licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older. In the zoning districts where a Retailer Establishment is Permitted with Development Standards, the following standards apply:
- (a) Permitted in the following Zones
 - [1] Live Work 1 (LW1) *and Community Commercial 2 (CC2)* when *not* located on an *Enhanced Neighborhood or Local* SubUrban, Connector, or Main Street street type.
 - [2] Downtown 1 (D1), Downtown 2 (D2), Downtown 3 (D3). In D3, only when *not* located on an *Enhanced Neighborhood or Local* SubUrban, Connector, or Main Street street type.
 - [3] Community Commercial (CC).
 - (b) Permitted in Zones Limited Manufacturing (M-1) and General Manufacturing (M-2) when operated as part of a single establishment engaged in Grower and Processor operations.
 - (c) All Retailer activities must be conducted within an enclosed building.
 - (d) A Retailer is not permitted on the same property or parcel or within the same building where any of the following are located:
 - [1] A package liquor store.
 - [2] A convenience store that sells alcoholic beverages.
 - [3] A fueling station that sells alcoholic beverages.
 - (e) A separation distance of 1,000 feet is required from any other provisioning center or retailer, except when the retailer is co-located with a provisioning center, as provided by state regulations and this ordinance, and except in the following situations.
 - [1] A separation distance of five hundred (500) feet is permitted when an applicant or a group of applicant-owners with *fifty-one (51) percent-%* or more ownership in the Retailer Establishment is one of the following
 - [a] A City of Kalamazoo resident living within Census Tracts 1, 2.02, 3, 9, and 10 for the past three (3) years
 - [b] A City of Kalamazoo resident with a marihuana conviction that does not involve distribution of a controlled substance to a minor.
 - [2] A location shared with a licensed Provisioning Center
 - (f) A Retailer is not allowed within six hundred sixty (660) feet of the following intersections: E. Cork St. and S. Burdick St., the intersection of E. Cork St. and Portage St., and the intersection of W. Ransom St. and N. Westnedge Ave.

(g) The consumption of marihuana products is not permitted on the premises of at a retail establishment.

(7) Microbusiness Establishment. *There are two types of Microbusiness licenses. A Microbusiness is licensed to cultivate not more than one hundred and fifty (150) marihuana plants; process and package their own-grown marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments. Class A Microbusinesses are similar, except that they are licenses to cultivate not more than three hundred (300) marihuana plants; process and package either their own plants or marihuana products obtained from other licensed processors.* In the zoning districts where a Microbusiness Establishment is Permitted with Development Standards, the following standards apply:

(a) *Permitted Districts.*

[1] Class A Microbusinesses are permitted in Zones Community Commercial (CC), Live Work 2 (LW2), Limited Manufacturing (M1), and General Manufacturing (M2).

[2] Microbusiness License are permitted in permitted in Zones Community Commercial (CC), Community Commercial 2 (CC2), Live Work 2 (LW2), Limited Manufacturing (M1), and General Manufacturing (M2).

(b) In Zones *Community Commercial (CC), Community Commercial 2 (CC2), Live Work 2 (LW2)* ~~CC and LW2~~ the following *standards* requirements apply:

[1] All business activities must be conducted within an enclosed building.

[2] The use of any substances with a flashpoint below one hundred (100) degrees Fahrenheit for processing is prohibited.

(c) A separation distance of five hundred (500) feet is required from another Microbusiness Establishment with the following exceptions:

[1] A separation distance of two hundred and fifty (250) feet is permitted when an applicant or a group of applicant-owners with *fifty-one (51) percent-%* or more ownership in the Microbusiness Establishment is one of the following.

[a] A City of Kalamazoo resident living within Census Tracts 1, 2.02, 3, 9, and 10 for the past three (3) years.

[b] A City of Kalamazoo resident with a marihuana conviction that does not involve distribution of a controlled substance to a minor.

[2] No separation distance is required within Zones Limited Manufacturing (M-1) or General Manufacturing (M2).

(8) Designated Consumption Establishment. A designated Consumption Establishment is a commercial space that is licensed for the consumption of marihuana products by persons 21 and older. In the zoning districts where a Designated Consumption Establishment is Permitted with Development Standards, the following standards apply:

(a) Permitted in the following Zones

[1] Community Commercial (CC)

[2] Downtown 1 (D1), Downtown 2 (D2), Downtown 3 (D3). In D3, only when *not* located on an *Enhanced*

Neighborhood or Local ~~SubUrban, Connector, or Main Street~~ street type.

(b) Indoor Activities. Consumption of marihuana products must occur indoors.

(d) A Consumption Establishment is not permitted on the same property or parcel or within the same building where any of the following uses are located:

- [1] A package liquor store.
- [2] A convenience store that sells alcoholic beverages.
- [3] A fueling station that sells alcoholic beverages.

F. Medical Marihuana. A category of uses permitting medical marihuana facilities licensed to operate pursuant to the MMFLA and Chapter 20B of the City ordinances.

(1) General Provisions. The following apply to all medical marihuana facilities, unless otherwise noted.

(a) General Requirements.

[1] All location criteria and required separation distances apply to both new medical marihuana facilities and to any proposed change in the location of an existing medical marihuana facility.

[2] All location criteria and required separation distances apply to both medical marihuana facilities and similar protected uses located in adjacent governmental jurisdictions.

[3] A medical marihuana facility must not operate in any residential zoning district or in a residential unit.

[4] Drive throughs are not permitted with any facility.

[5] Co-Location. Where permitted, marihuana facilities may operate from a location shared with an equivalent licensed marihuana facility. The following are required for this co-location.

[a] Entrances to each facility shall be physically separated.

[b] Each facility must have distinct and identifiable areas designated within the structure.

[c] Each facility suite or tenant space must have a separate address

[d] Each facility must have separate inventory, record keeping, and point of sale operations.

[6] A licensee may not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk.

[7] A licensee must operate the licensed facility in compliance with all applicable state and City regulations for that type of facility.

(b) Location Criteria. All marihuana facility types must meet the following location criteria from protected uses, except Safety Compliance Facilities:

[1] Required Distance.

[a] A marihuana facility must not operate within 1,000 feet of a preexisting private or public school, providing

education in kindergarten or any grades 1 through 12.

[b] A marihuana facility must not operate within 500 feet of a preexisting state-licensed childcare center, public playground, public pool, or youth center.

[2] Measuring the Required Distance. The required distance is measured in a straight line from the nearest property line of a protected use to the nearest portion of the building or unit in which the marihuana facility is located.

(c) Shared Location. Marihuana establishments may operate from a location shared with an equivalent licensed marihuana facility, except where a separation distance is required.

(2) Grower Facility. A licensee that is a commercial entity located in this state that cultivates, dries, trims or cures and packages marihuana for sale to a processor or provisioning center. The three (3) grower license types are Class A (authorized to grow up to 500 plants); Class B (authorized to grow up to 1,000 plants); and Class C authorized to grow up to 1,500 plants). In the Districts where Grower Facility is Permitted with Development Standards, the following standards apply:

(a) Grower Facilities are permitted in Limited Manufacturing (M1) and General Manufacturing (M2).

(b) Permitted Outdoor Activities. All Grower facilities and operations must be within an enclosed building, except cultivation may occur in an outdoor area under the following conditions:

[1] Area is contiguous with the facility building.

[2] Area is fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view.

[3] Marihuana plants cannot grow above the height of the fence or barrier.

[4] The fence is secured and only accessible to authorized persons and emergency personnel.

[5] Area is located at least five hundred (500) feet from a residential zone district.

(c) Multiple Facilities on a Lot. The following applies for multiple facilities on one lot.

[1] Except as permitted by State regulatory rules for Class C growers, only one (1) Medical Marihuana Grower facility license is allowed per parcel or lot.

[2] Licensees may occupy the same premises if holding separate Grower and Processor licenses for the premises.

(3) Processor Facility. A licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center. In the Districts where Processor Facility is Permitted with Development Standards, the following standards apply:

(a) Processor Facility is permitted in Limited Manufacturing (M1) and General Manufacturing (M2)

(b) Only one Medical Marihuana Processor facility license permitted per parcel or lot

- (c) All Processing operations must be conducted within an enclosed building
 - (d) Licensees may occupy the same premises if holding a separate Grower and Processor licenses for the premises.
- (4) Secure Transporter Facilities. A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee. In the Districts where Secure Transporter Facility is Permitted with Development Standards, the following standards apply:
- (a) Secure Transporter Facility is permitted in Community Commercial (CC), Limited Manufacturing (M1), and General Manufacturing (M2).
 - (b) In Zone CC, warehousing activity is only permitted as an accessory use to the principal permitted Secure Transporter use.
- (5) Safety Compliance Facility. A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility. In the Districts where Safety Compliance Facility is Permitted with Development Standards, the following standards apply.
- (a) Permitted in the following zones. Community Commercial (CC), *Community Commercial 2 (CC2)*, Live Work 1 (LW1), Live Work 2 (LW2), Downtown 3 (D3), Business Technology, and Research (BTR), Limited Manufacturing (M1), and General Manufacturing (M2).
 - (b) Street Type Limitations. In Downtown 2 (D2), a safety compliance facility cannot be located in a building's occupied space fronting a *Event/Festival or Urban Center* Priority Street.
- (6) Provisioning center. A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL § 333.26421 et seq., is not a provisioning center for purposes of this article. In the districts where provisioning center facility is permitted with development standards, the following standards apply:
- (a) Permitted in the following zones:
 - [1] Community Commercial (CC), Live Work 1 (LW1) and Community Commercial 2 (CC2) districts.*
 - [a] Live Work 1 (LW1) and Community Commercial 2 (CC2) when not located on an Enhanced Neighborhood or Local Street street type.*
 - [2] Downtown 1 (D1), Downtown 2 (D2), Downtown 3 (D3). In D3, only when not located on an Enhanced Neighborhood or Local SubUrban, Connector, or Main Street street type.*
 - (b) Only one provisioning center license is permitted per parcel or lot.

- (c) All provision center activities must be conducted within an enclosed building.
- (d) A provisioning center is not allowed within 660 feet of the following intersections: East Cork Street and South Burdick Street, the intersection of East Cork Street and Portage Street, and the intersection of West Ransom Street and North Westnedge Avenue.
- (e) A separation distance of 1,000 feet is required from any other provisioning center or retailer, except when the provisioning center is co-located with a retailer as provided by state regulations and this ordinance.
- (f) A provisioning center is not permitted on the same property or parcel or within the same building where any of the following are located:
 - [1] A package liquor store.
 - [2] A convenience store that sells alcoholic beverages.
 - [3] A fueling station that sells alcoholic beverages.
- (g) The consumption of marijuana products is not permitted on the premises of retail facility.

50-4.5 Accessory Uses and Structures.

A. General Provisions. Accessory Uses and Structures listed in Table 4.5-1 are permitted in the following ways:

- (1) Permitted. Uses in the table noted with "P" are permitted by right in the zoning district(s) in which they are listed.*
- (2) Permitted, Development Standards Required. Uses in the table noted with "PD" are permitted by right in the zoning district(s) in which they are listed provided they are developed with the listed development standards. The development standards listed for a use are intended to manage any potential impacts associated with it, making it appropriate in a location where it might otherwise have not been allowed.*
- (3) Special Use. Uses in the table noted with "S" are permitted with the approval of a special use permit from the Planning Commission in the zoning district(s) in which they are listed.*

B. Unlisted Uses and Structures. Uses not listed in Table 4.1-1 shall be interpreted as follows:

- (1) Unlisted Similar Uses. If a use or structure is not listed, but is similar in character and impact to one that is permitted, permitted with development standards, or permitted with a special use permit, it may be interpreted by the City Planner as similar.*
- (2) Unlisted Dissimilar Uses. If a use or structure is not listed and cannot be interpreted as similar to one listed, the use is not permitted.*

Table 4.5-1 outlines the permitted accessory uses and structures by district. Accessory Uses and Structures are permitted in the following ways:

- (1) Permitted. Uses in the table noted with “P” are permitted by right in the zoning district(s) in which they are listed.
- (2) Permitted, Development Standards Required. Uses in the table noted with “PD” are permitted by right in the zoning district(s) in which they are listed provided they are developed with the listed development standards. The development standards listed for a use are intended to manage any potential impacts associated with it, making it appropriate in a location where it might otherwise have not been allowed.
- (3) Special Use. Uses in the table noted with “S” are permitted with the approval of a special use permit from the Planning Commission in the zoning district(s) in which they are listed.

CB. Development Requirements. All accessory structures will meet the following standards, unless otherwise noted.

- (1) Front Yard. Accessory structures are not permitted in the front yard unless otherwise noted.
- (2) Corner Side Yard. Accessory structures *shall be setback fifteen (15) feet from a corner side property line, unless otherwise stated in this Article.* cannot be located closer to the corner-side property line than a principal structure.

Table 4.5-1 Accessory Uses & Structures

Uses & Structures	District						Com Node	CC2	CC	All R
	Nhood Node	LW1	LW2	D1	D2	D3				
Accessory Dwelling Units (ADU)	PD	PD	PD		PD	PD	PD	PD	PD	PD
Agriculture	PD	PD	PD	PD	PD	PD	PD	PD	PD	
Drive Through	PD	PD	PD		PD	PD	PD	PD	PD	
Food Truck	PD	PD	PD		PD	PD	PD	PD	PD	
Home Occupation	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD
Kiosk	PD	PD	PD		PD	PD	PD	PD	PD	
Outdoor Storage	PD	PD	PD				PD	PD	P	
<i>Poultry/Rabbits</i>	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD
Secondary Building	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD
Sidewalk Café	PD	PD	PD	PD	PD	PD	PD	PD		

Key

- P Permitted
- S Special Use
- Permitted -
- PD Development Standards Required

- (3) Setback. Accessory structures shall be setback three (3) feet from side and rear property lines.
- (4) Height. Accessory structures shall not exceed the height of the principal structure *unless otherwise stated in this Article*.
- (5) Lot Coverage. Accessory structures count toward a lot's impervious coverage. Placement of an accessory structure cannot make a lot exceed its impervious coverage requirement.

DE: Use Definition and Standards. The following details the accessory uses and structures listed in Table 4.5-1 and detail any development standards necessary.

- (1) Accessory Dwelling Unit. Secondary dwelling unit(s) on a lot; may be located in a secondary building *and* or interior to the principal building.
 - (a) Units in secondary buildings.
 - [1] Quantity. One (1) accessory dwelling unit in a secondary structure is permitted per lot.
 - [2] Maximum Unit Size. Maximum unit size is 950 square feet.
 - (b) Interior Units. An interior accessory dwelling unit is *located in the primary dwelling structure with* defined as one with a separate exterior entrance. ~~When located interior to the principal structure the following are required.~~
 - [1] Quantity. One (1) accessory dwelling unit interior to a principal building is permitted.
 - [2] Maximum Unit Size. Maximum unit size is less than or equal to thirty (30) percent of the square footage of the primary residential unit or 600 square feet, whichever is larger.
 - (c) Parking. Space for 1 car per accessory dwelling unit is required. On-street parking, if available overnight, can meet this requirement if located within 660 feet.
- (2) Agriculture. Growing of food crops indoor or outside for personal use, donation, or sale; this excludes the growth of marihuana plants for medicinal or recreational purposes as an accessory use on the lot. In the districts where agriculture is Permitted with Development Standards ("PD"), the following standards apply.
 - (a) Agriculture as an accessory use shall not prevent a lot from meeting its lot type or dimensional requirements, refer to Article 5 Zoning Standards.
 - (b) Agriculture as an accessory use is permitted in all yards.
 - (c) Agriculture as an accessory use is permitted within a building, provided that it is not in the occupied space of a building; it is permitted on a buildings roof.
- (3) Drive Through. Drive throughs provide service to customers who remain in their vehicle and may be used in conjunction with variety of uses including financial institutions and restaurants. In the districts where a drive through is Permitted with Development Standards ("PD"), the following standards apply, Refer to Figure 4.5-1 Drive Throughs.

- (a) Permitted Locations. A drive through is permitted as follows.
 - [1] Nodes, Downtown 2, and Downtown 3. A drive through is permitted only in the rear yard, fully screened from property lines by structure or landscaping.
 - [2] Other Districts. A drive through is permitted in the rear yard. If the lot does not front a *Neighborhood Network and Neighborhood Business Streets* Priority or Main street, a drive through is also permitted in the side yard, and in Community Commercial (CC) it is also allowed in the corner yard.
- (b) Landscape Screening. *Screening is required, refer to 50-8.4.* Adjacent to the drive through along the rear and/or side property lines shall be screened by a landscaping as defined by Appendix A 6.2 Landscaping and Open Spaces.
- (c) Stacking Space. A minimum of three (3) stacking spaces are required, measured from the drive-through window or entrance into the stall or loading area.
- (4) Food Truck. Vehicle or trailer used to prepare and/or serve food. In the districts where a food truck is Permitted with Development Standards ("PD"), an approved Site Plan is required as follows.
 - (a) Single Food Truck. Site Plan approval is required when one (1) food truck operates on a lot three (3) or more days a week and utilizes the lot's utilities, such as electrical or water services.
 - (b) Multiple Food Trucks. Site plan approval is required if multiple food trucks operate on a lot three (3) or more days a week.
 - (c) Permanent Food Truck Lot. *Permitted permanently with or without a primary structure.* The Outdoor Market Lot

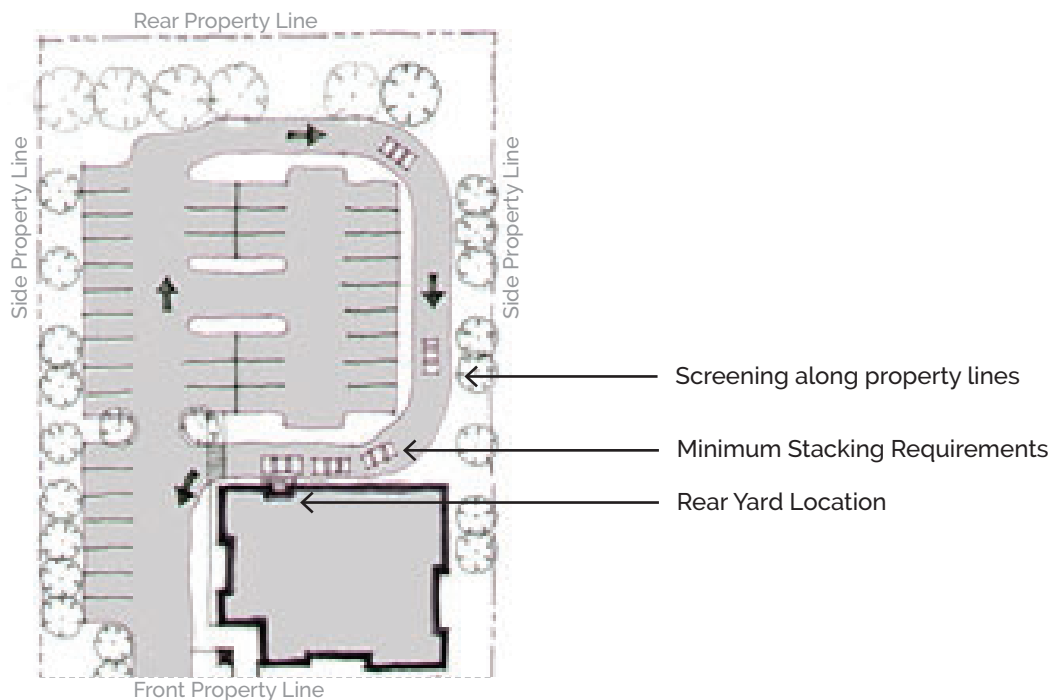


Figure 4.5-1. Drive Through Design

Type standards shall be followed. Refer to 5.6.G Outdoor Market Lot Type.

(5) Home Occupation. Types of work that can be conducted in a residence with little to no impact on the surrounding lots. Home occupations are secondary to the primary use of the lot, residential.

(a) Prohibited Uses. Prohibited uses include animal boarding, dispatch center, restaurants, sale or storage of firearms, outdoor storage, vehicle or large equipment storage and repair, and all uses listed under High Hazard Group H Uses in Building Code.

(b) Resident-Operator. The operator of the home occupation must be a full time resident of the lot in which the business is associated.

(c) Employees. A maximum of two (2) nonresident employees are permitted on premises at one time.

(d) Signs. No more than one nameplate sign permitted with a maximum size of one (1) square foot. It may not be internally illuminated.

(e) Secondary Building. Home occupation may be located in a secondary building.

(f) Exterior Building Appearance. No exterior building changes are permitted; there must be no visible evidence of the existence of a home occupation beyond the permitted signage, including outdoor storage of materials related to the use.

(g) Operational Impacts. No home occupation or equipment used with a home occupation may cause odor, vibration, noise, electrical interference or fluctuation in voltage measured at the lot line.

(h) Customers. Customers or clients are permitted at the home occupation during the hours of 8:00 AM to 8:00 PM.

[1] No more than two (2) customers or clients are permitted at a given time, except in the case of a classes, such as art, music, cooking, or fitness classes, where up to four (4) clients are permitted at one time.

[2] A Special Use Permit is required for a home occupation providing classes with five (5) or more clients at a time.

~~(i) Customer Parking.~~ Customer parking may occur off-street or on-street, where permitted.

(j) Deliveries. Deliveries are permitted during the hours of 8:00 AM to 8:00 PM and are permitted through the common residential delivery services.

(k) In-Home Day Care Facilities. In-Home Day Care Facility is a permitted home occupation when serving up to six (6) participants.

[1] In-home day care facility serving seven or more participants requires a special use permit.

[2] Refer to 50-4.4C(3) Day Care for outdoor play area requirements.

(l) Group Day Care.

(m) Medical Marihuana. Medical Marihuana is a permitted home occupation when a primary caregiver who has agreed and is registered with the State of Michigan to assist with a qualifying patient's use of medical marihuana.

In the districts where medical marihuana is permitted *or* is Permitted with Development Standards (*PD*), the following standards apply:

- [1] Michigan Medical Marihuana Act Compliance. The medical use of marihuana and marihuana-infused products shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, 2008 Initiated Law #1, MCL 333.26421 et seq. ("Act") and the Administrative Rules promulgated by the State of Michigan ("Administrative Rules") pursuant to the Act, as they may be amended from time to time.
- [2] Location Criteria. Medical Marihuana as a home occupation must comply with the following location criteria.
 - [a] A primary caregiver must be located 1000' from an existing public or private elementary, vocational, or secondary school; public or private college, junior college, or university; playground; housing facility owned by a public housing authority; or public library or private library open to the public.
 - [b] A primary caregiver must be 100' from an existing public or private youth center, public swimming pool, or video arcade facility to ensure community compliance with State and Federal "Drug-Free School Zone" requirements.
- [3] Number of Caregivers. One primary caregiver is permitted within a dwelling unit to service qualifying patients, who do not reside with the primary caregiver.
- [4] Number of Patients Permitted. A primary caregiver is permitted up to five qualifying patients.
- [5] Consent of the Property Owner. If the primary caregiver is not the owner of the property in which they live and operate from, written consent must be obtained from the property owner to ensure the owner's knowledge of the use of the premises as permitted and the primary caregiver shall maintain written proof that the use of the property as a home occupation under this section is not prohibited by the property owner.
- [6] Growing. All medical marihuana plants shall be secured in one of the following ways.
 - [a] Contained within a structure that is an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient.
 - [b] Plants cultivated outdoors must be fully enclosed by fences or barriers that blocks the plants from public view, with no plants visibly growing above the fence or barrier, and the fence or barrier is locked or otherwise secured to limit access only to the primary caregiver or qualifying patient engaged in cultivating the plants.
- [7] Processing. The separation of plant resin from a marihuana plant using any substances with a flashpoint below one hundred (100) degrees Fahrenheit for processing is prohibited.
- [8] Lighting. If a room with windows is utilized as a marihuana-growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties
- [g] Required Permits. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring lighting, and/or watering devices are located,

installed or modified that support the cultivation, growing or harvesting of marihuana.

[10] Nothing in this subsection, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the Administrative Rules and this subsection. Also, since federal law is not affected by that Act or the Administrative Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

(6) Kiosk. *Semi*-permanent structure that permits a variety of general retail and service uses, may be associated with the use of shipping containers or pop up shops and sheds. *May also be referred to as vendor pods.* In the districts where a kiosk is Permitted with Development Standards ("PD"), the following is required.

(a) Site Plan. An approved Site Plan is required when two (2) or more kiosks are being located on a lot for a period of more than *four (4)* ~~two (2)~~ weeks, ~~or when a kiosk is used with the Outdoor Market Lot Type, refer to 5.6.G Outdoor Market Lot Type.~~

(b) Permanent Kiosk Lot. Permitted permanently with or without a primary structure. The Outdoor Market Lot Type, refer to 50-5.6G.

(7) Outdoor Storage. Storage of goods for sale or items related to the use(s) on the lot located outside of a structure. In the districts where a outdoor storage is Permitted with Development Standards ("PD"), the following is required *standards apply:*

~~(a) Site Plan. A site plan is required to review the size and placement on a lot.~~

~~(b)~~ *(a) Maximum Size.* Outdoor storage is permitted in an area no greater than ten (10) percent of the total lot area; in Live Work 1 (LW1) no greater than five (5) percent is permitted..

~~(c)~~ *(b) Location.* Storage is permitted in the rear yard or side yard.

~~(d)~~ *(c) Screening.* Storage must be screened from view from view from all property lines. *Refer to 50-8.4.*

(8) Poultry and Rabbits. Poultry and rabbits are permitted as follows:

(a) Location. Coop or pen must be located in the side or rear yards and setback ten (10) feet from all property lines.

(b) Sanitary Conditions. Coop or pen must be kept in a sanitary condition, free of odors.

(c) Roosters. Keeping of roosters is not permitted.

(g) Secondary Building. Secondary buildings include such structures as detached garages, sheds, accessory dwellings, green houses, and hoop houses. In the districts where secondary Buildings are Permitted with Development Standards ("PD"), the following standards apply.

- (a) Height. Secondary buildings can be up to two (2) stories in height. Refer to 5.3-1 Measuring Height.
- (b) Agricultural Uses. A secondary building associated with a principal agriculture use, such as a green house, hoop house, or shed, shall set back at least ten (10) feet from the Front and Corner *Side* Property Lines.
- (c) Garage. Secondary buildings serving as garages or car ports are permitted in Corner Side Yards with a setback of five (5) feet from the Corner Side Property Line.*
- ~~(9)~~*(10)* Sidewalk Cafe. Outdoor eating areas permitted within the right-of-way and on the property in question. In the districts where a sidewalk cafe is Permitted with Development Standards ("PD"), the following standards apply,
 - (a) Clear Pedestrian Pathway. A minimum pedestrian pathway width of five (5) feet must be maintained free of all obstacles. This clear pedestrian pathway shall be located adjacent to the building facade unless otherwise approved through the City Planner.
 - (b) Permit. If located in the *public* right-of-way, a Right-of-Way Permit is required from the City of Kalamazoo.

