



City of Perry  
Zoning Ordinance  
NO. 327

Adopted December 15, 2016

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giffels   
webster



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# CHAPTER 1 TITLE, PURPOSE, SCOPE, AND LEGAL BASIS

## **SECTION 1.01      TITLE**

This Ordinance shall be known and may be cited as the “City of Perry Zoning Ordinance.”

## **SECTION 1.02      PURPOSE**

This Ordinance is established for the following purposes:

- A. To promote and protect the public health, safety, and general welfare.
- B. To protect the stability of the economy, the character of residential development, and the viability of commercial and industrial areas within the City of Perry and to promote the orderly and beneficial development of these areas.
- C. To provide adequate light, air, privacy and convenience of access to property.
- D. To regulate the intensity of use of land and lot areas and determine the area of open spaces surrounding buildings and structures necessary to provide adequate space and to protect the public health.
- E. To lessen and avoid congestion on the highways and streets.
- F. To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district, by regulating the use and bulk of buildings in relation to the land surrounding them.
- G. To protect the environment and conserve the expenditure of funds for public improvements and services.
- H. To conserve lands, waters, and other natural resources for their most suitable purposes.
- I. To reduce hazards to life and property from flooding, air, and water pollution.
- J. To secure safety from fire and other dangers.
- K. To facilitate economic development of educational, recreational and other public facilities; to ensure appropriate locations and relationships of land uses; to ensure proper development of housing and commerce; and to enhance the social and economic stability of the City of Perry.

## **SECTION 1.03      SCOPE**

Zoning affects all structures, buildings, activities, and land uses within the City of Perry; all buildings, structures, and uses are also subject to this Ordinance.



**SECTION 1.04      LEGAL BASIS**

This Ordinance is enacted pursuant to the State of Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

**SECTION 1.05      REPEAL**

The prior City of Perry Zoning Ordinance, adopted\_\_\_\_, as amended, and any prior zoning ordinances for the City of Perry are hereby repealed effective coincident with the effective date of this Ordinance. The repeal of said ordinances shall not have the effect of releasing or relinquishing any penalty, forfeiture or liability incurred under the prior ordinance, or any part thereof, and the prior ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of any penalty, forfeiture, or liability.

Conditions that have been attached to land, buildings, structures, and uses resulting from actions under a prior ordinance shall remain in effect unless specifically waived by this Ordinance, or through proper amendment, subject to the requirements of this Ordinance.

**SECTION 1.06      CONFLICTS WITH OTHER LAWS**

The provisions of this Ordinance are the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience and general welfare of the people at large.

If there are found to be differences between the meaning or implication of any drawing, table, figure, title or section heading, the text of this Ordinance shall apply.

This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the City of Perry is a party.

Conflict or Inconsistency:

- A. Internal: Unless otherwise specifically stated within this Ordinance, if two or more provisions are in conflict or are inconsistent with one another, then the most restrictive provision shall apply.
- B. Local Regulations: Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use of buildings, structures, activities, or land; the height of buildings or structures; lot coverage; lot areas; yards or other open spaces; or any other use or utilization of land than are imposed or required by other existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.
- C. Federal and state regulations: Whenever a provision of the Ordinance imposes a greater restriction or a higher standard than is required by any state or federal code or regulation, county or City of Perry ordinance or regulation, the provision of this Ordinance shall

apply. Whenever a provision of any state or federal code or regulation, county or City of Perry ordinance or regulation imposes a greater restriction or a higher standard than is required by this Ordinance, the provision of the state or federal code or regulation, or other county or City of Perry ordinance or regulation shall apply.

- D. Private restrictions: Whenever a private covenant, contract, commitment, agreement, or other similar private land use regulation imposes a greater restriction or a higher standard than is required by a provision of the Ordinance, the City of Perry is not obligated to enforce the provisions of such private covenants, contracts, commitments, agreements, or other similar regulations to which the City of Perry is not a party.
- E. State law amendments: Whenever codes cited in this Ordinance refer to Michigan law that has been amended or superseded, this Ordinance shall be deemed automatically amended in reference to the new or revised code.

## **CHAPTER 2 RULES OF CONSTRUCTION & DEFINITIONS**

### **SECTION 2.01      RULES APPLYING TO TEXT**

If the meaning of a provision of this Ordinance is unclear in a particular circumstance, then the individual or body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance, if the intent can be discerned from other provisions of this Ordinance or law.

- A. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- B. Words or terms not herein defined shall have the meaning ordinarily and customarily assigned to them.
- C. The particular shall control the general. For terms used in this Ordinance, the use of a general term shall not be taken to be the same as the use of any other specific term. For example, a “drug store,” as used in this Ordinance, shall not be interpreted to be the same as a “retail store,” since each is listed as a separate and distinct use.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural includes the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” also includes any part thereof.
- F. The word “person” includes an individual, a firm, a corporation, a partnership, a limited liability company or corporation, an incorporated association, or any other similar entity. A masculine term shall include the feminine version of the term and vice versa.
- G. Unless the context clearly indicates to the contrary, the conjunctions noted below shall be interpreted as follows.
  - 1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
  - 2. “Or,” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3. “Either ... or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- H. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the City of Perry or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

## **SECTION 2.02      DEFINITIONS - A**

### **ABANDONMENT**

The surrender, relinquishment, or cession of activity on a property that includes both the intention to abandon and the effect of abandonment that may include, but is not necessarily limited to, cessation of business activity, lack of physical occupancy, lack of property maintenance or utility service, removal of structures, failure to pay taxes, etc.

### **ABUTTING (lot or parcel)**

A lot or parcel which shares a common border with the subject lot or parcel.

### **ACCESS MANAGEMENT**

A technique to improve traffic operations and safety along a major street through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to and across from one another; and the promotion of alternatives to direct access.

- A. Cross Access - A method whereby access to property crosses one or more contiguous or adjacent properties. These may include driveway or parking lot connections with cross easements.
- B. Alternative Access - A means of access that is not directly to the Highway including frontage streets, rear access streets and access to existing or proposed streets.
- C. Shared Access - A method whereby adjoining property owners share a common access to a street or Highway. These accesses are generally located at the common property line but may be located entirely on one property with access to another property by easement or other access agreement.

### **ACCESSORY APARTMENT**

Residential apartment units or dwellings above the first floor of commercial buildings meeting the regulations of this Ordinance.

### **ACCESSORY BUILDING or STRUCTURE**

Except as otherwise specified by this Ordinance, a building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by, used, or devoted exclusively for an accessory use. The accessory building can only be used for an accessory use.

- A. Attached Accessory Structures - If an accessory structure is attached to the primary structure, it shall be made structurally a part of the primary structure and shall comply with all requirements of this Zoning Ordinance for the [primary structure](#).
- B. Detached Accessory Structures - No detached accessory structure shall be closer than ten (10) feet from any primary structure on either the same lot or an adjoining lot.

## ACCESSORY USE

A use naturally and normally incidental and subordinate to, and devoted exclusively to, the main use of the land or building.

## ADULT USES OR ADULT-ORIENTED BUSINESSES

Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted in any manner to, encourages, or permits the use or consumption of marijuana on the premises (other than a private residence). The term shall include marijuana or cannabis social clubs, marijuana or cannabis rec center, marijuana or cannabis social lounge, cannabis club, social cannabis club, etc.

Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting “specified sexual activities” or “specified anatomical areas”. The term shall include the following:

- A. *Adult cabaret* means a nightclub, restaurant, or other establishment which regularly features or displays:
  - 1. Live performances, displays, or dancing predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity; or
  - 2. Films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or other visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area.
  
- B. *Adult merchandise store* means an establishment that emphasizes merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area. An establishment emphasizes merchandise that is predominantly distinguished by its “emphasis on matter depicting, describing, or relating to any specified sexual activity or any specified anatomical area” if any one or more of the following applies to the establishment:
  - 1. Twenty-five percent (25%) or more of the establishment’s retail display space (excluding bathrooms, office areas, fitting rooms, eating areas, storage areas, closets, and other nonpublic areas) is used for the sale of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
  - 2. Twenty-five percent (25%) or more of the establishment’s visible inventory is comprised of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
  - 3. Twenty-five percent (25%) or more of the establishment’s gross revenues are generated by the sale or rental of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any

specified sexual activity or any specified anatomical area.

4. The establishment is operated consistently with its being an adult- oriented business (e.g., advertising is directed to an “adults only” market; the establishment self-imposes, or imposes consistent with state or federal law, prohibitions on minors being present in the establishment, etc.).
- C. *Adult motel* means a hotel, motel or similar establishment that:
1. Offers accommodation to the public for any form of consideration and provides patrons with close-circuit television (as distinguished from commercial cable services), transmissions, films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media that are characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area; or
  2. Offers a sleeping room for rent, or allows a tenant or occupant of a sleeping room to sub-rent the room, for a period of time that is less than ten (10) hours, if the rental of such rooms accounts for more than ten percent (10%) of the establishment’s gross revenues.
- D. *Adult-oriented business* means a business or commercial establishment engaging in one or more of the following enterprises, uses, or activities:  
(a) adult cabaret; (b) adult merchandise store; (c) adult motel; (d) adult theater; (e) escort agency; (f) nude or semi-nude model studio; or  
(g) sexual encounter center.
- E. *Adult theater* means a theater, concert hall, auditorium, or similar establishment which regularly features live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity or which regularly or primarily shows films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area. This definition includes, without limitation, establishments which offer individual viewing booths.
- F. *Employee* means a person who performs any service for any consideration on the premises of an adult-oriented business on a full- time, part-time, or contract basis, whether or not the person is denominated as an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said adult-oriented business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.
- G. *Escort* means a person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- H. *Escort agency* means a person or entity which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An escort agency is deemed to be operated in the location where (a) a request for an escort is received, or (b) the escort and the person requesting the escort are together.

- I. *Material* means anything tangible, whether through the medium of reading, observation, viewing, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, DVD, film, computer display, transparency, slide, audiotape, audio disk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the product of any technology, whether that technology is available on the effective date of the ordinance that added this definition or becomes available after that date.
- J. *Merchandise* means material, products, and novelties.
- K. *Novelty* means any instrument, device, or paraphernalia which depicts or describes any specific anatomical area or any specific sexual act, or which is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth control and disease prevention products.
- L. *Nudity, Nude, or State of Nudity* means the knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this section does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
- M. *Nude or semi-nude model studio* means any place where a person who displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by any other person who pays money or any form of consideration, but does not include the following:
  - 1. An educational institution funded, chartered, or recognized by the state of Michigan; or
  - 2. Any modeling session for a local, nonprofit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two-dimensional or three-dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
- N. *Operate or Cause to Operate* shall mean to cause to function or to put or keep in a state of doing business. *Operator* means any person on the premises of an adult-oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated an adult-oriented business regardless of whether that person is an owner or part owner of the business.
- O. *Patron* means a customer of the adult-oriented business or a person from the general public, not an 'employee' of the business, who is on the premises to obtain, receive, or view the products, services, or performances offered by the business.

- P. *Regularly* means recurring, attending, or functioning at fixed or uniform intervals.
- Q. *Semi-Nudity* or *Semi-Nude* or *in a Semi-Nude Condition* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited in a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
- R. *Sexual encounter center* means an establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist, or psychiatrist licensed to practice in Michigan, that offers:
1. Activities between male and female persons and/or persons of the same sex when one or more of the persons exposes or displays any specified anatomical area; or
  2. The matching and/or exchanging of persons for any specified sexual activities.
- S. *Specified anatomical area* means any or more of the following:
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola; or
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- T. *Sexual activity* means any of the following:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or
  2. A sex act, actual or simulated, including intercourse, oral copulation, or sodomy; or
  3. Masturbation, actual or simulated; or
  4. Excretory functions as part of or in connection with any of activities set forth in (1), (2), or (3) above.

## **AGRICULTURE**

The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income.

## **ANIMALS, WILD AND EXOTIC**

Any living member of the animal kingdom, including those born or raised in captivity, except the following: domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), ferrets, rodents, caged, nonvenomous snakes, and captive-bred species of common cage birds.



## **ALLEY**

A public way or right-of-way not more than thirty (30) feet in width that affords a secondary means of access to abutting property but not being intended for general traffic circulation.

## **ALTERATIONS**

Any change, addition or modification to and in the construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, roofs, girders, or any change that may be referred to herein as “altered” or “reconstructed.”

## **APARTMENT**

The dwelling unit in a multiple family dwelling, defined as follows:

- A. Efficiency apartment. A dwelling unit consisting of not more than one room in addition to kitchen, dining, and necessary sanitary facilities.
- B. One-bedroom unit. A dwelling unit consisting of not more than two (2) rooms in addition to kitchen, dining, and necessary sanitary facilities.
- C. Two-bedroom unit. A bedroom unit consisting of not more than three (3) rooms in addition to the kitchen, dining, and sanitary facilities.
- D. Three or more bedroom unit. A dwelling unit consisting of four (4) or more rooms in addition to kitchen, dining and necessary sanitary facilities.

## **APPEAL**

A request for a hearing or review of facts in connection with the administration of this Ordinance as provided by Public Act 110 of 2006 as amended.

## **ARCADE**

Any place of business or establishment containing more than three (3) amusement devices.

## **ARCHITECTURAL FEATURES**

Architectural features of a building include but are not limited to cornices, eaves, gutters, parapets, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

## **ATTACHED**

A building otherwise complete in itself, which depends, for structural support or complete enclosure, upon a division wall or walls shared in common with an adjacent building or buildings.

## **AUTOMOBILE & RELATED TERMS**

Any vehicle as defined by the Michigan Vehicle Code. See vehicle.

- A. Car wash. A building or portion thereof where automobiles are washed.
- B. Collision service. A use such as frame or fender straightening and repair, painting and undercoating of automobiles, and similar vehicle repair activities.
- C. Dealership. A building or premises used primarily for the sale of new and used automobiles and other motor vehicles.
- D. Filling station. A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store and/or a single bay car wash operation as an accessory use.
- E. Repair garage. An enclosed building where the following services may be carried out: general repair, engine rebuilding and reconditioning of automobiles, and similar vehicle repair activities.

**AVERAGE GRADE**

The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured prior to filling or grading.

**AWNING**

A roof-like structure of metal, wood, fabric or other rigid or non-rigid material, attached to a frame that is supported completely or partially by an exterior building wall.

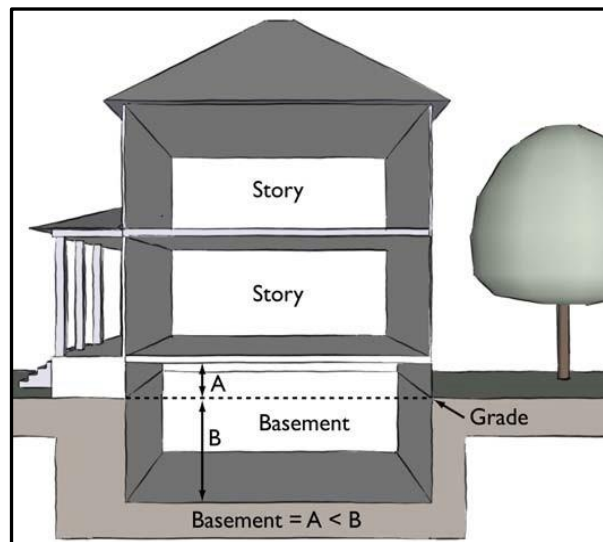
**SECTION 2.03      DEFINITIONS - B**

**BALCONY**

A platform that projects from the wall of a building and is surrounded by a railing or parapet.

**BASEMENT OR CELLAR**

A portion of a building having more than one-half (1/2) of its height below grade. See graphic at right.



**BED AND BREAKFAST ESTABLISHMENT**

A use within a detached single dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

## **BERM**

A mound of soil less than three (3) feet in height, graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

## **BLOCK**

The property abutting one side of a street and lying between the two nearest intersecting streets.

## **BOARD OF APPEALS**

See [ZONING BOARD OF APPEALS](#).

## **BOARDING HOUSE OR ROOMING HOUSE**

A dwelling having one kitchen and used for the purpose of providing meals and lodging for compensation to more than two persons on a weekly or other long term basis, other than members of the family occupying such dwelling.

## **BUFFER**

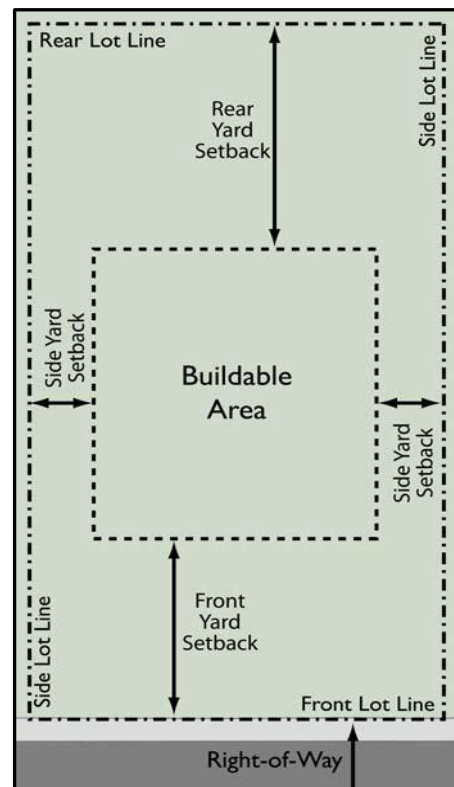
A landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.

## **BUILD-TO LINE**

The line on which a main building must be placed with respect to the front yard setback.

## **BUILDABLE AREA**

The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been met. See graphic at right.



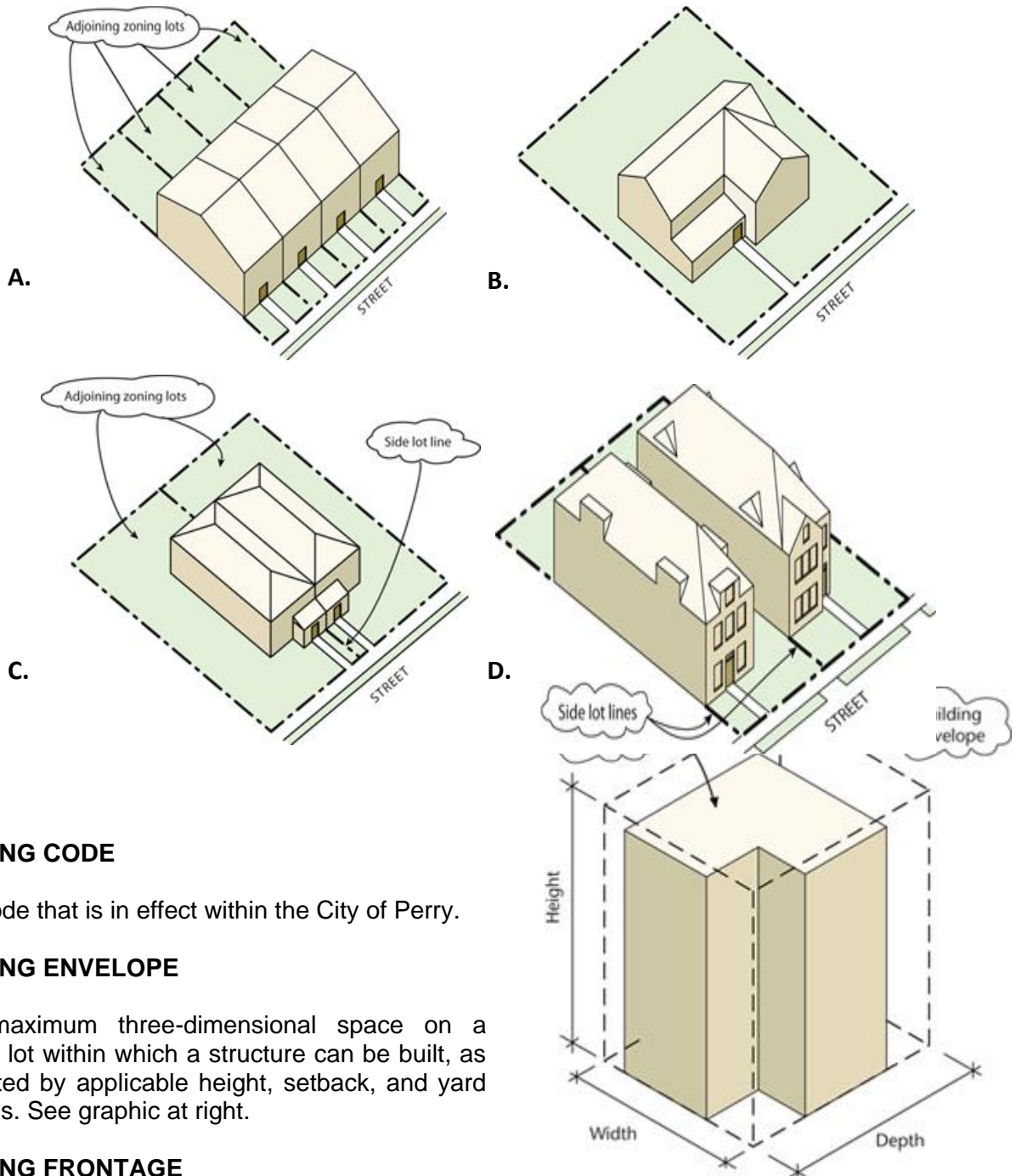
## **BUILDING**

A structure, either temporary or permanent, having a roof supported by columns or walls, intended for the shelter, enclosure, or storage of persons, animals, or property of any kind.

- A. Attached – a building that abuts two side lot lines or is one of a row of abutting buildings. See graphic on following page.
- B. Detached – a freestanding building that does not abut any other building and where all sides of the building are surrounded by yards or open areas within the zoning lot. See

graphic on following page.

- C. Semi-detached – a building that abuts or shares a wall on a side lot line with another building on an adjoining zoning lot and where the remaining sides of the building are surrounded by open areas or street lines. See graphic on following page.
- D. Zero Lot Line – a freestanding building that abuts one side lot line of a zoning lot and does not abut any other building on an adjoining zoning lot. See graphic below.



## BUILDING CODE

The code that is in effect within the City of Perry.

## BUILDING ENVELOPE

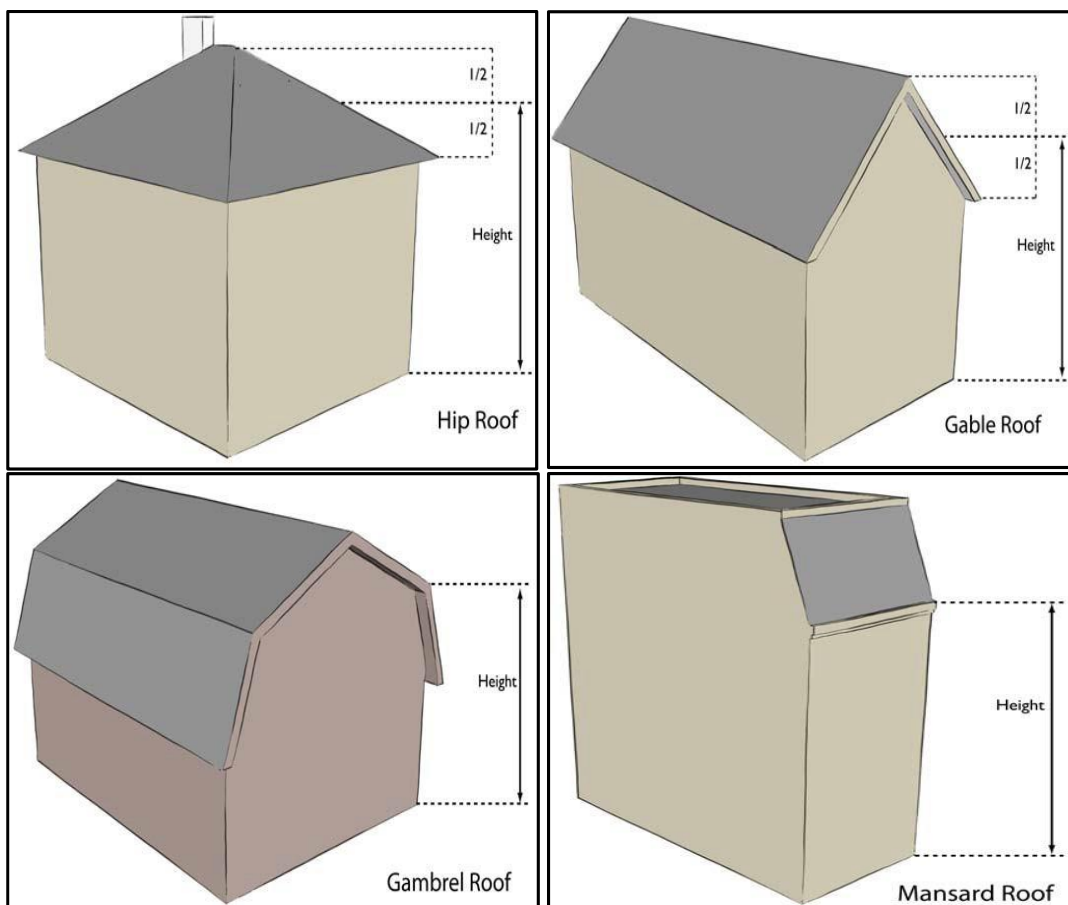
The maximum three-dimensional space on a zoning lot within which a structure can be built, as permitted by applicable height, setback, and yard controls. See graphic at right.

## BUILDING FRONTAGE

The portion of a lot abutting, adjoining, or facing a public right-of-way. See also [LOT WIDTH](#).

## BUILDING HEIGHT

The building height is the vertical distance measured from the natural grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the height shall be measured at the average grade. See graphics below.



## BUILDING LINE

See [FRONT SETBACK LINE](#).

## BUILDING, MAIN

See [MAIN BUILDING](#).

**BUILDING OFFICIAL**

See [ZONING ADMINISTRATOR](#).

## **SECTION 2.04      DEFINITIONS - C**

### **CANOPY TREE**

A deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purpose of a canopy tree is to provide shade to adjacent ground areas.

### **CARPORT**

A non-enclosed, covered motor vehicle parking structure accessory to a main building. It may be free standing or attached to another structure, and may be permanent or temporary.

### **CHURCH**

A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

### **CITY ATTORNEY**

The person or firm appointed by the elected body as the attorney for the City of Perry.

### **CITY BUILDING INSPECTOR**

The person or agency appointed by the elected body as the Building Inspector for the City of Perry.

### **CITY ENGINEER**

The person or firm appointed by the elected officials as the Engineer for the City of Perry.

### **CITY PLANNER**

The person or firm appointed by the elected officials as the Planner for the City of Perry.

### **CLEARING OF LAND**

The removal of vegetation from any site, parcel or lot. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

### **CLINIC**

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) health care professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

### **CLUB**

An organization or association of persons for special purposes or for the promulgation of sports, arts, sciences, literature, hobbies, politics, or the like, but not operated for profit.

## **COLLECTOR STREET**

A street intended to serve as a means of access to major thoroughfares.

## **COMMERCIAL**

This term relates to the use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement. Business or "for profit" activities generally connote commercial.

## **COMMON AREA**

That part of a condominium or other development in which all members have an ownership interest, including but not limited to streets, alleys, walkways and open space.

## **CONDOMINIUM ACT**

Public Act 59 of the Michigan Public Acts of 1978, as amended.

## **CONDOMINIUM PROJECT, SITE**

A division or development of land on the basis of condominium ownership in accordance with the Condominium Act, that is not subject to the provisions of the Land Division Act (P.A. 288 of 1967, as amended), and within which the individual units resemble lots.

## **CONDOMINIUM UNIT**

That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.

## **CONSERVATION EASEMENT**

A non-possessory, generally permanent interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water.

## **CONSTRUCTION**

The placing of construction materials in permanent position and fastened in a permanent manner. However, where demolition or removal of an existing building has been substantially begun and preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work is diligently carried on until completion of the building involved and that not more than twelve months have elapsed since the permit was issued for such construction.

## **CONVALESCENT OR NURSING HOME**

A home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. The convalescent or nursing home shall conform to, and qualify for, license under applicable state law.



## **CREMATORIUM**

A building fitted with the proper appliances for the purpose of the cremation of human remains and includes everything incidental or ancillary thereto.

## **CUL-DE-SAC**

A dead end public or private street, generally short in distance, which terminates in a circular or semi-circular section of street which allows for vehicle turnaround.

## **SECTION 2.05      DEFINITIONS - D**

### **DAY CARE**

A facility, other than a private residence, receiving minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the main use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Day Care Center.

- A. Day Care Home, Family - A single family residence, occupied as such, in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.
- B. Day Care Home, Group - A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.
- C. Day Care Center, Commercial - A nonresidential facility where care is provided for any number of children or adults for periods of less than twenty-four (24) hours per day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the main use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Commercial Day Care.

### **DECELERATION LANE**

An added roadway lane that permits vehicles to slow down and leave the main vehicle stream before turning.

### **DECK**

An unroofed structure used for outdoor living purposes that may or may not be attached to a building and that protrudes more than four (4) inches above the finished grade.

## **DEED RESTRICTION**

A restriction on the use of a lot or parcel of land that is set forth in the deed (or equivalent document) and recorded with the Shiawassee County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

## **DEMOLITION**

The destruction, all or in part, of a building or structure.

## **DENSITY**

As applied in this Ordinance, the number of dwelling units situated on or to be developed on a gross acre of land.

## **DISTRICT**

A zoning district pursuant to this Ordinance.

## **DOUBLE FENCING**

Parallel fences on separate lots, set back from the property line, which leave an area between the fences.

## **DRIVE-IN or DRIVE-THROUGH FACILITIES**

A commercial or other establishment whose character is significantly dependent on providing a driveway approach and service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle.

## **DRIVEWAY, PRIVATE**

An improved or unimproved path or street extending from a public right-of-way or private street easement to a single building, dwelling, or structure, intended to provide ingress and egress primarily for occupants thereof. A driveway is located entirely within one lot.

## **DWELLING or DWELLING UNIT**

A dwelling unit is any building or portion thereof having cooking facilities, that is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently, but in no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed to be a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.

- A. Dwelling, Multiple Family - A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in the building. This definition includes three (3) family buildings, four (4) family buildings, and apartment houses.
- B. Dwelling, Two-Family - A detached building used or designed for use exclusively by two (2) families living independently of each other and each doing their own cooking in the

building. It may also be termed a duplex.

- C. Dwelling, Single Family (Detached) - A detached building used or designed for use exclusively by one (1) family.

## **SECTION 2.06      DEFINITIONS - E**

### **EASEMENT**

A right, distinct from ownership of the land, to cross property with facilities such as, but not limited to, private streets, utility corridors, sewer lines, water lines, and transmission lines, or the right, distinct from the ownership of the land, to reserve and hold an area for open space, recreation, drainage or access purposes.

### **ELDERLY HOUSING**

A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under Act No. 139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

### **ERECTED**

The word “erected” includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

### **ESSENTIAL PUBLIC SERVICES**

The phrase “essential public services” means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessory structures reasonably necessary for the furnishing of adequate service by public utilities or municipal departments or commissions or for the public health or general welfare, but not including cellular telephone or communications towers or buildings, nor including those buildings that are primarily enclosures or shelters of the above essential service equipment.

### **ESCROW**

An amount of money held by the City of Perry to pay the costs associated with reviewing and processing a zoning application or undertaking other City action under this Ordinance. Escrow fees are for services or costs above what is covered by a fixed application or other fee.

## **EXCAVATION**

The removal, digging, or moving of soil or earth below the average grade of the surrounding land and/or street grade, whichever shall be highest, except common household gardening.

## **SECTION 2.07      DEFINITIONS - F**

### **FAMILY**

An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, who are domiciled together as a single housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

### **FARM**

The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

### **FARM OPERATION**

The operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

- A. Marketing produce at roadside stands or farm markets.
- B. The generation of noise, odors, dust, fumes, and other associated conditions.
- C. The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.
- D. Field preparation and ground and aerial seeding and spraying.
- E. The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
- F. Use of alternative pest management techniques.
- G. The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.

- H. The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
- I. The conversion from a farm operation activity to other farm operation activities.
- J. The employment and use of farm labor.

## **FARM MARKET**

A temporary use within the City of Perry, located on commercial property, which sells produce and other farm products.

## **FENCE**

Any permanent barrier, partition, wall, structure or gate erected as a dividing or screening structure or enclosure, and not part of a structure generally requiring a building permit.

## **FILLING**

The depositing or dumping of any matter onto or into the ground, except common household gardening and landscaping care.

## **FLEA MARKET**

A temporary market, usually held outdoors, where antiques, used household goods, and curios are sold.

## **FLOODPLAIN & RELATED TERMS**

- A. Base Flood - The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- B. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings, or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.
- C. Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - 1. The overflow of inland waters.
  - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- D. Flood Hazard Area, Special - The land within the City of Perry subject to a one (1) percent or greater chance of flooding in any given year. Also known as "area of 100 year flood," and shown on the Flood Insurance Rate Map (FIRM) as "Zone A."
- E. Flood Insurance Rate Map (FIRM) - An official map of the City of Perry, on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the City of Perry.
- F. Flood Insurance Study - The official report for the City of Perry provided by the Federal Insurance Administration containing flood profiles, the water surface elevation of the base

flood, and the Flood Hazard Boundary-Floodway Map.

- G. Flood Plain - Land designated as Special Flood Hazard Area.
- H. Water and Floodplain Overlay District - The zone that overlays the existing zoning districts delineated on the official City of Perry Zoning Map. The boundaries of the Water and Floodplain Overlay District shall coincide with the boundaries of the Special Flood Hazard Area indicated on the Flood Insurance Rate Map.
- I. Floodway, Designated Regulatory - The channel of a river or other watercourse and the adjacent land areas designated in the Flood Insurance Study that shall be reserved in order to discharge the base flood.
- J. Harmful Increase - An unnaturally high stage on a river, stream or lake that causes or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

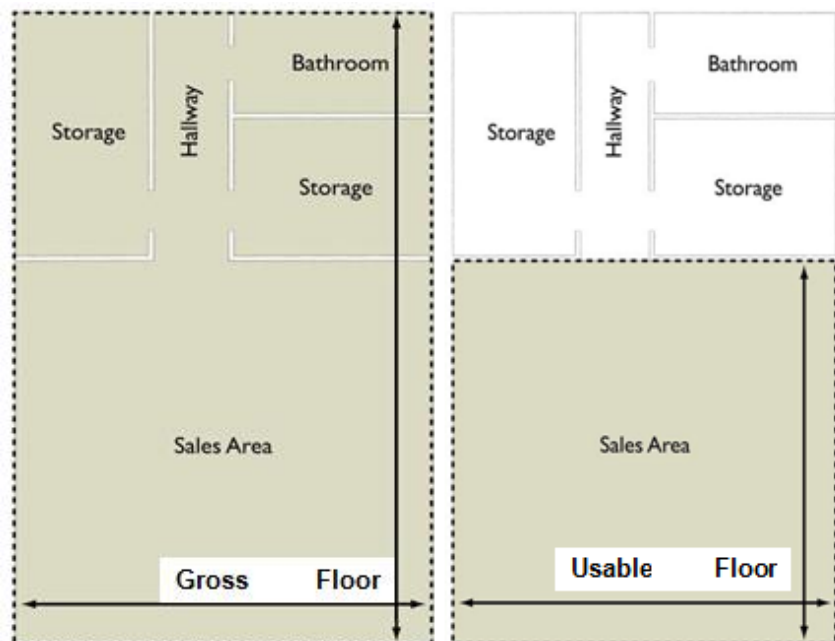
**FLOOR AREA, GROSS (GFA)** (as associated with commercial or industrial uses)

The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The gross floor area of a building shall include the basement floor area only if more than one-half (1/2) of the basement height is above finish lot grade and the floor area is finished and improved as livable space. (See [BASEMENT](#).)

Gross floor area shall not include attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area. See graphic at bottom center.

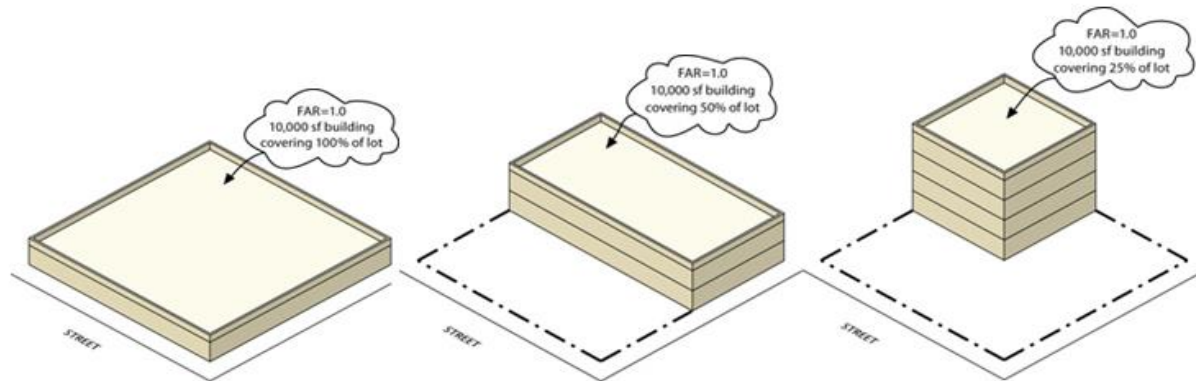
**FLOOR AREA, USABLE (UFA)** (as associated with commercial or industrial uses)

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area that is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. See graphic at bottom right.



## FLOOR AREA RATIO (FAR)

The floor area ratio is the principal bulk regulation controlling the size of buildings. FAR is the ratio of total building floor area to the area of its zoning lot. Each zoning district has an FAR which, when multiplied by the lot area of the zoning lot, produces the maximum amount of floor area allowable on that zoning lot. See graphics below.



## FOSTER CARE FACILITIES

24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes

## FRONTAGE

See [BUILDING FRONTAGE](#).

## **SECTION 2.08**      **DEFINITIONS - G**

### **GARAGE**

A building used primarily for the storage of self-propelled vehicles for the use of the occupants of a lot on which the building is located.

### **GRADE**

The degree of rise or descent of a sloping surface.

1. Finished. The final elevation of the ground surface after development.
2. Natural. The elevation of the ground surface in its natural state, before man-made alterations.

## **GREENBELT**

A vegetative strip intended to provide physical separation and visual screening between potentially incompatible uses; be sufficient to screen or filter views of building walls, loading areas, parked vehicles, and outdoor storage areas; moderate harsh or unpleasant sounds; filter air pollutants; and/or slow the effects of storm water runoff.

## **GREEN SPACE**

A yard or landscaped area that may include a lawn, green belt, open space, or natural features.

## **SECTION 2.09      DEFINITIONS - H**

### **HALFWAY HOUSE**

A residential treatment facility that provides transitional living arrangements for individuals acclimating from institutional living back into the City of Perry. Facilities may serve former prison inmates, recovering addicts, or alcoholics.

### **HEDGE**

A fence or boundary formed by a dense row of shrubs or low trees.

### **HOME OCCUPATION**

An occupation customarily conducted entirely within a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single family detached residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation.

### **HOSPITAL**

An institution providing health services, primarily for in-patients and medical or surgical care, including as an integral part of the institution, related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

### **HOTEL OR MOTEL**

A series of attached, semi-attached, or detached rental units providing overnight lodging for transients, open to the traveling public for compensation.

## **SECTION 2.10      DEFINITIONS - I**

### **INDOOR RECREATION ESTABLISHMENT**

A privately owned facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as a fitness centers, bowling alleys, billiard establishments, and racquetball and tennis clubs. Indoor recreation establishments shall not include arcades.



## **INTENSIVE LIVESTOCK OPERATIONS**

An agricultural operation that meets the following criteria:

- A. A total of seven hundred and fifty (750) dairy cattle (all classes); seven hundred and fifty (750) slaughter or feeder cattle, one thousand eight hundred (1,800) swine (all classes), one hundred thousand (100,000) poultry (all classes); five thousand (5,000) sheep or goats (all classes); or two hundred (200) horses (all classes); or
- B. A population per acre of at least four (4) dairy cattle, four (4) slaughter or feeder cattle, twenty (20) swine, seven hundred (700) poultry, ten (10) sheep or goats, or four (4) horses.

## **SECTION 2.11      DEFINITIONS - J**

### **JUNK**

For the purpose of this Ordinance, this term shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use of the purpose for which they were manufactured.

### **JUNK YARD**

Automobile wrecking yards and salvage areas and any area of more than two thousand (2,000) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include lawful uses established entirely within enclosed buildings.

## **SECTION 2.12      DEFINITIONS - K**

### **KENNEL**

Any lot or premises on which four (4) or more dogs or cats, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding, being pets, or for sale.

## **SECTION 2.13      DEFINITIONS - L**

### **LAND DIVISION ACT**

Public Act 288 of the Michigan Public Acts of 1967, as amended, commonly called the "Michigan Land Division Act."

### **LANDMARK TREE**

A tree with a diameter of over twenty-eight (28) inches four feet off the ground.

## LANDSCAPING

The enhancement of the aesthetic appearance of land, especially around buildings, by altering its contours, adding ornamental features, and planting trees, shrubs, and flowers. See BERM, BUFFER, and GREENBELT for landscaping examples.

## LAWN

Ground cover consisting of grass or sod kept closely mowed, commonly used as a primary ground cover.

## LIVESTOCK

Those species of animals used for human food and fiber or those species of animals used for service to humans. Livestock includes, but is not limited to, cattle, sheep, new world camelids, goats, alpacas, bison, captive cervidae, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs or cats.

## LIVING SPACE (with respect to residential uses)

That part of a dwelling that is normally occupied including bedroom, kitchen, bathroom and gathering areas it excludes storage areas such as closets, attics, basements and garages. In order for a basement to qualify as living space, it shall be finished for living purposes and each qualifying room shall have a second form of egress under the building code.

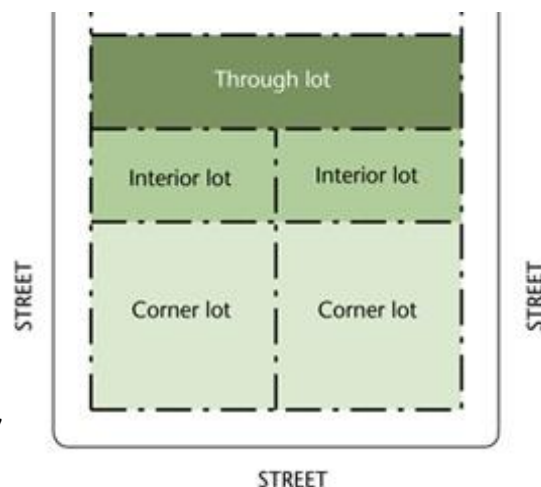
## LOADING SPACE

An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

## LOT or ZONING LOT

A parcel of land occupied (or intended to be occupied) or utilized for a use allowed in this Ordinance, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and loading spaces required by this Ordinance. The word "lot" shall include a platted lot, plot, or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use (often called a "unit" or "site condominium unit").

- A. Corner lot - a zoning lot that adjoins the point of intersection of two or more streets; it is also a zoning lot bounded entirely by streets. See graphic at right.
- B. Interior lot - any zoning lot that is neither a corner lot nor a through lot. See graphic at right.



- C. Through lot - any zoning lot that connects two generally parallel streets and is not a corner lot. See graphic at right.
- D. Flag lot – a lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property.

**LOT AREA**

The total horizontal area within the lot lines of a lot excluding a public street right-of-way and any private street easement or right-of-way. Lot area does not include portions of a lot located under water.

**LOT COVERAGE**

The part or percent of the lot occupied by buildings, impermeable areas, and structures, including pavement, accessory buildings, or structures.

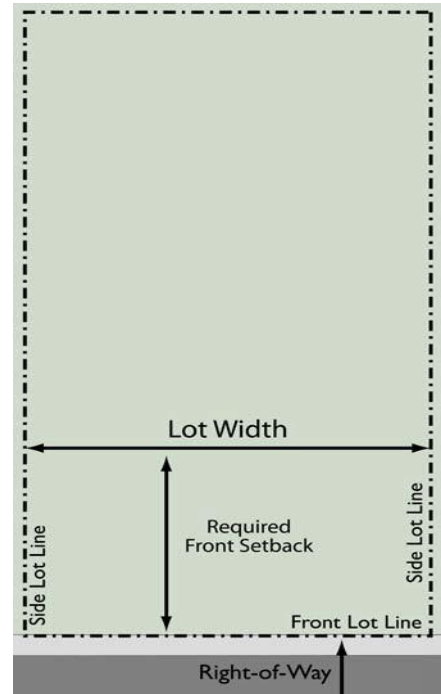
**LOT DEPTH**

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lines of a through lot.

**LOT LINES**

The property lines bounding the lot.

- A. Front Lot Line. The line separating the lot from the abutting public or private street right-of-way. A corner or through lot shall have a front lot line abutting each adjacent public or private street right-of-way.
- B. Rear Lot Line. Ordinarily, the lot line that is opposite and most distant from the front lot line of the lot. A corner lot shall have a rear lot line opposite to the front lot line on which the property’s address is listed. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining the depth of a rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.
- C. Side Lot Line. Any lot line that is not a front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.



**LOT OF RECORD**

A lot that lawfully exists in a subdivision or plat as shown on the records of the Shiawassee County Register of Deeds, or a lawful lot or parcel described by metes and bounds, that lawfully exists on record with the Shiawassee County Register of Deeds.

## **LOT WIDTH**

The horizontal distance between the side lot lines, measured as nearly as possible at right angles to the side lot lines. See graphic at right.

## **SECTION 2.14      DEFINITIONS - M**

### **MAIN BUILDING**

See [PRIMARY STRUCTURE](#).

### **MAIN USE**

See [PRINCIPLE USE](#).

### **MANEUVERING SPACE**

An open space in a parking area that is immediately adjacent to parking space, is used for and/or is necessary for turning, backing, or driving forward a motor vehicle into such parking space but is not used for the parking or storage of motor vehicles.

### **MANUFACTURED HOME**

A residential building, dwelling unit, dwelling room or rooms, or a building component that is designed for long-term occupancy as a dwelling unit or portion of a dwelling unit, and is wholly or substantially constructed at an off-site location, transported to a site and erected. A manufactured home is also commonly referred to as a mobile home or house trailer but it is not a modular home.

### **MANUFACTURED HOME PARK**

A parcel or tract of land under the control of an individual, corporation, limited liability company, the state or any political subdivision thereof, agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity upon which three (3) or more manufactured homes are located on a continual, non-recreational basis and that is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

### **MANUFACTURED HOME SPACE**

A plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.

### **MARIHUANA ADULT-USE (RECREATIONAL) RETAILER**

“Marihuana Adult-Use (Recreational) Retailer” means a licensee that is a commercial entity located in the state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to a qualifying adult as defined in the Michigan Regulation and Taxation of Marihuana Act, M.C.L.A. 333.27951 et seq.

## **MARIHUANA ESTABLISHMENT**

“Marihuana establishment” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana provisioning center, or any other type of marihuana-related business licensed by the State of Michigan.

## **MARINA**

A facility located adjacent to a body of water and operated as a commercial enterprise for the sale, storage, or servicing of boats or other watercraft; or a dock or mooring located within a body of water and intended to be used by four (4) or more boats.

## **MASTER PLAN**

The Master Plan as adopted by City of Perry, including graphic and written materials, indicating the general location for streets, parks, schools, public buildings, and all physical development of the City of Perry, and includes any unit or part of the plan and any amendment to the plan.

## **MEDICAL MARIHUANA PROVISIONING CENTER**

Medical Marihuana Provisioning Center means a commercial or business entity located in the City that is licensed or approved to operate by the State pursuant to the MMFLA and is licensed by the City that sells, supplies, or provides marihuana to registered qualifying patients only as permitted by State law. Medical Marihuana Provisioning Center, as defined in the MMMA, MMFLA and MTA, includes any commercial property or business where marihuana is sold in conformance with State law and regulation. A non-commercial or non-business location used by a primary caregiver to assist a qualifying patient, as defined in the MMMA, MMFLA or MTA connected to the caregiver through the State's marihuana registration process in accordance with the MMMA, MMFLA or MTA is not a Medical Marihuana Provisioning Center for purposes of this chapter.

MMFLA means the Medical Marihuana Facilities Licensing Act, MCL 333.2701 et seq. as amended from time to time.

MMMA means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. as amended from time to time.

MRTMA means the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended from time to time.

MTA means the Marihuana Tracking Act, MCL 333.27901 et seq., as amended from time to time.

## **MIGRANT AGRICULTURAL LABOR HOUSING**

A tract of land and all, buildings and other structures pertaining thereto which is established, occupied or used as living quarters for migratory workers engaged in agricultural activities including related food processing as licensed under the provisions of Michigan P.A. 368 of 1978, as amended.

## **MUNICIPAL CIVIL INFRACTION**

An act or omission that is prohibited by a provision of the ordinances of the City of Perry for which

the penalty has been designated as a Municipal Civil Infraction. A municipal civil infraction is not a crime and is punishable by all of the civil remedies provided for in Act 12 of the Public Acts of 1994, as amended.

## **SECTION 2.15      DEFINITIONS - N**

### **NATURAL FEATURE**

Including but not limited to soils, wetlands, woodlots, landmark and specimen trees, floodplains, water bodies, groundwater, topography, vegetative cover, and geologic formations.

### **NATURAL VEGETATIVE COVER**

Significant natural vegetation, including bushes, shrubs, groundcover, and trees, on a lot or parcel. A groomed lawn shall not qualify as natural vegetative cover.

### **NONCONFORMING BUILDING**

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and that does not conform to the provisions of this Ordinance or the District in which it is located. Also referred to as a lawful nonconforming building.

### **NONCONFORMING LOT OF RECORD**

A platted lot that conformed with all City of Perry zoning and other requirements at the time of recording of the plat, that no longer conforms to the zoning regulations and requirements for lot area or dimension, lot width, or both; or a lot outside a recorded plat that conformed with all City of Perry zoning and other requirements at one time, and that has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, that no longer conforms with the zoning requirements for lot area or dimension, lot width, or other matters. Also referred to as a lawful nonconforming lot.

### **NONCONFORMING STRUCTURE**

A structure or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and that does not conform to the provisions of this Ordinance or the District in which it is located. Also referred to as a lawful nonconforming structure.

### **NONCONFORMING USE**

The lawful use of any land or premises exactly as it existed at the time of enactment of the Zoning Ordinance, or amendment thereto, may be continued although the use does not conform to the current provisions of the Zoning Ordinance. Also referred to as a lawful nonconforming use.

### **NUISANCE**

An offensive, annoying, unpleasant, or obnoxious thing or practice being a cause or source of annoyance.

### **NURSERY, PLANT MATERIAL**

A space, building, or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered

for retail sale on the premises, including products used for the storage of live trees, shrubs, or plants and products used for gardening.

## **SECTION 2.16      DEFINITIONS - Q**

### **OCCUPANCY LOAD**

The number of individuals which may safely occupy a building or structure based on the Building and Fire Code standards of the City of Perry.

### **OCCUPIED**

Includes the terms arranged, designed, built, altered, converted to, rented, leased, or intended to be inhabited; not necessarily for dwelling purposes.

### **OFF-STREET PARKING LOT**

A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for ingress and egress, for the parking of more than two vehicles.

### **OFF-STREET PARKING SPACE**

An area of definite length and width, exclusive of drives, driveways, aisles or entrances giving access thereto, fully accessible for the storage or parking of permitted vehicles.

### **OPEN SPACE**

Undeveloped land not part of any required yard that is set aside in a natural state, for recreational purposes.

### **OPEN SPACE DEVELOPMENT**

A development which is permitted to have smaller lot sizes in return for protected open space.

### **OPEN SPACE, USABLE**

That portion of the common open space that due to its slope, drainage characteristics and soil conditions can be used for active recreation.

### **OPEN AIR BUSINESS**

Uses operated for profit substantially in the open air, including, but not limited to:

- A. Utility truck or trailer, motor vehicle, boats, or home equipment sale, repair, rental, or storage services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, swimming pools, and similar activities but not including farm implements or commercial construction equipment.
- C. Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer,

trellises, lawn furniture, playground equipment, and other home garden supplies and equipment, but not including lumberyards.

- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses (transient or permanent).

### **ORDINARY HIGH WATER MARK**

The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present.

### **OUTDOOR FURNACE**

Any device, appliance, and equipment apparatus or structure designed for heating a structure that:

- A. Is designed, intended and/or used to provide heat and/or hot water to any associated structure.
- B. Operates by burning wood or any other solid fuel including but not limited to: coal, paper pellets, and agricultural products.
- C. Is not located within the structure to be heated.
- D. Includes, but is not limited to, devices referred to as outdoor furnaces, outdoor boilers, and outdoor stoves.

### **OUTDOOR RECREATIONAL FACILITY**

Tennis courts, archery courts, shuffleboard, horseshoe courts, go-carts, miniature golf, golf driving ranges, amusement park or similar outdoor recreation uses (transient or permanent).

### **OUTDOOR STORAGE**

The keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty four hours.

### **OVERLAY ZONE**

An additional set of regulations that apply in conjunction with those in the underlying zoning district. A [PLANNED UNIT DEVELOPMENT](#) is an example of an overlay zone.

## **SECTION 2.17      DEFINITIONS - P**

### **PARAPET WALL**



An extension of a building wall above the roof which may serve as an architectural feature and/or to screen roof-mounted mechanical equipment.

### **PARKING LOT**

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space to allow unrestricted ingress and egress to at least two (2) vehicles.

### **PARKING SPACE**

An off-street space of at least ten by eighteen feet in area (10x18) exclusive, of necessary driveways, aisles, or maneuvering areas, suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

### **PAWN SHOP**

An establishment that receives any piece or item of personal property, or other valuable thing, by way of pledge, pawn, or purchase.

### **PERSONAL SERVICE ESTABLISHMENTS**

Any commercial business conducting services that are performed to individuals primarily on the premises including but not limited to cosmetology salons, barber shops and tanning facilities.

### **PERFORMANCE GUARANTEE**

A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the ordinance, regulations and the approved plans and specifications of a development. It can be a cash deposit, irrevocable letter of credit, or a bond.

### **PETS**

Domesticated animals, kept for pleasure and not for utility. A list of pets include the following: dogs, cats, potbellied pigs, ducks, miniature bantam chickens (specifically the following breeds: Old English, Columbian Cochins, Silkies), guinea hens, and rabbits. Pets do not include standard chickens of any kind or breed, goats, horses, miniature horses, or other animals commonly raised in animal husbandry.

### **PLANNED UNIT DEVELOPMENT (PUD)**

The use of a parcel of land that is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and that is designated and developed under one (1) owner or organized group.

### **PLANNING COMMISSION**

The City of Perry Planning Commission.

### **PLOT PLAN**

An architecture, engineering, and/or landscape architecture drawing or diagram which shows

the buildings, utility runs, equipment layout, position of roads, and other constructions of an existing or proposed project site at a defined scale.

### **PORCH, ENCLOSED**

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

### **PORCH, OPEN**

A covered entrance to a building or structure that is unenclosed except for columns, posts or poles supporting the porch roof, and projects out from the main wall of the building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

### **PRIMARY STRUCTURE**

The building or structure in which the main use of the lot or parcel is located. Storage buildings, garages, and other accessory uses and structures shall not be considered primary structures.

### **PRINCIPAL USE**

The main use to which the premises are devoted and the principal purpose for which the premises exist.

### **PRIVATE STREET**

Any undedicated path, trail, street, access, or road that provides or is intended to provide the primary means of ingress and egress to two (2) or more lots or two (2) or more principal buildings, dwelling units, structures, or combination thereof, whether created by a private right-of-way agreement, a joint ownership, a license, a lease, or an easement. Any and all extensions, additions, or branches of or to a private street shall be considered part of the private street that abuts the public road. A private street shall also include the following:

- A. An access serving one (1) lot if that lot does not have the requisite amount of frontage on a public road as required by this Ordinance.
- B. Where two (2) or more lots or dwellings share or utilize a common access drive, even if each lot has the required frontage on a public road.

### **PROTECTIVE MEASURES FENCE**

A fence erected for the express purpose of protecting an enclosed area and the property therein, or a fence intended to deny access to a dangerous property or location.

### **PUBLIC UTILITY**

A person, firm or corporation, or a Municipal department, board or commission, duly authorized to furnish to the public, under governmental regulations, the following: gas, steam, electricity, sewage disposal, communication, transportation or water.

## **SECTION 2.18      DEFINITIONS - Q**

(RESERVED)

## **SECTION 2.19      DEFINITIONS - R**

### **RECREATION FACILITY, INDOOR**

A commercial facility that provides continuous recreation or entertainment-oriented activities in an enclosed setting. Such uses may include but are not limited to arcades, billiard halls, bowling alleys, casinos, health clubs, indoor shoot ranges, indoor sports arenas and skating rinks, and movie or live theaters.

### **RECREATION FACILITY, OUTDOOR**

Any large, generally commercial facility that provides continuous recreation or entertainment-oriented activities in a primarily outdoor setting. They may take place in a number of structures that are arranged together in an outdoor setting. Such uses may include but are not limited to amusement parks, athletic complexes, drive-in theaters, fairgrounds, go-cart track, golf course - driving range or miniature, outdoor shooting ranges, and outdoor sports arenas.

### **RECREATION VEHICLE OR EQUIPMENT**

A vehicle or equipment used for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, motorcycles, golf carts, ATVs, UTVs, 4-wheelers, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

### **RELIGIOUS INSTITUTION**

A building where persons regularly assemble for religious worship that is maintained and controlled by a religious body organized to sustain public worship.

### **RESTAURANT**

A building in which food is prepared and sold for consumption within the building, as opposed to a drive-through restaurant where food may be taken outside of the building for consumption either on or off the premises.

### **RETAIL STORE**

Any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and/or use and not for resale.

### **RIGHT-OF-WAY**

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, sanitary or storm sewer, electric transmission line, oil or gas pipeline, or for any other similar use as may be designated.

### **ROAD COMMISSION**

The Shiawassee County Road Commission.

### **ROADSIDE STAND**

A farm building or separate structure used for the display or sale of agricultural products grown on the premises upon which the stand is located.

### **RUBBISH**

Any solid waste, except human excreta, but including garbage, refuse, trash, junk, ashes, street cleanings, dead animals, offal and solid agricultural, commercial, industrial, hazardous and institutional wastes, and construction waste resulting from the operation of a contractor.

## **SECTION 2.20      DEFINITIONS - S**

### **SALVAGE YARD**

See [JUNK YARD](#).

### **SCREEN**

A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be a non-structure, consisting of shrubs or other growing materials.

### **SEMI-TRAILER TRUCK**

A truck consisting of a tractor and a half-trailer.

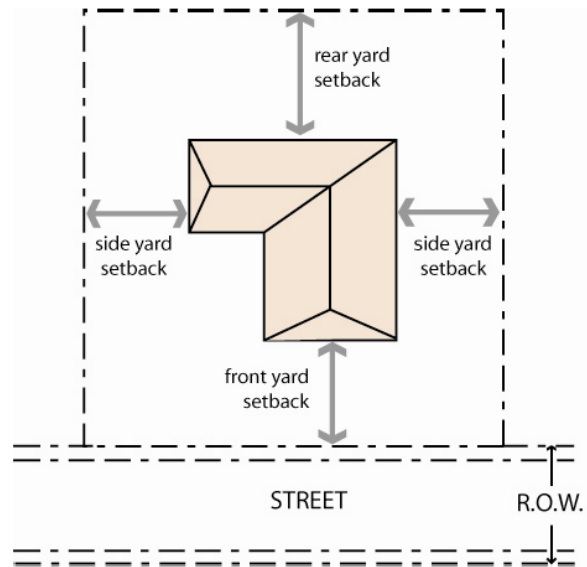
- A. Half-trailer – A trailer unit which only has wheels in back and is supported in front by a tractor or other vehicle.
- B. Truck-tractor – The unit consisting of the engine, cab, and pigtail.

### **SETBACK**

The minimum required horizontal distance from a structure or a building measured from the front, side, or rear lot line, as the case may be, that describes an area termed the required setback area or yard on a lot or parcel. No building or structure can be located within a setback area.

Where a setback from a public road or private street is involved, the setback shall be measured from the edge of the public road right-of-way or easement or the private street right-of-way or easement. See graphic at right.

- A. Front Setback - The line marking the setback distance from the front right-of-way line that establishes the minimum front yard setback area, except for waterfront lots, where the front setback shall be measured from the ordinary high water mark to the building or structure and the street shall be the rear setback line.
- B. Rear Setback - The line marking the setback distance from the rear lot line that establishes the minimum rear yard setback area. For waterfront lots, the rear yard setback shall be measured from the road or street right-of-way line.
- C. Side Setback - The lines marking the setback distance from the side lot lines that establish the minimum side yard setback area.



**SHED**

An enclosed, free-standing, simple-roofed structure, typically made of wood, metal, plastic, or vinyl, used as a storage space or as a non-commercial workshop.

**SHORELINE**

See [ORDINARY HIGH WATER MARK](#).

**SIGNIFICANT NATURAL FEATURE**

Any natural area as designated by the City of Perry City Council, Planning Commission, or the Michigan Department of Natural Resources and the Environment, or other appropriate governmental agency, that exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features, or other unique natural features.

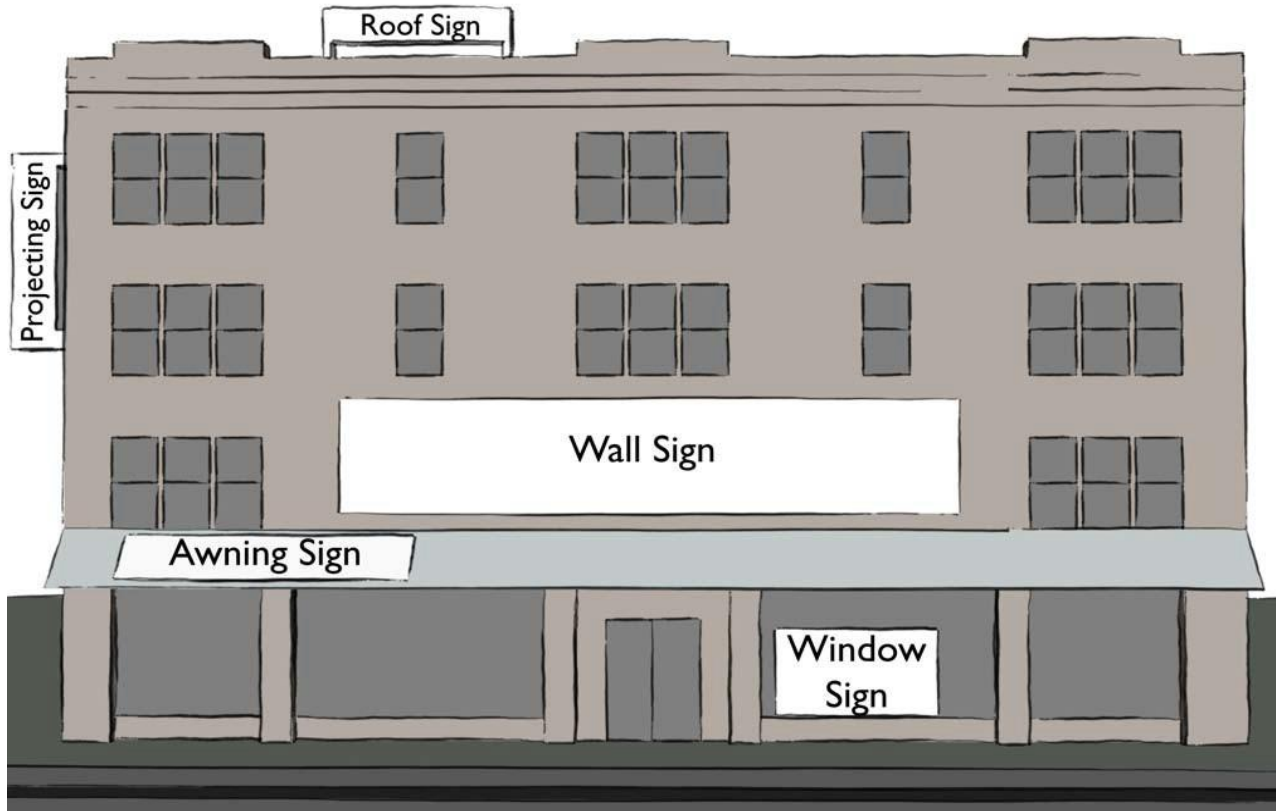
**SIGNS & RELATED TERMS**

A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed

specifically for the purpose of advertising or identifying an establishment, product, service, or activity. See also graphic following text.

- A. A-frame sign: A sign made of wood, cardboard, plastic, or other lightweight and rigid material having the capability to stand on its own support(s) and being portable and movable.
- B. Awning: A roof-like structure of metal, wood, fabric or other rigid or non-rigid material, attached to a frame that is supported completely or partially by an exterior building wall.
- C. Balloon sign: A sign composed of a non-porous bag of material filled with air.
- D. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
- E. Billboard: Any structure, on which lettered, figured, or pictorial matter is displayed for advertising either:
  - 1. A business, service, entertainment, activity or event that is not conducted on the land upon which the structure is located;
  - 2. A product that is not primarily sold, manufactured, processed or fabricated on the land upon which the structure is located;
  - 3. A second structure that is not located on the land upon which the first structure is located; or
  - 4. A geographical location or place that is not located on the land upon which the structure is located; or a person, however any structure that meets the definition of a directional sign shall not be considered to be a billboard.
- F. Business Center Sign: A freestanding or ground sign identifying the name of a business center and/or one (1) or more individual businesses within the center.
- G. Construction sign: A sign that identifies the owners, financiers, contractors, architects, and/or engineers of a project under construction.
- H. Directional sign: A sign that gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs. A directional sign is any structure erected adjacent to a street that identifies, points toward and gives the distance to any public or semi-public building, off-street parking area, recreation space, club, lodge, church, institution, business, service, entertainment, activity or event.
- I. Free-standing sign: A sign supported on poles not attached to a building or wall.
- J. Government sign: A temporary or permanent sign erected by the City, Shiawassee County, or the state or federal government.
- K. Ground sign: A sign resting directly on the ground supported by a foundation not attached to a building or wall.

- L. Off-premise sign: A sign that relates to or advertises an establishment, product, merchandise, good, service or entertainment that is not located, sold, offered, produced or manufactured or furnished at the property on which the sign is located.
- M. On-premise sign: A sign that pertains solely to the use of the property on which it is located, such as to an establishment, product, merchandise, good, service or entertainment that is located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
- N. Political sign: A temporary sign used in connection with a noncommercial message or an official City, school district, county, state, or federal election or referendum.
- O. Portable sign: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
- P. Projecting sign: A double-faced sign attached to a building or wall that extends more than eighteen (18) inches but not more than thirty-six (36) inches from the face of the building or wall.
- Q. Roof line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- R. Real estate sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- S. Roof sign: A sign erected above the roof line of a building.
- T. Temporary sign: A sign not permanently attached to the ground, a structure, or a building. Temporary signs may include A-frame signs, banners, portable signs, and any other signs displayed for a limited period of time.
- U. Wall sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than eighteen (18) inches from the exterior face of the wall to which it is attached.
- V. Window sign: A sign installed inside a window and intended to be viewed from the outside.



## **SITE PLAN**

The documents and drawings required by this Ordinance to ensure that a proposed land use, structure, building, or activity is in compliance with this Ordinance, other City of Perry ordinances and codes, and state and federal statutes.

## **SOLAR ENERGY SYSTEM**

A solar photovoltaic cell, panel, or array that converts solar energy to useable thermal, mechanical, chemical, or electrical energy.

## **SPOUSE ABUSE/DOMESTIC VIOLENCE SHELTER**

A structure owned or leased by a nonprofit entity for the purpose of providing short-term shelter care for abused individuals and their children, which structure may also contain an office for the administrative staff of such nonprofit entity.

## **SPECIAL LAND USE**

A use that, due to some characteristics of its operation, such as traffic, noise, odor, glare, or hours of operation, may be allowed in a district subject to special requirements different from those generally applicable to permitted uses within the zoning district in which the special land use is located.

## **STACKING SPACE**

An area designated for a line of vehicles waiting for drive-through service.



## **STATE LICENSED RESIDENTIAL FACILITY**

A residential care facility licensed by the State of Michigan that provides resident care services under twenty-four (24) hour supervision or care, but does not include facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to correctional institutions.

- A. *Adult foster care congregate facility* means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided foster care.
- B. *Adult foster care facility* means a governmental or nongovernmental establishment that provides foster care to adults. Adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.
- C. *Adult foster care family home* means a private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.
- D. *Adult foster care large group home* means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.
- E. *Adult foster care small group home* means an adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.

## **STICK-BUILT**

A structure that is built piece-by-piece and constructed at the site it is intended to occupy, as opposed to one that is assembled off-site and transported to the site.

## **STOP WORK ORDER**

An administrative order which is either hand delivered, posted on the property, or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity or use that is in violation of this Ordinance.

## **STORY**

That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for business purposes.

## **STORY, HALF**

That part of a building between a pitched roof and the uppermost full story having a floor area which does not exceed one-half (1/2) the floor area of the full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least seven (7) feet, at its highest point.

## **STREET**

- A. Private Street – See the definition under [PRIVATE STREET](#).
- B. Public Street - A public thoroughfare located within a public street right-of-way which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, court, highway, street, and other thoroughfare; except an alley. Also known as a “public road.”
- C. Minor Street - A local public roadway on which homes are located. Their primary purpose is to provide land access.
- D. Major Street - A public roadway whose principal function is the movement of traffic into and through the City of Perry.

## **STRUCTURE**

Anything constructed, installed, or erected, the use of which requires location on the ground or attachment to something on the ground. Also, any constructed, erected, or placed material or combination of materials in or upon the ground having a fixed location, including but not limited to buildings, radio towers, billboards, light posts, signs, animal enclosures (other than fences), garages, sheds, decks, platforms, portable or movable vehicle carports or enclosures, satellite dishes, towers, windmills, gazebos, tennis courts, signs, and storage bins.

The following are excluded from the definition of “structure”:

- A. Lawful fences, sidewalks, and paving on streets, driveways, or parking areas.
- B. Decks or patios, no portion of which is located:
  - 1. More than one (1) foot above the ground (natural grade); or
  - 2. Closer than five (5) feet to any lot line.

## **SUBSTANTIAL IMPROVEMENT**

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the true cash value of the structure either before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this Ordinance, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

## **SWIMMING POOL**

A receptacle for water, having a depth at any point of more than two (2) feet, intended for the purpose of immersion or partial immersion of human beings, and including all appurtenant equipment. A receptacle for water with a depth shallower than two (2) feet shall be considered a wading pool.

## **SECTION 2.21      DEFINITIONS - T**

### **TATTOO PARLOR**

An establishment where an indelible mark is made upon the body of another individual by the insertion of a pigment under the skin or by the production of scars or by branding.

### **TEMPORARY BUILDING OR USE**

A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main building or for special events.

### **TEMPORARY EVENT**

A use, activity, or event which is normally not allowed within a District, but may be allowed under certain circumstances pursuant to a temporary event permit issued under this Ordinance.

### **TENT**

A shelter of canvas, plastic, or the like supported by poles and fastened by cords or pegs driven into the ground.

### **TOBACCO SPECIALTY RETAIL STORE or LOUNGE**

An establishment in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia, and in which the sale of other products is incidental. A "tobacco specialty retail store" does not include a tobacco department or section of a larger commercial establishment with any liquor, food or restaurant license. A hookah lounge or cigar bar may qualify as a tobacco specialty store if it meets state requirements.

## **TOWNHOUSE**

A row of three or more attached single-family dwellings, in which each dwelling has its own front entrance and rear entrance.

### **SECTION 2.22      DEFINITIONS - U**

#### **USE**

The purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

### **SECTION 2.23      DEFINITIONS - V**

#### **VARIANCE, USE**

A modification of the literal provisions of the Zoning Ordinance which is authorized by the Zoning Board of Appeals when strict enforcement of the Ordinance would cause unnecessary hardship for the property owner due to circumstances unique to the property. A use variance permits a use of land that is otherwise not allowed in that District.

#### **VARIANCE, NON-USE or DIMENSIONAL**

A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the zoning ordinance would cause practical difficulty owing to circumstances unique to the individual property.

#### **VEHICLE**

Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks. See also [Automobiles](#) and related terms.

#### **VEHICLE REPAIR**

Any major or commercial activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

#### **VEHICLE SERVICE STATION**

A building designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water or other operating commodities for motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of the commodities on or in the vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this Chapter.

## **VEHICLE WASH ESTABLISHMENT**

A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

## **VETERINARY CLINIC**

Any activity involving the permanent or temporary keeping or treatment of animals operated as a business.

## **VIOLATION**

Violating, breaking, or dishonoring the law or this Ordinance.

## **SECTION 2.24      DEFINITIONS - W**

### **WETLAND**

Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life. Wetlands are regulated by Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

### **WIRELESS TELECOMMUNICATION SERVICES**

Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

### **WIND ENERGY CONVERSION SYSTEM (WECS)**

A surface area, either variable or fixed, for utilizing the wind for electrical power; and a shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and the generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted or any building or accessory equipment.

Wind Energy Conversion System shall also mean any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes, blades, or sails that radiate from a horizontal shaft.
- B. A surface area such as a blade, rotor, or similar device (either variable or fixed) for utilizing the wind for electrical or mechanical power.
- C. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device.
- D. The generator, alternator, or other device used to convert the mechanical energy of the surface area into electrical energy.
- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

F. A building or equipment accessory thereto.

## **WECS TOWER HEIGHT**

The distance between the ground and the highest point of the WECS.

## **SECTION 2.25      DEFINITIONS - X**

Reserved

## **SECTION 2.26      DEFINITIONS - Y**

### **YARD**

A yard is an open space on the same land with a structure, building, or group of buildings, which open space lies between the structure, foundation of the building, or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. Also the area within required setbacks.

- A. Front yard - An open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line. For lots with frontage on a body of water, the front yard is at the water.
- B. Rear yard - An open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line. For lots with frontage on a body of water, the rear yard is at the street.
- C. Side yard - An open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

## **SECTION 2.27      DEFINITIONS - Z**

### **ZERO LOT LINE**

The location of a building on a lot in such a manner that one or more of the buildings sides rests directly on a lot line, separated only by fire walls.

### **ZONING ACT**

The Michigan Zoning Enabling Act, Act 110 of 2006 of the Public Acts of Michigan, as amended.

### **ZONING ADMINISTRATOR**

The person designated by the elected officials to administer the provisions of this Zoning Ordinance.

### **ZONING BOARD OF APPEALS**

The Zoning Board of Appeals of the City of Perry, sometimes also abbreviated in this Ordinance as the "Zoning Board of Appeals."

**ZONING COMPLIANCE PERMIT**

Also referred to as a “zoning permit.” Such a permit shall be obtained before a use is commenced or a building or structure is constructed or expanded as provided in this Ordinance.

**ZONING DISTRICT**

See [CHAPTER 6](#) of this Ordinance. Also referred to as a “District.”

## **CHAPTER 3 GENERAL PROVISIONS**

### **SECTION 3.01      CHAPTER APPLICABILITY**

Unless otherwise specified, the provisions of this Chapter apply to all zoning districts within the City of Perry.

### **SECTION 3.02      APPLICATION OF ZONING**

- A. Any land use, structure, building, or activity not specifically permitted by this Ordinance is prohibited.
- B. When a use or activity is not stated in this Ordinance, the Zoning Administrator shall request an interpretation by the Zoning Board of Appeals to make a determination on the classification of the use. The Zoning Board of Appeals shall forward the classification to the Planning Commission to amend the ordinance, as appropriate, to address the use, if deemed appropriate. An applicant may also petition the City of Perry for an amendment to the Zoning Ordinance to address a use or activity not considered by the Ordinance. The responsibilities of the Zoning Board of Appeals are further discussed in [CHAPTER 16](#).
- C. All buildings, structures or land may be used, constructed, altered or occupied, only when in full conformity with all of the regulations specified in this Ordinance for the district in which it is located in accordance with the procedures of this Ordinance.
- D. Except as otherwise allowed by this Ordinance, after the effective date of this Ordinance, no building, lot, or structure shall be altered:
  - 1. To accommodate or house a greater number of persons or families than permitted by the Zoning District.
  - 2. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted by the Zoning District.

### **SECTION 3.03      REPRESENTATIONS AND PROMISES OF DEVELOPERS AND PROPERTY OWNERS**

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a special land use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval (whether or not such promise, condition, or restriction was made orally or in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other City of Perry approval document) if the City of Perry deems such promise, representation, or condition to have been a consideration by the official or City of Perry body which granted the zoning approval and the City of Perry also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation



shall be deemed an express and enforceable condition of the zoning approval.

**SECTION 3.04            GENERAL REQUIREMENTS FOR ALL STRUCTURES**

- A. The construction or alteration of any [structure](#), temporary or permanent, shall comply with the following requirements:
  - 1. Durability – All structures shall be constructed of such materials to withstand damage caused from usage and strong weather conditions.
  - 2. Secured – All structures shall be firmly attached to the ground or another secure structure.
  - 3. Maintenance – All structures shall be maintained so as not to be a hazard or a nuisance. Structures that are not maintained shall be required to be deconstructed or demolished.
  - 4. Quantity – No more than one (1) [primary structure](#), except as stated in [SECTION 3.05](#), and two (2) [accessory structures](#) shall be permitted on any lot.
  
- B. Development Processes:
  - 1. The following table outlines the required and additional review and approval processes that may be necessary for particular types of development.

**TABLE 3.04: REQUIREMENTS FOR DEVELOPMENTS**

<b>TYPE OF DEVELOPMENT</b>	<b>REQUIRED PERMITS &amp; PROCESSES</b>	<b>POTENTIAL REQUIRED PERMITS &amp; PROCESSES</b>
Accessory Structures	Zoning Permit	Building Permit
Decks, Patios, etc.	Zoning Permit	Building Permit
Driveways, Sidewalks, etc.	Zoning Permit	Building Permit, Right-of-Way Permit
Fences	Zoning Permit	Building Permit
Pools	Zoning Permit, Building Permit	
Signs	Sign Permit	Building Permit
Single-Family Dwellings	Zoning Permit, Building Permit	Electrical Permit, Mechanical Permit, Plumbing Permit
Multiple-Family Dwellings	Site Plan Approval, Building Permit	Electrical Permit, Mechanical Permit, Plumbing Permit
Commercial Establishments	Site Plan Approval, Building Permit	Electrical Permit, Mechanical Permit, Plumbing Permit, Special Land Use Permit
Industrial Establishments	Site Plan Approval, Building Permit	Electrical Permit, Mechanical Permit, Plumbing Permit, Special Land Use Permit

**SECTION 3.05**            **PRIMARY STRUCTURE OR PRINCIPAL USE**

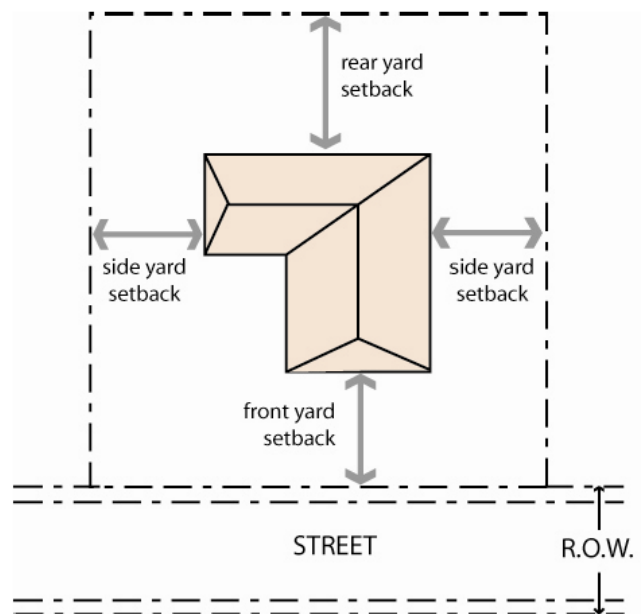
Each lot shall contain only one (1) primary structure or principal use, except for groups of related commercial, industrial, or office buildings, and multiple family dwellings contained within a single, integrated complex as demonstrated by shared parking, signs, access, and other similar features which, in the opinion of the Planning Commission, form a unified function and appearance.

**SECTION 3.06**            **YARD AND AREA REGULATIONS**

- A. No setback area, court, parking area, buffer or other space shall be reduced to less than the minimum required under this Ordinance. No lot, parcel, or other area shall be further reduced if already less than the minimum. No lot shall be created that does not meet all of the minimum lot size, access, width, frontage, and other dimensional requirements of this Ordinance.
- B. Where property is located on opposite sides of a public road or public street right- of-way and is in common ownership, the property shall not be considered to be one (1) lot or parcel but shall be deemed separate lots or parcels. Furthermore, the land on each side of the public road or street shall meet all applicable requirements specified by this Ordinance for an individual lot or lots.
- C. In determining lot, land, yard, parking area or other open space requirements, no area shall be ascribed to more than one (1) main building or use, and no area necessary for compliance with the space requirements for one (1) main building or use shall be included in the calculation of the space requirements for any other building, structure or use.

**SECTION 3.07**            **LOTS AND SETBACK MEASUREMENT**

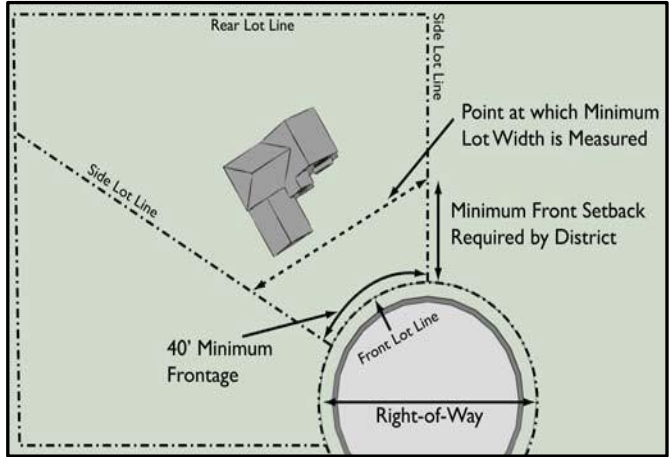
- A. All lots shall have sufficient buildable area to meet required setbacks and minimum lot size requirements of this Ordinance.
  - 1. Front setbacks shall be measured from the street right-of-way line to the foundation of the building or structure.
  - 2. Rear setbacks shall be measured from the lot line to the foundation of the building.
  - 3. Side yard setbacks shall be measured from the drip line of the building or structure.
- B. No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.



- C. Average Setbacks - In Districts where main buildings have nonconforming front setbacks, the required front setback for a new structure may align with (or provide the average setback of) existing main buildings within three (3) lots of the lot where the front yard setbacks are:
  1. Less than the required front yard setback for the zoning district.
  2. On the same side of the street and either side of the subject parcel.
  3. In the same zoning district as the subject parcel.

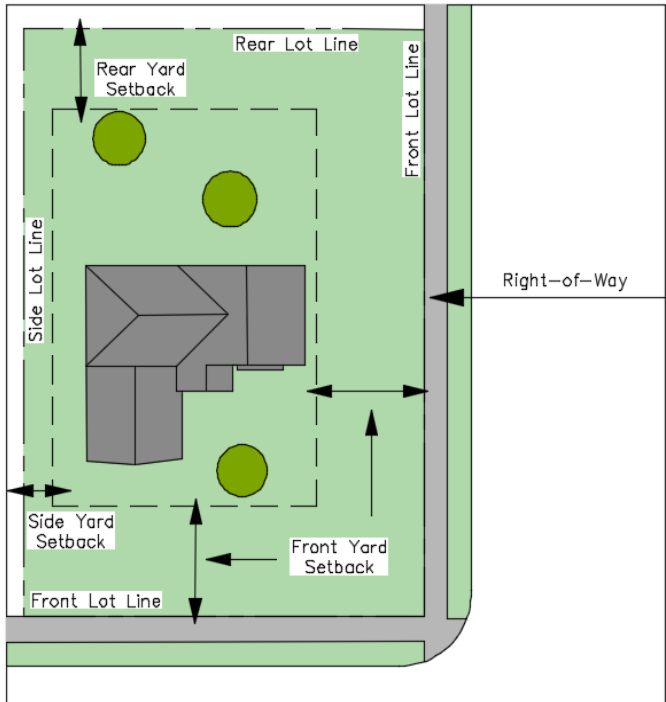
- D. Cul-de-sac Lots - Cul-de-sacs are generally discouraged unless topography or other significant site limitations necessitate their use.

Cul-de-sacs shall meet the minimum design standards of the City of Perry. A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line. See graphic at right.



**SECTION 3.08 CORNER LOTS**

- A. Setbacks and Yards – Each line abutting a public or private street shall be a front lot line, and the required setback along both lot frontages shall be a required front yard. The rear yard shall be the yard opposite the street on which the property’s address is listed. The remaining yard shall be the side yard.



- B. Clear Vision Triangle – No opaque fence, wall, hedge, sign, or other structure, shrubbery, mounds of earth or other visual obstruction over thirty-six (36) inches in height shall be erected, placed, planted, or allowed to grow within the Clear Vision Triangle, as described in [SECTION 3.12](#).

- C. Accessory structures shall be permitted in the rear yard of corner lots. No accessory structure shall be permitted within either of the front yard setback areas. Accessory structures shall only be permitted in the side yard if placement of such structures is impractical or impossible in the rear yard with the established setback limitations.

**SECTION 3.09      LOT WIDTH: FRONTAGE**

All lots shall have frontage on a public road or on a private street approved pursuant to [SECTION 13.01](#) for a distance equal to or greater than the minimum lot width specified for the district in which the lot is located. Lots abutting a cul-de-sac shall be permitted to have less street or road frontage (but in no case less than forty (40) feet of such frontage).

**SECTION 3.10      HEIGHT EXCEPTIONS**

The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae (up to thirty (30) feet high), water tanks, windmills, ventilators, chimneys, or other similar appurtenances usually required to be placed above the roof level of a structure.

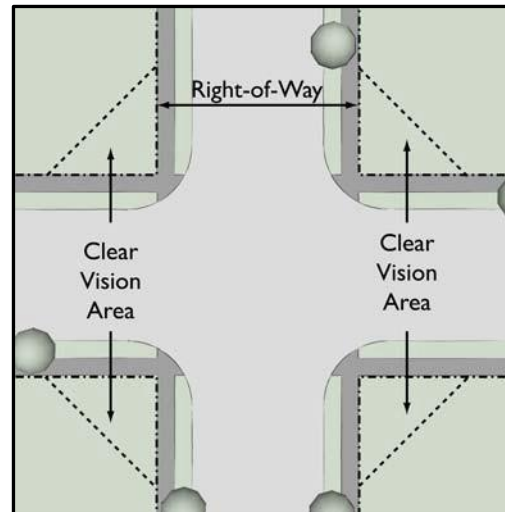
**SECTION 3.11      PROJECTIONS INTO YARDS**

- A. Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be allowed to encroach upon the minimum setback requirements of this Ordinance, provided the projection into a required front or rear yard area is no closer than five (5) feet from a street right-of-way line or rear lot line. No encroachment shall be allowed into the side setback of the lot.
- B. Unenclosed terraces, patios, porches, and decks shall be allowed to encroach upon the minimum front yard requirements of this Ordinance provided they are:
  - 1. Attached to the main building.
  - 2. Not covered with a roof.
  - 3. Elevated no more than thirty (30) inches above the average surrounding final grade.
  - 4. Located no closer than fifteen (15) feet from a rear lot line or ten (10) feet from a street right-of-way line.
  - 5. Do not encroach into the side setbacks of the lot.

Those structures covered above shall not be considered nonconforming, and therefore, shall be permitted to be rebuilt even if destroyed by an accident, a natural disaster, or by the owner/occupant of the structure.

## **SECTION 3.12      CLEAR VISION AT INTERSECTIONS**

No solid fence, wall, or planting screen over thirty-six (36) inches in height as measured from grade, shall be located within a clear vision triangle. This triangle is formed by the intersection of the street right-of-way lines. The clear vision triangle shall have legs of ten (10) feet on alleys and minor streets and twenty five (25) feet on major streets. See graphic at right.



## **SECTION 3.13      FENCES**

### **A. General Requirements:**

1. No person shall erect or construct any fence within the City of Perry without first obtaining a Zoning Compliance Permit from the Zoning Administrator. No permit shall be issued until and unless a complete [Zoning Compliance Permit Application](#) with a plan of the proposed fence has been submitted in conjunction with the permit fee.
2. All fences erected by individual property owners shall be located on his/her property. Fences are allowed on the property line; however, the Zoning Administrator may require a survey where a property line location is questionable.
3. Fence height shall be measured from the existing natural grade. No height measurement shall be made from any berm or adjustment made to the prevailing grade of the adjacent ground surface.
4. Except for areas being protected due to national security, no person shall place, string, or maintain barbed wire or razor wire as part of any fence or other work or structure in any zoning district.
5. No fence or wall shall be erected that constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department.
6. No person shall be permitted to erect a [protective measures fence](#) unless the need for such fence has been demonstrated to the Zoning Administrator. The owner or agent of a protective measures fence shall be granted permission to erect such necessary and reasonable barriers along the uppermost edge of such protective measure fence for the protection of property within the enclosed area.
7. It is unlawful to construct any private fence or barrier within a public right-of-way.

8. All fences shall be maintained in a good condition so that they do not result in an unreasonable hazard to persons who might come near them.
9. [Double fencing](#) shall be prohibited.
10. [Hedges](#) shall be subject to the same regulations as stated in this section and the subsections hereafter.
11. Any fence which has already been erected and is in violation of this section at the time of its passage shall be deemed a lawful nonconforming fence and shall be exempt from the requirements of this chapter unless such fence constitutes a traffic or safety hazard, the determination of which shall be made by the Planning Commission and City Council.
  - a) No nonconforming fence shall be enlarged, extended, or structurally altered except to make it conform to this section.

B. Residential Districts:

1. Fencing which is essentially open (e.g., wrought iron, chain link, split rail, or picket fence) may be up to four (4) feet in height in the front yard.
2. Stockade fence and masonry walls shall be limited to three (3) feet in height in any front yard.
3. Fences may be up to six (6) feet in height behind the front building line.

C. Commercial and Industrial Districts:

1. A wall, fence, or yard enclosure may be up to eight (8) feet in height behind the required front setback line.

### **SECTION 3.14      ACCESSORY BUILDINGS AND USES**

General Requirements:

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to, and on the same lot with a principal building, structure or use which is permitted in the particular zoning district.
- B. No accessory building shall be allowed on any lot which does not contain a main building.
- C. Accessory buildings shall be [stick-built](#) or the equivalent new building construction. No mobile home, tank, junk object, or salvage materials, trailer, vehicle or similar item shall be utilized as an accessory building or storage structure.
- D. Within a residentially zoned district:
  1. No more than two (2) detached accessory buildings shall be permitted on any lot.

2. The maximum [building height](#) of an accessory structure shall be fourteen (14) feet.
  3. The total square footage of all accessory buildings located on a lot shall not exceed the ground floor area of the principal building located on the same lot.
  4. Existing nonconforming accessory structures may be replaced on the existing footprint provided they are wholly contained within the property, meet the required front yard setback and design requirements, and do not inhibit emergency access.
  5. The architectural character of accessory structures over two hundred (200) square feet shall be compatible with, and similar to, the main building with respect to materials, scale, design, and aesthetic quality as determined by the Zoning Administrator.
- E. Attached accessory buildings and structures shall be made structurally part of the main building and shall conform to the district setback requirements of the main building.
  - F. Detached accessory buildings and structures shall be a minimum of ten (10) feet from another building or structure (unless properly fire suppressed) or three (3) feet from any rear or side property line.
  - G. Accessory building(s) shall not be erected in any required front yard or occupy any portion of a required greenbelt or buffer in any district; except that guard houses may be allowed in the required front yard of an Industrial District.
  - H. No accessory building shall be used in any part for residential dwelling, boarding, or sleeping purposes.
  - I. Sheet metal siding on accessory structures is prohibited in all but the Industrial Districts (I-1 and I-2).
  - N. Amateur radio communication towers and windmills not exceeding seventy-five (75) feet in height are allowed as an accessory use to the operator's dwelling or business. Supporting structures shall be designed to collapse upon themselves rather than toppling toward adjacent properties.
  - O. Wireless communications antenna may be attached to a lawful existing telecommunications tower, water tower, or other structure after the issuance of a zoning compliance permit.
  - P. A swimming pool may be allowed on a lot, subject to the requirements of the Building Code and [SECTION 3.27](#).

### **SECTION 3.15      HOME OCCUPATIONS**

[Home occupations](#) are allowed in single-family dwellings in all zoning districts subject to all of the following conditions and requirements:

- A. Only members of the family residing in the home shall be engaged in the home occupation.

- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for single-family residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area or five hundred (500) square feet of the dwelling unit, whichever is less, shall be used in the conduct of the home occupation. No part of the home occupation shall be conducted outdoors or within any accessory building.
- C. There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation or departure from the single-family residential character of the dwelling.
- D. There shall be no sale of products or services except as are produced on the premises or those products which may be directly related to and incidental to the home occupation.
- E. There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.
- F. The home occupation will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area.
- G. Any parking for vehicles associated with the home occupation shall be provided off the street. No commercial vehicles exceeding a rated capacity of one (1) ton may be parked on the premises.
- H. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

### **SECTION 3.16      MOVING OR RAZING OF BUILDINGS**

- A. The moving of a building to a different location, even if on the same lot, shall be considered the same as the erection of a new building and all provisions, regulations or requirements relative to the erection of a new building shall be applicable, including obtaining all required City of Perry permits.
- B. No building shall be razed until a demolition permit has been issued by the Building Inspector and a zoning compliance permit has also been issued by the Zoning Administrator. Permit issuance shall be subject to the razing of the building within a specified timeframe and compliance with all regulations pertaining to the removal of debris, the filling of excavations, and disconnections from existing utilities. An escrow deposit may be required to insure performance.



**SECTION 3.17**      **GRADING, EXCAVATION, FILLING AND CLEARING OF TREES**

- A. The use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, trash rubbish, or other waste by- products is not permitted in any zoning district except under the supervision of the Zoning Administrator or Building Inspector in accordance with County Soil Erosion Control Regulations or state Wetlands and Inland Lakes and Streams regulations.
- B. Clearing vegetation and trees from a vacant site of over one-quarter (1/4) acre or grading, excavation, filling, soil removal not associated with a building permit for one single family residence may be permitted only after review and approval by the City of Perry. The approval may be in the form of a zoning compliance permit issued by the Zoning Administrator (in the case of a single-family use) or through the site plan approval process with the Planning Commission.

**SECTION 3.18**      **ILLEGAL DWELLINGS**

- A. The use of any portion of the basement or a partially completed building, or any garage or accessory building as a dwelling unit or sleeping area is prohibited in any zoning district.
- B. Recreational vehicles, camping trailers, or tents may be used for temporary living purposes when accessory to a single family home provided such use shall only be permitted for a seven (7) day period and for no more than one (1) such period in any thirty (30) consecutive days.
  - 1. Any stay beyond the permissible seven (7) day period shall require the acquisition of a Temporary Stay Permit from the Zoning Administrator.
  - 2. Prior to the issuance of a Temporary Stay Permit, applicants shall be required to demonstrate that the proposed temporary living accommodation shall be located in the rear yard of the applicant's lot.

**SECTION 3.19**      **WOOD FURNACE OR OUTDOOR WOOD STOVE**

Due to the nuisance smoke and concerns regarding the public safety and welfare of residents living in relatively close proximity to one another, outdoor wood furnaces are prohibited in the City of Perry.

**SECTION 3.20**      **ESSENTIAL PUBLIC SERVICES**

The erection, construction, alteration or maintenance of [essential public services](#) shall be allowed in any zoning district.

**SECTION 3.21**      **STORAGE AND REPAIR OF VEHICLES**

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of a building, shall be subject to the following limitations:

1. The vehicles worked upon shall be owned by and titled in the name of the resident.
  2. Procedures or projects exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within a completely enclosed building.
  3. Inoperable or unlicensed vehicles and vehicle parts must be stored only in a completely enclosed building.
- B. It shall be unlawful for the owner, tenant, or lessee of any lot in any residential zoning district to permit the open storage or parking outside of a building for [semi-trailer trucks](#) and/or [half-trailers](#), bulldozers, earth carriers, cranes, or any other similar equipment or machinery, unless parked thereon while in use for construction actively being conducted on the lot.
1. Storage or parking of semi-trailer trucks, half-trailers, and construction vehicles shall be permitted in residential lots exceeding five (5) acres, so long as all such vehicles are not visible from the street, public right-of-way, alley or adjoining residential parcel or lot.
  2. One (1) [truck-tractor](#) unit shall be permitted to park within the driveway of any residential lot so long as no trailer is attached. It shall be unlawful for a tractor unit to be parked in any yard areas of the lot.
- C. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying a vehicle for sale, except in approved and licensed car sales lots.

### **SECTION 3.22      OUTDOOR STORAGE**

Unless associated with an immediate construction project, residential uses shall not involve the storage of machinery, equipment (farm or otherwise), inoperable or unlicensed vehicles or trailers, lumber piles, crates, boxes, junk, debris or other materials in any yard or open area that is visible from the street, public right-of-way, alley or adjoining residential parcel or lot.

### **SECTION 3.23      STORAGE AND PARKING OF RECREATIONAL VEHICLES AND EQUIPMENT**

[Recreational vehicles and equipment](#) within all residentially zoned districts shall be subject to the following regulations:

- A. Storage in a residential district shall be allowed only when it is accessory to the principal use of the lot or adjacent lot when owned by the same person.
- B. No storage shall be permitted closer than five (5) feet to any dwelling unit, nor closer than three (3) feet to any side lot line.
- C. Storage or parking of recreational vehicles shall not be permitted on vacant lots or parcels.

- D. All such vehicles shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection to electricity, water, or gas.
1. Exceptions. Parking and occupancy of a recreational vehicle on private property shall be permitted for a period of seven (7) days and for no more than one (1) such period in any thirty (30) consecutive days. Any extended stay shall be subject to the regulations established in [SECTION 3.18](#).
- E. All recreational vehicles and equipment shall be parked or stored, unless otherwise permitted hereafter, in the following manner:
1. In an enclosed building, such as a garage; or
  2. In the rear yard or side yard, subject to the following limitations:
    - a) All such vehicles and equipment shall be parked or stored no closer than three (3) feet from any window or door of any residential building; and
    - b) All such vehicles and equipment shall be parked completely within the boundaries of the lot and shall not block a public sidewalk.
  3. Upon an established driveway in the front yard, provided parking or storage in an enclosed building is not possible, and there is no parking or storage space available in the rear yard or side yard, or there is no reasonable access to either the rear yard or side yard, subject to the following limitations:
    - a) Such vehicles and equipment shall be parked completely within the boundaries of the lot or parcel and shall not block a public sidewalk.
    - b) No more than two items of recreational equipment shall be permitted to be parked or stored upon any establishment driveway at any one time. For purposes of this limitation, recreational equipment used in conjunction with other recreational equipment, such as a boat mounted on a boat trailer, shall be considered as one item of recreational equipment.
- F. Other than in an enclosed building, no person shall park or store more than two items of recreational equipment upon any one-family residential lot or parcel in a one-family residential area.
- G. Recreational and camping equipment may be parked anywhere on the owner's premises for loading or unloading purposes for a period of not more than forty-eight hours.
- H. Recreational vehicles must be kept in good repair and carry a current year's license plate and/or registration.
- I. Where, by reason of exceptional shallowness or shape of a specific lot, field, site or tract of land, or by reason of exceptional topographic conditions or other extraordinary and exceptional situations or conditions of such particular property, a regulation enacted would result in peculiar and exceptional practical difficulties to or undue hardship upon the owner of recreational equipment, the Board of Zoning Appeals may permit a variance from the provisions of this chapter upon application of the owner.

**SECTION 3.24**      **GARAGE AND YARD SALES**

No garage or yard sale shall be held on a lot or property for more than fourteen (14) days in total per calendar year or for more than three (3) consecutive days.

**SECTION 3.25**      **REGULATIONS APPLICABLE TO SINGLE FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS**

Any one-family dwelling, whether constructed and erected on a lot, or a manufactured home outside a manufactured home park, may be allowed only if it complies with all of the following requirements:

- A. The dwelling shall have a minimum square footage of nine hundred sixty (960) square feet:
- B. Design Features:
  - 1. The minimum width across any front, side, or rear architectural elevation shall be at least twenty-four (24) continuous feet of exterior wall. The dwelling shall be twenty-four (24) feet wide for at least seventy percent (70%) of its length. No addition to a dwelling shall be of an exterior construction different than the primary dwelling, composed of exterior materials other than the exterior of the primary dwelling, or appear to be of different construction than the primary dwelling.
  - 2. The dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to the door areas.
  - 3. The dwelling shall not contain additions or rooms or other areas that are not constructed with similar aesthetics and quality work as the original structure, including permanent attachment to the main building and construction of a foundation as required by the adopted Construction Code of the City of Perry.
  - 4. The dwelling unit shall have at least two (2) exterior doors, with one (1) being in either the rear or the side of the dwelling unit.
- C. The dwelling shall conform to the state Building Code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where the standards allow standards of construction which are less stringent than those imposed by the Building Code, then the less stringent federal or state standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- D. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to the manufactured home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time the standards may be amended.

- E. The dwelling shall be placed upon and secured to a permanent four (4) foot crawl space with a continuous footing that meets the requirements of the state Building Code. The area between the elevation of the lot and the structure shall have a wall of the same dimensions of the dwelling and constructed of materials and type as required in the applicable code for one-family dwellings. In the event that the dwelling is installed pursuant to the manufacturer's set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Home Commission.
- F. If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- G. The requirements of this section shall not be construed to prohibit innovative design concepts involving matters such as solar energy, view, unique land contour, or relief from the common or standard designed home.

**SECTION 3.26      TEMPORARY USES AND BUILDINGS**

- A. Temporary uses, buildings and structures, not used for dwelling purposes, may be placed on a lot or parcel and occupied only under the following conditions as authorized by a permit issued by the Zoning Administrator.
- B. Construction buildings and structures, including trailers, incidental to construction work on a lot, provided:
  - 1. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.
  - 2. Construction buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Zoning Administrator for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on the lot.
- C. Sales offices or model homes may be placed on a lot provided:
  - 1. The location of the office shall be specified in the permit.
  - 2. The permit shall be valid for a period of up to one (1) year. A temporary permit may be renewed by the Zoning Administrator for up to two (2) successive one (1) year periods or less, at the same location if the office is still incidental and necessary.
  - 3. Only transactions related to the development in which the structure is located shall be conducted within the structure. General offices for real estate, construction, development or other related businesses associated with the project shall not be allowed.
- D. The temporary sale of merchandise in commercial districts related to a seasonal or periodic civic event, such as a festival. Seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities.

- E. Flea Markets or Farmers Markets for up to three (3) days in duration provided they are located in commercially zoned district.
- F. All temporary uses shall meet all of the following standards:
  - 1. The nature of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
  - 2. The lot shall be of sufficient size to adequately accommodate the temporary use or structure.
  - 3. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the temporary use or structure.
  - 4. Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
  - 5. Signs shall conform to the provisions of this Ordinance.
  - 6. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.

**SECTION 3.27 SWIMMING POOLS**

- A. Permit Required – No person shall construct, maintain, install, or enlarge any swimming pool in the City of Perry unless a Zoning Compliance Permit has been obtained from the Zoning Administrator. No permit shall be required for the construction or installation of a wading pool. Prior to the issuance of a permit, a complete [Zoning Compliance Application](#), plans for construction or installation, and all applicable fees shall be submitted to the Zoning Administrator.
- B. Location – No portion of a swimming pool, wading pool, hot tub, or pool equipment appurtenant thereto, shall be located at a distance less than eight (8) feet from any lot line.
- C. Walk Areas – Swimming pools constructed below grade shall contain an unobstructed walk area not less than three (3) feet wide extending entirely around the swimming pool.
- D. Fences – All outdoor swimming pools shall be completely enclosed by a fence. All fence openings or points of entry into a pool area enclosure shall be enclosed with gates. The fence and gates shall be a minimum of four (4) feet above grade level but shall not exceed six (6) feet in height.
- E. Steps and Ladders – Two (2) or more means of egress in the form of steps or ladders shall be required for all swimming pools. At least one (1) such means of egress shall be located on a side of the pool at both the deep end and the shallow end of the pool.

### **SECTION 3.28      NONCOMMERCIAL WIND ENERGY CONVERSION SYSTEMS**

Noncommercial [wind energy conversion systems](#) (also called “windmills”) are permitted in any zoning district with a zoning permit, provided:

- A. Units which are not mounted to a building that need a tower or monopole shall be setback from property lines a minimum of ten (10) feet.
- B. Units affixed to a structure shall not extend more than twenty (20) feet above the roof line of the structure it is mounted to.
- C. The maximum height of a free-standing unit shall be seventy-five (75) feet, as measured from the ground at its base to the tip of the rotor blade in the upright position.
- D. The unit shall meet all building code requirements for such factors as wind load and snow load. Units shall be “UL” listed and a copy of the manufacturer’s installation instructions in addition to the structural specifications for the unit and all supporting structures shall be provided to the City of Perry. Plans may be required to be sealed by a structural engineer.
- E. Noise emanating from the operation of the unit shall not exceed fifty-five (55) decibels, as measured on the DBA scale, measured at the nearest property line.
- F. The unit shall be equipped with both a manual and automatic braking device capable of stopping its operation in high winds, as established by the manufacturer.
- G. The unit shall not have affixed or attached to them any lights, reflectors, signs, flashers or any other illumination.
- H. Any unit that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

### **SECTION 3.29      SOLAR ENERGY SYSTEMS**

- A. This Section shall apply to all [Solar Energy Systems](#) proposed to be constructed after the effective date of this ordinance. All Solar Energy Systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance; however, any physical modification to an existing Solar Energy System that alters the size, type, equipment or location shall require a permit under this ordinance.
- B. Roof-Mounted Solar Energy Systems: Roof-mounted and building solar energy systems are permitted uses in all zoning districts, subject to the following regulations:
  - 1. Roof mounted systems shall not extend more than four (4) feet above the surface to which it is affixed.
  - 2. No solar energy system may protrude beyond the edge of the roof.
  - 3. A building permit and electrical permit shall be required for installation of roof-mounted or building-mounted systems.

- C. Ground-Mounted Solar Energy Systems: Ground-mounted and freestanding solar energy systems are permitted uses in all zoning districts subject to the following regulations:
1. The solar energy system shall not be allowed in the front yard between the property line and the front building wall. The solar energy system may be located in the side or rear yards and be set back a minimum of five (5) feet from any side or rear property line.
  2. The height of the solar energy system and any mounts shall not exceed ten (10') feet when oriented at maximum tilt.
  3. If the solar energy system is located in a side yard, the maximum height for the system shall be forty-two (42") inches or three and one half (3 ½') feet. Evergreen landscaping that is sufficient to buffer the equipment from view from near-by dwelling units or streets but that will not obstruct the energy collecting surface from solar energy shall be provided.
  4. A building permit and electrical permit shall be required for any ground-mounted solar energy system.
  5. No more than twenty (20%) percent of the total lot area may be covered by a ground-mounted solar energy system.
- D. Batteries: When batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use, and when no longer used shall be disposed of in accordance with applicable laws and regulations.
- E. Removal: If a solar energy system ceases to perform its intended function for more than twelve (12) consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than ninety (90) days after the end of the twelve (12) month period.

### **SECTION 3.30      ANIMALS IN RESIDENTIAL DISTRICTS**

- A. [Pets](#) in Residential Districts.
1. In the R-1A, R-1B, and A-1 Districts, up to four (4) pets shall be permitted without authorization from the Zoning Administrator.
  2. In the R-T and R-M Districts, up to two (2) pets shall be permitted without authorization from the Zoning Administrator.
  3. Breeding shall not be permitted. However, in the instance that a pet has offspring, the litter shall be permitted to remain on the premises for up to two (2) months to allow for adoption.
  4. All additional pets greater than the amounts specified in subsections 1 and 2 above shall require the acquisition of a permit, issued by the Zoning Administrator.



5. Prior to the issuance of any permit, the Zoning Administrator shall require the applicant to provide proof of the requirements set out in [TABLE 3.30A](#), below.

**TABLE 3.30A: REQUIREMENTS FOR ADDITIONAL PETS**

DOMESTIC PET	REQUIREMENTS FOR EACH ADDITIONAL ANIMAL
Birds	Indoor birdcage with a minimum size three (3) times that of the animal.
Cats	Minimum indoor shelter of 9 square feet.
Dogs	Minimum fenced yard space and indoor shelter of 20 square feet.
Reptiles	Indoor terrarium with a minimum size three (3) times that of the animal.
Rodents	Indoor cage with a minimum size three (3) times that of the animal.

B. [Livestock](#) in Residential Districts.

1. No livestock shall be permitted in the R-1A, R-1B, R-T, or R-M districts without authorization from the Zoning Administrator.
2. Domestic farm animals and livestock, including horses, cows, sheep, swine, and other animals, as determined by the Zoning Administrator solely for the personal, non-commercial use of the occupants of the premises, shall be permitted in the A-1 district, subject to the following subsections of this section.
3. The portion of the property proposed as open space for livestock shall be entirely enclosed with a suitable fence or wall, subject to [SECTION 3.13](#) to prevent escape of animals.
  - a) The Zoning Administrator may approve fences up to eight (8) feet in height provided the fence is properly setback from all adjacent properties and the entire length of the fence is screened with Evergreen trees.
  - b) Livestock enclosures shall be located in the side or rear yards and shall not be permitted in the front yard of any property.
  - c) Livestock enclosures shall be setback at least fifteen (15) feet from adjacent residential properties.
4. Animal waste shall be managed to prevent odors and other nuisances.
5. Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury.
6. All animal buildings, cages, and runs shall be of sufficient size to provide adequate and proper housing for those animals kept therein. Animal living space shall be in addition to the open space requirements set out in [TABLE 3.30B](#), below.

7. The Zoning Administrator may require additional measures for livestock management, which may include, but are not limited to, screening or buffering of livestock enclosures, active noise management, and additional facilities for animal housing.
8. Issuance of a permit shall only be granted upon completion and/or acquisition of the following documentation:
  - a) Application and Fee.
  - b) Inspection of premises for proof of adequate open space, fencing, screening, and/or shelter for requested animals.
  - c) Authorization signature of the Zoning Administrator.

**TABLE 3.30B: OPEN SPACE REQUIREMENTS FOR LIVESTOCK**

LIVESTOCK ANIMAL	REQUIRED OPEN SPACE	
	First Animal	Each Additional Animal
Cattle	2 acres	1 acre
Goats	1 acre	1 acre
Horses & Ponies	2 acres	1 acre
Poultry	16 square feet	10 square feet
Rabbits	12 square feet	8 square feet
Sheep	1 acre	1 acre
Swine	1 acre	1 acre

- C. Wild and Vicious Animals in Residential Districts.
  1. No wild animal or vicious animal shall be kept permanently or temporarily in any district except in a facility accredited by the American Association of Zoological Parks and Aquariums, or in a licensed veterinary care facility.

**SECTION 3.31 MARIJUANA PROVISIONING CENTER / RETAILER**

This Section shall apply to all Medical Marihuana Provisioning Centers / Adult-Use (Recreational) Marihuana Retailers proposed to be established after the effective date of this ordinance.

- A. Medical Marihuana Provisioning Centers / Adult-Use (Recreational) Marihuana Retailers shall be commenced, conducted operated and utilized in accordance with the established City of Perry zoning and codified ordinances, and in compliance with the MMFLA, MMMA, MRTMA, MTA and applicable State and Federal laws.
- B. Proof of a surety bond in the amount of \$50,000.00 with the City listed as the obligee to guarantee performance by applicant of the terms, conditions and obligations of this chapter in a manner and surety approved by the City Attorney; or, in the creation of an escrow account as follows:
  1. The account must be provided by a State or federally regulated financial institution or other financial institution;

2. And the account must be for the benefit of the City to guarantee performance by licensee in compliance with this chapter and applicable law; and
  3. The account must be in the amount of \$20,000.00 and in a form prescribed by the City Attorney.
- C. Consumption of marihuana in any public place within the City of Perry is prohibited except as provided by State law.
- D. No Medical Marihuana Provisioning Center / Adult-Use (Recreational) Marihuana Retailer shall permit the sale, consumption, or serving of alcohol.

**SECTION 3.32**      **MARIJUANA ESTABLISHMENT**

No marihuana establishments shall be commenced, operated or utilized in any zoning district, on or from any property within the City of Perry, except for medical marihuana provisioning centers/ Adult-Use (Recreational) Marihuana Retailers as designated in SECTION 3.31.

**SECTION 3.33**      **DETERMINATION OF SIMILAR USE**

- A. Since every type of potential use cannot be addressed in this chapter, each district provides for similar uses, referencing this section. All applications for a use not specifically addressed in any zoning district shall be submitted to the planning commission for review and decision, based on the following standards:
1. A finding is made that the proposed use is not listed as a named permitted or special land use in any zoning district.
  2. If the use is not addressed in this chapter, the planning commission may attempt to select a named use listed in this chapter which most closely resembles the proposed use. Such named use shall be determined using criteria such as potential impact on property values, nature of use, traffic generated, aesthetics, noise, vibration, dust, smoke, odor, glare, and other objectionable impacts on the health, safety, and welfare in the city.
  3. If a use is determined to be similar to a named use, the proposed use shall comply with any special land use standards or other ordinance requirements that apply to the named use.
  4. Where the planning commission determines a proposed use is not similar to any named use addressed in this chapter, the applicant may petition for an amendment to this chapter.
- B. The determination as to whether a proposed use is similar in nature and class to another named permitted or special land use within a district shall be considered as an interpretation of the use regulations, and not as a use variance. Any use determined by the planning commission to be similar shall thereafter be deemed to be included in the enumeration of the uses.

### **SECTION 3.34      DRIVEWAYS & SIDEWALKS**

No person shall construct or alter a driveway approach or sidewalk without first obtaining a Zoning Permit approved by the Zoning Administrator and Driveway Approach/Sidewalk Permit approved by the Superintendent of Public Works.

- A. Driveway Approaches. All driveway approaches between the curb and gutter and sidewalk shall be paved with either concrete or bituminous leveling or wearing course. Bituminous pavement shall consist of a minimum of 110 pounds per square inch of MDOT 13A. Concrete driveway approaches for residential sections shall be a minimum of six inches thick, and a minimum of nine inches thick for commercial approaches. The maximum grade on driveway approaches shall be fourteen percent. The width of the driveway curb cut shall conform to the standard detail.
  - 1. All work in connection with the above-mentioned driveway approach is to be performed by the applicant. No other work, such as extending, tiling or filling of any ditch in front of property, will be permitted without special permission from the Department of Public Works Superintendent. The applicant will pay for all damages to the street on account of the driveway installation, and shall save the City Council, Department of Public Works Superintendent and City of Perry harmless from all suits, claims, damages and proceedings arising out of any improper installation of the driveway approach.
  
- B. Sidewalks. Sidewalks must be installed from property line to property line. All sidewalks constructed must be a minimum 4" thick and minimum of 6" thick if being poured within a driveway or approach. All new sidewalk constructed must be a minimum of 60" wide. Replacement sidewalk sections must be the same width as the existing, adjoining sidewalk sections. If the replacement sidewalk does not directly connect to existing sidewalk, it must be a minimum of 60" wide. Sidewalk must comply with all design standards set forth by the City of Perry. Should placement of concrete be necessary over or near tree roots, the tree roots should be removed whenever possible. Chemical treatment of the tree roots is recommended when it can be done safely. Copper sulfate, or other herbicides can be used to prohibit tree root growth, without harming the tree. Walks shall be protected from pedestrian traffic for 2 days and vehicles for 7 days.
  
- C. ADA Sidewalk Compliance Requirements- Any new sidewalk that exits into an intersection, must install a handicap sidewalk warning pad. (Black Cast Iron or Black Composite is acceptable.) DETECTABLE WARNING PLATES: Follow ADA specifications and follow manufacturer's installation specifications to properly install detectable warning plates per site plan layout. Pay special attention to be sure the concrete comes through all the holes in the plate to eliminate all cavities below the plate that could trap water.

## **CHAPTER 4 NONCONFORMITIES**

### **SECTION 4.01      INTENT**

It is recognized that there exist certain buildings, structures, uses, and lots that were lawful before this Ordinance was adopted, and which were legally established, but would be prohibited, regulated, or restricted under the current regulations of this Ordinance. It is the intent of this Ordinance to allow nonconforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.

Nonconforming lots, buildings, structures, and uses are hereby declared by this Ordinance to be incompatible with this Ordinance and the Districts in which they are located. It is the intent of this Ordinance that, unless otherwise expressly permitted, nonconformities shall not be enlarged upon, intensified, expanded, or extended without proper approvals, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the District or this Ordinance.

### **SECTION 4.02      GENERAL REQUIREMENTS**

- A. No building, structure, or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in full conformity with the regulations herein specified for the Zoning District in which it is located and this Ordinance.
- B. No use shall be established on any lot, land or premises except in full conformity with the use regulations of the Zoning District in which it is located and the requirements of this Ordinance.
- C. No building or structure shall be established, constructed, or used on any lot, land, or premises except in full conformity with the regulations of the Zoning District in which it is located and the requirements of this Ordinance.
- D. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building for which a building permit was issued or on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted. A building permit shall be valid only in the event that the construction that is the subject of the permit commences within sixty (60) days after the date of issuance and shall be completed within one (1) year of the issuance date.
- E. The City of Perry may acquire, through purchase or condemnation, nonconforming lots, uses, buildings and structures. The City Council may take these actions in the manner as provided by law.

### **SECTION 4.03      NONCONFORMING USES**

- B. If a nonconforming use is abandoned or does not occur for any reason for a period of twelve (12) consecutive months or longer, any subsequent use shall fully conform to the requirements of this Ordinance.

- C. A nonconforming use shall be considered abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
1. Utilities, such as water, gas and electricity to the property, have been disconnected;
  2. The property, buildings, or grounds have fallen into disrepair;
  3. Signs, structures, or other indications of the existence of the nonconforming use have been removed;
  4. Removal of equipment or fixtures that are necessary for the operation of the nonconforming use; or
  5. Other actions, which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner, tenant, or lessee to abandon the nonconforming use.
- D. Uses that are nonconforming solely because of height, area, parking or loading provisions may be expanded provided that the Zoning Administrator determines that all of the following are applicable:
1. For the purposes of this subsection, expansion shall include extension or enlargement of the use;
  2. All Zoning District requirements (and other Ordinance requirements) are satisfied with respect to the expansion;
  3. The expansion shall not substantially extend the life of any nonconforming use by reason of parking and loading provisions; and
  4. The nonconforming use is made more conforming or less nonconforming by the addition of parking and/or loading space. Thereafter any subsequent expansion of the nonconforming use or change in use will not be allowed if it requires even greater parking and/or loading space.
- E. A nonconforming use not addressed in subparagraph C, above, may be enlarged when authorized by the Zoning Board of Appeals, subject to all of the following provisions:
1. The enlargement, when allowed, shall not exceed twenty-five percent (25%) of the area devoted to a nonconforming use at the effective date of this Ordinance or relevant amendment thereto.
  2. Any building used for the nonconforming use shall not be nonconforming or require a variance to effectuate the enlargement of the nonconforming use.
  3. That the expansion does not create, or make worse, any adverse effect on surrounding properties or the neighborhood.
  4. That the expansion does not intensify the use or unreasonably extend its probable duration.

- F. An existing nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Zoning Board of Appeals:
1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use.
  2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise allowed by this section.
  3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.
  4. Once returned to a more conforming use, the previous nonconforming use shall be considered abandoned and may not be reestablished. Subsequent uses shall all conform to the requirements of the District.

**SECTION 4.04**      **NONCONFORMING BUILDINGS**

- A. Any building or structure existing and lawful at the time of enactment of this Ordinance, or amendments thereto, may be continued although the structure does not conform to the current provisions of this Ordinance.
- B. Repairs and maintenance work may be made as are required to keep a nonconforming building or structure in a sound condition.
- C. In the event that fire, wind, or another natural disaster damages any nonconforming building(s) or structure(s), it may be rebuilt or restored provided it meets the district requirements and the total costs of repair or restoration shall not exceed fifty percent (50%) of the taxable value of the building or structure before the building was damaged. The Building Inspector shall determine the cost of reconstruction.
- D. A nonconforming building shall not be expanded in any manner that increases its nonconforming condition. However, it may be expanded in other dimensions, or along the same plane of the existing nonconforming setback, provided it does not encroach over a property line and it is in full conformance with the remainder of this Ordinance.

**SECTION 4.05**      **NONCONFORMING LOTS**

- A. If a nonconforming lot has less than the minimum required area, frontage, or width required for the Zoning District in which it is located, the area, frontage, or width may be maintained, unless regulated by subparagraph C, below, but shall not be made more nonconforming.
- B. Where a nonconforming commercial or industrial lot can provide the side and front yard requirements of its zone, the permitted uses of the District shall be allowed.
- C. Where a residential lot of record in lawful existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width, dimension, or lot area, such lot of record may be used for any purposes permitted by the district in which the lot is located, provided that the lot meets at least eighty (80) percent of the required lot area, lot width, dimension, and side yard required by that district and

further provided that any building or structure constructed on the lot complies with all other yard setback requirements.

- D. If two (2) or more adjoining lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width, dimension, or lot area, the lands involved shall be considered to be an undivided single lot for the purposes of this Ordinance, and no portion of such lot shall be used or divided in a manner which diminishes compliance with lot width, dimension, and area requirements established by this Ordinance.
- E. Where two (2) or more nonconforming adjacent lots are in the same or similar ownership and each contain less than minimum required area, dimension, or width of the Zoning District in which it is located, the lots shall be considered a single lot for zoning purposes. These lots may not be used individually but shall be deemed automatically combined to create a lot that conforms as closely as possible to the District regulations.
- F. A nonconforming lot may only be expanded if it is brought into closer conformity with the regulations specified for the Zoning District in which it is located.

#### **SECTION 4.06      NONCONFORMING SIGNS**

- A. Every permanent sign in lawful existence at the time of adoption of this Ordinance which does not conform to the height, size, area, location, or other requirements of this Ordinance is deemed nonconforming.
- B. Nonconforming signs may not be expanded, enlarged, or extended, but they may be maintained and repaired as allowed by this Ordinance so as to continue their useful life.
- C. A nonconforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a nonconforming sign.
- D. Abandonment or destruction: If a sign loses its legal nonconforming designation or status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, replaced or rebuilt unless it fully complies with all requirements of this Ordinance. A nonconforming sign shall lose its lawful nonconforming designation and status if the Zoning Administrator determines that any of the following is applicable:
  - 1. The sign is relocated, moved, rebuilt or replaced.
  - 2. The sign is destroyed. A sign shall be deemed destroyed if any of the following occurs:
    - a) The sign is torn down or demolished;
    - b) The sign is wrecked or ruined;
    - c) Such damage has been done to the sign that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding; or



- d) More than 50% of the face of the sign has been shattered, or a portion of the sign face touches the ground.

If a sign is destroyed, subsection E hereof (which applies only to repairs and maintenance) shall not be applicable.

- 3. Even if a sign has not been destroyed, but damage or deterioration has occurred to the point of 50% or more as defined in subsection E, below, the sign shall be deemed to have lost its legal nonconforming status.
  - 4. The structure or size of the sign is altered in any material way other than a change of copy or normal maintenance which does not physically alter the sign.
  - 5. There is a material change in the use of the premises where the sign is located.
  - 6. A building permit is issued for any construction on the premises where the sign is located which increases the total building square footage by more than 5% or 5,000 square feet, whichever is less.
  - 7. The sign is abandoned.
- E. Repair. This subsection E shall not apply if a legal nonconforming sign has been destroyed, since a destroyed sign automatically loses its legal nonconforming designation and status. If a legal nonconforming sign suffers 50% or more damage, destruction, or deterioration, it must be brought into full compliance with this Ordinance or be removed. In order to determine whether or not a sign has been damaged or has deteriorated by 50% or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the sign. If less than 50% damage or deterioration has occurred pursuant to such comparison, the sign may be repaired to its exact original state.

#### **SECTION 4.07      BURDEN OF PROOF**

The burden of proof for establishing or proving the existence or any aspect of a lawful nonconforming structure, lot or use (as well as the size, scope, intensity, and extent thereof) is on the owner of the property involved.

## CHAPTER 5 SITE CONDOMINIUMS AND LAND DIVISIONS

### **SECTION 5.01      SITE CONDOMINIUMS**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon provided the unit meets the use and District Regulations for a lot for the zoning district in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with [CHAPTER 14](#).
- D. Monuments shall be set at all boundary corners and deflection points and at all street right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.
- E. The Zoning Administrator and the City of Perry Engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year from the date of approval by the City Council, on condition that the developer deposit with the City of Perry Clerk cash, a certified check, or an irrevocable bank letter of credit benefiting the City of Perry, whichever the City of Perry selects, in an amount as determined from time to time by resolution of the City Council.
- F. The deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified.
- G. If the developer defaults, the City Council shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.
- H. All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.
- I. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.
- J. The developer shall dedicate to the City of Perry all easements for utilities. Water, sewer, and electrical easements may be placed within public rights-of-way, subject to the approval of the City Engineer and City of Perry standards.

- K. All streets proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of this Ordinance and other ordinances of the City of Perry.

## **SECTION 5.02      LAND DIVISIONS**

- A. No lot, parcel of land, or access or private street easement shall be created or modified that does not fully comply with the minimum area, width, lot width-to- depth ratio, frontage, access and other dimensional requirements of this Ordinance. All land divisions, lot splits, or property boundary reconfigurations of platted lots and unplatted parcels of land shall comply with all applicable requirements of this Ordinance and the Michigan Land Division Act.
- B. No land division, lot split, creation of an access or private street easement, or reconfiguration or change of property boundary lines shall occur unless and until a land division permit has been obtained from the City of Perry Zoning Administrator or such other person as may be designated for such purpose by resolution of the City Council. No permit for a land division shall be issued unless and until the City of Perry determines that the land division, lot split, access or private street easement, or boundary reconfiguration, as well as the resulting lots, parcels of land, or access or private street easements, fully complies with the requirements of this Ordinance and all other applicable City of Perry ordinances.
- C. Fees for a land division permit shall be established from time to time by resolution of the City Council. No land division permit shall be approved or issued unless the application for such permit is accompanied by a survey prepared by a registered land surveyor showing all resulting lots or parcels of land, easements (if any), and all legal descriptions thereof, unless the Zoning Administrator waives the survey requirement for good cause shown.
- D. All land divisions must comply with the City's land division ordinance (or equivalent City of Perry ordinance or code).

## CHAPTER 6 ESTABLISHMENT OF DISTRICTS

### **SECTION 6.01      ESTABLISHMENT OF DISTRICTS**

For the purposes of this Ordinance, the City of Perry is divided into the following zoning districts:

<b>A-1</b>	<a href="#"><u>Agricultural District</u></a>
<b>R-1A</b>	<a href="#"><u>Single-Family Residential District</u></a>
<b>R-1B</b>	<a href="#"><u>Single-Family Residential District</u></a>
<b>R-T</b>	<a href="#"><u>Two-Family Residential District</u></a>
<b>R-M</b>	<a href="#"><u>Multiple-Family District</u></a>
<b>CBD</b>	<a href="#"><u>Central Business District</u></a>
<b>B-1</b>	<a href="#"><u>Commercial Business District</u></a>
<b>MXD</b>	<a href="#"><u>Mixed Use District</u></a>
<b>PUD</b>	<a href="#"><u>Planned Unit Development</u></a>
<b>NFO</b>	<a href="#"><u>Natural Features Overlay District</u></a>
<b>MHP</b>	<a href="#"><u>Mobile Home Park District</u></a>
<b>I-1</b>	<a href="#"><u>Light Industrial District</u></a>
<b>I-2</b>	<a href="#"><u>General Industrial District</u></a>

### **SECTION 6.02      OFFICIAL ZONING DISTRICTS MAP**

The boundaries of the zoning districts enumerated in Section 6.01 are hereby established as shown on the “Official Zoning Map, City of Perry,” which accompanies this text. Such map with all notations, references and other information shown thereon is hereby adopted by reference as a part of this Ordinance. One (1) copy of the Official Zoning Map shall be maintained and kept up to date by the City Clerk, accessible to the public, and as the final authority as to the current zoning status of all property in the City of Perry.

### **SECTION 6.03      INTERPRETATION OF DISTRICT BOUNDARIES**

If because of the scale, lack of details, or illegibility of the Official Zoning Map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretations concerning the exact location of district boundary lines shall be determined by the Zoning Board of Appeals upon written application.

In arriving at a decision, the Zoning Board of Appeals shall apply the following standards:

- A. The boundaries of zoning districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the Official Zoning Map.
- B. Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries.

- C. Unless shown by dimension on the Official Zoning Map, where a district boundary divides a lot of record, the location of the boundary shall be determined by use of the scale shown on the map.
- D. Where district boundaries are indicated as approximately following City of Perry limits, they shall be construed as following the City of Perry limits.
- E. A boundary indicated as following a shoreline shall be construed as following that shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, or other body of water shall be construed as following that centerline.
- F. If a district boundary is indicated as being parallel to, or an extension of a feature described in this section, it shall be so construed.
- G. Where physical or natural features existing on the ground do not coincide with those shown on the Official Zoning Map or in other circumstances not covered in this section, the Zoning Board of Appeals shall determine the district boundaries.

#### **SECTION 6.04      ZONING OF VACATED AREAS**

If a street, alley, or other public right-of-way within the City of Perry is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley, or public right-of-way, the lands involved shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this Ordinance.

## **CHAPTER 7 RESIDENTIAL DISTRICTS**

### **SECTION 7.01      INTENT AND PURPOSE**

The regulations of these Districts (A-1, R-1A, R-1B, R-T, and R-M) are intended to encourage a suitable environment for a variety of residential densities, and compatible supportive recreational, institutional, and educational uses and to protect residential areas from the encroachment of uses that are not appropriate to a residential environment.

The Agricultural Residential District, A-1, has been established to provide for lower density residential development and agricultural uses. Larger lot sizes will accommodate both residential and agricultural uses, while minimizing the impact of development on the existing infrastructure. The specific interest of this district is to encourage the continued use of single-family dwellings and farm-related uses which preserve the rural character of the area.

The intent of the R-1A and R-1B Single Family Districts is to encourage low density, single family residential neighborhoods. The R-1A District is designed for larger, lower density lots, while R-1B provides slightly smaller lots and permits higher density than in R-1A.

The R-T, Two Family District permits more housing variety than in the R-1 Districts while still maintaining fairly low density, residential neighborhoods.

The R-M, Multiple Family District is designed to permit a variety of housing choices to satisfy various life styles and income levels located in close proximity to commercial and service districts.

### **SECTION 7.02      TABLE OF USES**

A. The following abbreviations apply to the Table of Uses for the A-1, Agricultural Residential, R-1A and R-1B, Single Family Residential, R-T, Two Family Residential, and R-M, Multiple Family Residential districts:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be allowed by obtaining Special Land Use approval when all applicable standards contained in [CHAPTER 15](#) and elsewhere in this Ordinance are met.

PUD: Allowed only with Planned Unit Development approval.

NP: Not Permitted: The use is not permitted in the District.

B. For any uses not specified in [TABLE 7.02](#), The Zoning Administrator shall determine the permissibility of the use in accordance with similar listed uses.

**TABLE 7.02: TABLE OF USES FOR RESIDENTIAL DISTRICTS**

USE	A-1	R-1A	R-1B	R-T	R-M
Accessory structures and uses, subject to <a href="#">SECTION 3.14</a>	P	P	P	P	P
Agriculture	P	NP	NP	NP	NP
Airports and private airstrips	SLU	NP	NP	NP	NP
<a href="#">Bed and breakfast establishment</a>	SLU	SLU	SLU	SLU	SLU
Cemeteries	SLU	SLU	SLU	SLU	NP
Colleges and universities	SLU	NP	NP	NP	SLU
Communal home	NP	NP	NP	NP	SLU
<a href="#">Convalescent or nursing home</a>	NP	NP	NP	NP	SLU
Day care home, family	P	P	P	P	P
Day care home, group	SLU	SLU	SLU	SLU	SLU
<a href="#">Elderly housing</a>	NP	NP	NP	NP	SLU
Funeral homes or mortuaries	NP	NP	NP	NP	SLU
Golf courses, country clubs, recreational centers, and swim clubs	SLU	SLU	SLU	NP	NP
Greenhouses and nurseries	P	NP	NP	NP	NP
Home occupations, subject to <a href="#">SECTION 3.15</a>	P	P	P	P	P
<a href="#">Kennels</a> and animal hospitals	SLU	NP	NP	NP	NP
Landfills	SLU	NP	NP	NP	NP
Large scale recreation facilities	SLU	NP	NP	NP	NP
Mining and extraction	SLU	NP	NP	NP	NP
Multiple-family dwellings	NP	NP	NP	NP	P
Municipal office buildings	NP	SLU	SLU	NP	NP
Non-commercial wind energy conversion systems subject to <a href="#">SECTION 3.28</a>	P	P	P	P	P
Open space development	PUD	PUD	PUD	PUD	PUD
Park, playground or City center	P	P	P	P	P
Pets and livestock, subject to <a href="#">SECTION 3.30</a>	P	P	P	P	P
Public libraries	SLU	P	P	P	P
Public, private, and parochial elementary, middle, and/or high schools	SLU	SLU	SLU	SLU	SLU
Religious institution/place of religious worship	SLU	SLU	SLU	SLU	SLU
Single-family detached dwellings	P	P	P	P	P
State licensed residential facility, <i>family care facility</i> , provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	P	P

USE	A-1	R-1A	R-1B	R-T	R-M
State licensed residential facility, <i>Large Group Home Care Facility</i> , provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	P	P
State licensed residential facility, <i>Small Group Home Care Facility</i> , provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	P	P
State licensed <i>Adult Foster Care Congregate Facility</i> , provided the facility shall not be within 1,500 feet of another state licensed residential facility.	NP	NP	NP	NP	SLU
State licensed <i>Adult Foster Care Family Home</i> , provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	P	P
State licensed <i>Adult Foster Care Large Group Home</i> , provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	P	P
State licensed <i>Adult Foster Care Small Group Home</i> , provided the facility shall not be within 1,500 feet of another state licensed residential facility.	P	P	P	P	P
State licensed residential facility, <i>Large Group Home</i> , located less than 1500 feet from another State licensed facility	NP	NP	NP	NP	P
<a href="#">Townhouses</a>	NP	PUD	PUD	P	P
Two-family dwellings (duplexes)	NP	NP	NP	P	P
Wireless Communication Towers	SLU	NP	NP	NP	NP



**SECTION 7.03      LOT, YARD AND BUILDING REQUIREMENTS**

**TABLE 7.03: DIMENSIONAL STANDARDS FOR RESIDENTIAL DISTRICTS**

<b>REQUIREMENTS</b>	<b>A-1</b>	<b>R-1A</b>	<b>R-1B</b>	<b>R-T</b>	<b>R-M</b>
Minimum Lot Size With public sewer	40,000 sq. ft.	9,600 sq. ft.	7,200 sq. ft.	4,200 sq. ft. (per unit)	10,000 sq. ft. for the first dwelling unit 3,000 sq. ft. for each additional dwelling unit
Maximum Density	1 unit per acre	4.5 units per acre	6 units per acre	10 units per acre	11 units per acre
Minimum Lot Width	120 ft.	80 ft.	60 ft. with sewer	35 ft. (per unit)	100 ft.
Lot Depth to Width Ratio	No more than 4:1	No more than 4:1	No more than 4:1	No more than 4:1	No more than 3:1
Maximum Lot Coverage	25%	45%	45%	45%	45%
Minimum Setbacks (Residential Uses)	Front: 30 ft. Rear: 50 ft. Side(s): 15 / 30 ft.	Front: 25 ft. Rear: 35 ft. Side(s): 10 / 20 ft.	Front: 25 ft. Rear: 35 ft. Side(s): 8 / 20 ft.	Front: 25 ft. Rear: 35 ft. Side(s): 8 / 20 ft.	Front: 30 ft. Rear: 35 ft. Side(s): 10 / 20 ft.
Minimum Setbacks (Non-Residential Uses)	Front: 30 ft. Rear: 50 ft. Side(s): 15 / 30 ft.	Front: 25 ft. Rear: 30 ft. Side(s): 10 / 20 ft.	Front: 25 ft. Rear: 30 ft. Side(s): 10 / 20 ft.	Front: 25 ft. Rear: 30 ft. Side(s): 10 / 20 ft.	Front: 25 ft. Rear: 30 ft. Side(s): 10 / 20 ft.
Maximum Height	36 ft. / 3 stories*	20 ft. / 3 stories	25 ft. / 2.5 stories	25 ft. / 2.5 stories	48 ft. / 4 stories
Minimum Open Space	70%	20%	20%	20%	15%
Minimum Floor Area	1,000 sq. ft.	960 sq. ft.	960 sq. ft.	960 sq. ft. (per unit)	Efficiency: 500 sq. ft. 1 Bdrm: 650 sq. ft. 2 Bdrm: 750 sq. ft. 3+ Bdrm: 880 sq. ft.

\*Farm structures shall have a maximum height of 80 ft.

**SECTION 7.04      PARKING REQUIREMENTS**

**TABLE 7.04: RESIDENTIAL PARKING REQUIREMENTS**

Use	Minimum Required Parking Spaces per Unit of Measurement
Residential	
Dwelling units	2 per dwelling unit
Family and group day care homes and communal housing	1 per each 3 children or adults under care, computed on the basis of the licensing limits of the facility
Elderly housing	1 per dwelling unit
State licensed residential family care facility or group home care facility	1 per each 3 beds or 2 rooms, whichever is less, plus 1 per on duty shift staff
Bed and breakfast establishment	2 plus 1 per guest room
Non-Residential	
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Cemeteries	2 spaces plus 1 space for each 400 sq. ft. of UFA for office spaces, plus that required for a caretaker’s residence
Family day care	1 per each 3 clients computed on the basis of the greatest number of clients on site at a given time in addition to those required for the residence
Municipal and public service activities	1 per each 300 sq. ft. GFA, not including parking areas for municipal vehicles (police cars, public works vehicles, etc.), plus spaces required for assembly areas
Parks, playgrounds and centers	10 per each athletic field plus 5 per each playground
Religious Institutions/Place of Religious Worship	2 per each 5 seats for capacity. Based on the maximum seating capacity of the main place of assembly.
Schools (private)	See <a href="#">TABLE 8.04</a>

**SECTION 7.05      PARKING LOCATION**

The off-street parking facilities required for single family and two family dwellings shall be located on the same lot as the building they are intended to serve. Parking is limited to the garage and driveway.

- A. Off-street parking facilities required for townhouses, multiple family dwellings and non-residential uses shall not be located in the required front or side yard.

- B. Parking areas for a multiple family development of over four (4) units adjacent to a single-family use or district shall provide a six (6) foot screen for the parking area.

**SECTION 7.06      DESIGN STANDARDS**

- A. All residential buildings shall have architectural features that provide visual interest including, but not limited to porches, balconies, bay windows, cupolas, and/or dormers.
- B. The façade of all residential structures shall be at least 30% windows.
- C. Outdoor space shall be provided for each townhouses or multi-family dwelling unit at a minimum of fifty (50) square feet per unit, which may be a balcony.
- D. The maximum number of dwelling units permitted per building is eight (8) units.
- E. A structure with a front elevation view of over 40 linear feet shall have a design offset including but not limited to: bay windows, covered porches, or structural offsets from the principal plane of the building.
- F. Site amenities may be required by the Planning Commission for residential developments during site plan review and may include but not be limited to: bike racks, play equipment, benches, and trash receptacles.

## **CHAPTER 8 COMMERCIAL DISTRICTS**

### **SECTION 8.01      INTENT AND PURPOSE**

The CBD Central Business District is intended to support a traditional downtown main- street atmosphere and is characterized by smaller lot sizes, mixed land uses and higher percentages of lot coverage. The District is further intended to promote the consolidation of commercial activities in the existing City of Perry center by providing for a variety of retail, office, restaurant and entertainment activities that are not automotive dependent. The purpose of this District is to encourage and promote the business use of the first floor of existing structures and to permit residential uses on upper stories.

Screening, landscaping and site design will be strongly considered when sites are developed to ensure they mesh well with adjacent residential uses.

The B-1 Commercial Business District is intended to provide for a variety of commercial and service uses, primarily emphasizing higher intensity uses that tend to be auto dependent which are not well suited in the Central Business District or Mixed Use District but instead should be situated near major travel corridors. Because of the variety of business types permitted in B-1 Districts, special attention must be focused on site layout, building design, vehicular circulation and coordination of site features between adjoining sites.

The MXD Mixed Use District is intended to implement the Goals and Policies of the Master Plan through the provision of a mixture of residential, office, and low intensity commercial uses. The specific goals which the MXD, Mixed Use District seeks to implement, include the following: 1) Provide for planned growth which maintains the core of the City while allowing for appropriate growth at and beyond its perimeters; 2) Maintain and encourage a diversity of housing; 3) Control strip commercial development and minimize negative impacts of existing strip developments; and 4) Creating new residential and commercial development opportunities at the City perimeters thereby preventing a "landlocked" City. This designation is intended to encourage the development of traditional neighborhoods through a coordinated land use pattern of residential, office or local commercial uses.

### **SECTION 8.02      TABLE OF USES**

A. The following abbreviations apply to the Table of Uses:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be allowed by obtaining Special Land Use approval when all applicable standards contained in [CHAPTER 15](#) and elsewhere in this Ordinance are met.

NP: Not Permitted: The use is not permitted in the District.

B. For any uses not specified in [TABLE 8.02](#), The Zoning Administrator shall determine the permissibility of the use in accordance with similar listed uses.

**TABLE 8.02: TABLE OF USES FOR COMMERCIAL DISTRICTS**

USE	CBD	B-1	MXD
<a href="#">Accessory apartments</a> on the upper floor of commercial uses	P	NP	P
Accessory structures subject to <a href="#">SECTION 3.14</a>	P	P	P
<a href="#">Adult Uses</a>	NP	SLU	NP
<a href="#">Arcade</a> (computer or video)	P	P	SLU
Art studio/craft shop	P	P	P
Bank or other financial institution, with drive through facility	P	P	SLU
Bank or other financial institution, without drive through facility	P	P	SLU
Banquet hall and/or conference center	SLU	SLU	SLU
<a href="#">Bed and breakfast</a>	SLU	NP	SLU
Billboards	NP	P	NP
Bus passenger or other transit station	NP	SLU	NP
Catering establishment	NP	P	NP
<a href="#">Clinics</a> (excluding medical marijuana dispensaries)	P	P	NP
Commercial day care center	NP	SLU	SLU
Commercial mini storage	NP	P	NP
Contractor's office	SLU	P	NP
Convenience store, with gasoline	NP	SLU	NP
Convenience store, without gasoline	P	P	P
Cottage industry/home occupations, subject to <a href="#">SECTION 3.15</a>	SLU	SLU	P
Domestic Abuse Shelters	P	P	NP
Drive through facility other than a restaurant (e.g., bank, credit union, pharmacy, dry cleaner)	P	P	NP
Fraternal or social club or lodge	P	SLU	NP
Hospitals	NP	SLU	NP
<a href="#">Hotel/motel</a>	NP	SLU	NP
Housing for elderly, nursing home, convalescent centers	NP	NP	SLU
<a href="#">Kennel</a> , commercial	NP	SLU	NP
Laundromat	SLU	P	NP
<a href="#">Medical Marihuana Provisioning Center</a> / <a href="#">Adult-Use (Recreational) Marihuana Retailers</a> (Note: A single location will serve as both a medical marihuana provisioning center and a marihuana retailer)	NP	SLU	SLU
Medical and dental offices or clinics	P	P	SLU
Mortuary or funeral home	P	P	SLU
Municipal buildings (e.g. libraries, post offices, government offices)	P	P	P

<b>TABLE OF USES</b>	<b>CBD</b>	<b>B-1</b>	<b>MXD</b>
Off-Street Parking Lots	P	P	NP
Open air business	NP	SLU	SLU
Outdoor display subject to <a href="#">SECTION 8.08</a>	P	P	P
Outdoor or rooftop seating subject to <a href="#">SECTION 8.07</a>	P	NP	NP
<a href="#">Pawn shop</a>	NP	P	NP
<a href="#">Personal service establishment</a>	P	P	SLU
Places of religious worship	P	P	SLU
Professional offices (e.g., attorneys, accountants, etc.)	P	P	SLU
Public and private colleges, universities, and other such institutions of higher learning	NP	P	NP
Public utility transformer stations, telephone exchanges, public utility offices	NP	P	NP
Public, private, and parochial elementary, middle, and high schools	NP	NP	SLU
<a href="#">Recreation facility, indoor</a>	NP	P	NP
<a href="#">Recreation facility, outdoor</a>	NP	SLU	NP
Restaurant with drive-through facility	NP	P	SLU
Restaurant without drive-through facility	P	P	SLU
Retail building supplies and equipment stores with outdoor display and storage	NP	P	NP
Retail establishments of 20,000 square feet GFA and over	SLU	P	NP
Retail establishments under 20,000 square feet GFA	P	P	P
Self-storage facilities	NP	SLU	NP
Single-family detached dwellings	P	SLU	P
Tattoo parlor	NP	P	P
Tavern or pub	P	P	SLU
Theaters	P	NP	NP
<a href="#">Tobacco specialty retail store or lounge</a>	SLU	SLU	SLU
Vehicle repair, major	NP	SLU	NP
Vehicle repair, minor	NP	SLU	NP
Vehicle sales and rental	NP	SLU	NP
Vehicle service station	NP	SLU	NP
Vehicle wash establishment	NP	SLU	NP
Veterinary clinic	P	P	SLU
Video rental and sales	NP	P	NP
<a href="#">Wind energy conversion systems</a> , commercial	NP	P	NP
Wireless communication tower	NP	P	NP

**SECTION 8.03 LOT, YARD, AND BUILDING REQUIREMENTS**

**TABLE 8.03: DIMENSIONAL STANDARDS FOR COMMERCIAL DISTRICTS**

REQUIREMENTS	CBD	B-1	MXD
Minimum Lot Area	1,500 sq. ft.	8,400 sq. ft.	5,000 sf
Minimum Lot Width	22 ft.	150 ft.	50 ft.
Minimum Lot Depth	60 ft.	100 ft.	100 ft.
Lot Width to Depth Ratio	No more than 4:1	No more than 3:1	No more than 3:1
Maximum Lot Coverage	80%	60%	75%
Minimum Setbacks	0 ft.*	Front: 40 ft. Rear: 25 ft. Side(s): 8 / 20 ft.	Front: 25 ft. Rear: 25 ft. Side(s): 8 / 20 ft.
Maximum Height	48 ft. / 4 stories	36 ft. / 3 stories	36 ft. / 3 stories
Minimum Height	18 ft.	N/A	N/A
Minimum green space	0%	15%	10%

\*Setbacks in the CBD:

- A. The maximum setback from any lot line shall be 10 feet.
- B. A rear setback greater than 10 feet may be permitted if on-site parking or loading is provided in the rear setback area and is adjacent to an alley.
- C. Any building in the CBD with an [accessory apartment](#) shall be required to have a 10 foot setback to provide parking for the residential units.

**SECTION 8.04 PARKING REQUIREMENTS**

- A. Minimum required parking – The minimum off-street parking requirements for the uses set out in this Code are established in [TABLE 8.04](#), on the following page.
- B. Uses not listed – The Zoning Administrator shall determine the parking requirements for uses that are not listed based on the uses in [TABLE 8.04](#) that are most similar to the proposed uses or based on parking studies of similar uses that are provided by the applicant and certified by a qualified professional engineer.
- C. Multiple nonresidential uses – If several nonresidential uses occupy a single parcel or building, the off-street parking and loading requirements shall be the cumulative total for all uses.
- D. Fractional spaces – When the number of required off-street parking spaces results in a fractional space, the fractional space shall be rounded to the nearest whole number.
- E. Drive through facilities – Restaurants, pharmacies, and financial institutions that provide drive through service and provide adequate stacking space, as established in the relevant sections of [CHAPTER 15](#), may reduce the number of required parking spaces listed in [TABLE 8.04](#) by twenty-five percent (25%).

**TABLE 8.04: COMMERCIAL PARKING REQUIREMENTS**

<b>Use</b>	<b>Minimum Required Parking Spaces per Unit of Measurement</b>
Accessory apartments as part of a commercial use	1 per dwelling unit
Adult business	1 space per each 2 persons permitted under fire code.
Art, music, or dance studio, craft shop, or cottage industry	1 space per 800 sq. ft. of GFA
Bank or other financial institution	1 space per each 400 sq. ft. of GFA
Banquet or reception hall or conference center and catering establishment	1 space for every 4 persons by occupancy permitted in the structure by fire code
Bed and breakfast	2 plus one per guest room
Boarding house	1 plus an addition space per 2 rooms
Bus passenger or other transit station	1 space per 200 sq. ft. of GFA
Commercial day care center	1 space per each 3 clients computed on the basis of the greatest number of clients on site at a given time
Commercial mini storage	1 space for every storage unit (adjacent to the units) plus 1 for each employee
Convalescent or nursing home	1 space per each 3 beds or 2 rooms, whichever is less, plus 10 spaces marked for visitors
Convenience stores, automobile filling stations	One space per 50 sq. ft. of GFA plus one per gas pump as applicable
Department store	1 space per 250 sq. ft. of UFA
Fraternal or social club or lodge	1 space for every 4 persons by occupancy permitted in the structure by fire code
Health or exercise club	1 space for every 6 persons by occupancy permitted in the structure by fire code
Hospital	1 space for every 5 beds, plus 1 for each staff doctor, plus 1 for each employee at peak shift
Hotel/motel	2 spaces for employees, plus 1 for each guest room
Grocery Store	1 space per 150 sq. ft. of UFA
Indoor recreation facility	1 space per each 3 seats, plus 1 for each 2 employees
Kennel, commercial	1 space for each 400 sq. ft. of UFA
Laundromat	1 space for each 2 machines
Medical and dental office or clinics	1 space per each 400 sq. ft. of GFA
Mortuary or funeral home	1 space per each 100 sq. ft. of UFA



Use		Minimum Required Parking Spaces per Unit of Measurement
Open-air business		1 space per each 800 sq. ft. of lot area used of the open air business, plus parking for any main building and associated accessory uses
Personal service establishments and Tattoo parlors		2 spaces per service provider
Places of religious worship		2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Professional office		1 space per each 400 sq. ft. of GFA
Recreation facilities	Indoor	1 space for every 3 persons by occupancy permitted in the structure by fire code
	Outdoor	
Restaurant		1 per 100 sq. ft. of floor space not used for seating area plus 1 for each employee area plus 1 space for each 3 persons allowed within the maximum occupancy load as established by applicable building or health codes for the area devoted to indoor seating
Retail establishments with less than 2,500 square feet of UFA		1 space per each 300 sq. ft. of UFA
Retail establishments with more than 2,500 square feet of UFA		1 space per each 100 sq. ft. of UFA
Schools (private)	Elementary, middle, and secondary schools	4 space per classroom or the amount required for the auditorium or place of assembly, which-ever is greater; separate areas for student drop off and pickup areas for buses shall be provided
	High schools, trade schools, colleges, and universities	1 space per 5 students or the amount required for the auditorium or place of assembly, which-ever is greater; separate areas for student drop off and pickup areas for buses shall be provided
Tavern, with or without dancing, live entertainment or consumption of alcoholic beverages on premises		1 space for every 3 persons by occupancy permitted in the structure by fire code
Vehicle repair, minor and major		1 space per service bay plus 1 space per employee
Vehicle sales		1 per each 300 sq. ft. of GFA in the showroom/ office, plus required spaces for accessory repair areas
Vehicle wash establishment		1 space per each 3 wash bays plus stacking as required by Chapter 15

Use	Minimum Required Parking Spaces per Unit of Measurement
Veterinary clinic	1 space for each 400 sq. ft. of UFA
Video rental and sales	1 for each 800 sq. ft. UFA plus 1 for each 2 employees
Wind Energy Conversion, commercial	1 space for service vehicles

**SECTION 8.05      PARKING LOCATION**

- A. Off-street parking facilities in the CBD shall not be located in any front yard.
- B. In the CBD the Planning Commission may determine that the parking requirements may be met on-street or on another site with approved parking agreements. Parking for residential units shall be within one hundred (100) feet of the dwelling unit.
- C. Off-street parking facilities in the B-1 and MXD Districts shall be primarily provided in side or rear yards.

**SECTION 8.06      DESIGN STANDARDS**

In the CBD, Central Business District:

- A. Buildings shall possess architectural variety, but create an overall cohesive City of Perry character. Architectural features of the buildings shall include details and ornaments such as archways, colonnades and cornices. Building entrances shall utilize windows, canopies and awnings. High-gloss, or bubble awnings are prohibited.
- B. Roofs shall be flat or hip, unless an alternate roof is approved by the Planning Commission. Flat roofs shall have a parapet wall.
- C. The first floor\_of the front face of all commercial and office buildings shall have:
  - 1. A minimum of 50%, non-reflective glass;
  - 2. A minimum of 50% brick, colored split block or stone (or composites mimicking brick or stone) or split block on the remaining surface area of the first floor.
  - 3. In no case shall vertical siding, standard concrete blocks or sheet metal be considered an acceptable outdoor wall covering on the front face of a building.
  - 4. The Planning Commission may consider other design alternatives as part of the site plan review process as long as the spirit of this section is addressed.

- D. Site amenities may be required by the Planning Commission as part of site plan review process and may include but not be limited to: bike racks, benches and trash receptacles.

**SECTION 8.07      OUTDOOR AND ROOFTOP SEATING**

Outdoor and rooftop seating in the CBD Central Business District are encouraged as a means to create vibrancy in the City center. Seating shall adhere to the following:

- A. A site development plan shall be provided to the Zoning Administrator for review and approval, or the seating area may be reviewed as part of the site plan review and approval process with the Planning Commission.
- B. The area devoted to outdoor seating shall be ancillary to the main use of an indoor restaurant, pub, bakery, coffee shop, delicatessen, specialty food store, or similar establishment.
- C. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of five (5) feet of sidewalk along the curb and leading to the entrance to the establishment shall be maintained free of tables, chairs, and other encumbrances.
- D. The seating area shall be limited to the area directly in front of the permitted use to which the seating area is accessory and shall not extend into adjoining sites.
- E. Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the main building.
- F. Outdoor seating areas shall be landscaped and may be required to be walled or fenced off from other activity areas.
- G. Outdoor amplification shall not be disruptive to surrounding uses.
- H. The area devoted to outdoor service shall not encroach upon or extend over any required parking, public alley or right-of-way unless approved by the City Council.
- I. The outdoor seating area shall not obstruct visibility of on-coming pedestrians or vehicular traffic.
- J. The area devoted to such outdoor dining area shall be maintained in a safe, clean, and sanitary manner.
- K. Roof seating shall comply with the building code.

**SECTION 8.08      OUTDOOR DISPLAY**

- A. A site development plan shall be provided to the Zoning Administrator for review and approval, or the display area may be reviewed as part of the site plan review and approval process with the Planning Commission.
- B. Merchandise sold and/or displayed shall be accessory to the business conducted within the primary structure and shall be owned, leased, or operated by the same individual(s) or business(es) occupying the primary structure.

- C. Outdoor display and sales shall not be located in any required parking or circulation area, loading area, access way, required setback, landscaping or applicable clear vision triangle.
- D. Outdoor sales and display shall be prohibited on public land or public right-of-way unless approved by the City Council.
- E. Display areas shall maintain adequate clear area for safe pedestrian circulation along any pedestrian route.
- F. The area devoted to outdoor display shall be kept in a neat and orderly manner at all times.
- G. No items shall be stored, displayed, or stacked above a height of five (5) feet.

## **CHAPTER 9 PLANNED UNIT DEVELOPMENT DISTRICT**

### **SECTION 9.01      STATEMENT OF PURPOSE**

The purpose of the PUD District is to permit coordinated development on larger sites in order to achieve the following:

- A. Permit flexibility in the regulation of land development allowing for higher quality of projects through innovation in land use, variety in design, layout, and type of structures constructed.
- B. Provide the opportunity to mix compatible uses or residential types.
- C. Allow clustering of residential units to preserve common open space, or natural features.
- D. Ensure compatibility of design and function between neighboring properties.
- E. Promote efficient provision of public services, utilities and transportation facilities.
- F. Provide convenient vehicular access throughout a development and minimize adverse traffic impacts.
- G. Provide complete non-motorized circulation to, from, and within developments.
- H. Provide adequate housing and employment opportunities.
- I. Encourage development of convenient recreational facilities as an integral part of residential developments.
- J. Ensure the type, scale and mass of uses and structures will relate harmoniously to each other and to adjoining existing and planned uses.
- K. Encourage development that is consistent with the goals stated within the City of Perry Master Plan.

These Planned Unit Development regulations are not intended to be used for circumventing the more specific standards and requirements of this Ordinance, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications that, in the judgment of the City, assure a superior quality of development. If this improved quality is not clearly apparent upon City of Perry review, a site shall not qualify for the modifications allowable under this Chapter.

### **SECTION 9.02      ELIGIBILITY CRITERIA**

- A. To be eligible for Planned Unit Development approval, the applicant shall demonstrate that all of the following criteria will be met:

1. The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district:
  - a) Preservation of significant natural features or historic resources.
  - b) Preservation of open space.
  - c) A complementary mixture of uses or a variety of housing types.
  - d) Common open space for passive or active recreational use.
  - e) Redevelopment of a nonconforming site where creative design can address unique site constraints.
  
2. Landowners involved in a proposed Planned Unit Development shall provide to the City of Perry a signed agreement among all involved parties, which is approved by the City’s attorney that indicates all such landowners’ agreement with the PUD development.
  
3. When proposed construction is to be phased, the project shall be designed in a manner that allows a phase to fully function on its own, regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of users of the open space, the Community, and the residents of the surrounding area.

**SECTION 9.03      TYPES OF PUDS**

An application meeting the eligibility criteria may be rezoned to the PUD District based on the requirements shown in the following table and appropriate requirements contained elsewhere in this Ordinance. The rezoning shall be concurrent with the approval of a preliminary PUD plan. The PUD designation shall be noted in the application and on the Official Zoning Map upon approval.

The Planning Commission shall make a recommendation to the City Council, regarding a list of permitted uses that shall be finalized by the City Council and incorporated as part of the PUD agreement, based upon the provisions of the following table and this Chapter.

<b>TABLE 9.03: PUD DESCRIPTIONS</b>				
<b>PUD District</b>	<b>Minimum PUD Size</b>	<b>Locations Allowed</b>	<b>Permitted Uses</b>	<b>Open Space Required</b>
Residential (RPUD) Standards under <a href="#">SECTION 9.04</a>	5 acres	Where pre-PUD zoning is residential	One-, two-, and multiple-family residential uses, with additional uses as provided in this Chapter.	20%
Mixed Use (MPUD) Standards under <a href="#">SECTION 9.05</a>	None	Where pre-PUD zoning is commercial	Residential, commercial, office, recreational, and additional uses provided in this Chapter.	10%

## **SECTION 9.04      RESIDENTIAL PUD (RPUD) STANDARDS**

- A. The purpose of the RPUD is to promote neighborhood development which provides a variety of housing opportunities in addition to small-scale, local businesses. RPUD developments are intended to integrate pedestrian and cyclist links among neighborhoods and to public facilities.
- B. To encourage flexibility and creativity consistent with the intent of the PUD, the City Council (upon recommendation of the Planning Commission) shall determine appropriate lot dimensions and building and lot requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than fifty percent (50%) of the Zoning District that the use(s) would be placed in without a PUD.
- C. The PUD may also include any Special Land Uses permitted in the underlying zoning district. The list of allowed uses shall be established in the PUD agreement.
- D. Design Standards
  - 1. Public dead-end or cul-de-sac streets are to be discouraged; however, they are acceptable on private streets.
  - 2. Where adjoining areas are not subdivided, the arrangement of streets within the proposed RPUD shall be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
  - 3. The Planning Commission may recommend and the City Council may require that the development provide such amenities as bus stops or bus turnouts.
  - 4. Open space areas shall adhere to the requirements of [SECTION 9.06](#).

## **SECTION 9.05      MIXED USE PUD (MPUD)**

- A. A Mixed Use PUD shall include a mixture of uses that are considered to be consistent with the Master Plan. A minimum of forty percent (40%) of the PUD land area shall be occupied by residential or recreational uses. The list of uses allowed shall be established in the PUD approval.
- B. To encourage flexibility and creativity consistent with the intent of the PUD, the Planning Commission shall make a recommendation and the City Council shall determine the appropriate lot dimensions and building and yard requirements. In no case, however, shall the overall lot dimensions or yard requirements be less than fifty percent (50%) of the Zoning District that the use(s) would be placed in without a PUD.
- C. Site Design Standards
  - 1. The applicant shall demonstrate that the proposed lot dimensions and building and yard requirements shall result in a higher quality of development than would be possible using conventional zoning standards.
  - 2. Dead-end or cul-de-sac streets serving the development are discouraged.

3. Where adjoining areas are not subdivided, the arrangement of streets within the proposed MPUD may be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
4. To encourage a true integration of mixed uses and improved efficiency in land use, the overlap in parking requirements may be permitted between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips.
5. Pedestrian gathering areas or seating plazas, greenways, and tree lined drives shall be located within parking lots and throughout the site to provide an inviting pedestrian environment, protection of pedestrians from vehicular circulation, and improved traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.
6. The Planning Commission may recommend, and the City Council may require, that the development provide amenities such as bus stops or bus turnouts.
7. Open space areas shall adhere to the requirements of [SECTION 9.06](#).
8. Building design shall meet the standards of the underlying District.

D. Driveway Access and Circulation

1. Access may be limited to one (1) major entrance along any major street, excluding any entrance designed solely for truck traffic. Additional access points shall only be considered if spaced at least five hundred (500) feet apart and a traffic impact study is provided to the City of Perry that demonstrates overall traffic operations and safety will be improved.
2. Main access points shall be spaced from existing signalized intersections to ensure proper spacing and efficient flow of traffic if the main access point might be signalized in the future.
3. The site design shall direct traffic flow to use the main access points. Stacking or queuing depth at site access points shall be sufficient to accommodate expected peak hour volumes without conflict to inbound or internal circulation. Interior drives shall provide adequate circulation between uses.
4. Additional road right-of-way may be required by the City of Perry to accommodate improvements to the existing arterial roadway system that are planned or required to mitigate traffic associated with the PUD.

**SECTION 9.06      OPEN SPACE REQUIREMENTS FOR ALL PUDS**

A. All PUDs shall meet the following requirements for open space.

1. Designated open space shall be set aside through an irrevocable conveyance, approved by the City Attorney, such as a recorded deed restriction, covenants that run perpetually with the land, a conservation easement, or dedication to a



land trust. The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further use of open space for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require City Council approval, and shall not diminish compliance with the requirements of this Chapter.

2. Nothing herein shall prevent the conveyance of open space to a public agency or other nonprofit entity for recreational or conservation use.
3. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.
4. The open space and access to it shall be permanently marked and designed so individuals in the development need not trespass to reach recreational or common open spaces.
5. The following land areas shall not be included or counted as dedicated open space for the purposes of meeting minimum open space requirements:
  - a) Area proposed as residential lots.
  - b) Area proposed to be occupied by multiple family dwellings, including the minimum required setbacks around buildings.
  - c) The area of any street right-of-way or private street easement.
  - d) Surface water, detention or retention basins, unless designed to have the appearance of a natural wetland, in which case they may be counted for up to fifty percent (50%) of the required open space.
  - e) Parking and loading areas except those exclusively associated with a recreation facility or common open space area.
  - f) Any river or stream.
  - g) Any other undeveloped areas not meeting the intent and standards for open space stated in this section, as determined by the Planning Commission.
6. On-site common open space shall be planned in locations visible and accessible to all in the development. The Planning Commission shall determine if the proposed open space is usable and functional. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent uses, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
  - a) Any significant natural features.

- b) At least one-third (1/3) of the required common open space shall be usable open space for the residents of the development.
- c) Open space, except for where trails and bike paths are located, shall have minimum dimensions of one hundred (100) feet on any side.
- d) Where an open space preservation development abuts a body of water, at least fifty percent (50%) of the shoreline, as well as reasonable access to it, shall be a part of the common open space land.
- e) A minimum twenty-five (25) foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the City Council may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
- f) Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space developments shall be constructed to allow future interconnection.

## **SECTION 9.07      PUD REVIEW PROCESS**

- A. Pre-Application Meeting
  - 1. An applicant for a Planned Unit Development shall attend a pre-application meeting with staff members, or consultants if the Zoning Administrator deems advisable. This pre-application meeting shall not constitute a quorum of the Planning Commission.
  - 2. The purpose of the pre-application meeting is to determine general compliance with PUD eligibility and design requirements, and to identify issues of significance regarding the proposed application.
  - 3. If the applicant proceeds with the PUD application, a report on the findings of the pre-application meeting shall be forwarded to the Planning Commission by the Zoning Administrator.
- B. The applicant shall prepare and submit to the City a [PUD Application](#) to the appropriate PUD designation, including appropriate fees, ten (10) copies of a preliminary PUD site plan meeting the requirements of [CHAPTER 14](#), and a narrative which details how the plan relates to the Intent and purpose of the PUD District, phases of development, and approximate time frames for each phase. Materials shall be submitted at least forty-five (45) days prior to the meeting at which the Planning Commission shall first review the request.
- C. During the PUD review process, the Zoning Administrator may recommend, and the City Council or Planning Commission may require additional information from the applicant it determines is reasonably necessary to demonstrate compliance with the review standards of this Chapter. This information may include, but not be limited to, soil reports, hydrological tests, traffic studies, or wetland determinations.

- D. In addition to the pre-application meeting, a workshop may be required by the Planning Commission, or, if not required, the workshop may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal.
- E. The Planning Commission shall review the PUD rezoning request, the preliminary PUD site plan and conduct a public hearing in accordance with the requirements of the Zoning Act, and the public hearing shall be preceded by public notice as specified [SECTION 17.09](#).
- F. The Planning Commission shall review the preliminary PUD site plan in consideration of public hearing comments, technical reviews from City staff, and other comments from consultants and applicable review agencies, and compliance with the standards and requirements of this Ordinance. The Planning Commission shall make a recommendation to the City Council to approve, approve with conditions, or deny the PUD rezoning request and preliminary site plan.
- G. The recommendation to the City Council shall be based on the following standards:
  - 1. The PUD shall satisfy the Statement of Purpose of [SECTION 9.01](#).
  - 2. The PUD shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area. Architecture should provide coordinated and visually appealing styles, building forms and building relationships.
  - 3. The PUD shall be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage systems, water supply and sewage facilities.
  - 4. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
  - 5. The design of the PUD shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation, access location and design, circulation, roadway capacity, traffic operations at proposed access points and nearby intersections.
  - 6. Natural features shall be preserved, insofar as practical, by removing only those areas of natural vegetation or making those alterations to the topography which are reasonably necessary to develop the site.
  - 7. Natural drainage ways shall be preserved insofar as practical, by minimizing grading, tree and soil removal in and adjacent to natural drainage swales.
  - 8. Slopes of over fifteen percent (15%) are protected and maintained in a natural state.
  - 9. The proposed PUD shall not have an unacceptable significant adverse effect on the quality of the natural features in comparison to the impacts associated with a conventional development.

10. The proposed development shall not have an adverse impact on future development as proposed in the Master Plan of the City of Perry.
  11. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the Zoning Ordinance.
  12. The proposed development shall adequately consider pedestrian and cyclist safety and circulation, and tie sidewalks, paths and trails into public facilities and adjoining properties.
- H. Following receipt of the Planning Commission’s recommendation, the preliminary PUD site plan shall be considered by the City Council.
- I. If the application and associated site plan review packet is determined to be insufficient, does not fully respond to Planning Commission issues, or more information is required, the City Council may direct the applicant to prepare additional information, revise the PUD plan, or direct the City staff or consultants to conduct additional analysis. The application shall not be considered until the information has been submitted.
- J. If the City Council believes there is new information that might modify the recommendation of the Planning Commission or if the City Council does not follow the recommendation of the Planning Commission, the application may be returned to the Planning Commission for the Planning Commission’s reconsideration. The Planning Commission shall provide a new recommendation to the City Council within sixty (60) days after the City Council’s referral. No additional public hearings are required by the Planning Commission.
1. The City Council shall also hold a public hearing on the PUD rezoning request and the preliminary PUD site plan and shall provide public notice as specified in [SECTION 17.09](#).
  2. Approval or Approval with Conditions
    - a) Upon determination that a PUD and site plan request is in compliance with all of the standards and requirements of this Ordinance and other applicable City ordinances and laws, the City Council shall approve the PUD rezoning and the preliminary PUD site plan.
    - b) The City Council may impose reasonable conditions with the approval of a PUD. Conditions of any approval are attached to the land and will remain through subsequent owners. The applicant shall submit to the City a revised PUD site plan that demonstrates compliance with the conditions.
    - c) Approval of the PUD shall constitute approval of the rezoning and the Zoning Map shall be changed to indicate the zoning of the property to the appropriate PUD District.
  3. Denial: Upon determination that a PUD rezoning or site plan does not comply with all standards and regulations set forth in this Ordinance or other City of Perry ordinances, or requires extensive revision in order to comply with the applicable standards and regulations, the City Council shall deny the PUD application. Re-submittal of a denied application shall be considered a new application.

## **SECTION 9.08      FINAL APPROVAL**

- A. Final PUD site plans shall be submitted to the City for review and approval in accordance with the Site Plan Review provisions in [CHAPTER 14](#) of this Ordinance. If final PUD site plans for at least the first phase of the project are not submitted and approved within a two (2) year period from the approval of the PUD rezoning, the right to develop under the approved PUD preliminary site plan shall terminate and a new application must be filed.
- B. In reviewing a final PUD site plan, the following standards and requirements shall apply:
  - 1. Final PUD site plans shall be in substantial conformance with the approved PUD preliminary plan.
  - 2. Each final PUD site plan shall either individually or in combination with previously approved contiguous project areas, meet the standards of this Chapter and the approved PUD preliminary plan regarding layout, density, open space and land use.
  - 3. Each final PUD site plan submission shall include a map illustrating the site or phase in relation to previously approved plans and the overall PUD.
  - 4. Any requested amendment to the approved Agreement, as provided for in [SECTION 9.11](#), shall be submitted for review by the City Attorney and must be approved by the City Council.

## **SECTION 9.09      TIME EXTENSIONS**

The two (2) year time period for the validity of the preliminary PUD approval may be extended for one (1) year, if applied for in writing through the Zoning Administrator by the petitioner prior to the expiration of the PUD preliminary plan approval, and granted by the City Council, provided that the reasons for the delay are beyond the general control of the applicant.

## **SECTION 9.10      REVISIONS TO APPROVED PUD PLANS**

- A. The Zoning Administrator may approve certain minor deviations to an approved PUD site plan when an applicant or land owner who was granted PUD site plan approval notifies the Zoning Administrator of the proposed amendment to the approved PUD site plan in writing, accompanied by a PUD site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.
- B. Within fourteen (14) days of receipt of a request to amend the site plan, the Zoning Administrator shall determine whether the change is major, warranting review by the Planning Commission, or minor, allowing administrative approval, as noted below.
- C. The Zoning Administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the Agreement, would not reduce the area devoted to open space, and all applicable regulations of this Ordinance will still be met. The Zoning Administrator shall inform the Planning Commission and City Council of the approval in writing.

- D. The Zoning Administrator shall consider the following when determining a change to be minor:
1. For residential buildings, the square footage of structures may be reduced or increased by ten percent (10%) of the originally approved area, provided the overall density of units does not increase, the minimum square footage and parking requirements are met, and the building(s) do not extend into any required open space or required setback.
  2. Gross floor area of non-residential buildings may be decreased; or increased by up to ten percent (10%) or two thousand (2,000) square feet, whichever is smaller, of the originally approved area, provided parking requirements are met and the building does not extend into any required open space or required setback.
  3. Floor plans may be changed if consistent with the character of the use.
  4. Relocation of a building by up to five (5) feet, if consistent with required setbacks, open space and other requirements.
  5. Height of buildings may be lowered.
  6. Designated woodlands or areas not to be disturbed may be increased.
  7. Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any trees shown as preserved on the final site plan and subsequently lost during construction shall be replaced at the equivalency of a caliper-per-caliper basis on the site.
  8. Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate.
  9. Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the Building Official.
  10. Grade change of up to two (2) feet, after review by the City Engineer.
  11. Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved PUD plan.
  12. Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
  13. Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan.
  14. Changes required or requested by the City, county or state for safety reasons.

- E. Where the Zoning Administrator determines that a requested amendment to the approved site plan is major, re-submittal to the Planning Commission shall be required. Should the Planning Commission determine that the modifications are inconsistent with the approved preliminary PUD site plan, a new preliminary PUD site plan shall be submitted according to the procedures outlined in this Chapter as a new application. In all cases, a change in use to a more intensive use than approved in the preliminary PUD plan shall be considered major and require submission of a new preliminary PUD site plan for review and approval by the City.
- F. Decisions granting PUD approval or denial or any PUD regulatory modifications are not subject to variance or other approval of the Zoning Board of Appeals. No part of a PUD may be appealed to the Zoning Board of Appeals nor shall an application for a variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance for that particular lot following final approval of the PUD, provided the variance does not involve alterations to open space areas as shown on the approved PUD site plan or a matter expressly addressed in the PUD or site plan approval and otherwise meets the review standards applicable to variances in this Ordinance.

## **SECTION 9.11      DEVELOPMENT AGREEMENT**

- A. Prior to any site preparation or the issuance of any zoning approval permit, the applicant shall submit a proposed PUD Development Agreement stating the conditions upon which PUD approval is based, for review and approval by the City. The Agreement, after review by the City Attorney and Planning Commission, and approval by the City Council, shall be entered into between the City of Perry and all landowners and be recorded with the County Register of Deeds.
- B. At a minimum, the Development Agreement shall provide:
  - 1. A certified boundary survey of the acreage comprising the proposed development.
  - 2. Proof of property control and the manner of ownership of the developed land and the manner of the ownership and of dedication common areas in additions to a mechanism to protect any designated common open areas.
  - 3. Satisfactory provisions to provide a performance guarantee for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development.
  - 4. Provisions to ensure adequate protection of natural features.
  - 5. A copy of the approved preliminary PUD site plan signed by the applicant and the Mayor or appointed designee.
  - 6. Such other matters as are required by the City of Perry.

**SECTION 9.12      PERFORMANCE GUARANTEES**

The City Council may require one or more performance guarantees in accordance with [SECTION 17.04](#) to insure compliance with the approved PUD.



## **CHAPTER 10 NATURAL FEATURES OVERLAY DISTRICT**

### **SECTION 10.01     STATEMENT OF PURPOSE**

The City recognizes the fragility and benefits of certain natural features within its boundaries, such as wetlands, marshes, bogs, streams, inland lakes, ponds, and drains. These features help regulate storm water drainage, water quality, control erosion and sediment deposition, as well as provide for wildlife and plant habitat. The City has established the NFO Natural Features Overlay District in an effort to help preserve these environmental features and the benefits that they provide.

### **SECTION 10.02     DELINEATION OF THE NATURAL FEATURES OVERLAY DISTRICT**

- A. The Natural Features Overlay District shall overlay existing Zoning Districts delineated on the Official City of Perry Zoning Map. The term “Natural Features” as used in this Ordinance shall mean the Natural Features Overlay District and shall regulate the designated natural features.
- B. When a development approval is requested for any use requiring site plan review (e.g., multi-family development, planned unit development, site condominium, etc.), the location of the Natural Feature Overlay District boundary shall be determined as follows:
  - 1. The City shall be provided with accurate topographic data for the site in addition to information addressing management of natural features in the area. The submitted information shall be sealed by a registered civil engineer.
  - 2. The City Engineer shall advise the City regarding the submitted site information and whether or not relocating the district boundary on the piece of property will negatively affect the preservation of the natural features present on the subject property or for adjacent properties.
- C. In addition to other requirements of this Ordinance applicable to development in the underlying Zoning District, compliance with the requirements of this Chapter shall be necessary for all development occurring within the Natural Features Overlay District. Conflicts between the requirements of this Chapter and other requirements of this Ordinance or any other Ordinance shall be resolved in favor of this Chapter, except where the conflicting requirement is more stringent and would further the objectives of this Chapter. In such cases, the more stringent requirement shall be applied.

### **SECTION 10.03     PERMITTED PRINCIPAL USES**

Notwithstanding any other provisions of this Ordinance, no building or structure shall be erected, expanded, converted, or structurally altered, and no land and/or structure shall be used in the Natural Features Overlay area except for one or more of the following uses:

- A. Farming, gardening, and horticulture;

- B. Open recreational uses such as parks, playgrounds, playfields, athletic fields, golf courses, bridle paths and nature paths; or
- C. In the area within Natural Features Overlay District, land may be used to supply open space or lot area requirements of a lot partially located outside, provided, however, no building or structure shall be located directly in any area designated as a Natural Feature.

**SECTION 10.04      ACCESSORY USES OF PRINCIPAL AND SPECIAL LAND USES**

- A. Within the Natural Features Overlay District, off-street parking is permitted as a use accessory to a main use provided no fill is brought to the site for such parking areas.

**SECTION 10.05      USES REQUIRING SPECIAL LAND USE PERMIT**

The following uses are allowed in the Natural Features Overlay District when approved as a Special Land Use pursuant to the procedures described herein and as provided in [CHAPTER 15](#) (Special Land Uses):

- A. In the area within the Natural Features Overlay District, dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of a natural feature, the flow and impoundment capacity of any water features are maintained or improved, and unless all applicable state regulations are met.

**SECTION 10.06      DEVELOPMENT STANDARDS**

- A. Natural resource buffers or greenbelts shall be required around natural features located on site. These buffers will help ensure that no damage, impairment, or other intrusion occurs to the natural habitat and that contaminants or pollutants do not degrade or destroy these areas.
  - 1. A twenty five (25) foot undisturbed greenbelt shall be preserved around the boundary of any federally or State regulated wetland and all other flagged wetlands which are intended to remain onsite and from the ordinary high water mark (or designated flood area) of any inland lake or pond, streams, creeks, or drains (improved or unimproved). These areas shall be conspicuously noted on the site plan and before any land clearing activities are commenced, the developer shall erect and maintain a suitable barrier between such environmental feature greenbelt and lands which are intended to be cleared.
  - 2. There shall be no construction, removal, or deposit of any structures or soils, including dredging, filling, or land balancing within a required natural resource greenbelt.
  - 3. These requirements may be modified by the regulating Federal, State or County agency.

**SECTION 10.07      OFF-STREET PARKING AND LOADING**

See parking requirements of the respective uses in the underlying zoning district.

**SECTION 10.08      ALTERATION OF WATERCOURSES**

No alteration of any watercourse in the Natural Features Overlay District shall be undertaken unless and until neighboring communities and the Michigan Department of Natural Resources and the Environment (or successor agency) shall have first been notified and provided with detailed plans and specifications prepared by a registered engineer. Such plans shall show full compliance with local ordinances, state statutes, state regulatory agencies, and federal regulations and shall make provisions for maintaining the full carrying capacity of the altered watercourse.

# CHAPTER 11 MOBILE HOME PARK DISTRICT

## **SECTION 11.01    INTENT AND PURPOSE**

The purpose of this District is to allow for the establishment of manufactured home communities and related accessory uses. A mobile home shall comply with all applicable procedures and requirements of the Manufactured Home Commission Act, 419 of 1976, as amended, and the Michigan Administrative Code.

## **SECTION 11.02    TABLE OF USES**

A. The following abbreviations apply to the Table of Uses for the MHP District:

P: Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU: Special Land Use: The following uses may be allowed by obtaining Special Land Use approval when all applicable standards in [CHAPTER 15](#) are met.

B. For any uses not specified in [TABLE 11.02](#), The Zoning Administrator shall determine the permissibility of the use in accordance with similar listed uses.

**TABLE 11.02: TABLE OF USES FOR MOBILE HOME PARKS**

Use	MHP
Accessory structures, subject to <a href="#">SECTION 3.14</a>	P
<a href="#">Convalescent or nursing home</a>	SLU
Elementary, middle and secondary schools (private)	SLU
Home occupations subject to <a href="#">SECTION 3.15</a>	P
<a href="#">Mobile homes</a>	P
Parks, playgrounds and City centers	P
<a href="#">Places of religious worship</a>	SLU
Public and utility service buildings	SLU
Utility substations, transmission lines and switching stations	SLU
Wireless communication towers	SLU
Wireless communications antenna when attached to a lawful existing telecommunications tower, water tower, or other existing structure, subject to District height restrictions	P

**SECTION 11.03 DEVELOPMENT REQUIREMENTS**

Application and review requirements for the MHP District shall be the same as those required for Site Plan Review in [CHAPTER 14](#). No application shall be accepted unless in compliance with all of the listed requirements, unless specifically waived by the Zoning Administrator.

**SECTION 11.04 LOT, YARD AND BUILDING REQUIREMENTS**

**TABLE 11.04: DIMENSIONAL STANDARDS FOR MOBILE HOME PARKS**

Regulations for Manufactured Homes*		
Mobile Home Park	Minimum lot size required for the development	40 acres
Industrial Manufactured Home Site	Area/Dwelling Unit	5,000 sq. ft.
	Width (ft.)	40 ft.
Minimum Setback Requirements (Residential Uses)*	Front Yard	50 ft. for the park, 5 ft. for individual sites
	Side Yard (individual / total)	50 ft. for the park, 10 / 30 ft. for individual sites
	Rear Yard	50 ft. for the park, 15 ft. for individual sites
Building Requirements	Maximum Building Height (Stories/ft.)	2 stories / 35 ft. for City buildings; 1 story / 15 ft. for dwellings and all other buildings
	Minimum Floor Area Per Dwelling Unit	980 sq. ft.

\*All other uses shall have a minimum front and rear yard setback of forty (40) feet and side yard setbacks of twenty (20) feet.

## **SECTION 11.05      PARKING REQUIREMENTS**

**TABLE 11.05: PARKING REQUIREMENTS FOR MOBILE HOME PARKS**

<b>Use</b>	<b>Parking Requirement Spaces per Unit of Measurement</b>
<b>Residential</b>	
Manufactured home	2 spaces per manufactured home site, plus 1 space per each 5 home sites for use of visitors, plus 1 space for each 300 sq. ft. UFA in the office area
<b>Non-Residential</b>	
Convalescent homes, nursing homes	1 per each 3 beds or 2 rooms, plus 10 spaces marked for visitors
Park, playground and City center	10 per each athletic field, plus 1 per each 10 sq. ft. of indoor or outdoor play area
Places of religious worship	2 per each 5 seats based on the maximum seating capacity of the main place of assembly up to 2,500 persons
Schools (private)	See <a href="#">TABLE 8.04</a>
Wireless communications tower	1 space per tower

**A.      Location of parking**

1.      **Manufactured Home:** The off-street parking facilities required for a single home site shall be located on the same lot as the dwelling unit they are intended to serve. Parking is limited to the garage/carport and driveway only. Required parking spaces provided for visitors shall be evenly distributed throughout the development.
  
2.      **Non-residential Uses:** The off-street parking facilities required for non- residential uses shall not be located in the required front yard area. The respective side and rear yard setback common to an adjacent Residential District or use shall be a minimum of thirty (30) feet, of which ten (10) feet nearest the respective property line shall be developed as a buffer strip in accordance with SECTION 13.04. The buffer strip shall extend the entire depth of the side of the lot in the case of the side yard parking adjoining the Residential District or use, or the width of the rear of the lot in the case of rear yard parking adjoining the Residential District or use. The required buffer strip shall incorporate a minimum six (6) foot high vertical screen.

## CHAPTER 12 INDUSTRIAL DISTRICTS

### **SECTION 12.01    INTENT AND PURPOSE**

The I-1 Light Industrial District is intended primarily for light industrial uses which do not generate hazardous materials. The district is established to accommodate wholesale activities, warehouses and industrial operations which manufacture, compound, process, package, treat, and/or assemble products from previously prepared materials.

The I-2 General Industrial District is designed for manufacturing, assembling, and fabrication activities, including large scale or specialized industrial operations, whose external physical effects may be felt to some degree by surrounding districts. The I-2 District is so structured to permit manufacturing, compounding, and processing from raw materials.

### **SECTION 12.02    TABLE OF USES**

A.     The following abbreviations apply to the Table of Uses:

P:     Permitted Use: Land and/or buildings in this District may be used for the purposes listed by right.

SLU:   Special Land Use: The following uses may be allowed by obtaining Special Land Use approval when all applicable standards cited in [CHAPTER 15](#) are met.

NP:    Not Permitted: The use is not permitted in the District.

B.     For any uses not specified in [TABLE 12.02](#), The Zoning Administrator shall determine the permissibility of the use in accordance with similar listed uses.

**TABLE 12.02: TABLE OF USES FOR INDUSTRIAL DISTRICTS**

All of the included uses for I-1 and I-2 uses include the production, processing, cleaning, testing, repair, storage, and distribution of materials, goods, foodstuffs, and products not involving a retail activity for said uses, all of which uses shall comply with the requirements specified in this ordinance.

Use	I-1	I-2
Accessory structures and uses subject to <a href="#">SECTION 3.14</a>	P	P
Asphalt, cement or chemical plants	NP	P
Assembly of paperboard containers, building paper, building board, and bookbinding	NP	P
<a href="#">Automobile repair garages and collision services</a>	SLU	P
Billboards	NP	NP
Data processing and computer centers	P	P
Heating and electric power generating plants	NP	P
Laboratories including experimental, film, and testing	P	P

Lumber and wood products including millwork, prefabricated structural wood products and containers	SLU	P
Manufacturing facilities	P	P
Metal fabrication and tool and die manufacturing	NP	P
Mobile home park, subject to <a href="#">CHAPTER 11</a>	P	P
<b>Use</b>	<b>I-1</b>	<b>I-2</b>
Production of food products including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionary, beverage and kindred foods	P	P
Motor freight transportation/trucking terminal	SLU	P
Parks and recreational facilities	P	SLU
Research and design centers (enclosed)	P	P
Sales as part of an industrial operation	P	P
Saw mills	SLU	P
Self-storage facilities	P	P
Water or sewer treatment plants, reservoirs, other municipal buildings	P	P
Wholesale establishments distributing goods including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products and warehousing	P	P

**SECTION 12.03      LOT, YARD, AND BUILDING REQUIREMENTS**

**TABLE 12.03: DIMENSIONAL STANDARDS FOR INDUSTRIAL DISTRICTS**

Requirements		I-1	I-2	
Minimum Lot Requirements	Area	20,000 sq. ft.	40,000 sq. ft.	
	Width	100 ft.	200 ft.	
	Maximum width-to-depth ratio	1:3	1:3	
	Maximum Lot Coverage	75%	75%	
Minimum Setback Requirements	Front	30 ft., 15 ft. of which shall be landscaped	30 ft., 15 ft. of which shall be landscaped	
	Side	General	10 / 20 ft.	10 / 25 ft.
		Adjacent to Residential District	25 / 50 ft.	25 / 50 ft.
	Rear	25 ft.	30 ft.	
Building Requirements	Maximum Height	50 ft.	75 ft.	



Design Requirements	See Industrial Park Restrictive Covenants adopted by the City of Perry for Design Requirements
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**SECTION 12.04      PARKING REQUIREMENTS**

- A.     Parking areas adjacent to the street and adjacent to residential uses or zones shall be a minimum of thirty (30) feet from side and rear property lines, fifteen (15) feet of which shall be developed as a buffer zone for the entire length of the parking area. The buffer shall commence from a sidewalk for the entire length of the parking area and shall comply with the standards of [SECTION 13.04](#) of the ordinance. As an alternative, the Planning Commission may approve a three (3) foot high wall in a five (5) foot buffer.
  
- B.     The amount of required off-street parking spaces for individual uses shall be determined in accordance with the following table and shall meet the dimensional requirements of [SECTION 13.05](#), in addition to all lighting, loading spaces and landscaping standards of [CHAPTER 13](#).

**TABLE 12.04: INDUSTRIAL PARKING REQUIREMENTS**

<b>Use</b>	<b>Minimum Parking Requirements</b> (Spaces per unit of measurement; GFA = Gross Floor Area, UFA = Usable Floor Area)
Accessory office areas related to main uses	1 space per each 300 sq. ft. of UFA
All other industrial uses	1 space for each 1,000 sq. ft. of GFA or 1 space for every employee on the largest shift (whichever is greater) plus those spaces required for offices located on the premises



## CHAPTER 13 DEVELOPMENT STANDARDS

### **SECTION 13.01 PRIVATE STREETS**

Private Road Review and Development Process:

- A. Private streets are permitted in all zoning districts for residential uses only, subject to the design, construction, and maintenance standards of this section.
- B. Private streets shall be approved by the Planning Commission through the site plan review process and shall include construction specifications for the streets.
- C. Design Standards for private streets shall meet all of the standards of the following table:

**TABLE 13.01: DESIGN STANDARDS FOR PRIVATE STREETS**

Lots Served	1-3	4-15
Right-of-way width	66 ft. (Need not be cleared)	66 ft. (Need not be cleared)
Width of traveled surface (centered)	12 ft. Paved	20 ft. paved
Base	Minimum, 4 inches of 98% compacted MDOT 22A aggregate	Minimum, 4 inches of 98% compacted MDOT 22A aggregate
Maximum grade	7%	7%

- D. Any lot created with frontage on both a public road and private street shall have its driveway access only off the private street.
- E. Regulation Michigan State Highway stop signs shall be positioned and installed in accordance with the Michigan State Manual of Uniform Traffic Control Devices on all private streets.
- F. The private street shall be constructed with such storm water runoff, culverts, and drainage contours as is required by the City to ensure adequate drainage and runoff.
- G. Private streets in excess of two hundred (200) feet in length shall provide a turnaround area for emergency vehicle access.
- H. Water and sewer easements shall be provided as part of the private street approval process.
- I. The private street shall be given a name and road signs shall be installed in accordance with the standards and approval of the City. Private streets shall have a standard stop sign where the private street abuts any public road and/or where two or more private streets abut.

- J. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the City Engineer and any other agency having jurisdiction thereof.
- K. Cul-de-sac or dead end streets are strongly discouraged.
- L. Dwelling addresses shall be posted in a conspicuous place at the drive entrance of each parcel and at the entrance of the private street.
- M. All private streets shall have names approved by the proper county office.
- N. All private streets shall be under the control of an approved and recorded road maintenance agreement and deed restrictions which provide for the perpetual maintenance of such roads and/or easements to a necessary and reasonable standard to serve the several interests involved. These documents shall be subject to review and approval by the City Attorney before recording and shall contain the following provisions:
  - 1. Method of initiating and financing of such street and/or easements in order to keep the road in a reasonably good and usable condition.
  - 2. A workable method of apportioning the costs of maintenance and improvements.
  - 3. An authorization that if repairs and maintenance are not made, the City Council may exercise a special assessment district to bring the street up to the design standards specified in this Ordinance and assess owners of parcels on the private street for the improvements, plus an administrative fee.
  - 4. A notice that no public funds of the county or City are to be used to build, repair or maintain the private street unless the special assessment district is created.
  - 5. Such other language as is required by the City of Perry.
- O. All private streets shall be continuously maintained in a way that they are readily accessible to and usable by emergency vehicles in all types of weather.

**SECTION 13.02      DUMPSTERS AND SITE LIGHTING**

- A. Dumpsters
  - 1. Outdoor trash containers or dumpsters exceeding one hundred and fifty (150) gallons in capacity shall be permitted only in the Nonresidential Districts and for multiple family uses, provided that they comply with this section, except that these structures may be permitted for reasonable periods on any properties undergoing construction activities. The placement of the container shall be included in the submitted site plan.
  - 2. Adequate vehicular access shall be provided to the containers for truck pickup either via a public alley or vehicular access aisle that does not conflict with the use of off-street parking areas or entrances to or exits from main buildings.

3. A solid, ornamental screening wall or fence shall be provided around all sides of the containers. An access gate shall also be provided and be of the height that completely screens the containers. The maximum height of walls, fence or gate shall be six (6) feet.
  4. The container or containers, the screening walls, fence and gate shall be maintained in a neat and orderly manner, free from loose rubbish, wastepaper and other debris.
- B. Site Lighting
1. Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from any residential use.
  2. Light fixtures shall be no higher than thirty (30) feet and shall be provided with light cut-off fixtures that direct light downward.
  3. Lighting attached to buildings or other structures shall not permit light to be directed horizontally.
  4. Lights used for canopies for uses such as vehicle service stations, drive-in establishments and other similar uses shall be completely recessed in the canopy structure and shall not extend lower than the underside surface of the canopy.

### **SECTION 13.03 GREENBELTS, BUFFERS AND LANDSCAPING**

- A. It is the intent of this Ordinance to protect existing site vegetation as a means of retaining City of Perry character. Significant site vegetation, including landmark trees shall be protected as much as practical and noted for protection on the site plan. If existing plant material is labeled "to remain" on a site plan by the applicant or is required by the City, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed prior to grading and construction activities. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved.
- B. The purpose of greenbelts is to provide physical and visual separation between potentially incompatible uses.
- C. A required greenbelt shall be a strip at least fifteen (15) feet in width. The greenbelt shall have a minimum of (1) evergreen tree, of at least five (5) feet in height for every ten (10) feet of length of the greenbelt. The greenbelt shall be situated to provide an effective sound and visual permanent buffer. Protected vegetation may be considered in lieu of the evergreen quota. The Planning Commission may alter plant material requirements or may require additional landscaping, berms, wall or a stockade fence in addition to the greenbelt area, in order to provide an effective screen.
- D. Greenbelt and landscaping materials shall contain groundcover and live materials. Pavement gravel or other hard surfaces are not considered landscaping.
- E. Any plant materials required as part of the greenbelt which die shall be replaced by the property owner.

- F. The City of Perry may require a performance guarantee, per [SECTION 17.04](#), to ensure the installation of required landscaping.
- G. For public, commercial, and industrial uses, the required front yard shall have a minimum of one (1) canopy tree of at least 11/2 inches in diameter 4-feet off the ground for every ten (10) feet of frontage.
- H. Ornamentals, shrubbery and perennials shall also be creatively placed in setbacks (including the side and rear setbacks) to accentuate the site (not necessarily to serve as a buffer). Landscaping should be placed to:
  - 1. Define cross-access easements, pedestrian ways and outdoor amenities like seating.
  - 2. Serve as windbreaks where warranted.
  - 3. Provide shade for parking areas.
  - 4. Break up large expanses of building walls without windows.
  - 5. Provide for long term viability (for example, so as not to block the view of on-site signs in the future).
- I. The owner or occupant of property that is required to be landscaped by this Ordinance shall at all times maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced promptly.

#### **SECTION 13.04      LOCATION OF PARKING**

The off-street parking required by this Chapter shall be provided in accordance with the following requirements.

- A. Multiple Dwellings. The off-street parking facilities for multi-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot as defined elsewhere in this Chapter. In no event shall any uncovered parking space for any multiple-family dwelling be located nearer than ten (10) feet to any main building.
- B. Manufactured Housing Communities. The off-street parking required may be located on each manufactured home site or in parking lots conveniently located and readily accessible to each site. Parking spaces shall meet the minimum area requirements as outlined in this Chapter.
- C. Other Land Uses. The off-street parking required may be located on each site or in parking lots within three hundred (300) feet of and readily accessible to each site.

## **SECTION 13.05      PARKING LOT REQUIREMENTS**

- A. All parking facilities, access driveways, and business and industrial parking areas shall be constructed of a durable and dust-free surface. Such facilities shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued, unless a performance guarantee has been submitted in accordance with the procedures of [SECTION 17.04](#).
- B. In all Zoning Districts, the pavement surfacing of the portion of any driveway between the right-of-way, and the edge of the roadway surface shall be hard surfaced with a pavement having an asphalt or concrete binder, if the roadway is also hard surfaced with a pavement having an asphalt or concrete binder.
- C. Illumination for all parking lots in commercial and industrial districts, non-residential uses, and multiple family developments and shall meet the following standards:
  - 1. All lighting shall be directed away from, and if necessary shall be shielded to prevent the shedding of light onto adjacent properties or roadways.
  - 2. Light poles used to illuminate parking lots or storage areas shall be limited to twenty-five (25) feet in height.
  - 3. Lights used for canopies for uses such as vehicle service stations, drive-in establishments and other similar uses shall be completely recessed in the canopy structure and shall not extend lower than the underside surface of the canopy.
  - 4. Lighting of parking areas, buildings, or structures shall be minimized to reduce light pollution and preserve the rural character of the City of Perry.
  - 5. The source of illumination in all parking lots abutting a residential district or use shall not be higher than twenty-five (25) feet above the parking lot surface.
  - 6. No parking lot shall be illuminated by means of lighting attached to buildings or other structures that permit light to be directed horizontally.
- D. When a non-residential parking lot is situated on a parcel which adjoins, or is directly across a roadway from a Residential District, the parking lot shall be set back twenty-five (25) feet, excluding any drives, from the property line or right-of way line, unless a greater setback is required by any other provision of this Ordinance. Such yard shall contain a greenbelt, as specified in [SECTION 13.03](#), abutting the parking lot and designed to effectively screen the parking from neighboring residential districts and uses.
- E. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Such drives shall be located so as to minimize traffic conflicts with adjoining uses and roadways.
- F. Wheel stops shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines, or over a sidewalk. Such devices shall be securely anchored into the parking lot to ensure that they remain stationary.



- G. Plans for the layout of off-street parking facilities shall be in accordance with the parking space dimensions of this Ordinance. The minimum parking space dimensions for a layout not provided for in the regulations shall be ten (10) feet in width, eighteen feet in length.

**TABLE 13.05: DIMENSIONAL STANDARDS FOR PARKING**

Parking Pattern	Aisle Width		Parking Space		Total Width Two Tiers of Spaces Plus Maneuvering Lane	
	Two-Way	One-Way	Width <sup>1</sup>	Length <sup>2</sup>	One-Way	Two-Way
Parallel Parking	18 ft.	12 ft.	9 ft.	25 ft.	30 ft.	36 ft.
30-75 degree angle	24 ft.	12 ft.	9 ft.	21 ft.	48 ft.	60 ft.
76-90 degree angle	24 ft.	15 ft.	9 ft.	20 ft.	55 ft.	64 ft.

<sup>1</sup> Measured perpendicular to the longitudinal space centerline.

<sup>2</sup> Measured along the longitudinal space centerline.

**SECTION 13.06 BARRIER FREE PARKING**

In addition to the parking required for passenger vehicles as set forth in [SECTION 13.05](#), off-street barrier-free parking facilities shall be designed in accordance with the State and/or Federal standards, whichever is more restrictive.

**SECTION 13.07 PARKING LOT PLANS**

Plans for the development, expansion or reconfiguration of any parking lot shall be submitted and approved, in conformance with the site plan review requirements of [CHAPTER 14](#).

The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance. Such construction shall be reviewed and approved by the Zoning Administrator and the Building Inspector before actual use of the property as a parking lot may commence and before a Certificate of Occupancy is issued.

**SECTION 13.08 OFF-STREET LOADING REQUIREMENTS**

On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the same lot with such building or addition, 1) an area or means adequate for maneuvering and ingress and egress for delivery vehicles; and 2) off-street loading spaces in relation to floor areas as follows:

- A. Up to twenty thousand (20,000) square feet = one (1) space required.
- B. Twenty thousand (20,000) square feet or more, but less than fifty thousand (50,000) square feet = two (2) spaces required.

- C. One (1) additional space for each additional fifty thousand (50,000) square feet or fraction thereof.
- D. Loading spaces shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.
- E. All loading spaces shall be at least ten (10) feet by fifty (50) feet, or a minimum of five hundred (500) square feet in area. A minimum fourteen (14) foot clearance height shall be provided.
- F. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.
- G. All dedicated loading spaces shall be provided with a pavement having an asphalt or concrete binder so as to provide a permanent, durable and dustless surface.

**SECTION 13.09 DEFERRED PARKING**

If an applicant demonstrates that the required amount of Parking Spaces is excessive, the Planning Commission may defer construction of a portion of the required Parking Spaces for nonresidential uses if the following conditions are met:

- A. Areas shown for deferred parking shall be shown on a site plan and shall be sufficiently large to permit the construction of the total number of Parking Spaces required by this Chapter. Such areas shall not be used for any other purpose required by this Ordinance and shall be kept open.
- B. Alterations to the deferred Parking Area to add Parking Spaces may be initiated by the owner or the Zoning Administrator based on parking needs. Parking Spaces shall be added in accordance with the approved site plan; further approval of the site plan shall not be required.
- C. Deferral of a portion of the otherwise required Parking Area shall not eliminate the need for the owner to comply with all other requirements of this Ordinance.

**SECTION 13.10 WAIVERS AND ALTERNATIVE PARKING PLANS**

- A. A parking waiver may be granted by the Planning Commission at the time of site plan approval, provided:
  - 1. The building or use requires no variance or other action under the jurisdiction of the Zoning Board of Appeals;
  - 2. The building or use can provide at least eighty percent (80%) of the required off-street parking spaces;
  - 3. The proposed parking lot or area meets all other design criteria established within this Ordinance.

B. Alternative parking plans may be approved by the Planning Commission contingent upon the Commission's determination that the proposed plan will do at least as good of a job protecting surrounding neighborhoods, maintaining traffic circulation patterns, and promoting quality urban design as would strict compliance with otherwise applicable off-street parking standards. The eligible alternatives to the required off-street parking requirements are set out below:

1. Joint Use of Facilities. Provision of common parking facilities for several uses in the same vicinity is encouraged. Where businesses have alternate schedules the Planning Commission may permit reduced total parking provided the applicant submit a shared parking analysis clearly demonstrating the feasibility of shared parking facilities. At a minimum, the study shall address the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.
2. Remote Parking. If the required parking cannot be met, the Planning Commission may permit all or a portion of the required off-street parking to be located beyond the otherwise applicable distance requirements established in Section 13.04, provided that:
  - a) The distance between the principal use and the remote lot is no greater than six hundred (600) feet;
  - b) Remote parking facilities may be located in any zoning district that allows commercial parking lots; and
  - c) Where a remote parking area is not under the same ownership as the principal use served, a remote parking plan shall be enforced through written agreement, consisting of a permanent property easement, lease, or memorandum of lease among the owners of record. The agreement shall specify that the remote parking agreement may be revoked by the parties to the agreement only where off-street parking is provided in accordance with the requirements of this Ordinance or where another Alternative Parking Plan is approved.
3. Public Parking Facilities. All or a portion of the off-street parking spaces that are required may be waived by the Planning Commission when the subject building or use is located within six hundred (600) feet of a City of Perry established off-street parking facility. In no event shall the total number of such waived parking spaces exceed the total number provided on the publicly owned parking facility.

**SECTION 13.11      MAXIMUM PARKING LIMITATIONS**

To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of storm water runoff, no parking Lot shall have parking spaces totaling more than an amount equal to ten percent (10%) greater than the minimum parking space requirements, except as may be approved by the Planning Commission pursuant to a parking need study submitted by the applicant.

## **SECTION 13.12      SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS**

- A. It shall be unlawful for any person to erect, place, maintain, or continue the use of a sign upon any lands in the City except in accordance with the provisions of this Ordinance. Any sign that is not expressly allowed under an applicable provision of this Ordinance is prohibited.
- B. Permit. Unless otherwise provided by this Ordinance, no sign may be installed or utilized until and unless the City has issued a Sign Permit for it. The following shall be submitted to the Zoning Administrator prior to the issuance of a Sign Permit:
  - 1. A complete [Sign Permit Application](#),
  - 2. Plans and specifications for the sign,
  - 3. The payment of any required fee or fees.
- C. All permanent signs shall be stationary, securely anchored or fastened to the ground or a structure, and shall be designed and constructed to withstand a ninety (90) mile per hour ground wind load.
- D. Signs shall pertain only to the business or activity conducted on the premises, except for political signs and City of Perry special event signs.
- E. No sign shall be placed in, extend into, or obstruct clear vision in any public right-of-way.
- F. All signs shall be designed and constructed to be stable and capable of withstanding wind loads to avoid being blown from their intended display location.
- G. General Setbacks. Unless a different setback is specified for a particular sign elsewhere in this Ordinance, all signs must be set back at least ten (10) feet from a road right-of-way and twenty (20) feet from all other property boundaries.
- H. No wall sign shall project above the roof line.
- I. Landscaping. If the base portion of a free-standing sign is elevated above ground level it shall be landscaped with low maintenance plants. Such landscaping may be placed in stone, masonry or treated wood bases or containers to achieve a pleasant aesthetic arrangement. Such landscaping shall be reasonably maintained at all times.
- J. Traffic Hazards. No sign may be constructed, erected, displayed, maintained, reconstructed or located so that it creates a hazard for vehicle or pedestrian traffic. If the Shiawassee County Road Commission, State of Michigan traffic engineers, or the City of Perry determines that any sign is a traffic hazard, the Zoning Administrator shall notify the owner to remove the sign. In determining whether a sign may be causing a traffic hazard, the Zoning Administrator may consider, but is not limited to, the following:
  - 1. Height, area, supporting structure, and distance from ground level of the sign;
  - 2. Lighting of the sign;
  - 3. Location of the sign in relation to roads;

4. Drives, points of ingress and egress, parking areas, sidewalks, and other vehicular or pedestrian access ways;
  5. Location of the sign in relation to nearby buildings and structures; and
  6. If it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or be distracting to motorists.
- K. **Illumination.** All signs for which illumination is permitted may be illuminated by a direct or indirect source of light, provided the light source is shielded in a manner so that no direct rays or glare emanating from the light source is visible from any public right-of-way or from the abutting property. No direct light or significant glare from a sign shall be cast onto any property that is zoned and used for residential purposes or onto any public way so as to cause interference with traffic safety. In no case shall any sign be illuminated by open spark or flame. Reflectors, lights, and other forms of illumination shall be permitted, but no sign or any part thereof shall move, nor shall the illumination thereof be by anything other than a steady, continuous burning bulb or light except for informational LED signs. Illumination of LED lighted signs must be reduced between 11 PM and 6 AM when sign is adjacent to residential properties. In no case shall any sign illumination exceed a level of illumination of five hundredths (0.05) of a foot candle, and a luminaire brightness of one thousand six hundred (1,600) foot lamberts, when measured from the nearest adjacent property line.
- L. **Maintenance.** All signs shall be properly maintained in good condition and reasonable repair at all times. Exposed surfaces shall be clean and painted, if paint is required. Defective or damaged parts must be replaced in a timely fashion. The Zoning Administrator has the authority to order the repair or removal of any sign that is unsafe, as defined by the [Michigan Building Code](#) or its successor code.
- M. **Out-of-Business Establishment.** If a sign advertises a business, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and the sign faces shall be removed, covered or replaced with blank faces within sixty (60) days after written notification from the City of Perry to the sign owner, owner of the property where the sign is located, or other party having control over the sign. Any expense incurred by the City incidental to removal shall be paid by the sign owner, owner of the property or other party having control over the sign. The expenses associated with sign removal may constitute a lien upon the property to be collected in the same manner as real property taxes.

### **SECTION 13.13      SIGNS NOT REQUIRING A PERMIT**

The following signs shall be permitted in any Zoning District within the City of Perry without the necessity of obtaining a sign permit, subject to the requirements stated herein:

- A. House numbers legible from the street, and name plates (apartment, fraternal, social, and professional) identifying the occupant or address of a parcel of land, and not exceeding two (2) square feet in display surface area.
- B. "For Sale" signs attached to vehicles.
- C. Flags bearing the official design of a nation, state, municipality, business, institution, or

organization and seasonal, decorative flags.

- D. Traffic or other Municipal signs, and private traffic control signs which conform to the requirements of the [Michigan Manual of Uniform Traffic Control Devices](#).
- E. Park and playground signs.
- F. Political signs, subject to the following:
  - 1. They shall not exceed eight (8) square feet in total area.
  - 2. They shall be removed within ten (10) days following the election to which they pertain.
  - 3. They shall not be placed closer than one hundred (100) feet from any polling place entrance.
- G. One (1) temporary, non-illuminated real estate sign per lot, advertising the sale or lease of property or buildings, subject to the following:
  - 1. It shall not exceed four (4) square feet in surface display area.
  - 2. It shall be removed within thirty (30) days after completion of the sale or lease of the property.
  - 3. No such sign shall be placed closer than ten (10) feet from the road right-of-way.
- H. Temporary construction signs, subject to the following:
  - 1. One (1) construction sign may be erected on the site where work is scheduled to begin.
  - 2. The total surface display area shall not exceed thirty-two (32) square feet.
  - 3. The height shall not exceed eight (8) feet.
  - 4. Placement shall be ten (10) feet inside the property boundaries to which the sign pertains.
  - 5. Construction signs shall not be erected until a building permit has been issued for the building or project which is the subject of the proposed sign and construction activities have begun.
  - 6. Construction signs shall be removed within fifteen (15) days after the issuance of an occupancy permit for the building or structure which is the subject of the construction sign.
- I. Trespassing, safety, discretionary, caution, or announcement signs each not exceeding two (2) square feet in area.
- J. One (1) non-illuminated sign attached to a residence, announcing a home occupation or professional service, not to exceed four (4) square feet in surface area and attached flat against a building wall.

- K. Garage or yard sale signs and special occasion or event signs in residential districts, so long as they are displayed not more than five (5) days prior to the event or sale they are advertising and shall be removed not more than one (1) day after the event or sale.
- L. Signs announcing the sale of produce each not exceeding six (6) square feet in area.
- M. Signs placed in windows, so long as they do not exceed twenty-five (25%) percent of the window in which they are displayed.
- N. Signs that have been approved in conjunction with a valid Zoning Compliance Permit for any main use as detailed in an approved site plan.
- O. Temporary sign advertising a business performing work on the premises where the sign is displayed. Sign cannot exceed four (4) square feet in surface area. Sign must be removed promptly when work has been completed.
- P. Community special event signs, not exceeding sixteen (16) square feet in total area, may be permitted for a period not to exceed thirty (30) days for any single event. No more than five (5) such signs shall be permitted for any single event and such signs shall be removed within two (2) days of the end of the event.
- Q. One (1) A-frame sign per business location, subject to the following regulations:
  - 1. The sign shall not exceed eight (8) square feet in total area with a maximum height of four (4) feet.
  - 2. All sign workmanship shall be of a professional nature and maintained in good repair.
  - 3. All signs must be stable and capable of withstanding wind loads to avoid being blown from their intended display location.
  - 4. The A-frame sign may be placed against the building, on the sidewalk, or within the landscape abutting the business. A minimum pedestrian clearance of four (4) feet of unobstructed sidewalk shall be maintained (per American Disabilities Act). In no case can an A-frame sign be placed on the landscape strip between the outer edge of the sidewalk and the street curb nor on /in the planter boxes.
- R. Pole Banner Signs
  - 1. One (1) pole banner sign per business location. Pole banner signs are not allowed in Central Business District.
  - 2. The sign shall not exceed eight (8) square feet in total area with a maximum height of eight (8) feet.
  - 3. All sign workmanship shall be of a professional nature, maintained in good repair.
  - 4. All signs must be stable and capable of withstanding wind loads to avoid being blown from their intended display location.
  - 5. All signs must express a statement about the business or activity conducted on

the premises.

#### **SECTION 13.14      SIGNS REQUIRING A PERMIT**

- A. The following signs shall be permitted in any Zoning District within the City of Perry, pending approval from the Zoning Administrator.
1. On-site directional signs, not exceeding four (4) square feet in total area per sign, and not greater than three (3) feet in height, located at least five (5) feet from any right-of-way line. No more than two (2) directional signs per road frontage are permitted for any property or use.
  2. An institutional bulletin board may be located on the premises to which the sign pertains, provided it does not exceed fifty (50) square feet in surface display area.
  3. Lawful Nonconforming Signs. The regulations for lawful nonconforming signs are contained in [SECTION 4.06](#) of this Ordinance.
- B. In addition to the signs permitted in [SECTION 13.14A](#), the following signs shall be permitted in all Residential Districts within the City of Perry, pending approval from the Zoning Administrator:
1. One (1) entrance way sign of up to thirty-two (32) square feet in total area and no more than eight (8) feet in height is permitted at major entry points to residential developments. The sign may be illuminated. The sign may contain only the name of the subdivision or development and developer.
  2. One (1) sign may be placed flat against the main building, announcing the identification of an apartment development, and such sign shall not exceed twelve (12) square feet in surface display area. Such a sign may be illuminated, provided that the source of the light is not visible beyond the property lines of the parcel upon which it is located.
  3. One (1) internally illuminated monument sign of up to thirty-two (32) square feet in total and no more than eight (8) feet in height is permitted for places of religious worship, schools, and parks.
- C. In addition to the signs permitted in [SECTION 13.14A](#), the following signs shall be permitted in the Central Business District within the City of Perry, pending approval from the Zoning Administrator:
1. One (1) projecting sign of up to sixteen (16) square feet per business location.
  2. One (1) wall sign per business location, not exceeding ten percent (10%) of the building face to which it is attached. The wall sign allotment may be placed on any building face. Awning signs shall be considered as part of the wall sign allotment.
- D. In addition to the signs permitted in [SECTION 13.14A](#), the following signs shall be permitted in the Commercial Business and Mixed Use Districts within the City of Perry, pending approval from the Zoning Administrator:



1. Free-Standing Signs

- a) Two (2) on-site advertising signs per business not exceeding one hundred forty (140) square feet in surface area. A commercial business shall be permitted an additional free-standing sign for every fifty (50) feet of road frontage over one hundred (100) feet of road frontage on the property, with a maximum of four (4) signs per business.
- b) Free-standing signs shall be located in the front yard with the leading edge of the sign setback at least ten (10) feet from the right-of-way line.
- c) The bottom of free-standing signs shall be not less than six (6) feet in height from ground level whenever location of the sign to the road may create a traffic hazard by obstructing clear view and the top of the sign shall be no higher than thirty (30) feet from the ground.

2. Wall and Marquee Signs

- a) One (1) wall or marquee sign shall be permitted per building, not exceeding fifteen percent (15%) of the building face to which it is attached.
- b) Wall signs shall be placed flat against the main building or parallel to the main building on a canopy and may only face public streets or parking areas which are part of the development.
- c) Wall and Marquee signs shall not project above the roof line or cornice.

3. Projecting Signs

- a) One (1) projecting sign shall be permitted per building, with a surface display area not exceeding one and one-half (1 ½) square feet for each linear foot of the building frontage, with a maximum of fifty (50) square feet.
- b) Projecting signs shall be attached directly to a building by means of building mounts or hung from a mast arm. These support members may also include decorative appurtenances, but external bracing such as guy wires and metal framework shall be prohibited.
- c) Signs must project at a ninety (90) degree angle to the building surface to which they are attached.
- d) Projecting signs shall not project beyond the minimum required setback line or into or over the street right-of-way.
- e) The minimum clearance of a projecting sign over a sidewalk shall be nine (9) feet.

4. Electronic Signs

- a) Electronic signs may be free-standing, wall, or projecting signs. These signs shall adhere to the surface display area and setback requirements described in their respective categories above, [SECTION 13.14D](#),

subsections 1, 2, and 3. Illumination requirements shall conform to [SECTION 13.12K](#).

- b) Signs incorporating the use of time and temperature, programmable messages, or neon signs shall be allowed, subject to the following:
  - i. Except for an unanimated, fixed message, the sign functions shall be turned off for all locations between the hours of 8:00 p.m. and 6:00 a.m.
  - ii. No sign shall be located within one hundred (100) feet of any residential property.
  - iii. Illumination requirements shall conform to [SECTION 13.12K](#).

5. Service Station Signs

- a) Gasoline service stations shall be permitted one (1) double-sided, free-standing sign indicating only the price and grade of gasoline, as shown on the pumps. Neither side shall exceed sixteen (16) square feet in surface display area.
- b) The sign shall be permanently attached to the support pole of the free-standing sign.
- c) Service station signs shall be attached with the bottom of the sign no lower than six (6) feet from ground level.

6. Parking Lot Signs

- a) One (1) directional sign at each point of ingress or egress shall be permitted, which may bear the sponsor's ad, name or trademark, the enterprise it is intending to serve, and directions for movement. (Reference [Section 13.14.A.2](#) for size and height requirements).

7. Individual Letter Signs

- a) Signs consisting of free-standing, individual letters or numbers identifying a business shall be permitted, provided that the letters do not extend over two (2) feet above the roof line or cornice line of the building, and that the letters do not exceed two (2) feet in height.

E. Signs shall be permitted in the [Natural Features Overlay](#), respective to the underlying zoning district.

F. In addition to the signs permitted in [SECTION 13.14A](#), the following signs shall be permitted in the Mobile Home Park District within the City of Perry, pending approval from the Zoning Administrator:

- 1. Residential entrance-way signs, not exceeding thirty-two (32) square feet are permitted for residential developments. One (1) sign for each major public street frontage may be provided. Signs shall not exceed eight (8) feet in height.

2. Internally illuminated monument signs of up to twenty four (24) square feet for institutional uses such as places of religious worship, schools, and parks. Signs shall not exceed eight (8) feet in height.
- G. In addition to the signs permitted in [SECTION 13.14A](#), the following signs shall be permitted in the Industrial Districts within the City of Perry, pending approval from the Zoning Administrator:
1. Signs shall pertain exclusively to the business occupying the property.
  2. One (1) free-standing sign identifying an industrial complex, located at the entrance, not exceeding one hundred (100) square feet in surface display area.
  3. Signs may be illuminated, subject to [SECTION 13.12K](#).
  4. One monument sign is permitted per lot of up to fifty (50) square feet.
  5. Signs shall be setback from the street right-of-way a minimum of ten (10) feet and from side property lines a minimum of ten (10) feet.
  6. Signs shall not project above a roof line or cornice line.
- H. PUD Signs. Only signs approved by the Planning Commission and City Council in authorizing the Planned Unit Development shall be allowed.

### **SECTION 13.15      SIGNS PROHIBITED**

- A. The following types of signs are expressly prohibited:
1. Any sign that has flashing, intermittent, or blinking lights or strobes except for informational LED signs.
  2. Signs imitating or resembling official traffic or governmental signs or signals.
  3. Abandoned signs, which shall be removed within sixty (60) days of the cessation of the business, use, or activity.
  4. A rotating or moving sign in which the sign itself or any portion of the sign moves in a revolving or similar manner, excluding barber shop poles, which are permitted.
  5. Vehicle signs not used during the normal course of a lawful business that are parked or located for the primary purpose of displaying the advertisement.
  6. Snipe signs – (A sign which is attached to trees, poles, fences, wire frames, or other objects, and the advertising matter appearing thereon is not applicable to the present use or activity of the premises upon which the sign is located.)
  7. Any sign that obstructs free access to or egress from a required door, window, fire escape, or other required exit from a building or structure.

8. Any sign which makes use of the words "Stop," "Look," or "Danger," or any other words, phrase, symbols, or characters, in such a manner as to interfere with, mislead, or confuse drivers or any other sign constituting a driving hazard.
  9. Roof signs.
  10. Signs on street furniture, such as benches and trash receptacles, not including commemorative plaques or engravings which are not larger than one-half (½) square foot.
  11. Off-premise signs, unless expressly permitted in this Ordinance.
  12. Any sign not expressly permitted by this Ordinance.
  13. Billboards
- B. No business vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the road.

**SECTION 13.16      SIGNS EXEMPTED**

- A. The following signs shall be exempt from the provisions of this Chapter:
1. Governmental signs.
  2. Signs for essential services.
  3. Historical markers.
  4. Memorial signs or tablets.

## **CHAPTER 14 SITE PLAN REVIEW**

### **SECTION 14.01    PURPOSE**

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the City of Perry in order that the applicant may realize planned objectives in the use of land, as described in the Master Plan, and within the regulations of this Zoning Ordinance. It is also intended to ensure that the development or use be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing and future uses and the environment in the general vicinity.

### **SECTION 14.02    APPLICABILITY**

In accordance with the provisions of this Chapter, the Planning Commission shall approve a site plan for the proposed development, activity, or use prior to the issuance of any permits for the creation of a use or the erection of a building in the districts and conditions cited below. The site plan packet shall include any associated documentation and narrative required to assist the reviewers with their task. No use, activity, building, or structure as follows shall be commenced, conducted, expanded, or constructed absent site plan approval by the Planning Commission.

- A. All Uses within any of the following districts:
  - 1. MHP – Mobile Home Park
  - 2. MXD – Mixed Use District
  - 3. B-1 – Commercial Business
  - 4. I-1 or I-2 – Industrial
- B. All Special Land Uses in any district.
- C. Multi-family residential developments.
- D. Any plat and residential development other than as exempted below.
- E. Condominiums, site condominiums, and subdivisions (plats) in any district.
- F. Planned unit developments in any district.
- G. Private streets.
- H. Essential Services.
- I. Any expansion, enlargement, or change to any of the preceding.

- J. All new construction and new uses: expansion of existing buildings, structures, and uses, except that:

Where a new use is being established in an existing lawful principal structure and is a permitted use (or similar use as determined by the Zoning Administrator) in the underlying zoning district, and will not result in expansion of the footprint, size, or height of the structure, the site plan for the new use may be approved through an administrative review process directed by the Zoning Administrator.

The following conditions shall apply:

1. The proposed use shall comply with all requirements of this Ordinance except where, in the determination of the Zoning Administrator, strict adherence to the requirements of this Ordinance due to existing conditions on the subject property cannot reasonably be met. The scope of the project proposed shall be determined in the first instance by the Zoning Administrator, provided however, that the discretion of the Zoning Administrator shall not extend to waiver of conditions which directly relate to the safety and welfare of the general public, or in the use or occupancy of the property.
2. No less than 50% of the minimum number of parking spaces required for the proposed use.
3. This exemption shall not apply to uses in the MHP or Industrial zoning districts.
4. Where a mutual agreement on the plan cannot be reached or where, in the opinion of the Zoning Administrator, the proposed development warrants a more intensive review, the Zoning Administrator shall require formal application for site plan review and approval by the Planning Commission.

- K. The following shall be exempt from site plan review, except that the Zoning Administrator shall review a plan to ensure compliance with this Ordinance.

1. Single-family detached and two-family dwellings when permitted by right on a lot on which there exists no other building or use.
2. State licensed residential family care facilities and family day care homes.
3. Home occupations.
4. Residential accessory buildings.

### **SECTION 14.03     SITE PLAN SUBMITTAL**

Optional Preliminary Site Plan Review and related matters:

- A. Ten (10) copies of a preliminary site plan may be submitted by the applicant for review by the Planning Commission prior to final site plan submittal. The purpose of this optional procedure is to allow discussion between the applicant and the Planning Commissioners, to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval.

- B. Additional Information. The Planning Commission, prior to granting final approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person or person(s) to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs, impacts on significant natural features and drainage, traffic study, soil tests and other pertinent information.
- C. Preliminary site plan submittal shall include the information listed below, unless deemed unnecessary by the Zoning Administrator. The Zoning Administrator shall review the site plan packet for completeness. Incomplete site plan packets will not be accepted by the Zoning Administrator or placed on the Planning Commission's agenda. Preliminary site plans shall be at a scale not to exceed 1 inch equals 100 feet (1" = 100').
- D. Applicants have the option to submit a final site plan review packet without an optional preliminary review.
- E. Site plans shall be prepared by a surveyor or professional engineer, and shall be based on a survey.

<b>TABLE 14.03: Site Plan Submission Requirements</b>	
For <b>both</b> Preliminary & Final Site Plan Review	
1.	A general location sketch showing at a minimum, properties, streets, and use of land within 1/2 mile of the area.
2.	Legal description of the subject property.
3.	North arrow and plan scale.
4.	Name and address of the property owner or petitioner and ownership interest.
5.	Name, address, and seal of the person and/or firm who drafted the plan and the date on which the plan was prepared.
6.	Existing zoning and use of all properties abutting the subject property.
7.	All buildings, parking, easements, and driveways within 100 feet of all property lines.
8.	Existing and proposed uses, buildings, and structures.
9.	Property lines and dimensions.
10.	Existing adjacent streets and proposed streets.
11.	Parking lots and access points.
12.	General location of utilities, storm water management features, septic systems and wells.
13.	Location of proposed buffer strips or screening.
14.	General topographical features at contour intervals no greater than 5 feet.
15.	Significant natural features; and other natural characteristics, including but not limited to open space, wetlands, stands of trees, landmark trees, brooks, ponds, floodplains, hills, slopes of over 15%, and similar natural assets or hazards.
16. Narrative: Provide written text describing in general terms:	a. The overall objectives of the proposed development.
	b. Size (in acres) of the subject property and approximate number of acres allocated to each proposed use and gross area in building, structures, parking, streets and drives, and open space.
	c. Dwelling unit densities by type, if applicable.
	d. Proposed method of providing sewer and water service, as well as other public and private utilities.
	e. Anticipated grading and filling and proposed method of storm water management.
Additional Information for <b>Final</b> Site Plan Review	
17.	Property lines for each site condo unit or lot shown and dimensioned.
18.	Buildable area for proposed structures (i.e. setbacks and yards shown) on the subject property for each lot or site condominium unit.
19.	Specifications for and location of existing and proposed utilities.



<b>Site Plan Submission Requirements Continued</b>
20. All existing and proposed drives (including dimensions and radii), acceleration/deceleration lanes serving the site and cross-sections of internal roads serving the development.
21. Location and specifications for curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas.
22. Location and size of all surface water drainage facilities including storm event data.
23. All existing vegetation noted to be protected and a detailed landscaping plan including data on species, number and size of plant materials to be used.
24. Location of profiles of all proposed fencing and walls.
25. Location of all solid waste disposal facilities, including recycling, and screening.
26. Location and specifications for existing or proposed outside, above or below ground storage facilities for hazardous materials.
27. Dedicated open space, marked, described and a recordable form to protect such lands in perpetuity.
28. Exterior lighting showing area of illumination (via a photometric chart) and indicating the type and height of fixture to be used.
29. Any signs not attached to the building(s).
30. Elevation drawings of proposed buildings.
31. Location and specifications for trails and sidewalks.
32. Development agreement (as appropriate).
33. Easement descriptions and dedications.
34. Approved road names (as appropriate).
35. Detailed landscape plan, including method of protecting existing vegetation, species, listing, and sizes for new landscaping materials, profile of proposed buffer strips, screening, fence design, and timing of landscaping improvements.

The Planning Commission shall review the preliminary site plan and make any recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Chapter. The Planning Commission shall advise the applicant as to the general acceptability of the proposed plan, but shall not be bound by any statements or indications of acceptance of the plan.

**SECTION 14.04      ADMINISTRATIVE FEES**

- A. Any Site Plan application shall be accompanied by a non-refundable fee or fees in accordance with the schedule or resolution of fees established by the City Council. Such fee(s) shall be for the purpose of payment of the administrative costs and services expended by the City in the implementation of this Chapter and the processing of the application. No part of such fee(s) shall be refundable to the applicant.

- B. An escrow fee or fees may also be collected by the City pursuant to [SECTION 17.03](#) of this Ordinance. Such fees are intended to reimburse another party or parties retained by the City to provide expert consultation and advice regarding the application.

**SECTION 14.05      CHANGES IN THE APPROVED SITE PLAN**

Changes to an approved site plan shall be allowed only under the following circumstances:

- A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to an approved site plan.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include only the following:
  - 1. Change in any building size, up to five percent (5%) in gross floor area.
  - 2. Movement of buildings or other structure by no more than ten (10) feet.
  - 3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
  - 4. Changes in building materials to a comparable or higher quality.
  - 5. Changes in floor plans which do not alter the character of the use.
  - 6. Changes required or requested by the City, the County Street Commission, or other county, state, or federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change determined by the Zoning Administrator not to be minor shall be submitted to the Planning Commission as a site plan amendment, and shall be reviewed in the same manner as the original application, including payment of an application fee. The previously approved site plan shall be provided to the Planning Commission for comparative purposes. Proposed changes shall be noted on the site plan and included in narrative form.
- D. Every use, structure, building, and activity covered by an approved site plan shall fully comply with the approved site plan unless and until the approved site plan is modified by the City to allow such change in use, structure, building, or activity.

## **SECTION 14.06      REVIEW STANDARDS**

The following standards shall be utilized by the Planning Commission in reviewing and approving or denying all site plans. A site plan may not be approved unless all of the following standards are met. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making decisions concerning them.

- A. The uses and configuration proposed will not adversely affect the public health, safety, or general welfare.
- B. The site plan shall provide reasonable visual and sound privacy for all dwelling units located within and adjacent to a development. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
- C. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site:
  - 1. Landmark trees and significant vegetation slated for protection shall be marked on site to prevent their damage during construction.
  - 2. A plan for natural feature protection during construction shall be provided.
  - 3. Utilities may be required to be placed underground.
  - 4. Provisions shall be made to accommodate storm water on-site wherever practical.
  - 5. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
  - 6. Direct discharge of storm water into surface waters is prohibited.
  - 7. Infiltration devices such as rain gardens are preferred over large retention basins.
- D. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided within the site.
- E. The minimum number of driveway and access points shall be provided at appropriate locations to maximize convenience and safety.
- F. Paths, drives and streets shall be designed to promote safe and efficient traffic operations within and between developments.
- G. The site shall be developed to create a pleasant, pedestrian paced atmosphere which de-emphasizes the automobile and considers rural character.
- H. The Planning Commission may require traffic calming measures, paved road shoulders, and deceleration or turn lanes when necessary.

- I. The Planning Commission may require shared driveways, cross access easements and pathway cross-connections between developments.
- J. Site amenities like street trees, bike racks, benches and outdoor tables may be required by the Planning Commission.
- K. All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.
- L. All loading and unloading areas and outside storage areas, including areas for the storage of trash, shall be provided in accordance with [SECTION 13.02A](#).
- M. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution. The site shall comply with the requirements of [SECTION 13.02B](#).
- N. The uses and configuration shall not have significant negative impacts on adjoining properties and uses or the environment.
- O. The general purposes and spirit of this Ordinance and the Master Plan of the City shall be maintained.

#### **SECTION 14.07      CONDITIONS OF APPROVAL**

- A. As part of an approval of any site plan, the Planning Commission (or the Zoning Administrator, where applicable) may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest or to meet the review standards.
- B. Such conditions shall be related to and ensure that the review standards of this Chapter are met and shall meet the requirements of the Zoning Act.
- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.
- D. A record of all conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is expressly approved by the City in accordance with this Ordinance.
- E. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.
- F. The Zoning Administrator may make periodic inspections of developments or properties for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be considered violations of this Ordinance.
- G. All uses, buildings, and structures must fully comply with an approved site plan (and any conditions thereof) for the lot or property involved at all times.

## **SECTION 14.08      PERFORMANCE GUARANTEE**

The Planning Commission may require a performance guarantee or guarantees in accordance with [SECTION 17.04](#) to insure compliance with any conditions associated with the granting of a site plan approval.

## **SECTION 14.09      REVOCAION**

Every structure, building, land use, or activity covered by or subject to an approved site plan must fully comply at all times with that site plan. If a violation of the site plan (or any conditions of approval attached thereto) occurs, then the Planning Commission shall have the authority to revoke the approved site plan after reasonable notice has been given to the property owner or applicant and a hearing has been held.

## **CHAPTER 15 SPECIAL LAND USES**

### **SECTION 15.01     SCOPE**

This Chapter provides a set of procedures and standards for special uses of land or structures, which because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and the City of Perry as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the City of Perry. For purposes of this Ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this Chapter. In addition, particular Special Land Uses shall conform to the specific standards cited in [SECTION 15.07](#), as applicable.

### **SECTION 15.02     APPLICATION AND REVIEW PROCEDURES**

- A. An application for a Special Land Use shall be submitted through the Zoning Administrator, accompanied by:
  - 1. The payment of an application fee or fees and any required escrow fee(s) as established by the City Council.
  - 2. A completed application form, as provided by the City of Perry.
  - 3. Complete site plans as specified [CHAPTER 14](#).
  - 4. A narrative describing the proposed use(s).
- B. Applications for a Special Land Use (if complete) shall be submitted at least thirty (30) days prior to the next Planning Commission meeting.
- C. The application (if complete), along with the required site plan, shall be forwarded to the Planning Commission at its next scheduled meeting.
- D. The Planning Commission shall hold a public hearing on the application, noticed in accordance with [SECTION 17.09](#). The Planning Commission shall then review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the City's planner, engineer, attorney, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed on an approval.
- E. No petition for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be allowed by the Zoning Administrator after learning of new and significant material facts or substantially changed conditions that might result in favorable action upon re-submittal.

- F. A Special Land Use approved pursuant to this Chapter shall be valid for one (1) year from the date of approval. Each development or use shall be under substantial construction within one (1) year after the date of approval of the Special Land Use, except as noted below:
1. The Planning Commission may grant one (1) six (6) month extension of the approval, provided the applicant requests the extension prior to the date of the expiration of the Special Land Use approval.
  2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development or use has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.
- G. The Planning Commission shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any of the applicable requirements of this Chapter, other applicable requirements of this Ordinance, or any condition of the Special Land Use approval. Prior to revocation, the Planning Commission shall conduct a public hearing following the notification procedures for the original approval.

### **SECTION 15.03      EXISTING SPECIAL LAND USES**

Uses of land and/or development projects granted Special Land Use status by the City prior to the adoption of this Zoning Ordinance may continue such approved status provided the rules, regulations, requirements, and conditions under which the Special Land Use was approved are met. Any Special Land Use that has been commenced but abandoned for a period of one (1) year, shall lapse and cease to be in effect.

### **SECTION 15.04      GENERAL STANDARDS**

- A. In addition to the standards established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans in [CHAPTER 14](#). Reasonable conditions may be placed upon a Special Land Use approval (and the accompanying site plan).
- B. No Special Land Use may be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed Special Land Use will:
1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that the use will not change the essential character of the area in which it is proposed.

2. Be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, and refuse disposal, water and sewage facilities.
  3. Not create excessive additional requirements at public cost for public facilities and services.
  4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production or effects of traffic, noise, smoke, fumes, glare, or odors.
  5. The proposed use shall be sufficiently designed to maintain adequate provision for the protection of the health, safety, conveniences, and social and economic welfare of those who will use the special land use, residents and landowners adjacent to the special land use, and the City as a whole.
  6. The proposed use shall be consistent with the intent of this Ordinance and the intent of the Master Plan.
  7. The use shall not create or substantially add to traffic hazards in the area.
  8. The proposed use shall not set precedents for development which could adversely affect the long term plans or policies of the City of Perry.
  9. The proposed use shall not have significant adverse environmental, ecological or natural resource impacts.
  10. The proposed use shall not have significant adverse impacts upon adjoining properties or uses.
- C. The Planning Commission may impose additional conditions and safeguards on a Special Land use approval deemed necessary to accomplish the following purposes. Failure to comply with the conditions may result in the revocation of the Special Land Use approval, pursuant to [SECTION 17.13](#). Conditions imposed shall be those necessary to ensure that the proposed Special Land Use will:
1. Meet the intent and purpose of the Zoning Ordinance and the Master Plan.
  2. Relate to the standards established in the Ordinance for the land use or activity under consideration.
  3. Ensure compliance with those standards.
  4. Protect the general welfare.
  5. Protect individual property rights.
  6. Ensure that the intent and objectives of this Ordinance will be observed.
- D. The Planning Commission shall adopt a statement of findings and conditions relative to the special land use that specifies the basis for the decision and any conditions imposed.



## **SECTION 15.05      PERFORMANCE GUARANTEE**

The Planning Commission may require a performance guarantee or guarantees in accordance with [SECTION 17.04](#) to insure compliance with any conditions associated with the granting of a site plan approval.

## **SECTION 15.06      SPECIAL LAND USE SPECIFIC REQUIREMENTS**

The general standards and requirements of [SECTION 15.04](#) are basic to all Special Land Uses. The specific and detailed requirements set forth hereafter relate to particular uses and are requirements which shall be met by those uses in addition to the foregoing general standards and requirements. Any use listed in this Ordinance not addressed as follows shall be reviewed under the general standards of [SECTION 15.04](#).

## **SECTION 15.07      SPECIFIC STANDARDS**

- A.     [Adult foster care, small and large group home](#)
- B.     [Adult oriented businesses](#)
- C.     [Banquet hall or conference center](#)
- D.     [Bed and breakfast establishment](#)
- E.     [Bus passenger or other transit station](#)
- F.     [Commercial “mini” storage warehouse](#)
- G.     [Convalescent or nursing home](#)
- H.     [Convenience stores with gasoline](#)
- I.     [Day care center \(commercial\)](#)
- J.     [Drive-through facilities \(banks, credit unions, pharmacies, etc.\)](#)
- K.     [Drive-through restaurant](#)
- L.     [Elderly housing](#)
- M.     [Elementary middle and high school \(private\)](#)
- N.     [Fraternal or social club or lodge](#)
- O.     [Funeral home and mortuary](#)
- P.     [Hotel/Motel](#)
- Q.     [Kennel](#)
- R.     [Open air business](#)

- S. [Pawn shop](#)
- T. [Recreation facility \(outdoor\)](#)
- U. [Recreation facility \(indoor\)](#)
- V. [Salvage or junk yard](#)
- W. [Tobacco specialty retail store or lounge](#)
- X. [Trade or industrial school](#)
- Y. [Vehicle repair facility](#)
- Z. [Vehicle sales and rental](#)
- AA. [Vehicle service station](#)
- BB. [Vehicle wash facility](#)
- CC. [Veterinary hospitals and clinics](#)
- DD. [Wind energy conversion systems](#)
- EE. [Wireless communication towers](#)
- FF. [Medical Marihuana Provisioning Centers / Marihuana Adult-Use \(Recreational\) Retailers](#)

Specific Requirements by Use:

- A. Adult Foster Care, Small and Large Group Home.
  - 1. Non-residential parking setback and screening provisions apply.
  - 2. The facility shall be at least one thousand five hundred (1,500) feet from any other similar facility.
- B. Adult Oriented Businesses.
  - 1. It is the intent of this subsection to provide regulations controlling those uses that are recognized as having serious, objectionable, operational characteristics inducing a deleterious impact on adjacent uses and areas. Special regulations of these uses are necessary to insure that the anticipated adverse impacts will not contribute to the blighting or downgrading of the surrounding neighborhood.
  - 2. No adult-oriented business shall be located within five hundred (500) feet of another adult-oriented business. For purposes of this subsection (2), and subsections (3) and (4) below, the distance between a proposed adult-oriented business and (a) another adult-oriented business, (b) the boundary of any land in the agricultural or any residential zoning district or approved as a planned unit development for residential purposes, or (c) land used for any single-family, two-family or multiple-family dwelling; City, county or state park; school; library; licensed childcare facility; playground; church or place of worship, shall be

measured in a straight line from the nearest property line of the parcel of land upon which the proposed adult-oriented business is to be located to (d) the nearest property line of the parcel of land used for the other adult-oriented business, (e) the nearest boundary of the land in the agricultural or any residential zoning district or approved as a planned unit development or a plat for residential purposes, or (f) the nearest property line of the parcel of land used for a single-family, two-family or multiple-family dwelling; City, county or state park; school; library; licensed childcare facility; playground; church or place of worship.

3. No adult-oriented business shall be located on a parcel or lot that is within five hundred (500) feet of the boundary of any land in the agricultural or any residential zoning district, or approved as a planned unit development for residential purposes.
4. No adult-oriented business shall be located on a parcel or lot within five hundred (500) feet of any single-family, two-family or multiple-family dwelling; any City, county or state park; school; library; licensed child care facility; playground; church or place of worship.
5. No adult-oriented business shall be located within any principal or accessory building or structure already containing another adult-oriented business.
6. The proposed use shall conform to all requirements of the zoning district in which it is located.
7. The proposed use shall be in compliance with all other ordinances of the City of Perry and with all statutes, laws, rules and regulations of the county, state and federal government and, to the extent required, all governmental approvals must be obtained.
8. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent right-of-way of a public street or private street.
9. Any sign or signs proposed for the adult-oriented business shall comply with the provisions of this Ordinance; may not otherwise include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas, specified sexual activities, or obscene representations of the human form; and may not include animated or flashing illumination.
10. Entrances to the proposed adult-oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using clearly marked lettering no less than two (2) inches in height stating that: (a) "Persons under the age of 18 are not permitted to enter the premises," and (b) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
11. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right-of-way of a public street or private street or a neighboring property.

12. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., Monday through Saturday. All adult-oriented businesses shall remain closed on Sundays and legal holidays.
13. All off-street parking areas shall comply with this Ordinance and shall be illuminated after sunset during all hours of operation of the adult-oriented business, and until one (1) hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one (1) foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect on and shall be screened from adjoining properties.
14. Any booth, room, or cubicle available in any adult-oriented business, except an adult motel, that is used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities shall:
  - a) Be handicap accessible to the extent required by law;
  - b) Be unobstructed by any floor, lock or other entrance and exit control device;
  - c) Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;
  - d) Be illuminated such that a person of normal visual acuity can, by looking into the booth, room, or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and
  - e) Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.
15. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval as provided herein. A Special Land Use for adult-oriented businesses shall comply with the following requirements:
  - a) Adult uses shall not be allowed within five hundred (500) feet of another existing adult use, or within one-thousand (1,000) feet of any Residential District, existing church, school, park or playground.
  - b) All persons massaging any client or customer shall be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan, or have such other similar qualifications which shall be submitted to and approved by the Planning Commission. All massage clinics are subject to inspection from time to time by the Zoning Administrator and shall be required to file reports as may be required by the City, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of

the massage establishment. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a nonprofit organization operating a City of Perry center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.

- c) Any sign or signs proposed for the adult use business shall comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
- d) Signs shall be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that state:
  - i. "Persons under the age of 18 years are not permitted to enter the premises."
  - ii. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- e) No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining streetway or adjoining property.
- f) A buffer strip may be required to screen the business use from nearby residential or institutional properties. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use the applicable provisions of Section 14.04 when determining screening needs.

C. Banquet Hall or Conference Center.

- 1. The lot shall have frontage on an approved paved road.
- 2. The minimum lot size shall be two (2) acres with a minimum of two hundred (200) feet of street frontage.
- 3. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
- 4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer

strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

D. Bed and Breakfast Establishment.

1. The rooms utilized shall be part of a residential dwelling structure and do not involve alteration or construction not customarily found in single-family dwellings.
2. A scaled floor plan of the premise shall be submitted to the City as part of the application.
3. The bed and breakfast operation shall be the principal residence of the operator and the operator shall reside on the premises.
4. The bed and breakfast shall have eight (8) or fewer sleeping rooms, including sleeping rooms occupied by the operator.
5. Sufficient paved off-street parking shall be provided for residential purposes, at the rate of one (1) parking space per guest sleeping room and two (2) spaces for the resident owner.
6. One (1) non-illuminated sign, not exceeding sixteen (16) square feet in total sign area, is permitted. The placement and design of signs shall not detract from the scenic environment or contribute to general traffic hazards.
7. All refuse and/or trash containers shall be enclosed within a privacy fence or other suitable enclosure and shall not be located in the front yard.
8. The conduct of all aspects of activities related to the use shall take place only within the main building.
9. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast operation.
10. No premises shall be utilized for a bed and breakfast operation unless there are at least two (2) exits to the outdoors from the premises. Rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet.
11. The structure shall remain a residential structure and the kitchen shall not be remodeled into a commercial kitchen.
12. Meals shall be served only to residents and overnight guests.
13. No receptions, private parties or activities for which a fee is paid shall be permitted except for those that involve registered guests.
14. The maximum stay for any occupant of bed and breakfast operations shall be fourteen (14) consecutive days.
15. No guest room shall be located in a basement or cellar.

E. Bus Passenger or other Transit Station.

1. Minimum lot size shall be one (1) acre with at least one hundred and fifty (150)

feet of street frontage.

2. The facility shall be located with direct access to a paved street.
3. A vehicle waiting/drop off area of not less than ten (10) spaces shall be provided on-site.
4. Passenger loading areas shall be lighted. Lighting shall be shielded to prevent light from spilling or shining onto any Residential District or use.
5. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
6. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

F. Commercial “Mini” Storage Warehouse.

1. The use shall be developed only on lots of at least two (2) acres in size, but not more than five (5) acres in size. No more than sixty percent (60%) of the lot may be used for buildings, parking lots and access.
2. The lot shall abut and gain access from a public arterial street.
3. A six (6) foot, solid fence of a material acceptable to the Planning Commission, shall entirely enclose the area occupied by the use. The fence shall be set back at least thirty (30) feet from the front property line.
4. The front yard, up to the fence, shall be landscaped in accordance with [SECTION 13.03](#).
5. Minimum side and rear yards as specified for the District shall be maintained.
6. There shall be a minimum of thirty-five (35) feet between storage facilities for driveway, parking, and fire lane purposes. Where no parking is provided within the building separation areas, the building separation need only be twenty-five (25) feet.
7. Traffic direction and parking shall be designated by signs or painting.
8. The lot area used for parking and access shall be provided with a paved surface and shall be drained so as to dispose of all surface water.
9. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.
10. The Planning Commission may require architectural features on the façade of

any structure that is visible from a public street to ensure visual compatibility with surrounding uses.

G. Convalescent or Nursing Home.

1. Minimum lot size shall be three (3) acres with at least two hundred (200) feet of street frontage.
2. The lot location shall be such that at least one (1) property line abuts a public arterial or collector street. The ingress and egress for off-street parking areas for guests and patients shall be directly from that thoroughfare.
3. Main and accessory buildings shall be set back at least seventy-five (75) feet from all property lines.
4. The facility shall be designed to provide a minimum of five hundred (500) square feet of open space for every bed used or intended bed to be used. This open space shall include landscaping and include off-street parking, driveways, or required yard setbacks.
5. Access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

H. Convenience Stores with Gasoline.

1. The minimum lot size shall be at least one-half (1/2) acre with a street frontage of at least one hundred and fifty feet (150) feet.
2. Sufficient on-site stacking capacity shall be provided for vehicles awaiting fueling. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the site.
3. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
4. Outdoor speakers piping music or other continual sounds are prohibited.
5. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the facility, including measures to separate pedestrian and vehicular traffic.
6. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

I. Day Care Center (Commercial).

1. A facility shall not operate between the hours of 10:00 p.m. and 6:00 a.m. unless the main building and any play area are separated from any residence by more



than three hundred (300) feet.

2. Playground equipment shall not be located in a required side yard.
3. All outdoor play areas shall be located a minimum of fifty (50) feet from a residential district and enclosed with fencing, a minimum of four (4) feet high which cannot be climbed.
4. An off-street drop-off area shall be provided with the capability to accommodate at least two (2) vehicles in addition to the parking normally required for employees.
5. Activities associated with child care shall not be permitted in any accessory building, structure, or attached or detached garage other than the main building.
6. There shall be provided on the site a usable outdoor area at the rate of at least sixty-six (66) square feet for each child, or as required by the State of Michigan.

J. Drive-through Facilities (as part of another business), such as Banks, Restaurants, Credit Unions, Pharmacies, etc.

1. The accessory buildings or structures shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line.
2. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
3. Where the site abuts a Residential District, screening shall be provided along that property line.
4. The site shall be designed to provide adequate stacking space.
5. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
6. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

K. Drive-Through Restaurant.

1. The minimum lot size shall be one-half (1/2) acre with a street frontage of at least one hundred and fifty feet (150) feet.
2. Sufficient stacking capacity on site shall be provided for the drive-through portion of the operation to ensure that traffic does not extend into the public right-of-way. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility. The stacking space requirement may be reduced by the Planning Commission based on the nature of the restaurant, provided

sufficient reason is provided as to the reduction, but in no case shall fewer than six (6) spaces be provided.

3. In addition to parking and stacking space requirements, at least two (2) standing or parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.
4. Setback areas shall be landscaped in accordance with [SECTION 13.03](#).
5. Access driveways shall be located no less than one hundred fifty (150) feet from the right-of-way line of any street or seventy-five (75) feet from the nearest edge of any other driveway.
6. Menu/speaker boards shall be provided that minimize verbal feedback. Speakers shall be located, positioned and controlled to minimize noise impacts.
7. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the restaurant, including measures to separate pedestrian and vehicular traffic in the areas nearest drive through windows.
8. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

L. Elderly Housing.

1. The minimum lot size shall be at least one (1) acre with a minimum of two thousand, four hundred (2,400) square feet of lot area per dwelling unit (18.15 dwelling units per acre).
2. The number of dwelling units in an elderly housing project may exceed the twenty (20) units per building by no more than 50% (10 units per building) if the facility is licensed by the State of Michigan for nursing care or as a home for the aged. If the facility is not licensed by the State of Michigan the number of units may exceed twenty (20) units per building by no more than 25% (5 units per building).
3. All units in the building shall have a minimum of four hundred and fifty (450) square feet per unit.
4. A covered drop-off and pick-up area shall be provided on-site in close proximity to the main entrance.
5. Walkways shall be provided from the main building entrances to the sidewalk along the adjacent public or private street(s).

M. Elementary, Middle and High School (Private).

1. The minimum lot size shall be one (1) acre with at least one hundred and fifty

(150) feet of street frontage.

2. Maximum height of buildings shall not exceed forty-five (45) feet.
3. Front and rear setbacks shall be at least equal to the height of the building. A side yard of at least twenty (20) feet is required on each side of any portion of the building.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

N. Fraternal or Social Club or Lodge.

1. The site shall have at least one (1) property line abutting a public collector street.
2. All vehicular ingress and egress to the site shall be directly from a public thoroughfare, unless otherwise approved by the Planning Commission.
3. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.
4. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

O. Funeral Home and Mortuary.

1. The minimum lot area shall be one (1) acre with at least one hundred and fifty (150) feet of street frontage.
2. A well-designed and landscaped off-street vehicle assembly area shall be provided on site to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
3. A caretaker's residence may be provided within the main building.
4. The proposed site shall front upon a paved public collector street. All ingress and egress shall be from that thoroughfare.
5. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of the intersection.

P. Hotel/Motel

1. The minimum lot area shall be one (1) acre and minimum lot width shall be at least one hundred and fifty (150) feet.
2. Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Ingress and egress shall be from a paved major public street.
4. Minimum floor area of each guest unit shall be two hundred and fifty (250) square feet.
5. Maximum building height shall not exceed the height limits of the district.

Q. Kennel

1. The minimum lot size shall be at least two (2) acres for the first ten (10) animals, plus one (1) additional acre for each additional five (5) animals.
2. All buildings or areas in which the animals are kept or exercised shall be set back a minimum of 50 feet from any adjoining property.
3. A screened/landscaped area shall be provided between all buildings or areas in which the animals are kept or exercised, and any adjacent residential use or district.
4. Animal waste shall be managed to prevent odors and other nuisances.
5. A kennel permit shall be obtained from the Shiawassee County Animal Control Department or successor public agency.

R. Open Air Business.

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.
3. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and /or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
4. The Planning Commission may, to ensure strict compliance with any regulation contained herein and required as a condition of special land use approval, require the permittee to furnish a performance bond in accordance with [SECTION 17.04](#).
5. The lot area used for parking shall be paved. Display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded so as to properly dispose of all surface water.
6. Ingress and egress shall be provided from a paved public street and shall be at least one hundred (100) feet from an intersection.
7. All lighting shall be shielded from adjacent properties.
8. All loading activities and parking areas shall be provided on the same premises

(off-street).

9. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
10. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

S. Pawn Shop.

1. The lot shall have frontage on a paved public street.
2. The lot shall be located such that it is at least three hundred (300) feet from the lot line of any property on which is situated a public library, public or private school, playground, play field, church or hospital.
3. Outdoor storage is prohibited.
4. The facility shall be properly licensed by the state and adhere to rules promulgated for second-hand stores.

T. Recreation Facility (outdoor).

1. The facility shall be located on a minimum lot size of two (2) acres; plus an additional fifteen thousand (15,000) square feet for each one hundred (100) seating capacity or fraction thereof in excess of one hundred (100) members.
2. The facility shall have a minimum of two hundred (200) feet of street frontage on a paved public collector street.
3. Access driveways shall be located no less than one hundred fifty (150) feet from the centerline of the intersection of any street or fifty (50) feet from any residential driveway.
4. The main and accessory buildings and structures shall not be located within fifty (50) feet of any Residential District.
5. Lighting for parking or outdoor activity areas shall be shielded to prevent light from spilling or shining over the property line.
6. Where the use abuts property within a Residential District, a transitional strip at least thirty (30) feet in width shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the transition strip.
7. A minimum of one hundred (100) feet shall separate all uses, operation, and structures permitted herein, including fences, from any public street or highway uses for access or exit purposes. This area shall be landscaped in accordance

with plans approved by the Planning Commission.

8. Where the site adjoins a Residential District, outdoor loudspeaker systems shall not be used.
9. The intensity level of sounds leaving the site shall not exceed sixty-five (65) decibels (dBA) at the lot line of residential uses.

U. Recreation Facility (indoor).

1. The location, design, and operation of billiard halls, bowling centers, etc. with amusement machines shall not adversely affect the continued use, enjoyment, and development of adjacent properties.

V. Salvage or Junk Yard.

1. The lot shall be no closer than five hundred (500) feet to any Residential District, public buildings, church, hospital, institution for human care, day nursery, or school.
2. Ingress and egress to the facility shall be only from a public arterial street. The Planning Commission may approve access by other streets if it finds that the access point will further minimize impacts on other properties.
3. The site shall be a minimum of ten (10) acres in size if there is any outdoor storage and a minimum of two (2) acres in size if all material is stored within a completely enclosed building.
4. All outdoor storage areas shall be enclosed and set back at least one hundred (100) feet from any front street or property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. The spacing and type of plant materials shall be approved by the Planning Commission in accordance with the requirements of [SECTION 13.03](#).
5. Adequate parking and unloading facilities shall be provided on site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
6. Whenever the use abuts a residential district, a buffer strip at least one hundred (100) feet in width shall be provided between the enclosed area and the adjoining district. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.
7. An enclosed solid fence, wall or earthen berm at least six (6) feet in height, shall be provided and maintained around the periphery of the site.
8. The outdoor storage of trash or rubbish shall be screened in accordance with [SECTION 13.03](#).

9. All activities shall be confined within the enclosed area. There shall be no stacking of material above the height of any fence, berm or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the enclosed area.
10. No open burning shall be permitted, and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
11. All streets, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public streets.
12. The operation shall be licensed by the Michigan Secretary of State to sell any used vehicle parts or tow non-operational vehicles.
13. Any hazardous substances require secondary containment and conformance with all state or federal requirements.

W. Tobacco Specialty Retail Store or Smoking Lounge

1. Must be approved by the State of Michigan Department of Community Health as a Tobacco Specialty Retail Store or Cigar Bar and possess a valid exemption of the State of Michigan smoking prohibition of Section 12603, Public Act 368 of 1978. Smoking lounges not possessing a valid state exemption as a Tobacco Specialty Retail Store or Cigar Bar are not permitted.
2. Hours of operation shall be limited to 10:00 A.M. to 12:00 A.M.
3. No such establishment shall be located less than five hundred (500) feet from any residential zoning district, school, religious institution, park, childcare facility, firearm dealer, or business selling alcohol to be consumed off the premises.
4. All outdoor patios used for smoking shall be at least twenty (20) feet from any other business entrance or outside dining area.
5. Smoking lounges shall provide adequate ventilation for the smoke in accordance with all requirements imposed by the building and fire codes. At a minimum, the ventilation system shall also assure that smoke from the smoking lounge is incapable of migrating into any other portion of the building hosting the smoking lounge or into any other building or premises in the vicinity of the smoking lounge.
6. No window coverings shall prevent visibility of the interior of the smoking lounge from outside the premises during operating hours.
7. The maximum occupancy level for a smoking lounge shall be established by the fire department.

X. Trade or Industrial School.

1. Such schools shall be located on a minimum lot size of two (2) acres and have direct access to a major or minor public arterial street.
2. Access driveways shall be located no less than one hundred fifty (150) feet from the centerline of the intersection of any street or fifty (50) feet from any residential driveway.
3. The main and accessory buildings and structures shall not be located within fifty (50) feet of any Residential District.
4. Lighting for parking or outdoor activity areas shall be shielded to prevent light from spilling or shining over the property line.
5. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.

Y. Vehicle Repair Facility.

1. The minimum lot size shall be one-half (1/2) acre with a minimum of one hundred fifty (150) feet of frontage on a public arterial street.
2. The facility shall meet all pertinent licensing requirements of the State of Michigan, the County of Shiawassee and the City of Perry.
3. All buildings, structures, and equipment shall be located at least twenty (20) feet from any right-of-way line, and not less than twenty (20) feet from any side or rear lot line.
4. No part of any drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or less than fifty (50) feet from any adjacent Residential District property line. No drive shall be located nearer than seventy-five (75) feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.
5. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building and all repair, servicing or other related activities shall take place within the building.
6. Parking and storage areas for disabled, wrecked, or partially dismantled vehicles awaiting repair shall be paved with asphalt or poured concrete, and parking of such vehicles shall not exceed a maximum of three (3) vehicles. This area shall be screened from the view of any abutting property. The Planning Commission shall approve the method of screening.
7. A landscaped, planted open space of a minimum of ten (10) feet in depth shall be provided along the full frontage of the site.
8. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot sight obscuring wall or fence. No outside storage



area shall exceed an area of two hundred (200) square feet. A plan for proper disposal shall be required for all waste products incidental to this use.

9. The rental of trucks, trailers, and any other vehicles on the premises shall not occupy required setbacks or parking areas.
10. All exterior lighting shall be erected and hooded so as to shield the glare of such lights from spilling or shining onto adjacent property.
11. Where the site abuts a Residential District, a minimum twenty (20) foot buffer strip shall be provided along that property line. Grass, plant materials, and sight-obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip. The Planning Commission shall use [SECTION 13.03](#) when determining screening needs.
12. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.
13. Hours of operation shall not have an adverse effect on adjoining areas and be subject to Planning Commission review and approval.
14. The use shall be supported by certain infrastructure features, including paved streets, natural gas, public water supply, and public sanitary sewer.
15. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins, and automatic shut off valves.

Z. Vehicle Sales and Rental.

1. Such use shall meet all pertinent licensing requirements of the State of Michigan, the County of Shiawassee and the City of Perry.
2. All buildings, structures, and equipment shall be located at least fifty (50) feet from any right-of-way line, and not less than thirty (30) feet from any side or rear lot line.
3. A landscaped, planted open space of a minimum of ten (10) feet in depth shall be provided along the full frontage of the site.
4. No part of any drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection or less than fifty (50) feet from any adjacent Residential District property line. No drive shall be located nearer than seventy-five (75) feet, as measured along the property line, to any other driveway measured to the nearest part of the access driveway to the nearest part of the other driveway.
5. The minimum lot width shall be two-hundred fifty (250) feet and the minimum lot area one (1) acre.
6. The Planning Commission may require a six (6) foot, solid wall or solid fence along a side or rear lot line abutting a Residential District.

AA. Vehicle Service Station.

1. The lot shall be a minimum of three-quarters (3/4) of an acre with a minimum street frontage of one hundred and fifty (150) feet.
2. The lot shall have direct access to a public arterial street.
3. Vehicle fuel stations and their accessory uses (except parking areas) and buildings shall be located not less than fifty (50) feet from any right-of-way line or from any side or rear lot line abutting a Residential District.
4. The Planning Commission may require a six (6) foot, solid wall or solid fence along a side or rear lot line abutting a Residential District.
5. Accessory vehicle related facilities located on the premises such as wash facilities, and vehicle repair are allowed if they obtain separate Special Land Use approvals pursuant to this Chapter.
6. The site shall be limited to no more than one (1) driveway for each street on which it fronts.
7. All storage of material, merchandise and equipment shall be within an enclosed building.
8. Gasoline or other flammable mixtures shall not be used to wash down the premises.
9. In the event that a vehicle fuel station has been abandoned or not used as a vehicle fuel station for a period of more than one (1) year, any application to operate the premises as a vehicle fuel station shall be considered as an application for a new vehicle fuel station.
10. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins, and automatic shut off valves.

BB. Vehicle Wash Facility.

1. The minimum lot area shall be one-half (1/2) acre with a minimum street frontage of one hundred (100) feet.
2. The lot shall have immediate access to a public arterial street.
3. Additional vehicle related facilities located on the premises such as motor vehicle service facilities are allowed if approved as a Special Land Use pursuant to this Chapter.
4. All washing activities shall be within a building.
5. The vehicular exit from the building shall be at least seventy-five (75) feet from the driveway egress.

6. Wastewater shall be filtered or otherwise cleansed so as to minimize discharge of soap, wax and solid matter into the public sewer.
7. The site shall be limited to no more than one (1) driveway for each street on which it fronts.
8. Each wash bay shall be provided ample space for required stacking spaces that is not located within the public or private right-of-way and that does not conflict with vehicle maneuvering areas and does not conflict with other activities on the site such as gasoline pumps or vacuums.
9. A by-pass lane around the building is required for automated drive- through wash facilities.
10. No activity shall emit noise that is readily discernible to the average person in any adjacent Residential District providing that air handling equipment in proper working condition deemed to comply with this provision is located on a roof with intervening noise reduction baffles. Nothing herein shall be interpreted to relieve the property owner or operator of the need to comply with all noise regulations of the City of Perry.
11. The minimum front yard setback for the structure shall be fifty (50) feet; minimum side yard setback shall be twenty-five (25) feet; minimum rear yard setback shall be fifty (50) feet.
12. The entrances and exits of the facility shall not be from an adjoining residential street or alley. A street or alley shall not be used as a maneuvering or parking area for vehicles using the facility.
13. The entire site, other than the portion occupied by the building and landscaping, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
14. There shall be no above-ground outdoor storage/dispensing tanks on the site.
15. When adjoining a Residential District, a six (6) foot high wall or fence shall be erected and maintained along the connecting interior lot line or other landscaping providing a six (6) foot high barrier may be approved by the Planning Commission pursuant to the requirements of [SECTION 13.03](#).
16. All lighting shall be shielded from adjacent Residential Districts or uses.
17. The outdoor storage of trash or rubbish shall be screened in compliance with [SECTION 13.03](#).
18. All washing activities shall be conducted within a completely, or partially enclosed structure, except one "tall" vehicle washing area is permitted.
19. Vacuuming activities shall be at least twenty-five (25) feet from any lot line except where the property abuts a Residential District in which case a fifty (50) foot separation shall be maintained.

20. All drains shall be connected to a public sanitary sewer system.
21. Vehicle wash facilities shall not be operated between the hours of 11:00 p.m. and 8:00 a.m.

CC. Veterinary Hospital and Veterinary Clinic.

1. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas, shall not be located closer than one hundred (100) feet to any Residential District and shall not be located within any required yard area.
2. Outdoor runs, pens, and/or exercise areas that face residential districts shall be screened with a six (6) foot high fence. Suitable shade, including some natural vegetation shall be provided around these outdoor areas.
3. All indoor and outdoor hospital and clinic areas, runs, pens, and/or exercise areas shall be maintained to create safe and suitable environments for animals, including the daily elimination of animal waste.

DD. Wind Energy Conversion System

These facilities may be a principal use or an accessory use on a parcel.

1. Minimum lot size for a commercial WECS shall be ten (10) acres, but a minimum of five (5) acres of site area is required for each WECS proposed within an eligible property. Minimum lot size for a non- commercial WECS shall be two (2) acres.
2. In addition to the requirements for site plan review and approval, the following information shall be include with any application for a Special Land Use for a WECS:
  - a) Location of overhead electrical transmission or distribution lines.
  - b) Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
  - c) Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the site housing the WECS. The boundaries to include the outermost locations upon which towers, structures, fencing, facilities, and other items associated with a WECS are placed. Specific distances to other on-site buildings, structures, and utilities shall be provided.
  - d) A proper buffer or greenbelt to screen the use from any adjacent Residential District or use and the public road.
  - e) Existing and proposed setbacks of all structures located on the property in question.

- f) Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to all structures within three hundred (300) feet. For wind farms in which case numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and when adjacent to other established structures within three hundred (300) feet.
  - g) Access road to the WECS facility with detail on dimensions, composition, and maintenance.
  - h) Planned security measures to prevent unauthorized trespass and access.
  - i) WECS maintenance programs shall be provided that describes the maintenance program used to maintain the WECS, including removal when determined to be obsolete.
3. A copy of the manufacturer's installation instruction shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
  4. Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code. Additionally, WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City of Perry.
  5. No part of a WECS shall be located within or above any required front, side or rear yard setback of the Zoning District in which it is located.
  6. WECS towers shall be setback from the closest property line one (2) feet for every one (1) foot of system height.
  7. WECS shall not be located within thirty (30) feet of an above ground utility line.
  8. The height of a WECS shall be measured from grade to the height of the blade in the vertical position or the highest point of the WECS, whichever is greater. Maximum height for a commercial WESC shall be two hundred (200) feet for a commercial WECS and add maximum height of one hundred and thirty (130) feet for a non-commercial WECS.
  9. WESC shall be of monopole design and shall not have guy wires.
  10. Colors and surface treatment of the WECS and supporting structures shall minimize disruption of the natural characteristics of the site. No part of the structure shall be used for signs or advertising.
  11. Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of

clearance over any structure, land or tree within a two hundred (200) foot radius of the tower.

12. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:
  - a) Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
  - b) A locked anti-climb device shall be installed on the tower.
  - c) Tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.
13. Each WECS shall have one (1) sign, not to exceed two (2) square feet in area posted at the base of the tower. The sign shall contain the following information:
  - a) Warning high voltage.
  - b) Manufacturer's name.
  - c) Emergency phone number.
  - d) Emergency shutdown procedures.
14. WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by Federal regulations.
15. WECS shall be designed and constructed so as not to cause radio and television interference.
16. Noise emanating from the operation of WECS shall not exceed sixty-five (65) decibels, as measured on the dBA scale, measured at the nearest property line. Estimates of noise levels shall be provided by applicant for property lines for normal operating conditions.
17. Any proposed WECS shall not produce vibrations humanly perceptible beyond the property on which it is located.
18. The on-site electrical transmission lines connecting the WECS to the public utility electric distribution system shall be located underground.
19. The WECS shall be located and designed such that shadow flicker will not fall on, or in, any existing residential structure.
20. The City of Perry hereby reserves the right upon issuing any WECS special land use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.
21. Any WECS which are not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. The City of Perry shall require a performance

guarantee.

EE. Wireless Communication Tower.

1. The lot size shall be a minimum of twenty thousand (20,000) square feet.
2. The tower shall be of a monopole design unless an alternative design can be presented that blends suitably in the City landscape.
3. The tower shall be set back from all lot lines a minimum distance equal to one-half (1/2) the height of the tower. All other buildings, structures, and guy wires shall meet the minimum setback requirements of the Zoning District.
4. A security fence at least six (6) feet in height shall be constructed around the tower and supports.
5. Where possible, joint use of tower facilities, including City of Perry elevated storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the City.  
As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands or co-locate on an existing tower.
6. Unless located on the same site or tower with another user, no new tower shall be erected within a one-half (1/2) mile radius of an existing radio, television, cellular, or wireless communications tower.
7. No signs, except warning or other cautionary signs shall be permitted on the site.

FF. Medical Marihuana Provisioning Centers / Marihuana Adult-Use (Recreational) Retailers

1. Medical marihuana provisioning centers / marihuana adult-use (recreational) retailers shall be located within a permanent building, as defined by [SECTION 2.03](#).
2. No medical marihuana provisioning center / marihuana adult-use (recreational) retailer shall be located within one thousand (1000) feet of a public school or library. This distance shall be measured in a straight line from the nearest property line to the parcel of land upon which the proposed marihuana facility is to be located to the nearest boundary of public-school property or public library.
3. Medical marihuana provisioning centers / marihuana adult-use (recreational) retailers shall not be expanded or improved in any manner requiring a building permit without first applying for and receiving the approval of the City of Perry Zoning Administrator, Planning Commission, and the City of Perry Council.
4. Medical marihuana provisioning centers / marihuana adult-use (recreational) retailers are not permitted in A-1, R-1A, R-1B, R-T, R-M, PUD, NFO, MHP, CBD, I-1 or I-2. Medical marihuana provisioning centers / marihuana adult-use (recreational) retailers are permitted in B-1 and MXD.
5. Parking requirements of one (1) parking space per 300 sq ft of usable retail floor

area and in conformance with [SECTION 13.05](#).

6. Buildings must be constructed in a manner that provides unobstructed visibility to all areas of the building and parking lots.
7. If the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials and sight-obscuring fences or walls of an appropriate type approved by the Planning Commission and in accordance with [SECTION 13.03](#) shall be placed within the buffer strip.
8. Any sign or signs shall comply with the requirements of this Ordinance and be approved at the discretion of the Planning Commission.
9. Hours of operation are limited to Monday through Sunday 8am to 10pm.
10. Outdoor lighting shall be dark-sky compliant and sufficient to illuminate all sides of the building without creating a nuisance to surrounding properties or roadways.

#### **SECTION 15.08      TERMINATION OF A SPECIAL LAND USE APPROVAL**

In the event that a special land use approval is granted, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights granted by the special land use approval or any conditions attached thereto or fail to follow or comply with any conditions or requirements thereof. In the event that the use of the property exceeds those rights given by the special land use approval or conditions attached thereto, or the property owner fails to follow the conditions placed upon the special land use or any requirements of this Ordinance, the special land use shall terminate immediately. Alternately, in such cases, the Planning Commission shall also have the authority to terminate a special land use approval after reasonable notice and hearing.



## **CHAPTER 16**

### **ZONING BOARD OF APPEALS**

#### **SECTION 16.01      MEMBERSHIP AND PROCEDURES**

- A. The Zoning Board of Appeals for the City of Perry (ZBA) shall consist of three (3), five (5), or seven (7) members (with the specific number of members set by the City Council) appointed by the Mayor with the approval of the City Council, who shall serve terms of three (3) years, except for the liaison members who are also on the Planning Commission or City Council, who shall serve only as long as they are members of those bodies. Membership shall be representative of the population distribution and of the various interests present in the City.
- B. One (1) member of the Planning Commission shall be a member of the ZBA, while a member of the City Council may be a member of the ZBA, and the remaining members selected and appointed by the Mayor (with City Council approval) from the electors of the City of Perry. A City Council member may not be chairperson of the ZBA.
- C. Meetings shall be held at the call of the Chairperson, and at other times as the ZBA in its rules of procedure may specify. The Chairperson, or in his/her absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- D. All meetings of the ZBA shall be open to the public. The ZBA shall maintain a record of its proceedings, which shall be filed in the office of the City Clerk, and shall be a public record.
- E. Alternates
  - 1. The Mayor (with the approval of the City Council) may appoint up to two (2) alternate members for the same term as regular members of the ZBA.
  - 2. An alternate member may be called to sit as a regular member of the ZBA to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest or is absent.
  - 3. The alternate members of the ZBA may be called to sit as regular members of the ZBA, if a regular member is absent from one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for reasons of conflict of interest.
  - 4. The alternate member having been called to serve on a case shall serve on that case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the ZBA.
  - 5. The records maintained by the ZBA shall reflect the attendance and participation of an alternate member.

## **SECTION 16.02      VACANCIES AND REMOVAL**

- A. Vacancies: If a vacancy occurs in the membership of the ZBA, the Mayor with the approval of the City Council shall appoint another person to the ZBA for the balance of the unexpired term. Upon expiration of the term of a member of the ZBA, a successor shall be appointed not more than one (1) month after the term of the preceding member has expired.
  
- B. Removal: A member of the ZBA may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a known conflict of interest constitutes malfeasance in office. Whenever a member of the ZBA has a conflict of interest with respect to a matter presented to the ZBA, the member shall state on the record the nature of the conflict of interest, and the member shall not participate in the ZBA's discussion, consideration, deliberation, or decision of the matter.

## **SECTION 16.03      RULES OF PROCEDURE**

The ZBA may adopt rules and regulations for the conduct of its meetings. The ZBA shall elect from its membership a Chairperson, Vice-Chairperson, Secretary and other officers as deemed necessary. The ZBA shall not conduct business unless a majority of all of its members is present. The presence of a majority of its members shall constitute a quorum.

The regular place and time of meetings of the ZBA may be established by the ZBA in its rules and regulations. Except as otherwise specified in the rules and regulations of the ZBA, the procedure in meetings of the ZBA shall be governed by Robert's Rules of Order.

Minutes of proceedings shall be kept for all ZBA meetings. These minutes shall list the members absent and present and shall show the action taken by the ZBA, as well as the vote of each member upon each matter presented to the ZBA.

## **SECTION 16.04      CONFLICT OF INTEREST**

A member of the ZBA shall not participate or vote with respect to a matter in which the member has a conflict of interest. Failure of a member to refrain from participating or voting in a matter in which the member has a known conflict of interest shall constitute misconduct in office. A conflict of interest exists whenever a member of the ZBA owns land within the City of Perry which is significantly affected by a matter presented to the ZBA, or a member has a direct financial interest in the matter presented to the ZBA. A conflict of interest may exist in other circumstances as well.

The members of the ZBA should strive to avoid even the appearance of impropriety. Whenever a member of the ZBA has a conflict of interest or appears to have a conflict of interest with respect to a matter presented to the ZBA, the member shall state on the record the nature of the conflict of interest, or the circumstances which exist which could be perceived to be a conflict of interest. If the member has a conflict of interest, the member shall not participate in the ZBA's consideration of the matter. If circumstances exist which could be perceived to be a conflict of interest, the member, after disclosure of these circumstances, may continue to participate in the

ZBA's consideration of the matter if the member can be fair, objective and impartial, subject to the vote of the other members of the ZBA.

Nondisclosure of a known conflict of interest shall constitute misconduct in office, and nondisclosure of circumstances which exist which could be perceived to be a conflict of interest may also constitute misconduct in office.

If a member of the ZBA fails to disclose any circumstances which could be perceived to be a conflict of interest and the ZBA later becomes aware of such circumstances, or if a member of the ZBA participates in the consideration of a matter in which the member has a known conflict of interest, the ZBA may, upon the vote of a majority of the regular members of the ZBA (other than the member who has failed to make the disclosure or who participated in the consideration of a matter in which the member had a conflict of interest), the ZBA may make a recommendation to the City Council that the member be removed from the ZBA for misconduct in office. If the ZBA makes such a recommendation to the City Council, the City Council shall hold a public hearing to consider the recommendation.

## **SECTION 16.05     INTERPRETATIONS**

The Zoning Board of Appeals shall have the power to hear and decide, in accordance with the provisions of this Ordinance, appeals involving interpretations of this Ordinance made by the Zoning Administrator, and may make decisions on any other questions on which the ZBA is authorized to pass. In exercising all of its powers, the ZBA shall apply the standards of this section.

- A.     Text Interpretations: The ZBA may hear and decide upon appeals for the interpretation of the provisions of this Ordinance after the Zoning Administrator has rendered an interpretation. In deciding text interpretations, the ZBA shall be governed by the following such rules.
1.     Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this Ordinance and not have the effect of amending this Ordinance.
  2.     Interpretations shall give weight to practical interpretations by the Zoning Administrator if applied consistently over a long period of time.
  3.     Records shall be kept of all interpretations.
  4.     Where the intent of this Ordinance is unclear and the facts cannot be read to support only one interpretation, the benefit of the doubt shall go to the property owner.
  5.     Nothing contained in this section shall be construed to give or grant to the ZBA the power or authority to alter or change the language of this Ordinance.
- B.     Map Interpretations: When there is any question as to the location of any boundary line between Districts, upon an appeal involving an interpretation of the zoning map from a decision of the Zoning Administrator, the ZBA shall establish the boundary based upon the map and all available information relating thereto and shall establish the boundaries to carry out the intent and purposes of this Ordinance and the Master Plan.

- C. Any appeal shall be filed in writing with the City of Perry within fourteen (14) days of the date when the Zoning Administrator makes his/her interpretation.

## **SECTION 16.06      APPEALS**

- A. Upon application, the ZBA shall hear and decide appeals from and review any order, requirements, decision or determination made by the Zoning Administrator or other official or body charged with the administration of this Ordinance. Any person aggrieved may make an appeal to the ZBA. The grounds of every appeal shall be stated in writing as part of the application.
- B. An application for appeal shall be filed with the City of Perry within fourteen (14) days after the date of the decision that is the basis of the appeal. The appealing party shall file an [Application of Appeal](#) with the City and pay the required fee or fees with the Zoning Administrator. The notice shall specify the nature and grounds of the appeal and the application fee or fees shall be submitted to the City of Perry in an amount or amounts as established by the City Council from time to time.
- C. The Zoning Administrator shall transmit to the ZBA all the papers constituting the record upon which the action being appealed was taken.
- D. An appeal stays all proceedings from furthering the action being appealed unless the Zoning Administrator certifies to the ZBA that a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the Circuit Court.
- E. The ZBA shall fix a reasonable time for the hearing of the appeal, and give due notice to the applicant and all property owners and occupants within three hundred (300) feet of the subject property via a letter sent first class mail not less than fifteen (15) days before the public hearing the time and place of the hearing. Any party may appear in person or by agent. A public hearing notice shall also be published in a newspaper of general circulation not less than fifteen (15) days before the public hearing. See also, [SECTION 17.09](#).
- F. Following the public hearing, the ZBA shall decide the matter within a reasonable time. The ZBA may reverse or affirm, wholly or partly, or may modify the order requirement, decision or determination, and to that end, shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.

## **SECTION 16.07      VARIANCES**

- A. Non-Use (Dimensional) Variances: The ZBA may authorize upon written application in specific cases variances from the terms of this Ordinance where, owing to special conditions related to the applicant's property, a literal enforcement of the provisions of this Ordinance would result in a practical difficulty to the applicant. A variance from the terms of this Ordinance shall not be granted by the ZBA unless and until a written [Application for a Variance](#) is submitted and the ZBA finds that all of the following standards are met:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:
    - a) Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter;
    - b) By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure;
    - c) By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
    - d) Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.
  2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
  3. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
  4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
  5. The variance will not impair the intent and purpose of this Ordinance.
  6. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant or the applicant's predecessors in title.
  7. That the reasons set forth in the application justifies the granting of the variance and that the variance is the minimum variance necessary.
- B. Use Variances: Subject to other provisions of this Ordinance, the ZBA shall have the jurisdiction to decide applications for use variances. The ZBA shall not grant a use variance unless it finds that an unnecessary hardship will occur unless the variance is granted. Additionally, the ZBA shall not grant a use variance unless it also finds that all of the following standards below are met:
1. The variance request, if granted, will be the minimum variance (i.e., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
  2. The granting of the variance will not be injurious or detrimental to neighboring properties or residents.

3. The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.
4. The variance will not impair the intent or purpose of this Ordinance.
5. The problem or condition for which the variance is requested is not a self- created problem by the applicant or property owner (or their predecessors in title) as to the property involved.
6. The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the City to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.
7. There are exceptional, unique, or extraordinary physical conditions or circumstances which directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.
8. The variance must be necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE – a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)
9. As specified above, the ZBA must also find that unnecessary hardship will occur if a use variance is not granted.

No use variance shall be granted unless at least two-thirds (2/3) of all members of the ZBA vote in favor of such use variance. Furthermore, before the members of the ZBA may vote on a given use variance request, the matter shall be referred to the Planning Commission. The Planning Commission shall be asked for its recommendation regarding the proposed use variance request. The ZBA may take final action regarding such a use variance request once the Planning Commission has forwarded its recommendation on the particular use variance request to the ZBA or forty-five (45) days has elapsed since the referral to the Planning Commission, whichever occurs first.

## **SECTION 16.08      APPLICATIONS AND HEARINGS**

- A. Applications for variances shall be submitted to the Zoning Administrator who will review the application for completeness and validity, then transmit it to the Zoning Board of Appeals is complete. Applications not meeting the requirements shall be returned to the applicant for completion.
- B. A valid application for a variance to the ZBA shall consist of all of the following:
  1. Ten (10) copies of a site plan drawn to scale, which is sufficient to describe the nature of the request.
  2. A completed application form as provided by the City.

3. Payment of the application fee or fees, in accordance with a fee schedule, as determined by the City Council from time to time.
  4. An escrow deposit where applicable.
  5. A legal description and/or parcel number of the entire property that is the subject of the request.
  6. A statement with regard to compliance with the standards of as applicable.
  7. Other materials as may be required by the ZBA or the City.
- C. A public hearing shall be held and noticed pursuant to [SECTION 17.09](#).

### **SECTION 16.09      DECISIONS OF THE ZBA**

- A. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or body or to decide in favor of the appellant on any matter. The ZBA shall render its decision upon any appeal or application submitted to it within a reasonable time after the hearing thereon. However, no use variance shall be granted unless at least two-thirds (2/3) of all of the members of the ZBA vote in favor thereof.
- B. The ZBA may require a performance guarantee or guarantees and/or impose reasonable conditions in conjunction with the approval of an appeal, variance, or any other decision that it is required to make. Conditions shall be imposed in a manner in accordance with the Zoning Act and be related to the standards by which the decision is reached.
- C. All decisions of the ZBA shall become final at the entry of an order, or at the adoption of the minutes, unless the ZBA shall find, and so certify on the record, that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.
- D. For each decision of the ZBA, a record shall be prepared including at a minimum, the following items:
  1. Description of the applicant's request.
  2. The ZBA's motion and vote.
  3. A summary or transcription of all competent material and evidence presented at hearing.
  4. Any conditions attached to an affirmative decision.
- E. The decision of the ZBA shall be final. However, a party aggrieved by the decision of the ZBA may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Act. The court may affirm, reverse, or modify the decision of the ZBA, or may remand the decision to the ZBA for further hearings or action.

- F. Period of Validity. No variance granted by the ZBA shall be valid for a period longer than twelve (12) months, from the date of its issuance if not used. However the applicant may, upon written request, seek up to one (1) twelve (12) month extension of the variance from the ZBA. The ZBA may grant an extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were reasonably beyond the control of the applicant.

**SECTION 16.10      PERFORMANCE GUARANTEE**

The Zoning Board of Appeals may require a performance guarantee or guarantees to ensure compliance with any conditions associated with the granting of a variance.

**SECTION 16.11      RE-SUBMISSION**

No variance request (or similar request) that has been decided by the ZBA shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the ZBA finds that at least one of the following conditions exists:

- A. That the conditions involving all of the reasons for the original denial have been significantly altered; or
- B. That new conditions or circumstances exist which change the nature of the original request.

**SECTION 16.12      LACK OF JURISDICTION**

The ZBA is without jurisdiction to hear any appeals or matters involving any of the following:

- A. A planned unit development (PUD).
- B. A special land use.

Notwithstanding the fact that the ZBA generally has no jurisdiction with regard to the above-mentioned matters, the ZBA shall have jurisdiction to entertain variance requests related to subsections A and/or B above, if the City of Perry body which makes the final decision regarding the matter (for example, the City Council with regard to a PUD or the Planning Commission with regard to a special land use) expressly grants written permission to the landowner or applicant involved to apply to the ZBA for a variance of one or more of the underlying requirements of the Zoning Ordinance. For example, but not by way of limitation, the Planning Commission could approve a particular special land use request contingent upon the ZBA granting a variance for an otherwise applicable requirement within the Ordinance which would normally prohibit the applicant or landowner from taking advantage of a special land use approval absent a variance.



**SECTION 16.13      TERMINATION OF A VARIANCE**

In the event that the ZBA grants a variance, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights given by the Zoning Ordinance or the variance or fail to follow any conditions placed thereon by the ZBA. In the event that the use of the property exceeds those rights given by the Zoning Ordinance or the variance, or the property owner fails to follow the conditions placed upon the variance, the variance shall immediately terminate. Alternately, in such case, the ZBA shall also have the authority to terminate a variance after reasonable notice and hearing.

**SECTION 16.14      NO ADVISORY OPINIONS**

The ZBA shall not give advisory, informal, or hypothetical opinions or decisions.

## **CHAPTER 17**

### **ADMINISTRATION, ENFORCEMENT & MISCELLANEOUS MATTERS**

#### **SECTION 17.01      ADMINISTRATION AND ENFORCEMENT**

An administrative official who shall be known as the Zoning Administrator shall be designated by the City Council to administer and enforce this Ordinance. The administrator may be provided with the assistance of other persons as the City Council may direct.

If the Zoning Administrator shall find that any provision of this Ordinance is being violated, he/she shall notify the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of any illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

#### **SECTION 17.02      ZONING ADMINISTRATOR DUTIES AND ZONING COMPLIANCE PERMITS**

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits in accordance with the requirements of this Ordinance. The Zoning Administrator may attach reasonable conditions to the granting of a zoning compliance permit.
- B. It shall be unlawful to commence a use or change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, or to construct or expand any building or structure, until the Zoning Administrator has determined the change to be in compliance with all applicable provisions of this Ordinance and has issued a zoning compliance permit.
- C. The Zoning Administrator shall evaluate the structure, plans, specification and intended use of any structure that exceeds one hundred (100) square feet. Documented approval shall be provided once the Zoning Administrator has determined that such structure complies in all respects with this Ordinance. Prior to this approval, it shall be unlawful to commence land clearing or excavation for the construction, relocation, or repair of any structure regulated by this Ordinance.
- D. The Zoning Administrator shall not approve the issuance of a zoning compliance permit if all final plans, development agreements, escrow fees and any required performance guarantees are not provided to the City of Perry.
- E. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Zoning Administrator has inspected the plans or proposal in detail and found them in compliance with this Ordinance.
- F. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance or any other City of Perry ordinance.

- G. The Zoning Administrator shall refuse to issue a zoning compliance permit if the property is in violation of this Ordinance or any other City of Perry ordinance.
- H. The Zoning Administrator shall not refuse to issue a permit when the applicant complies with all requirements of this Ordinance and all other applicable City, county, and state regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
- I. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, City Council, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.
- J. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.
- K. The Zoning Administrator is not, under any circumstance, permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land.
- L. The Zoning Administrator shall have the authority to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of the Ordinance.
- M. The Zoning Administrator may not make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties.
- N. The Zoning Administrator shall require every application for a Building Permit for excavation, construction, moving, alteration or change in type of use or type of occupancy, be accompanied by a site plan prepared that demonstrates compliance with the Zoning Ordinance.
- O. If a proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this Ordinance and in conformance with the provisions of the building code, the Zoning Administrator shall allow a building permit to be issued, provided all other requirements for the permit are satisfied. If the Zoning Administrator does not approve an application for the permit, the reasons for the rejection shall be stated in writing on an appropriate form.
- P. The Zoning Administrator may accept a preliminary application and a lesser number of submitted documents than those required by this Ordinance in situations where basic clarification is desired before proceeding with the further technical work; and the Zoning Administrator may on a preliminary submittal indicate tentative denial or tentative approval.
- Q. The Zoning Administrator shall enforce this Ordinance and may issue stop work orders and municipal civil infraction citations/tickets for the violation of this Ordinance.

### **SECTION 17.03      SCHEDULE OF FEES, ESCROW CHARGES AND EXPENSES**

- A. Except as may be provided for otherwise in this Ordinance, the City Council shall determine and set fees to be collected for all applications for zoning matters, permits, and approvals. These fees shall be collected prior to the issuance of any permit or certificate being issued, and other official actions required by this Ordinance. No application shall be considered complete until all applicable fees have been paid to the City of Perry. Furthermore, City employees and officials shall not commence work on a given zoning application or matter until any and all fees have been paid to the City in full. The fee schedule shall be that adopted by resolution of the City Council as amended from time to time.
- B. In addition to regularly established fees, the City Council at its discretion may also require an applicant to submit to the City, at any time during the zoning review process, an amount of money determined by the City to be a reasonable estimate of the fees and costs which may be incurred by the City of Perry in reviewing and acting upon any such application or related matters.
- C. Such costs and expenses to be charged or assessed to the applicant for reimbursement of the City's reasonable costs and expenses, may include but shall not be limited to City attorney fees, City engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the City, costs and fees for studies and reports pertaining to the matters in questions, significant City of Perry employee time, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the City of Perry for reimbursement of such costs and expenses. Any monies, paid or deposited by an applicant, which are not used or spent by the City of Perry pursuant to an escrow fee shall be refunded.
- D. If, for some reason, the applicant does not pay, or the City of Perry does not collect, zoning escrow fees during the zoning review process, the City of Perry can still bill such costs and expenses to the applicant after the zoning review process has been completed and the applicant or landowner shall promptly pay/reimburse the City of Perry for the same.

### **SECTION 17.04      PERFORMANCE GUARANTEES**

- A. As a condition of approval of a site plan review, Special Land Use, PUD, zoning compliance permit, variance, or other approvals authorized by this Ordinance, the City Council, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees of sufficient sum to assure compliance with this Ordinance, to assure compliance with a condition of approval or a permit, and to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.
- B. The features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.
- C. Performance guarantees shall be processed in the following manner:

1. Required Improvement:

- a) Prior to the issuance of a building permit, zoning compliance permit, or other approval or permit, the applicant or their agent shall submit an itemized cost estimate of the required improvements that are subject to the performance guarantee, which shall then be reviewed and approved by the Zoning Administrator.
- b) The amount of the performance guarantee shall be not more than one hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements, including the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.
- c) The required performance guarantee shall be payable to the City of Perry and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee acceptable to the City.
- d) The Zoning Administrator shall not sign off on the issuance of a zoning compliance permit until all final plans, development agreements, escrow fees and any required performance guarantees are provided.
- e) The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. A portion of the performance guarantee shall be rebated in the same proportion as stated in the itemized cost estimate for the applicable improvements.
- f) When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
- g) If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- h) The Zoning Administrator shall maintain a record of required performance guarantees.

2. Compliance with Conditions:

- a) As a condition of approval of a site plan, special land use, PUD, zoning compliance permit, variance, or other approvals authorized by this Ordinance, the City Council, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees to ensure compliance with the approval and any conditions attached thereto.

- b) A required performance guarantee or guarantees shall be payable to the City of Perry and shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee with the amount, form, financial institution, and language acceptable to (and approved by) the City.
- c) The Zoning Administrator shall not sign off on the issuance of a zoning compliance permit or other permit or approval until all required fees and performance guarantees are provided to the City of Perry.
- d) The Zoning Administrator shall maintain a record of required performance guarantees pursuant to this subsection.

**SECTION 17.05 ZONING ORDINANCE AMENDMENTS**

- A. An amendment to this Ordinance may be initiated by the City Council on its own motion or, in the manner and pursuant to the procedure hereinafter set forth, may be initiated by any person, firm, or corporation filing an application therefore with the City Council. The Planning Commission may, at its discretion, also initiate amendments to this Ordinance through the Zoning Administrator and also recommend Ordinance amendments to the City Council for adoption.
- B. The following guidelines shall be considered by the Planning Commission, and may be used by the City Council in consideration of amendments to the Zoning Ordinance:
  - 1. Text Amendment:
    - a) The proposed text amendment would clarify the intent of the Ordinance.
    - b) The proposed text amendment would correct an error in the Ordinance.
    - c) The proposed text amendment would address changes to the state legislation, recent case law or opinions from the Attorney General of the State of Michigan.
    - d) The proposed text amendment would promote compliance with changes in other county, state, or federal regulations.
    - e) In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
    - f) The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.
    - g) The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
    - h) As applicable, the proposed change shall be consistent with the City's ability to provide adequate public facilities and services.

- i) The proposed change shall be consistent with the City's desire to protect the public health, safety, and welfare of the City of Perry.
  - 2. Map Amendment (Rezoning): In making its recommendation to the City Council, the Planning Commission shall consider the following criteria:
    - a) Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the City of Perry Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, the consistency with recent development trends in the area.
    - b) Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the City, density, potential influence on property values and traffic impacts.
    - c) Whether, if rezoned, the site is capable of the accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.
  - 3. Other factors deemed appropriate by the Planning Commission.
- C. Consideration of Amendment by City Council: Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the Zoning Act, the City Council may modify the proposed amendment or adopt it as presented by the Planning Commission. The modified language may be referred back to the Planning Commission for additional comment.
- D. Amendment Procedure
- 1. Filing of Applications: All petitions for amendments to this Ordinance shall be in writing, signed and filed with ten (10) copies provided to the Zoning Administrator, who will forward them to the Planning Commission.
  - 2. All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
    - a) The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
    - b) The nature and effect of the proposed amendment.
    - c) If an individual property or several adjacent properties are proposed for rezoning, a location map, showing the location of the properties generally in the city, a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting districts, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.

- d) Any changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
  - e) All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
3. The Zoning Administrator, after examining the submitted materials and approving the application as to form and content, shall refer the request to the Planning Commission for study and report to the City Council.
  4. Before submitting its recommendations of the petition to amend, the Planning Commission shall hold at least one (1) public hearing. Written notice of the meeting will be given to land owners and occupants three hundred (300) feet of the boundary of the property to be affected application. Notice shall be given in a newspaper of general circulation not less than fifteen (15) days prior to the public hearing. The notice shall include:
    - a) The nature of the request.
    - b) The property(s) that are the subject of the request including a listing of all existing street addresses within property(s). If there are no addresses other means of identification may be used.
    - c) Location and time of the hearing.
    - d) Where and when written comments may be received.
- E. The Planning Commission shall then refer the proposed amendment to the City Council along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefore.
  - F. Upon enactment, the Zoning Ordinance, as well as subsequent amendments or supplements, shall be filed with the City Clerk, and one (1) notice of Ordinance adoption shall be published accordance with the requirements of the Zoning Act.
  - G. Within seven (7) days after publication, the amendment to the zoning ordinance shall be filed in the Official Ordinance Book of the City of Perry with a certification of the City Clerk stating the vote on passage and when published and filed. If the amendment requires a change on the Official Zoning Map, the change shall be made on the within ten (10) days after enactment of the amendment.
  - H. With regard to text amendments to this Ordinance requested by citizens, neither the Planning Commission nor the City Council are required to initiate or pursue any such amendment, but may do so at their sole discretion.

**SECTION 17.06      ENFORCEMENT**

- A. No property, premise, lot, structure, building, or use shall be used, erected or conducted in such a manner as to cause a nuisance to adjacent property or uses. Any structure, building, lot, or use that violates any provision or this Ordinance shall be deemed to be a nuisance, *per se*.



- B. Any building or structure which is erected, moved, placed, reconstructed, demolished, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance, *per se*.
- C. A violation of this Ordinance constitutes a municipal civil infraction offense. Any person or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a municipal civil infraction.
- D. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which the person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.
- E. The City Council, the Ordinance Enforcement Officer, or their duly authorized representative(s) are hereby charged with the duty of enforcing the Ordinance and are hereby empowered to commence and pursue any and all necessary and appropriate actions and/or proceedings in the District Court or Circuit Court of Shiawassee County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any noncompliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the noncompliance or violation. And it is further provided that any person aggrieved or adversely affected by this noncompliance or violation may institute suit and/or join the City of Perry in the suit to abate the same.
1. Definitions. As used in this Section, “Authorized local official” means a police officer or the Ordinance Enforcement Officer, who is hereby legally authorized to issue municipal civil infraction citations.
  2. Procedure to Enforce Zoning Violations:
    - a) Initial Identification of a zoning ordinance violation. The Ordinance Enforcement Officer shall meet with any individual(s) responsible for a violation of this Ordinance to educate and inform them of the infraction. The alleged violator shall have a minimum of 3 business days to take corrective action evidenced in writing with agreement of the Ordinance Enforcement to correct the alleged violation. If corrected timely, no further action will be taken.
    - b) Written Notice. If violation is not addressed based on the initial discussion with the Ordinance Enforcement Officer, the Ordinance Enforcement Officer will document the situation using an Ordinance Violation Notification Form approved by the City Council for the City of Perry and present a copy to the individual responsible for the infraction. The notification shall specify the violation and provide that the violation must be addressed within 3 business days or a municipal civil infraction citation may be issued.
  3. Municipal Civil Infraction. Any violation or failure to comply with the zoning requirements herein is a municipal civil infraction. An Authorized local official,

including the Ordinance Enforcement Officer may issue a municipal civil infraction citation upon personally witnessing a violation. The Ordinance Enforcement Officer may also issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the City Attorney approves in writing the issuance of the citation.

4. **Minors.** If the person is cited as a minor, that individual shall be permitted to appear in court or to admit responsibility for a civil infraction without the necessity of appointment of a guardian or next friend. A court having jurisdiction over a municipal civil infraction shall have jurisdiction over the minor and may proceed in the same manner as if that individual were an adult.
5. **Parties.** A municipal civil infraction action is a civil action in which the defendant is alleged to be responsible for a municipal civil infraction as defined by state law and this Code. The plaintiff in a municipal civil infraction action shall be the City of Perry if the alleged municipal civil infraction is a violation of this Code, any other City ordinance designating the violation as a municipal civil infraction or a state law designating a violation as a municipal civil infraction.
6. **Continuing Violation.** As provided for in this Section, each act of violation and every day upon which any violation is permitted or suffered to exist or continue shall constitute a separate violation and shall be punished separately upon admission or determination of responsibility. The penalty provided by this Section, shall apply to any amendment or addition to this Section or to the provisions of this Code defining substantive violations of this Zoning whether or not such penalty is reenacted in the amendatory ordinance.
7. **Disposition of Municipal Civil Infraction cases:**
  - a) If a defendant is determined to be responsible or responsible "with explanation" for a municipal civil infraction, the judge or district court magistrate may order the defendant to pay a civil fine, costs as provided for by law, and, if applicable, damages and expenses as provided in Michigan Compiled Laws Section 8733(2). In the order of judgment, the judge or district court magistrate may grant a defendant permission to pay a civil fine, costs, and damages and expenses within a specified period of time or in specified installments. Otherwise, the civil fine, costs, and damages and expenses are due immediately. If a defendant is ordered to pay a civil fine, the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry of judgment. Costs of not less than nine dollars (\$9.00) or more than five hundred dollars (\$500.00) shall be ordered. Except as otherwise provided by state law, costs shall be payable to the general fund of the plaintiff. In addition to ordering the defendant to pay a civil fine, costs, and damages and expenses, the judge or district court magistrate may issue a writ or order under Michigan Compiled Laws Section 8302.

- b) The schedule of civil fines and costs to be imposed for municipal civil infractions which is required to be posted shall also be readily available for public inspection. The schedule need not include all municipal civil infractions. The schedule may exclude cases on the basis of a defendant's prior record of municipal civil infractions.
- c) A default in the payment of a civil fine, costs, or damages or expenses ordered pursuant to state law and this Code or an installment of the fine, costs, or damages or expenses as determined by the court may be collected by a means authorized for the enforcement of a judgment pursuant to state law.
- d) If a defendant fails to comply with an order or judgment issued pursuant to state law within the time prescribed by the court, the court may proceed under Michigan Compiled Laws Sections 8729, 8731, or 8733, as applicable.
- e) A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor as provided for in state law.
- f) Default in payment of fines, costs, damages, or expenses.
  - i. If a defendant defaults in the payment of a civil fine, costs, or, if applicable, damages or expenses as provided in state law, or any installment, as ordered, the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or a bench warrant of arrest for the defendant's appearance.
  - ii. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursement shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this section.
  - iii. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
  - iv. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine, costs, or damages or expenses.
- g) Fines. Each municipal civil infraction shall carry a fine of \$50.00 for each occurrence. All subsequent offense for the same or similar violation by the same defendant shall carry a fine of \$200.00 and shall be denoted

on the Municipal Civil Infraction Citation.

8. Issuance and Service of Municipal Civil Infraction Citations. Municipal civil infraction citations shall be issued and served by Authorized local officials as follows:
- a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
  - b) The place for appearance specified in a citation shall be the 66th District Court.
  - c) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the City and issued to the alleged violator as provided for in state law.
  - d) A citation for a Municipal civil infraction signed by an authorized City official shall be treated as if it were made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."
  - e) An Authorized local official may issue a citation to a person if:
    - i. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
    - ii. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction, and the City Attorney approves in writing the issuance of the citation.
  - f) Municipal civil infraction citations shall be served by an authorized City official as follows:
    - i. Except as provided below, an authorized City official shall personally serve a copy of the citation upon the alleged violator.
    - ii. If the municipal civil infraction involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.
9. Contents of Municipal Civil Infraction Citations. All municipal civil infractions

citations shall contain the following information:

- a) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction or infractions alleged, the place where the alleged violator shall appear in court, the telephone number of the court and the time at or by which the appearance shall be made.
- b) Further, the citation shall inform the alleged violator that he or she may do one of the following:
  - i. Admit responsibility for the municipal civil infraction by mail, in person or by representation, at or by the time specified for appearance.
  - ii. Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or in person, or by representation.
  - iii. Deny responsibility for the municipal civil infraction by doing either of the following:
    - a. Appearing in person for an informal hearing before a judge or District Court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the City.
    - b. Appearing in court for a formal hearing before a judge with the opportunity of being represented by an attorney.
- c) The citation shall also inform the alleged violator of all of the following:
  - i. That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
  - ii. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
  - iii. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the City.
  - iv. That at an informal hearing the alleged violator must appear in person before a judge or District Court magistrate, without the opportunity of being represented by an attorney.
  - v. That at a formal hearing the alleged violator must appear in person before a Judge and will have the opportunity of being

represented by an attorney retained at his or her own expense.

- d) The citation shall contain a notice in boldfaced type stating that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.
  - e) A citation for a municipal civil infraction signed by an authorized local official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the authorized local official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."
- F. The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

#### **SECTION 17.07 ZONING COMPLIANCE PERMIT**

- A. The Zoning Administrator shall have the authority to issue zoning compliance permits in accordance with the requirements of this Ordinance.
- B. The zoning compliance permit is the permit issued by the Zoning Administrator before any entity or person is allowed to commence or expand a use or begin a new residential or commercial building/addition/operation in the City. The zoning compliance permit may be applied for through the Zoning Administrator and, if granted, is valid for one (1) year. One (1) extension of a zoning compliance permit for one (1) additional year may be allowed by the Zoning Administrator. A second and final extension of a zoning compliance permit may be granted by the Zoning Administrator if seventy-five percent (75%) of the overall project is proven to be completed.
- C. In addition to a zoning compliance permit, other permits may be required by various county, state and federal entities, copies of which may be required for the property files by the Zoning Administrator or Building Inspector.

Such permits include, but may not be limited to:

- 1. An approved driveway permit from the Michigan Department of Transportation.
  - 2. Soil Erosion and Sedimentation Control permit from Shiawassee County.
  - 3. Electrical, mechanical, and plumbing permits.
  - 4. Michigan Department of Environmental Quality Permit for wetland, floodplain, or inland stream modifications.
- D. Depending on the project, type of development and/or other factors, proof of various inspections and/or certifications of approval and/or completion may also be required for the record by the City of Perry.

- E. It shall be unlawful to change the type of use of land, or to change or expand the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has determined the change to be in compliance with applicable provisions of this Ordinance and has issued a zoning compliance permit.
- F. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building, or to commence the moving, alteration or repair of any structure, including accessory buildings, exceeding one hundred (100) square feet in floor area, until the Zoning Administrator has given documented approval of his/her opinion that plans, specifications and intended use of such structure does in all respects conform to the provisions of this Ordinance.
- G. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until the Zoning Administrator has inspected the plans in detail and found them in compliance with this Ordinance.
- H. Issuance of a zoning compliance permit shall in no case be construed as waiving any provision of this Ordinance or any other City ordinance.
- I. The Zoning Administrator shall not refuse to issue a zoning compliance permit when the applicant complies with all requirements and conditions imposed by this Ordinance and all other applicable City, county, and state regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of the permit, are not cause for refusal to issue a permit.
- J. When the Zoning Administrator receives an application for a zoning compliance permit, which requires Planning Commission, City Council, or Zoning Board of Appeals approvals, the Zoning Administrator shall so inform the applicant.
- K. A zoning compliance permit shall not be issued until all applicable fees, charges and expenses have been paid in full.

**SECTION 17.08 STOP WORK ORDER**

- A. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.
- B. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed by the Zoning Administrator to perform to remove a violation, shall be in violation of this Ordinance.

**SECTION 17.09 NOTICE AND HEARINGS**

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a

zoning application or matter is required by this Ordinance or by the Zoning Act (for example, where a rezoning, ordinance amendment, Special Land Use, PUD, or ZBA matter is involved), notice of the public hearing shall be published and delivered in accordance with the requirements of this section and the Zoning Act.

- A. The notice of public hearing shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the City of Perry.
- B. For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the ZBA; and for all planned unit development and Special Land Use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or be personally delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:
  - 1. The applicant;
  - 2. All persons to whom real property is assessed for property tax purposes within three hundred (300) feet of the property that is the subject to the application;
  - 3. The occupants of all dwellings within three hundred (300) feet of the property that is the subject of the application; and
  - 4. All neighborhood organizations, public utility companies, railroads, and other persons that have requested to receive notice.

If the above-described three hundred (300) foot radius extends outside of the City's boundaries, then notice must also be provided outside of the City of Perry boundaries, within the three hundred (300) foot radius, to all persons in the above-stated categories.

- C. The notice of public hearing shall include the following information:
  - 1. A description of the nature of the application or request.
  - 2. An identification of the property that is the subject of the application or request. The notice shall also include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning.
  - 3. A statement of where and when the application or request will be considered.
  - 4. Indicate where and when written comments will be received concerning the application or request.

## **SECTION 17.10    TIME LIMITS**

If a zoning approval or permit under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval or permit shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the City of Perry body, commission, or official who granted the initial zoning approval or



permit. If a zoning approval or permit is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval or permit shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. A time extension may be granted only by the body, commission, or official that granted the initial zoning approval or permit.

#### **SECTION 17.11      PROOF OF OWNERSHIP**

The Zoning Administrator or Building Inspector may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before the issuance of a zoning compliance permit or a building permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The City of Perry may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a building permit, variances, special land use requests, site plan review, zoning compliance permits, and any other zoning or building code action.

#### **SECTION 17.12      SURVEYS**

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the City with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the City to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All such surveying costs shall be paid for by the applicant or property owner.

#### **SECTION 17.13      REVOCAION OR TERMINATION OF ZONING APPROVALS**

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or zoning compliance permit, then the City of Perry body, board, or official that granted the zoning approval or permit may terminate the zoning approval or zoning compliance permit. Where a special land use, PUD, variance, or site plan approval was involved, no such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation.

#### **SECTION 17.14      SEVERABILITY CLAUSE**

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

#### **SECTION 17.15      REPEAL**

Upon the effective date of this Ordinance, the prior Zoning Ordinance for the City of Perry shall be deemed repealed and replaced by this Ordinance.

**SECTION 17.16**      **EFFECTIVE DATE**

This Ordinance shall become effective upon the expiration of twenty (20) days after the Notice of Adoption or summary for this Ordinance appears in the newspaper as provided by law.