



**CITY OF NOVI CITY COUNCIL**  
**JUNE 7, 2021**

**SUBJECT:** Consideration of referral of draft ordinances relating to amendments to the Planned Rezoning Overlay (PRO) provisions of the Zoning Ordinance (Section 7-13 of the Zoning Ordinance) and the Sign Ordinance (Chapter 28 of the Code of Ordinances), as reviewed by the Ordinance Review Committee (ORC), to the Planning Commission for its recommendations.

**SUBMITTING DEPARTMENT:** City Manager, Community Development

**BACKGROUND INFORMATION:** The Ordinance Review Committee (ORC) met over the course of several months to review both the City's existing Planned Rezoning Overlay (PRO) ordinance provisions and the City's sign ordinance. The consideration of the PRO ordinance was prompted by recent comments and discussion at the City Council and Planning Commission level as to whether the language of the ordinance needed to be updated to address the review criteria and, perhaps more importantly, a possible role for the City Council in reviewing and commenting on PRO applications before the Planning Commission process has already been completed. The changes to the sign ordinance are prompted by recent case law relating to "off-premises" signs (billboards), but also include some "clean-up" amendments brought forward by Code Compliance staff, who now have a few years of applying the sign ordinance that was overhauled in 2017 under their belts.

**PRO Ordinance:**

In general, the proposed draft document:

- Rearranges the ordinance into what is hopefully a more readable flow.
- Adds some concepts to the intent section—including confirmation that this is a fully optional form of development, at the City's discretion.
- Confirms in a number of places that City Council is the ultimate decision maker with regard to the PRO process.
- Clarifies what needs to be in the concept plans.
- Specifically authorizes, at the City's discretion, combining the concept plan approval with a potentially more detailed preliminary site plan approval.
- Clarifies/restates standards for securing ordinance deviations.
- Clarifies/restates the sorts of things that are required as PRO conditions in order to induce the City to utilize the PRO process.

- Adds directly to the ordinance the requirement/expectation in the City's site plan manual that a PRO must go to the Master Plan and Zoning Committee (MPZ) of the Planning Commission—which is often a helpful experience for both the developer and the City.
- Adds a place in the process for the City Council to have some input prior to the full hearing at the Planning Commission.

### **Sign Ordinance:**

The last time the City's Sign Ordinance was overhauled was in 2017. Councilmembers might recall that the Sign Ordinance was in some respects completely rewritten because of a United States Supreme Court decision, *Reed v Town of Gilbert*. As a result of *Reed*, Novi and nearly every other community in the country was required to review its then-existing sign ordinance to address provisions throughout the ordinance that could be viewed under *Reed* as regulating signs differently depending on the content or language of the sign.

One concept in the Sign Ordinance that the City did not change as a result of *Reed* was the distinction between on-premises signs (signs that relates specifically to whatever is occurring on the premises where the sign is located), and off-premises signs (essentially billboards advertising things that aren't necessarily occurring on the premises where the sign is located). The City's reading of *Reed*—not just the majority opinion, but also at least one of the concurring opinions—was that the potential of distinguishing between on-premises and off-premises signs would still be permitted. Recently, though, some appellate cases have suggested that the distinction between on-premises and off-premises signs should not be permitted under *Reed*.

As a result, the attached draft suggests changes in the provisions of the ordinance dealing with “off-premises signs permitted according to district”—that is, the provision of the ordinance dealing with off-premises billboards. The attached draft removes the word “off-premises” and replaces it with “highway.” The import of the section stays the same: a highway sign zone continues to exist along I-96 and along M-5 within certain identified districts. Additional signs of listed sizes continue to be authorized in the same locations. The only thing that really changed substantively is that theoretically the messages contained on those signs don't have to relate to things occurring off-premises; the messages on the sign could literally be anything, including information relating to the business occurring on the premises where they are allowed. This is, in the end, ultimately what *Reed* was all about, so while the clarification in the subsequent cases with regard to distinguishing between on-premises and off-premises signs is unfortunate, it is not entirely unexpected.

In addition to the edits as a result of recent case law, there are edits throughout that have been recommended by City staff (Code Compliance) as a result of their “real world” applications of the revised ordinance over the past few years.

**RECOMMENDED ACTION:** Motion to refer the draft ordinances relating to amendments to the Planned Rezoning Overlay (PRO) provisions of the Zoning Ordinance (Section 7-13 of the Zoning Ordinance) and the Sign Ordinance (Chapter 28 of the Code of Ordinances), as reviewed by the Ordinance Review Committee (ORC), to the Planning Commission for its recommendations.

**DRAFT FOR ORC DISCUSSION 5.6.21**

**STATE OF MICHIGAN**

**COUNTY OF OAKLAND**

**CITY OF NOVI**

**ORDINANCE NO. 17-188**

**AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 28, "SIGNS" IN ORDER TO COMPREHENSIVELY REVISE REGULATIONS RELATING TO PURPOSE AND INTENT; PERMITTING PROCESS; PERMANENT AND TEMPORARY SIGNS; BILLBOARDS; DEFINITIONS; APPEALS; AND OTHER PROVISIONS OF THE ORDINANCE.**

**THE CITY OF NOVI ORDAINS:**

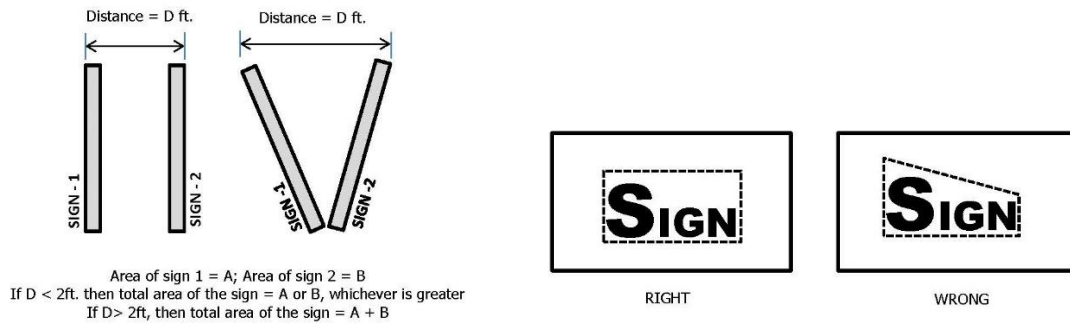
**PART I.** That Chapter 28, "Signs" of the City of Novi Code of Ordinances is hereby amended read in its entirety as follows:

- Sec. 28-1. - Definitions
- Sec. 28-1.5. - Preamble; purpose
- Sec. 28-2. - Rules and regulations to interpret and implement chapter.
- Sec. 28-3. - Permits.
- Sec. 28-4. - Liability insurance for signs on public property.
- Sec. 28-5. - Permitted according to district.
- Sec. 28-6. - Temporary signs.
- Sec. 28-7. - Allowed in all districts
- Sec. 28-8. - Highway sign zones
- Sec. 28-9. - Noncommercial message permitted.
- Sec. 28-10. - Prohibited signs.
- Sec. 28-13. - Construction materials.
- Sec. 28-14. - Nonconforming and abandoned or obsolete signs.
- Sec. 28-15. - Appeals.
- Sec. 28-16. - Violations; signs in violation declared public nuisance.

Sec. 28-1. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

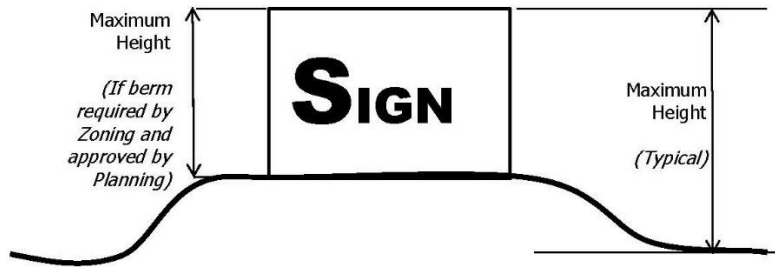
*Area of sign* means the entire area within the smallest circle, triangle, parallelogram, or other regular geometric shape that encloses the extreme limits of any writing, picture, logo, representation, emblem, or figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one (1) face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.



*District* means a zoning district as established in appendix A, "zoning ordinance", as amended.

*Fueling station* means a space, structure, or building or part of a building for the retail sale or supply of motor fuels, lubricants, air, water, and other customary facilities and minor service for the installation of such commodities in or on such motor vehicle, but not including special facilities for the painting, major repair, or similar servicing thereof.

*Height of ground sign* means the vertical distance measured from the natural surface grade of the land, without including any berm, landscaping, grading, or other artificially or unnaturally constructed or raised portion of land beneath the midpoint of the face of the sign, to the highest point of the sign or supporting structure. Where setback regulations require a ground sign to be behind or on top of a landscaped berm mandated by the city zoning ordinance, the building department, upon review with the city's planner, may permit a variance to the height measurement, but only to the extent necessary to prevent the sign from being obscured by the landscaped berm.



*Lineal feet*, when used in determining the area of sign, means the length of the first floor business frontage of the business premises on which the sign is located.

*Noncommercial* means not related to or connected with trade and traffic or commerce in general.

*Parcel of land* means a unit of contiguous real property under common ownership. Where property is divided into condominium units, such units shall not be treated as separate parcels of land for purposes of this chapter, except for individual units that have been the subject of separate approved site plans complying in all respects with the city zoning ordinance.

*Required setback* means the minimum setback required for the respective district as specified in appendix A, "zoning ordinance", as amended. However, setback, when used in determining sign area, shall be the distance the sign is from the nearest street centerline measured along a perpendicular line to that street line.

*Sign* means a name, identification, description, display, device, illustration, design, banner, flag, pennant, logo, or trademark that is affixed to, painted on, or otherwise represented, placed, located, or set directly or indirectly upon a parcel of land, including a building or structure, in a manner so as to be visible from any public street, sidewalk, alley, park, or other property, and that advertises, publicizes, or directs attention to a service, product, activity, person, institution, organization, or business. Types of signs include:

- (1) *Animated sign* means a sign, other than a changeable copy sign, whereby the sign itself or the information conveyed incorporates or involves action, motion, or the appearance of action or motion, such as flashing lights, color changes, moving parts, reflective materials, traveling, tracing, or scrolling messages, rotating images, or video-like features.
- (2) *Business center ground sign* means a sign located on a parcel of land that is developed with a group of four (4) or more contiguous stores or contiguous industrial businesses or an industrial subdivision developed as a planned complex, or of a multi-tenant, multi-story office or industrial building.
- (3) *Canopy sign* means a sign painted on, or attached flat against, the surface of a canopy or awning projection from the building.

- (4) *Changeable copy sign* means a sign designed so the copy can be changed either manually or electronically, while the surface of the sign remains unchanged.
- (5) *Entranceway sign* means a ground sign that is located at or near the entranceway to a residential, industrial, or commercial subdivision, apartment complex, condominium development, or other integrated or coordinated multi-parcel development or permitted institution, from a public right-of-way.
- (6) *Flashing sign* means any sign that contains or is illuminated by a light source that produces a brilliant flash and darkness on an alternating basis resulting in a pulsating effect designed to attract attention, or that contains an intermittent or sequential light source, or that emits light in sudden transmission.
- (7) *Ground sign* means a sign, not attached to any building, supported by a monument placed in the ground surface such that the entire bottom of the sign is affixed to the ground and is not supported by poles, columns, or uprights.
- (8) *Groundpole sign* means a sign attached to a pole or poles temporarily anchored into the ground, the sole purpose of which pole or poles is to hold the sign.
- (9) *Highway sign* means a sign erected, maintained, and used for the purpose of displaying messages intended to be seen from a long distance or read from a vehicle traveling at high speeds but only within the areas designated in Section 28-8.
- (10) *Illuminated sign* means a sign that provides artificial light by either emission or reflection.
- (11) *Kiosk pedestal sign* means a freestanding sign on a sidewalk or other public or private open space.
- (12) *Noncommercial message sign* means a sign that is not related to or connected with trade and traffic or commerce in general.
- (13) *Portable sign* means a freestanding sign not permanently anchored or secured to either a building or the ground.
- (14) *Projecting sign* means a double sided sign with an identical message on both sides which is affixed to any building or structure, whose height is equal to or greater than its width, and projects in such a way that the sign on which the message is placed perpendicular to the wall to which it is attached.
- (15) *Temporary sign* means a display sign, banner, or advertising device, with or without a structural frame, intended for a limited period of display, including displays for holidays or public demonstrations or events.
- (16) *Wall sign* means a sign which is attached directly to or painted upon a building wall which does not project more than eighteen (18) inches therefrom. The exposed face of the sign must be in a plane parallel to the wall of the building. The sign must not extend above the height of the wall.
- (17) *Motor vehicle sign* means a sign measuring more than two (2) square feet in size that is mounted, placed, written, or painted on a vehicle or trailer, whether motor-driven or not.
- (18) *Exposition event wall sign* means a sign that is attached directly to a building wall and that does not project more than eighteen (18) inches therefrom, including the entire surface excluding any frame, which sign is intended to change on a regular basis with the specific exposition events.

This definition of *sign* shall not include:

- (1) Signs less than one (1) square foot in area, when accessory to the use of the parcel of land.
- (2) Legal notices, including but not limited to signs required for proposed rezoning changes.
- (3) Decorative displays in connection with a recognized holiday, provided that the display does not exceed 75 days.
- (4) Signs required by law (e.g., fire code).

*Thoroughfare* means a major arterial, arterial, or minor arterial as established in the master plan adopted by the city pursuant to Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq., MSA 5.2991 et seq.), as amended.

*Vending machine* means a currency-operated machine for selling small articles or services.

Sec. 28-1.5. - Preamble; purpose.

Signs can obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this chapter is to establish reasonable standards for the time, place, and manner of the erection and use of signs, symbols, markings, and advertising devices within the city. The standards are designed to promote the health, public safety, and welfare of persons within the community, including the promotion of traffic safety and aesthetics, and to aid in development and promotion of business and industry by providing sign regulations that encourage creativity, effectiveness, and flexibility in design and use of such devices without creating detriment to the general public. The intent is to allow communication through signage while encouraging aesthetic quality in design, locality, and size of signs. This Chapter is to be read in a manner consistent with the First Amendment guarantee of free speech.

It is further the intent of this chapter to:

- (a) Ensure that the constitutionally-guaranteed right of free speech is protected and to allow signs as a means of communication, subject to appropriate and legally-permissible time, place, and manner restrictions.
- (b) Protect the safety of drivers and others by precluding animated signs and limiting changeable copy signs in a manner intended to lessen the diversion or distractions of a driver's attention from the roadway, particularly with regard to larger signs on heavily-trafficked roadways.
- (c) Provide for signage that is adequate but not excessive and that displays a message through use of pictures, symbols and logos for rapid comprehension by the public.
- (d) Prohibit the erection of signs in such numbers, sizes, designs and locations as may create a hazard or distraction to pedestrians and motorists and thus promote safety upon the streets and highways in the city.
- (e) Avoid excessive competition for large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion.
- (f) Prevent sign overload and excessively large signs which creates a visually chaotic and competitive situation within the business community.

- (g) Encourage good design in the context of the overall image and visual environment of the city, and prescribe sound practices with respect to size, spacing, illumination, type and placement of signs for the purpose of safeguarding and enhancing properties in each of the various types of zoning districts.
- (h) Enhance the appearance of the business community, taking into account the nature of the use, and thus stimulate as well as protect the economic vitality of the city and the orderly growth and development of business and industry in the city.
- (i) Protect public investment in public structures, open spaces and thoroughfares.
- (j) Minimize the adverse effects of signs on nearby public and private property.
- (k) Enhance the effectiveness of necessary directional and warning signs.
- (l) Preserve property values.
- (m) Recognize that advertising signs are a legitimate advertising medium in the locations which neither lessen the visual attributes of the city through the placement of such signs, nor cause confusion, safety problems or lessen the ability to identify local businesses through visual clutter.
- (n) Regulate the number and size of advertising signs within the city in the interests of economic prosperity, civic pride, quality of life and general welfare of the people who reside in, are visiting, are employed in or conduct business in the city.

Sec. 28-2. - Rules and regulations to interpret and implement chapter.

The city manager shall have the power (but not the obligation) as may be necessary in the interest of the public safety, health, and general welfare to adopt and promulgate rules and regulations to interpret and implement provisions of this chapter and to secure the intent thereof. Such rules and regulations shall become effective after filing with the council.

Sec. 28-3. - Permits.

- (a) Required. Except as expressly provided in sections 28-7, relating to temporary signs, and section 28-8, relating to signs allowed in all districts, it shall be unlawful for any person to erect, alter, relocate, or maintain any sign or other structure without first obtaining a permit therefor from the city and payment of a fee provided for in this section.
- (b) Application. Application for erection permits shall be made upon forms provided for by the city, and shall contain or have attached thereto the following information:
  - (1) Name, address and telephone number of the applicant;
  - (2) Location of building, structure, or lot to which the sign is to be attached or erected;
  - (3) Position of the sign in relation to nearby buildings, structures, and property lines;
  - (4) Two (2) drawings of the plans and specifications and method of construction and attachment to the building or in the ground;
  - (5) Copy of stress sheets and calculations, if deemed necessary by the building official, showing the structure as designed for dead load and wind pressure in accordance with regulations required under the Single State Construction Code;
  - (6) Name and address of the person erecting the structure;
  - (7) Any electrical permit required and issued for such sign;
  - (8) Insurance policy or bond as required by this chapter;
  - (9) Such other information as the city manager or his or her designee may require to show full compliance with this and all other applicable laws of the city and the state;



- (10) In all applications for entranceway signs, the city manager or his or her designee shall require that appropriate provisions have been made to ensure continued maintenance of the sign.
- (c) Fee. A permit fee shall be paid to the city for each permit required by this chapter in an amount to be set by resolution of the council from time to time.
- (d) Review of Application
  - (1) Sign permit applications that relate to construction of a new building or an addition to an existing building may be submitted, reviewed, and approved as part of a site plan application. Proposed signs shall be shown on the preliminary site plan. Alternatively, an applicant may choose to submit a sign application to the Building Official for administrative review. Following preliminary site plan approval, any application to amend a sign permit or for a new or additional sign shall be submitted to the Building Official.
  - (2) The Building Official shall review and approve the sign permit application for a sign proposed on a parcel of land or existing building where no other new construction is permitted.
- (e) Ordinary maintenance. No permit is required for the ordinary servicing or repainting of an existing sign message, the cleaning of a sign, the changing of information on a directory sign, or the changing of advertising on a permitted sign without change in structure.

Sec. 28-4. - Signs on public property; insurance.

No sign shall be located within, project into, or overhang any public right-of-way, except as otherwise permitted herein.

If any wall or projecting pole sign is suspended over a public street or public property, or if the vertical distance of such sign above the street or property is greater than the horizontal distance from the sign to the public property line or parapet wall and is so located as to be able to fall or to be pushed onto the public street or property, then the owner of such sign shall provide at the time of obtaining a permit and keep in force a public liability insurance policy, approved by the city attorney, in the amounts set by resolution of the council or other formal city action. The policy shall indemnify the owner and the city from all damage suits or actions of every nature brought or claimed against the owner and the city for or on account of injuries or damages to persons or property received or sustained by any person through any act of omission or negligence of the owner, his servants, agents or employees regarding such sign. In lieu of an insurance policy an owner may present proof satisfactory to the city attorney that the owner is financially capable of self-insurance in the amounts required by resolution of the council.

Sec. 28-5. – Permanent signs permitted according to district

The following types of permanent (non-temporary) signs, illuminated or unilluminated, shall be permitted in the following districts described in Appendix A to the City Code, the City of Novi Zoning Ordinance, and in limited number, in accordance with the following regulations:

- (a) Signs permitted by district (subject to further regulations as set forth in subsections [b]-[g] below):

District	Wall Sign (per tenant, multiple)	Wall Sign (single tenant)	Canopy Sign	Ground Sign (per development parcel) footnote (2)(3)	Business Center Sign			
<b>Residential (RA, R1-R4, RT, RM-1, RM-2, MH)</b> footnote (3)	30-65 square foot maximum based on frontage, (1) sign per business, footnote (7)	Permitted nonresidential up to 250 square foot maximum (1) sign, footnote (7)	or	(1) sign of 24 square foot maximum	and	30-100 square foot maximum, (1) sign, maximum 6 feet high for allowable use. Size per Section 5(b)(2)		
<b>Office (OS-1, OSC, OST)</b>	30-65 square foot maximum based on frontage, (1) sign per business, footnote (7)	Permitted nonresidential up to 250 square foot maximum, (1) sign, footnote (7)	or	(1) sign of 24 square foot maximum	and	30-100 square foot maximum, (1) sign, maximum 6 feet high for allowable use. Size per Section 5(b)(2)	or	30-100 square foot maximum, (1) sign, maximum 6 feet high
<b>w/freeway frontage or &gt;40,000 square feet</b>	Additional sign, same size, footnote (8)	Additional sign, same size, footnote (8)				Additional sign same size for single tenant building only.		
<b>Industrial (I-1, I-2)</b>	30-65 square foot maximum based on frontage, (1) sign per business, footnote (7)	Permitted nonresidential up to 250 square foot maximum, (1) sign, footnote (7)	or	(1) sign of 24 square foot maximum	and	30-100 square foot maximum, (1) sign, maximum 6 feet high for allowable use. Size per Section 5(b)(2)	or	30-100 square foot maximum, (1) sign, maximum 6 feet high
<b>w/freeway frontage or &gt;40,000 square feet</b>	Additional sign, same size, footnote(8)	Additional sign, same size, footnote(8)				Additional sign same size for single tenant building only.		
<b>Business (B1-3, FS, RC, NCC, C, TC, EXPO)</b>	30-65 square foot maximum based on frontage, (1) sign per business, footnote (7)	Permitted nonresidential up to 250 square foot maximum, (1) sign footnote (7)	or	(1) sign of 24 square foot maximum	and	30-100 square foot maximum, (1) sign, maximum 6 feet high for allowable use. Size per Section 5(b)(2)	or	30-100 square foot maximum (1) sign, 6 feet high. footnote (6)
<b>w/freeway frontage or &gt;40,000 square feet</b>	Additional sign, same size, footnote(8)	Additional sign, same size, footnote (8)				Additional sign same size for single tenant building only.		
<b>Town Center/Gateway (TC-1, GE)</b> footnote (6)	30-65 square foot maximum based on frontage, (1) sign per business, footnote (7)	30-65 square foot maximum based on frontage, up to 250 square foot maximum (1) sign, footnote (7)	or	(1) sign of 24 square foot maximum	and	30-100 square foot maximum, (1) sign, maximum 6 feet high for allowable use. Size per Section 5(b)(2)	or	30-100 square foot maximum (1) sign, 15 feet high
<b>EXO</b> footnotes (5)	30-65 square foot maximum based on frontage, (1) sign per business, footnote (7)	Up to 250 square foot maximum, (1) sign, footnote (7)	or	(1) sign of 24 square foot maximum	and	30-100 square foot maximum, (1) sign, maximum 6 feet high for allowable use. Size per Section 5(b)(2)	or	30-100 square foot maximum, (1) sign, maximum 6 feet high
<b>PSLR</b> footnote (1)	30-65 square foot maximum based on frontage (1) sign per business, footnote (7)	Up to 250 square foot maximum, (1) sign, footnote (7)	or	(1) sign of 24 square foot maximum	and	30 square feet (1) sign/6 feet high.	or	30 square feet (1) sign/6 feet high

**Footnotes:**

- (1) In PSLR District exterior illuminated signs only permitted
- (2) See section 28-5(g) for allowable changeable copy signs
- (3) Neighborhood/business park entranceway signs are allowed up to 24 square feet, maximum 5 feet in height limited to (1) per neighborhood vehicular entrance (2 signs at boulevard entrance)
- (4) in the TC District only Kiosk Pedestal Signs of up to 65 square feet, maximum 10 feet in height is allowed at a minimum spacing of 200 feet
- (5) in the EXO District only, operating Exposition Facilities of over 150,000 square feet up to (4) wall signs of 360 square feet are permitted to be displayed on a building side adjacent to and interstate freeway
- (6) in RC district, maximum 15 feet in height
- (7) Size per Section 28-5 (b) and (c)
- (8) See Section 28-5(d)(10)

(b) Area regulations, all zoning districts except TC-1 and GE

(1) Wall signs – single or multi-story

- a. Multiple businesses: A business having a first floor pedestrian entrance shall be allowed one and one-fourth (1¼) square feet of signage per linear foot of contiguous public or private street frontage (including utility right-of-way frontage contiguous with a street) up to a maximum of sixty-five (65) square feet
- b. Single business: A wall sign displayed on a building occupied by one (1) business shall not exceed one (1) square foot of signage for each two (2) feet of setback from the centerline of the nearest adjacent thoroughfare or collector street as defined in the master plan adopted by the city, as amended, but not greater than fifteen (15) percent of the frontage surface of the building and not greater than two hundred fifty (250) square feet. In those instances where the wall sign is adjacent to a private roadway or drive within a development, the calculation required above shall be made based upon the distance to the centerline of that roadway or drive. If the wall sign area would be greater if calculated under the standard set forth in subsection(b)(1)a. above, then said standard shall be used.

(2) Ground signs

- a. Except as provided below, ground signs shall not exceed a thirty (30) square feet or one (1) square foot of sign area for each two (2) feet of setback from the nearest street center line as required herein, whichever is greater, with a maximum area of one hundred (100) square feet.
- b. Where the business is a fueling station, the maximum area of the sign shall be thirty (30) square feet.
- c. Ground signs within the boundaries of a planned suburban low-rise overlay concept plan approved by the city shall not exceed thirty (30) square feet.

(c) Signs in TC-1 and GE districts:

(1) General regulations

- a. A business having a first floor pedestrian entrance shall be allowed one and one-fourth (1¼) square feet of signage per linear foot of contiguous public or private street frontage up to a maximum of sixty-five (65) square feet. Where a building has public or private street frontage on more than one (1) street, no single sign shall exceed one and one-fourth (1¼) square feet per lineal foot of the frontage on the immediately contiguous street. Live/work units (i.e., buildings with commercial/office use on first floor,

with residential use on the upper floor[s]), shall be allowed signage of no greater than twelve (12) square feet, not to exceed six (6) feet in length.

- b. A business having a first floor pedestrian entrance on a public or private street qualifying for a wall sign under subsection (1)a. above, which also has a direct separate first floor pedestrian entrance in the rear of the building is allowed a second wall sign located in the rear of the building subject to: (1) the area of the sign shall not exceed one (1) square foot of signage for every two (2) lineal feet of rear wall to a maximum of twenty-four (24) square feet and (2) shall reflect a design consistent with the front signage decision.
  - c. A building with business occupants on the upper floors or the interior space on the first floor of a building may have a sign not to exceed ten (10) square feet in area at the street entryway.
  - d. Where a business has no contiguous public or private street frontage and the majority of its off-street parking is adjacent to an outside wall of the business, the business is permitted twenty-four (24) square feet signage. The sign shall be located no closer than thirty (30) feet on center from any other similar sign, and shall be located adjacent to such parking lot or street, as applicable.
  - e. Where a business has contiguous public or private street frontage, but no separate first floor exterior entrance, the business is permitted twenty-four (24) square feet of signage.
  - f. Wall signs shall not exceed the height of the wall on which the sign is located. A wall sign permitted under subsections a., b. and d. shall be located at least eight and one-half (8.5) feet above the surface of the surrounding grade and shall not exceed the height of the building wall.
- (2) Design of signs in the TC-1 and GE zoning districts:
- a. Where separately owned businesses occupying a single building or a single parcel of land utilize individual wall signs, all such signs on the building or within the center shall be of a common style; i.e., individual freestanding letters shall be utilized with other signs composed of individual freestanding letters. Where premises have lawfully developed with signs not of a common style, future signs shall be of a style common to a majority of signs within the development. If the parcel of land or buildings is divided into condominium units for purposes of the separate ownership of business premises, and the individual units are designed and constructed with varied architectural styles so as to distinguish separate units, wall signs shall not be required to be of a common style.
  - b. All signs in a TC-1 district, except those permitted in section 28-7 of this Code, shall be reviewed pursuant to the Sign Design and Review Manual for Novi TC-1 district.
  - c. All provisions of the Design and Review Manual, as revised and attached hereto, are hereby adopted, enacted and made a part of this chapter. The provisions of the design review manual shall provide standards and criteria upon which the decision for approving or denying a sign shall be based.

(d) Additional signs

No building or parcel of land shall be allowed more than two (2) signs permitted under this section, except as follows:

- (1) Within the TC-1 and GE Districts as set forth in subsection (c) above.
- (2) In those instances where the majority of the off-street parking for a business located outside of the TC-1 or GE district is adjacent to the direct separate rear or side entrance, and that entrance serves as the primary entrance for customers, the business is permitted one (1) square foot of wall signage for every two (2) lineal feet of the business' wall which has the entrance to a maximum of twenty-four (24) square feet.
- (3) One (1) wall sign not greater than two (2) square feet in area is permitted at the rear entrance to a business establishment. This provision shall not apply to a business allowed an additional sign under subsection (d)(2) above.
- (4) Where four (4) or more separately owned and operated businesses with an exterior pedestrian access to each business occupy a one-story building on a single parcel of land, the parcel is permitted one (1) business center ground sign.
- (5) A multi-story, multi-tenant office or industrial building is permitted a business center ground sign, provided that there is no other ground sign for such building.
- (6) Where two (2) or more separately owned and operated businesses occupy a building on a single parcel of land, each having a separate exterior entrance, each business is entitled to a single wall sign if not otherwise entitled to a wall sign under this chapter.
- (7) Except in the TC-1 and GE districts or within the boundaries of a Planned Suburban Low-Rise Overlay (PSLR) concept plan approved by the city, for a lot or parcel situated on two (2) or more thoroughfares, wall signs may be permitted on each thoroughfare in accord with this chapter. At those locations where projecting signs are permitted, no more than one (1) projecting sign shall be permitted at a corner lot or parcel. Each wall sign permitted under this subpart shall be reduced by the area of the projecting sign.
- (8) Within the OS-1, OSC, I-1, I-2, B-1, B-2, B-3, FS, RC, NCC, C, TC, and EXPO districts, an additional wall sign, or an additional ground sign if no other ground sign exists on the parcel, shall be permitted if the building is no less than forty thousand (40,000) square feet in size.
- (9) Within the OST, where there is a primary entrance for customers, and each business does not have a separate pedestrian entrance, up to two (2) additional wall signs per each side of the building that is plainly visible from a public or private street shall be permitted; provided, however, that no single business may have more than two (2) signs per building or parcel; also provided that no more than four (4) wall signs total per building shall be permitted, maximum two (2) per side.
- (10) Where a building within the FS, OS-1, OSC, OST, TC, I-1, I-2, B-1, B-2, B-3, RC, NCC, C, and EXPO districts on property which abuts the I-96 freeways or the M-5 limited access corridor, a single additional wall or ground sign may be utilized oriented toward the freeway or corridor, including any contiguous utility right-of-way, provided that no additional sign has been permitted under subsection (d)(7) and (8), and provided that further said sign shall be of no larger size than the wall sign permitted on the front of the building. Note: would like to allow sign on utility corridor if permission can be obtained.
- (11) An entranceway sign is permitted at each entranceway to residential, industrial, or commercial subdivision, apartment complex, condominium development, or other integrated or coordinated multi-parcel development or permitted institution. With respect to such entranceway signs, two (2) sign faces greater than two (2) feet

apart are permitted. If a residential subdivision or condominium development has a boulevard entrance, one (1) single-face entranceway sign is permitted on each side of the boulevard. The total area of the faces shall be computed as if they were back to back. See definition for area of sign.

- (12) An additional wall sign of the size of that allowed by right shall be allowed on the end wall of an end suite of a multi-tenant commercial building provided the end wall is directly visible from a thoroughfare on which the building has frontage.
  - (13) Up to four (4) Exposition event wall signs are permitted, and a total of up to 360 square feet for all signs. Signage is permitted only on a building side adjacent to an interstate freeway, and shall not be located on the same side of the building as an existing wall sign. The exposed face of the signage shall be in a plane parallel to the wall of the building. The signage shall not extend above the height of the wall on which it is placed. Animated, changeable copy, and/or flashing signage is prohibited.
  - (14) A maximum of three (3) signs are permitted for a single tenant building, or a single tenant within a building, except as provided in the EXO and OST Districts.
  - (15) Fueling stations only may display the following additional permitted signs, which are deemed customary and necessary to their respective businesses:
    - (1) Signs not exceeding a total of three (3) square feet on each pump.
    - (2) A single non-illuminated double-faced sign per fuel pump island, each of which shall not exceed four (4) square feet in area, may be placed on a fuel pump island. Such sign may extend a maximum of two (2) feet above the pumps.
  - (16) Signs as set forth in Section 28-7.
- (e) Projecting signs  
Subject to the requirements of the Sign Design Review Manual (where applicable)
- (1) Pedestrian level projecting sign: In a TC-1 and GE zoning districts or within the boundaries of a Planned Suburban Low-Rise Overlay (PSLR) concept plan approved by the city, a business having a first floor pedestrian entrance in a single or multiple story building shall be entitled, in addition to any other sign, to one (1) pedestrian level projecting sign. Each business shall be entitled to only one (1) projecting sign.
    - a. Area: A pedestrian level projecting sign shall not exceed six (6) square feet in area or three (3) feet in width. The area of such sign shall be in addition to any permitted sign provided for herein.
    - b. Placement: Pedestrian level projecting signs shall only be located on private or public streets. They shall be located within the store frontage of the business being identified. No pedestrian level projecting sign shall be located closer than twenty (20) feet from any other pedestrian level projecting sign. The bottom of such sign shall be at least eight and one-half (8.5) feet above the surrounding grade and shall not exceed twelve (12) feet in height. No sign shall be greater than six (6) feet in width.
  - (2) Upper level projecting sign: In a TC-1 or GE zoning district or within the boundaries of a Planned Suburban Low-Rise Overlay concept plan approved by the city, a business located on the upper level of a multiple-story building may utilize, in lieu of a permitted wall sign, an upper level projecting identification or business sign.
    - a. Area: An upper level projecting sign shall not exceed fifteen (15) square feet in area or three (3) feet in width.

- b. Height: The bottom of such sign shall be at least twelve (12) feet above the surrounding grade and shall not extend above the height of the wall.
- c. Placement: An upper level projecting sign shall be located on the exterior wall as close to the center of the occupied space as possible.
- (f) Placement of signs
  - (1) Ground signs shall not be placed less than three (3) feet from the future (planned) right-of-way line. The sign shall be placed no closer than fifty (50) feet from any residential district. Within the boundaries of a Planned Suburban Low-Rise Overlay (PSLR) concept plan approved by the city, ground signs shall not be placed less than twenty-five (25) feet from the future (planned) section line road right-of-way line.
  - (2) A wall sign shall be placed as provided in the definition of "wall sign," section 28-1. Further, where more than one separately owned and operated business occupies a building or parcel of land, those wall signs permitted for individual businesses shall be located on the same side of the building as the exterior wall abutting the business space, and within the lineal frontage of the respective business. Provided further, that where such a building is oriented so that the front entrances to the business do not face the adjacent thoroughfare, a business occupying that portion of the building nearest the thoroughfare which is entitled to a sign under subsection(d)(6), may place its sole wall sign upon that wall facing the thoroughfare. Where wall signs are permitted on a wall which does not front a public or private street, the signs shall be placed within the boundaries of the business' wall.
  - (3) An entranceway sign shall be placed not less than ten (10) feet from any street right-of-way and only in yards adjacent to streets at the entrance to the subdivision, apartment complex, condominium development or permitted institution. Notwithstanding the above, an entranceway sign may be located within the median of a boulevard street when a license for such is granted by the city council.
- (g) Changeable copy signs: Changeable copy signs, as defined in this chapter, are permitted, subject to the following limitations:
  - (1) Such sign shall be a non-residential ground sign only, not including a business center sign, and shall be subject to the area, height, and placement requirements for a ground sign in such location as otherwise permitted under this chapter.
  - (2) Such sign shall not be permitted in the RA, R-1 through R-4, RT, RM1, RM2, or MH Districts, except as to non-residential uses allowed in such districts.
  - (3) The changeable copy portion of such sign shall not exceed two-thirds (2/3) of the sign area, and the remainder of the sign shall be of a permanent character as otherwise required under this chapter
  - (4) In addition to the general requirements for sign maintenance, all changeable copy signs shall bear a legible message, other suitable display, or be left blank. Electronic devices when not in use may be left blank and unlighted. Any lighted or electronic changeable copy sign in which the electrical or lighting components are operating in an erratic, broken, or damaged fashion shall be turned off or removed, and shall be programmed to go dark in the event of a malfunction and shall not exceed 0.5 footcandles measured from any property line.
  - (5) The changeable copy portion of the sign shall automatically dim, and shall comply with the City's lighting ordinances as to illumination.

- (6) The images and messages displayed electronically on the sign must be static, and the transition from one (1) static display to another must be instantaneous without any special effects. A sign on which the message changes more than four (4) times per minute (once every fifteen (15) seconds) shall be considered an animated sign.
- (7) Changeable copy signs shall not be permitted within 150 feet of a residential use.

Sec. 28-6. - Temporary signs.

Temporary signs may be erected in accordance with the use, area, height, and placement regulations of this section. No permit shall be required except as specifically provided in this section.

Maximum size, maximum height, and permitted type of temporary signs per feet				
Use	Permitted Types	Maximum Area of All Temporary Signs	Maximum Area of Any Individual Sign	Maximum Height (Freestanding)
Single Family Residential	Freestanding	10 square feet	6 square feet	4 feet
	Wall	6 square feet	6 square feet	
Multiple Family Residential	Freestanding	32 square feet	16 square feet	6 feet
Non-Residential Uses in RA, R-1 through R-4, RT and MH districts	Freestanding	40 square feet	20 square feet	6 feet
	Wall	20 square feet	20 square feet	
Non-Residential Uses in all other districts	Freestanding	64 square feet	20 square feet	6 feet
	Wall		32 square feet	

- (a) In recognition that there is a need for additional expression of speech prior to a scheduled election, the following applies for a period of sixty (60) days prior to until three (3) days after a city-designated election day on which there is at least one ballot item: the maximum allowable area of temporary signs shall be increased to sixty-four (64) square feet in all districts. The maximum area of an individual sign remains as stated in the table above during this period.
- (b) Temporary signs shall be constructed of durable, all-weather materials and designed to remain in place and in good repair so long as they remain on display.
- (c) Display of temporary banners shall be limited to a total of twenty-eight (28) days per calendar year. Such signs shall not be displayed for any continuous period greater than fourteen (14) days. A permit for a temporary banner shall be required (provided, however, that no fee shall be required). No more than three (3) permits for any one parcel of land shall be permitted per year.
- (d) Temporary signs shall be subject to the maintenance standards of this section.
- (e) The maximum display time of freestanding temporary signs is 64 days. After this time expires, the sign shall be removed. Once the temporary sign is removed, there shall be a gap of at least thirty (30) days between display of the same temporary sign on the same zoning lot.
- (f) When all or a portion of a building or land area on a zoning lot is listed for lease, the maximum display time of freestanding temporary signs shall be ninety (90) days and temporary signs mounted on building walls shall also be permitted for up to ninety (90) days. When all or a portion of a building or land area on a zoning lot is listed for sale, the maximum display time of freestanding temporary signs shall be for the duration of the time the building or land area is listed for sale. The sign area limits in the Table above apply.



- (g) In addition to any other temporary sign allowed in this Ordinance, the City Council may, by resolution, allow temporary sign in connection with an event or promotion, and may as part of the resolution impose such limitations as to size and duration as it deems appropriate. Application for such additional sign must be made to the city, on a form provided by the city, which shall include an acknowledgement and permission for the city to enter upon the property to remove the sign if it is not removed by the applicant within the time specified in the resolution.
- (h) A residential subdivision, site condominium, or condominium that required and obtained site plan approval under Appendix A of the City Code, the Zoning Ordinance, shall be considered a non-residential use until eighty (80) percent of the lots or units are issued certificates of occupancy.

Sec. 28-7. - Allowed in all districts.

The following types of signs shall be allowed in all districts where the principal use to which they are related is permitted by Appendix A to the City Code, the City of Novi Zoning Ordinance, as amended:

- (a) No permit required:
  - (1) Temporary signs not exceeding thirty-two (32) square feet in area.
  - (2) Addresses not exceeding four (4) square feet in area, unless required by other code or regulation.
  - (3) Cornerstone markers, when cut into any masonry surface or when constructed of bronze or other noncombustible material permanently attached to building, no greater than four (4) square feet.
  - (4) Historic marker signs, as regulated and approved by local, state, or federal government agencies.
  - (5) Motor vehicle signs (signs greater than two [2] square feet) subject to subsection 28(10)(b)(11).
  - (6) Flags shall be permitted as follows:
    - a. Flags bearing the official designation of the United States of America shall be excluded from the requirements of subpart b., except as set forth below. Flags bearing the official designation of the United States of America shall be respectfully displayed, shall be maintained as provided in subsection (6)b.(v), and shall not exceed the following size restrictions:

Flag Pole Height (feet)	Maximum Flag Size (width = 2/3 length) (in square feet)
60—65	135
50—59	96
40—49	72
30—39	50
20—29	30
Under 20	15

The height and placement of poles bearing a flag permitted under subsection (5) shall be governed by this Code and Appendix A, zoning ordinance. Specifically, a flag pole will require a permit under subsection 7.5.4 of the zoning ordinance and must comply with section 3.32.3, height limit, and subsection 4.19.2.B, accessory structures, of the zoning ordinance; and

- b. Except as otherwise provided in the zoning ordinance, flags bearing the official design of a nation, state, municipality, educational institution or commercial or noncommercial organization, may be displayed as follows:
  - (i) Each parcel of land may display not more than two (2) flags not exceeding twenty-four (24) square feet when displayed on a flagpole, except as may be permitted herein below in subsections (ii) and (iii).
  - (ii) In the TC, or TC-1, or zoning districts, each parcel of land may display not more than six (6) additional flags, except as may be permitted under subsection(6)b.(iii), not exceeding twenty-four (24) square feet, when displayed on a flagpole or streetlight pole, and when they are an integral part of a plan of streetscaping and landscaping amenities approved under the zoning ordinance, which incorporates decorative streetlights, brick paving, benches, decorative waste receptacles, decorative planter boxes and landscaping. The approved streetscape and landscape plan, including the utilization of such flags, shall be consistent with the design of such amenities throughout the district.
  - (iii) Buildings within the TC and TC-1 zoning districts may display additional flags on building walls and/or streetscape abutting a public road, based upon the length of such building walls. Building walls of one hundred (100) to two hundred (200) feet in length may display up to two (2) additional flags, not exceeding twenty-four (24) square feet. Building walls greater than two hundred (200) feet and up to three hundred (300) feet in length may display up to three (3) additional flags. Building walls greater than three hundred (300) feet in length may display up to four (4) additional flags. Building wall length shall be based upon the overall width/length measurements, depicted in the building's approved site plan.
  - (iv) The above limitations on the number of flags shall not apply to any single-family residence or to any apartment dwelling when the flags are located within an area leased to a resident and not within any common area.
  - (v) All flags shall be maintained in good repair so as to prevent tearing, fraying or other deterioration. The failure to replace or repair a deteriorated flag within thirty (30) days' notice of such condition shall constitute a violation of this Code.
- (7) Traffic or other municipal signs such as legal notices, railroad crossing, danger, and other emergency signs as may be approved by the council or the city manager.

- (8) Where exterior racks or showcases are permitted, each such rack or showcase may contain a single sign not exceeding ten (10) percent of the largest visible face area and shall meet the placement requirements set forth for ground pole signs.
  - (9) Except as specifically prohibited in this ordinance, one illuminated sign per each building side, not to exceed three and one half (3½) square feet in area and 36 inches in any dimension, displayed through the building glass. Flashing and/or animated signage is prohibited.
  - (10) Vending machines on the exterior of business establishments, where permitted, shall be permitted two (2) signs. The total area of such signs shall not exceed ten (10) percent of the wall surface area of the side of the vending machine on which such signs are located, but not to exceed a maximum area of ten (10) square feet for all such signs. All portions of such signs shall be located within the face of the vending machine.
  - (11) Non-illuminated signs displayed in, on, or through building glass area of a non-residential (commercial) use, where such sign covers not more than twenty-five (25) percent of all the glass area of the frontage of the building premises displaying the sign.
  - (12) Private traffic-control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices, published in accord with Section 608 of Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.608), as amended
- (b) Permit required.

Private parking lot and drive signs based upon the following standards: One (1) ground pole sign per entrance not to exceed three (3) square feet in area and six (6) feet in height may be located within the minimum setback area.

#### Sec. 28-8. - Highway sign zones.

The City recognizes the appropriateness of signs in certain locations within the City to serve as a particular medium of communication to the traveling public, and also for various public service announcements and related purposes. However, such signs can adversely affect the visual environment in which they are located, amounting to visual clutter or even blight, and can also block or prevent scenic views and create traffic hazards.

This Section authorizes such signs when adjacent to highways within two separate areas, or zones. In the area located along the I-96, signs are allowed within certain zoning districts subject to regulations as to height, size, and location and by permit as provided in Section 28-3. This recognizes the character of that particular corridor, which is characterized by a multi-lane freeway with significant existing and planned development and limited green space. There are a number of existing billboard-style signs already located in the corridor, both in Novi and in nearby communities.

A separate sign zone is created for the approximately 1-mile corridor along the east side of M-5, a limited access highway, between 13 Mile and 14 Mile Roads. The City recognizes the unique visual features of this area, which includes significant woodland areas and landscaped areas, as well as residential uses along the entire west side of M-5. The City desires to limit the visual impact of signage along this corridor, allowing the communication of both advertising information and possible public service information, to the traveling public while limiting the visual

and traffic impact of such signs. The intention of these regulations is to limit the impact of such signs by directing their placement away from intersections, the freeway interchange, and other signs.

Based on such findings, the following highway signs are allowed:

(a) I-96 Corridor Zone

- (1) In the I-2 District and EXO District, a highway sign zone is hereby established within 50 feet of the limited access right-of-way of I-96. Highway signs in this zone are subject to the following conditions.
- (2) Area, height and placement regulations:

Structure Type	Area	Height	Placement
Ground pole	In I-2 District and EXO District, max. six hundred and seventy-two (672) square feet.	Thirty (30) feet (See measurement method, section 28-1.)	Not less than the required yard setback, and not closer than fifty (50) feet from any residential property.
Wall Sign	Max. three hundred and sixty (360) square feet	As controlled by area not to exceed height of wall.	See definition.

- (3) In no event shall any highway sign be closer than one thousand two hundred (1,200) feet from another highway sign, measured on a direct line from sign to sign. Placement of signs shall also be subject to any rules or regulations of the State of Michigan, including any additional requirements for placement of digital signs.
- (4) The structure of a ground pole sign shall be of durable material (metal, steel, aluminum, fiberglass, or the like); no wood or other combustible material shall be permitted
- (5) Groundpole signs may be two-sided and have changeable copy.
- (6) Lighting shall comply with all applicable provisions of the Code of Ordinances. Images that change digitally shall comply with the changeable copy provisions of this ordinance, as well as any rules or regulations of the State of Michigan. The sign shall not vary light illumination and/or intensity or have features with blinking, bursting, dissolving, distorting, fading, flashing, oscillating, rotating, scrolling, sequencing, shimmering, sparkling, streaming, traveling, tracing, twinkling, simulated movement, or convey the illusion of movement. No sign shall have wind actuated elements.
- (7) A highway sign may also be located on a parcel of property that is immediately abutting an EXO District if:
  - (a) Such property is zoned OST.
  - (b) Such property is used in connection with and is incorporated into an EXO Exposition Facility use.
  - (c) Such sign complies with all requirements of subsections (1)-(6) above.
  - (d) If such property ceases to be used as part of an EXO Exposition Facility use, such sign shall be removed.

- (8) Once approved, such sign shall be installed within one-year of the approval and if not so installed, the permit shall lapse.
- (b) M-5 Corridor sign zone
    - (1) In the OST District, a highway sign zone is hereby established within 50 feet of the limited access right-of-way of M-5, on the east side of M-5 only, between 13 Mile and 14 Mile Roads. Signs in this zone are subject to the following conditions:
      - (a) Such sign shall not exceed thirty (30) feet in height and shall not exceed six hundred and seventy-two (672) square feet in area. This sign is in addition to any freestanding sign otherwise permitted by this ordinance.
      - (b) Such sign shall be set back no less than 50 feet from any residential property line and shall be subject to any additional requirements of state law.
      - (c) Such sign may be two-sided and may have changeable copy, subject to the provisions of this Chapter. The base of the sign shall incorporate decorative elements such that no supporting poles are visible.
      - (d) Lighting shall comply with all applicable provisions of the Code of Ordinances. Images that change digitally shall comply with the changeable copy provisions of this ordinance, as well as any rules or regulations of the State of Michigan. The sign shall not vary light illumination and/or intensity or have features with blinking, bursting, dissolving, distorting, fading, flashing, oscillating, rotating, scrolling, sequencing, shimmering, sparkling, streaming, traveling, tracing, twinkling, simulated movement, or convey the illusion of movement. No sign shall have wind actuated elements.
      - (e) The landscape plan shall include large evergreen shrubs around all sign posts, ground equipment cabinets, and similar structures, to the extent practical.
      - (f) No sign shall be erected within 100 feet of any other ground sign.
      - (g) In no event shall any highway sign be closer than five thousand (5,000) feet to another highway sign, measured on a direct line from sign to sign.
      - (h) In no event shall any highway sign be closer than two thousand (2,000) feet to a freeway interchange, defined as the point at which the pavement width narrows to the travel lanes.
      - (i) In no event shall any highway sign be closer than five hundred (500) feet to a major thoroughfare (13 Mile and 14 Mile Roads).
      - (j) Placement of signs shall also be subject to any rules or regulations of the State of Michigan, including any additional requirements for placement of digital signs.
    - (2) Review.
      - (a) A permit application under Section 28-3 is required. In addition, a site and landscape plan including all applicable information required for preliminary site plan approval under Section 6.0 of the Zoning Ordinance is required. Review of site plan and landscape plan shall be by the City Council.
      - (b) The sign shall not hinder the flow of traffic circulation on the subject site;

- (c) The sign shall not block or restrict visibility of other uses or buildings, whether on- or off-site, beyond what is customary and reasonable for similar sites;
- (d) The sign shall not be in conflict with other provisions of the Zoning Ordinance.
- (f) Once approved, such sign shall be installed within one-year of the approval and if not so installed, the permit shall lapse.

Sec. 28-9. - Noncommercial message permitted; right-of-way.

Anything in this chapter to the contrary notwithstanding, a sign permitted in this chapter as a permanent sign may contain a lawful non-commercial message, except for traffic signs, railroad crossing signs, danger or other emergency signs, and directional signs.

Temporary noncommercial message signs, only, may be placed within right-of-way under the city's jurisdiction, provided that there is no area available on the private property to place the sign, and further provided that such signs shall be placed no less than ten (10) feet from the traveled portion of any public street or road. For purposes of this regulation, the traveled portion of the road includes any road shoulder. The building official shall permit a sign closer than ten (10) feet to the traveled portion of the road only where all of the following conditions are satisfied:

- (a) There is less than ten (10) feet of space between the traveled portion of the street or road and any principal or accessory building on the property so that it is not possible to place a sign in conformance with the ten-foot limit;
- (b) The sign shall be located as far away as possible from the traveled portion of the street or road while remaining visible;
- (c) The sign does not obstruct the vision of drivers; and
- (d) The sign does not obstruct or detract from the visibility of any traffic sign or traffic control device.

After affording the proponent of the sign an opportunity to be heard, the building official may revoke the permission for a sign closer than ten (10) feet if, based upon accepted traffic safety principles, it is concluded that the closer sign placement causes a traffic hazard.

Sec. 28-10. - Prohibited signs.

- (a) A sign not expressly permitted is prohibited.
- (b) The following signs shall not be permitted, erected, or maintained in any district, anything in this chapter to the contrary notwithstanding:
  - (1) Flashing signs.
  - (2) Feather flags, pennants, spinners, and streamers.
  - (3) String lights, including installed lighting that attracts attention to a non-residential use wherein a source or sources of light are arranged to be visible from the exterior of a building or structure including, but not limited to, strips of LED lights or neon tubes placed along the perimeter of building windows, along building edges, and other locations that serve to attract attention to a non-residential use. This prohibition shall not include temporary lights (including holiday lighting) otherwise regulated by this ordinance.

- (4) Animated signs.
- (5) Any sign or sign structure that:
  - a. Is structurally unsafe;
  - b. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
  - c. Is not kept in good repair;
  - d. Is capable of causing electrical shocks to persons likely to come in contact with it;
  - e. Has peeling paint on any surface;
  - f. Has any parts broken, missing letters, or nonoperational lights.
- (6) Any sign which, by reason of its size, location, content, coloring, or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstructing, or detracting from the visibility of any traffic sign or control device on public streets and roads.
- (7) Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exitway.
- (8) Any sign unlawfully installed, erected, or maintained.
- (9) Portable signs except where expressly permitted in this chapter.
- (10) Motor vehicle signs. It shall be unlawful to park, place, or store a vehicle or trailer on which there is a motor vehicle sign on private property if:
  - a. The motor vehicle sign is attached to a vehicle or trailer that is unregistered or not operable;
  - b. The motor vehicle sign is larger in any dimension than or extends beyond any surface of the vehicle or trailer to which it is attached;
  - c. The motor vehicle sign is attached to a vehicle or trailer that is parked or stored in a public right-of-way or an area not designed, designated, or commonly used for parking;
  - d. The motor vehicle sign is attached to a vehicle or trailer that is regularly parked or stored in a "front yard" or "side yard," as such terms are defined in the zoning ordinance, Appendix B of this Code, that abuts a street, when there are other areas of the property designed, designated, or available for the parking or storage of the vehicle or trailer that are not visible from the street or do not abut streets; or
  - e. The motor vehicle sign is attached to a vehicle or trailer that is regularly parked or stored within fifty (50) feet of a street, when there are other areas of the property designed, designated, or available for the parking or storage of the vehicle or trailer that are more distant from the street or not visible from the street.

The foregoing prohibition shall not apply if:

- a. The vehicle is temporarily parked in a particular location in the course of conducting personal activities or business activities that involve the loading or unloading of goods for customers, providing services to off-site customers, conducting off-site business, or engaging in work breaks;
- b. The activities in subsection a, above, are being actively undertaken during the period of such parking; and

- c. The activities in subsection a, above, require the presence of the vehicle for purposes of transporting equipment, people, supplies and/or goods necessary for carrying out such activities.

Sec. 28-13. - Construction materials.

- (a) Generally. Materials of construction for signs and sign structures shall be of the quality and grade as specified for structures in the state construction code.
- (b) Combustible materials. All signs and sign structures erected shall conform to the state construction code relating to combustibility.
- (c) Nonstructural trim. Nonstructural trim may be of wood, metal, approved plastics, or any combination thereof.
- (d) Fastenings. Signs erected to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts, or approved expansion screws of sufficient size and anchorage to support safely the loads applied. All building fastenings must be of noncorrosive materials. Lightweight sign letters may be attached by means of an approved adhesive.
- (e) Illumination. Signs may be illuminated internally or externally unless expressly prohibited in this chapter. All sign lighting shall be either enclosed or directed away from roadways, traffic areas and adjacent residential properties. Sign lighting shall be focused on the sign to avoid stray lighting, and shall not be arranged to shine into the night sky. These provisions shall not apply to flags permitted by subsection 28-7a(6).

Sec. 28-14. - Nonconforming and abandoned or obsolete signs.

- (a) The lawful use of a sign exactly as the sign existed on the date of this amendment may be continued, except as otherwise provided in this chapter, although that sign does not conform with this chapter. It is the intent of this chapter, however, to recognize the eventual elimination, as expeditiously as is reasonable, of such lawful nonconforming signs.
- (b) A nonconforming sign:
  - (1) Shall not be structurally altered so as to prolong the life of the sign or to change the shape, size, type, or design of the sign, or in any way that would increase the degree or extent of nonconformity of such sign;
  - (2) Shall not be expanded or relocated;
  - (3) Shall not be reestablished after damage or destruction, if the estimated expense of reconstruction exceeds fifty (50) percent of the appraised replacement cost as determined by the building official;
- (c) A sign related to a business that has closed or ceased operations or ceased conducting business shall be deemed to be abandoned or obsolete. Abandonment or obsolescence of a nonconforming sign shall terminate immediately the right to maintain such a sign, subject to the following requirements:
  - (1) An abandoned or obsolete sign and its supporting structure shall be removed by the property owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises within ten (10) days after written notice from the city manager or his or her designee.
  - (2) A sign that is in conformity with the other provisions of these regulations may remain in place if such sign is obscured by the use of a blank panel attached within



the frame of the sign and shall be permitted to remain for a period not to exceed one hundred and twenty (120) days.

- (3) Where a successor to an inactive business agrees, within thirty (30) days of the date of written notice by the building official or his or her designee, to maintain the sign as provided for by these regulations, this removal requirement shall not apply, but only if and to the extent that the existing sign and structure conforms to all current sign requirements.
- (d) Any illegal nonconforming signs that exist on the effective date of this amendment shall be removed immediately upon the effective date of this amendment shall be replaced by signs that conform to these regulations.

#### Sec. 28-15. - Appeals.

- (a) Appeal from the ruling of any officer, department, board or bureau of the city concerning the enforcement of the provisions of this chapter may be made by any aggrieved party within thirty (30) days of the ruling to the zoning board of appeals, sitting as an administrative appeal board under this chapter.
- (b) The zoning board of appeals shall have the authority to:
  - (1) Correct errors in the application of this chapter by the Planning Commission or administrative officials;
  - (2) Interpret the provisions of this chapter; and
  - (3) Grant variance relief from the provisions of this chapter. Variance relief may be granted by the zoning board of appeals upon an affirmative finding of practical difficulty. The board may find a practical difficulty on the basis of any of the following:
    - a. That the request is based upon circumstances or features that are exceptional and unique to the property and do not result from conditions that exist generally in the city or that are self-created;
    - b. That the failure to grant relief will unreasonably prevent or limit the use of the property and will result in substantially more than mere inconvenience or inability to attain a higher economic or financial return;
    - c. That the grant of relief would be offset by other improvements or actions, such as increased setbacks or increased landscaping, such that the net effect will result in an improvement of the property or the project;
    - d. That construction of a conforming sign would require the removal or significant alteration of natural features on the property.Before granting variance relief, the board shall also find that the grant of relief will not result in a use or structure that is incompatible with or unreasonably interferes with adjacent or surrounding properties, will result in substantial justice being done to both the applicant and adjacent or surrounding properties, and is not inconsistent with the spirit and intent of this chapter.
- (c) The zoning board of appeals may revoke any grant of a variance for violation of such grant upon the giving of thirty-days' notice of such violation to the owner of the premises and a hearing held thereon.
- (d) Upon receipt of an application for an appeal, interpretation, or variance, one (1) notice that a request has been received shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of the property for which the request is being considered, to all persons to whom real property is assessed

within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. Such notice shall be given not less than fifteen (15) days before the date of the hearing. If the name of an occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post a notice at the primary entrance to the structure.

The notice shall:

- (1) Describe the nature of the variance or appeal;
- (2) Indicate the property which is the subject of the request;
- (3) State when and where the request will be considered;
- (4) Indicate when and where written comments will be received concerning the request.

Sec. 28-16. - Violations; signs in violation declared public nuisance.

- (a) It shall be unlawful for any person to erect, construct, maintain, enlarge, alter, move, or convert any sign in the city, or cause or permit the same to be done on his property contrary to or in violation of any of the provisions of this chapter.
- (b) Any sign which is erected, constructed, maintained, enlarged, altered, moved, or converted in violation of any of the provisions of this chapter is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
- (c) In addition to the remedies otherwise provided, the city may remove and dispose of an unlawful sign on public property.
- (d) Any person, firm or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of section 1-11 of this Code.

## **PART II.**

**Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

## **PART III.**

**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

## **PART IV.**

**Repealer.** All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**PART V.**

**Effective Date: Publication.** The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

\_\_\_\_\_  
Robert J. Gatt, Mayor

\_\_\_\_\_  
Cortney Hanson, City Clerk

**Certificate of Adoption**

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Cortney Hanson, City Clerk

7.13 AMENDMENTS TO ORDINANCE

2. Planned Rezoning Overlay (PRO)

A. **Optional form of development subject to City Council approval; intent**

The Planning Commission and City Council have recognized that, in certain instances, it would be an advantage to both the City and to property owners seeking rezoning if a detailed plan of the proposed improvements, along with conditions and limitations that can be relied upon by the City, could be proposed as part of a petition for rezoning. Therefore, it is the intent of this Section to provide an election to property owners in connection with the submission of petitions seeking the amendment of this Ordinance to request approval of a rezoning with a Planned Rezoning Overlay (PRO) that would establish a site-specific use authorization under Section 503 of the Michigan Zoning Enabling Act (MZEA), Act 110 of 2006, being MCL 125.3503, so as to accomplish, among other things, the objectives of the zoning ordinance through a land development project review process based upon the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

The development authorized under this Section shall be considered an optional means of development only upon terms acceptable to the City. The provision of this option imposes no obligation on the City to encourage or foster its use. The decision whether to approve the use of this option shall be at the sole discretion of the City Council. This PRO option shall not be considered to be a conditional rezoning under Section 405 of the MZEA.

Through the review process and the use of an agreement recorded at the Oakland County Register of Deeds, this option permits flexibility in the regulation of land development in a way that provides benefits to both the City and the property owner, through a negotiated development agreement approved by the City, while insuring that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use and that the land use or activity is consistent with the public health, safety, and welfare of the City.

B. **Election by property owner; eligibility**

- i. A property owner shall have the option of making an election under this Section 7.13.2 in connection with a submission of a petition seeking a rezoning. Such election may be made at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning. The election shall be made by filing an application provided by the City conforming with this section for approval of a PRO

that would establish a site-specific use authorization if the petition for rezoning is granted. Such election shall be to seek a rezoning with PRO pursuant to Section 503 of the MZEA, MCL 125.3503, as amended, which would represent a legislative amendment of this Ordinance under that statutory provision.

- ii. In order to be eligible for the proposal and review of a rezoning with PRO, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, propose clearly-identified site-specific conditions relating to the proposed improvements that (2) are in material respects, more strict or limiting than the regulations that would apply to the land under the proposed new zoning district, including such regulations or conditions as set forth in Subsection C below; and (2) constitute an overall benefit to the public that outweighs any material detriments or that could not otherwise be accomplished without the proposed rezoning.
- iii. The applicant for a PRO shall follow the procedures and provide the information required for a PRO application as set forth in the City's Site Plan and Development Manual, as amended.

**C. Approval of rezoning with PRO**

- i. *Submission of application required.* Pursuant to Section 503 of the MZEA, MCL 125.3503, as amended, the City Council, following a public hearing held by the Planning Commission and its recommendation hereunder, may approve a petition for a rezoning with a PRO.
  - a. *Components of the PRO.* As an integral part of the PRO, the following shall be required:
    - (1) The PRO Plan as initially submitted shall be a conceptual plan showing the general layout and dimensions of the proposed physical improvements to the site that shall be shown in sufficient detail and allow the verification of any proposed ordinance deviations and any conditions being offered, including the following:
      - a. The location of existing and proposed buildings;
      - b. Proposed uses within the buildings and on all affected property;
      - c. Proposed curb cuts, parking, streets, and drives;
      - d. Preliminary landscape plan;
      - e. Preliminary engineering plan and stormwater facilities;

- f. Site survey and legal description; and
- g. All items as shown or required on the rezoning application form.
- h. Locations of all lakes, streams, rivers, ponds, and drainage ways, and any existing regulated woodlands on-site, and any proposed impacts to those features.

The conceptual Plan may also include:

- a. Building floor plans and building elevations;
- b. The total number of buildings and dwelling units by type (e.g., one-bedroom, two-bedroom, and the square footage of the same) if multiple family zoning or use is proposed;
- c. A plan showing the required open space calculations;
- d. Phasing plan, if proposed;
- e. Location and size of proposed site signage; and
- f. Other items as may be determined by the City.

The final approved PRO Plan shall include such detail as shall be required by the City Council in accordance with this Section, following recommendation by the Planning Commission. The approved PRO Plan shall not replace the requirement for preliminary and final site plan review and approval, or subdivision or condominium approval, as the case may be, which shall be required as set forth below. However, at the City's sole option, the applicant may be permitted to combine the PRO Plan approval and preliminary site plan approval processes into one application, in which case the PRO application and PRO Plan shall provide all the information required for site plan approval under this Ordinance, the City Code, and the City's Site Plan Development Manual.

- (2) PRO Conditions. These conditions to the PRO approval are an integral part of the development approval process as described herein and shall be required by the City Council following recommendation by the Planning Commission. The PRO Conditions shall not authorize uses of land not permitted in the district proposed by the rezoning, and shall

not permit uses or development expressly or implicitly prohibited in the PRO Agreement.

(3) PRO Agreement. This document shall be prepared by the City Attorney, reviewed and commented upon by or on behalf of the applicant, and approved by the City Council. It shall incorporate the PRO Plan and set forth the PRO Conditions and any additional conditions imposed pursuant to MCL 125.3504, as amended, together with any other terms mutually agreed upon by the parties (including the minimum provisions specified in the definition of PRO Agreement, above).

(4) PRO Deviations. As part of its review and approval of the PRO, the City Council may authorize deviations from height, area, and bulk standards (but not use or density standards) of this Ordinance. The City Council may also, to the extent permitted, authorize as part of its approval deviations from other regulations (e.g., design and construction standards, sign regulations, and the like). These deviations shall be reduced to writing and shown on the PRO Plan and also listed in the PRO Agreement.

(5) Narrative. The PRO application shall include a written narrative explaining the development project and any proposed PRO Conditions and requested PRO Deviations. All such Conditions and Deviations shall be described in as much detail as is possible at the time of application. The narrative shall identify in text the intended land uses, the site-specific limitations and restrictions proposed, and the benefits to the public that are required to be provided as the basis for the PRO as set forth in the Standards for Approval in subsection (ii) below.

b. *Manner of designation on zoning map.* If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "PRO, Planned Rezoning Overlay." The Zoning Map shall specify the new zoning district including a reference to "PRO"; e.g., the district classification for the property might be "RM-1, Low Density, Low-Rise Multiple Family with PRO, Planned Rezoning Overlay," with a Zoning Map Designation of "RM-1/PRO." Development and use of the property so classified and approved shall be restricted to the permission granted in the PRO Plan and PRO Agreement, subject to the PRO Conditions, and no other development or use shall be permitted.

c. *Compliance with underlying district regulations; PRO Deviations.* The use of the property in question shall, subject to sub-paragraphs

(1) and (2), below, be in total conformity with all regulations governing development and use within the zoning district to which the property has been rezoned, including, without limitation, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

(1) *Restrictions/limitations not required by ordinance.* Development and use of the property shall propose and be subject to, following City Council review and approval, requirements shown, depicted, or specified on the PRO Plan, and/or in the PRO Conditions imposed, and/or in other conditions and provisions set forth in the PRO Agreement, that are more restrictive, in ways that are material and identifiable and capable of being shown or described and as required in this Ordinance. Such PRO Plan, PRO Conditions, and PRO Agreement shall overlay and supersede all inconsistent regulations otherwise applicable under this Ordinance.

(2) *PRO Deviations.* As part of the grant of final approval of a PRO, the City Council shall be authorized to grant deviations from the strict terms of this Ordinance governing dimensional requirements on the property.

Deviations granted hereunder shall be justified by documentation provided by the applicant in a form sufficient to allow recommendation by the Planning Commission and acceptable to the City Council. This documentation may include, at the City's discretion, additional traffic or infrastructure studies, environmental studies, market assessments, or the like beyond those required by ordinance or the Site Plan Manual.

The City may, at its discretion, consider the following in determining whether to grant each such deviation:

- a. The PRO Plan, with the deviation, demonstrates an innovative, unified, planned approach to developing the site that has resulted in a proposal for a higher quality development than the City could otherwise require, and that the Ordinance standard, if the deviation were not granted, would likely prohibit an enhancement of the development that would be in the public interest or would significantly impair the use or operation of the overall development.
- b. The applicant has proposed measures that will eliminate, minimize, or mitigate any negative



impacts of the deviation, and that the deviation will not be detrimental to the public health, safety, or welfare of the occupants of the development, the surrounding neighborhood, or the City as a whole.

- c. The PRO Plan, with the deviation, meets the standards for approval under this Section, including the provision of restrictions or limitations on the use or development not otherwise required by the Ordinance.
- ii. *Standards for approval.* The City Council shall apply the following standards in evaluating and acting upon the PRO and shall make the specific findings required hereunder. While the City Council shall have the full discretion afforded it by law to determine whether to grant the application under this option, the applicant shall have the burden of demonstrating that the following requirements and standards are met by the PRO Plan, Conditions, and PRO Agreement:
  - a. The PRO accomplishes the integration of the proposed land development project with the characteristics of the project area in such a manner that results in an enhancement of the project area as compared to the existing zoning that would be unlikely to be achieved, or would not be assured, in the absence of the use of a PRO.
  - b. Sufficient conditions have been included on and in the PRO Plan and the PRO Agreement such that the City Council concludes, in its discretion, that, as compared to the existing zoning and considering the site-specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with PRO. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles, as presented to the City Council, following recommendation by the Planning Commission, and also taking into consideration the special knowledge and understanding of the City by the City Council and Planning Commission.

The PRO Conditions shall not authorize uses or development not permitted in the district proposed by the zoning (and shall not permit uses or development expressly or implicitly prohibited in the PRO Agreement), and may include some or all of the following, in addition to conditions that may be imposed by the City under MCL 125.3504:

- (1) Establishment of development features such as the location, size, height, area, or mass of buildings, structures, or other improvements in a manner that cannot be required under the Ordinance or the City's Code of Ordinances, to be shown on the PRO Plan.
- (2) Specification of the maximum density or intensity of development and/or use, as shown on the PRO Plan and expressed in terms fashioned for the particular development and/or use (for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like).
- (3) Provision for setbacks, landscaping, and other buffers in a manner that exceeds what the Ordinance of the Code of Ordinances can require.
- (4) Exceptional site and building design, architecture, and other features beyond the minimum requirements of the Ordinance or the Code of Ordinances.
- (5) Preservation of natural resources and/or features, such as woodlands and wetlands, in a manner that cannot be accomplished through the Ordinance or the Code of Ordinances and that exceeds what is otherwise required. If such areas are to be affected by the proposed development, provisions designed to minimize or mitigate such impact.
- (6) Limitations on the land uses otherwise allowed under the proposed zoning district, including, but not limited to, specification of uses that are permitted and those that are not permitted.
- (7) Provision of a public improvement or improvements that would not otherwise be required under the ordinance or Code of Ordinances to further the public health, safety, and welfare, protect existing or planned uses, or alleviate or lessen an existing or potential problem relating to public facilities. These can include, but are not limited to, road and infrastructure improvements; relocation of overhead utilities; or other public facilities or improvements.
- (8) Improvements or other measures to improve traffic congestion or vehicular movement with regard to existing conditions or conditions anticipated to result from the development.

- (9) Improvements to site drainage (storm water) or drainage in the area of the development not otherwise required by the Code of Ordinances.
- (10) Limitations on signage.
- (11) Creation or preservation of public or private parkland or open space.
- (12) Other representation, limitations, improvements, or provisions approved by the City Council.

The restrictions, limitations, promises, undertakings, and conditions that are set forth in the PRO Plan, PRO Conditions, and PRO Agreement will run with the land and be enforceable in perpetuity unless amended by mutual agreement of the City and the property owner. There shall, where required by the City, be a written understanding for the permanent maintenance of any improvements or beneficial provisions made a condition of approval hereunder, including a method for paying for the cost of same, including the construction or maintenance of same by the property owner, or by or on behalf of the City in the event the property owner fails to timely perform after notice.

- c. Compliance with all of the General Standards for the approval of uses subject to special conditions are met, as enumerated in Section 6.1.2.C.

#### **D. Procedure for Application, Review and Approval**

The City Council is the decision-making body for purposes of this optional form of development as a legislative action. The Planning Commission's recommendation is not binding on the City Council.

- i. *Application.* At the time of making application for amendment of this ordinance seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning, a property owner may submit an application for approval of a PRO to apply in conjunction with the rezoning. The application shall include the information described in Section C above, including a statement regarding eligibility for PRO approval under Subsection 2.B.ii.
- ii. *Initial staff review and report.* Upon submission of a complete application, the Community Development Department shall undertake a review of the application (with the assistance consultants, if desired by staff) and prepare an initial report regarding the application for review by the Planning Commission and City Council, including such information and comment as the Department deems appropriate.

- iii. *Initial submission to Planning Commission and City Council for eligibility reviews.* Before the application is submitted to the Planning Commission for formal public hearing and non-binding preliminary comments to the City Council as described below, it shall be submitted to the Planning Commission for an initial review of eligibility of the application under Subsection 2.B.ii above. The submission shall be informational only, although the Planning Commission members shall have the opportunity to review and make comments upon the eligibility of the proposal. The Planning Commission's review and comments shall not constitute a recommendation and shall not be binding upon the applicant or the City. This initial meeting of the Planning Commission shall also be noticed as a public hearing before the on a proposed legislative amendment of the Zoning Ordinance pursuant to Section 503 of the MZEA.

Within 45 days after the submission to the Planning Commission, the application shall be forwarded to the City Council, which shall have a similar opportunity to review and comment upon the eligibility of the proposal. The City Council's review and comments shall not constitute a recommendation and shall not be binding on the applicant or the City. The initial reviews of both the Planning Commission and the City Council are intended to provide only an initial indication to the applicant as to whether an applicant should proceed to a formal submission of the PRO application.

The applicant may make changes, additions, or deletions to its application as a result of the Planning Commission's and/or the City Council's comments as to eligibility before making its formal submission.

- iv. *Formal submission of application; Planning Commission action.* Following the initial review process described above, and before submission to the Planning Commission, the Plan Review Center shall undertake a full staff review of the application. The proposed rezoning with PRO shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment of the Zoning Ordinance pursuant to Section 503 of the MZEA, MCL 125.3503, as amended. The Planning Commission may hold a preliminary meeting to discuss the application before setting it for public hearing. Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Council on the proposed rezoning with PRO. The recommendation may be to deny, to approve, or to approve with conditions.

- vii. *City Council action on PRO application.* Upon receipt of the recommendation of the Planning Commission, the City Council shall commence deliberations on the proposed rezoning with PRO. If the City Council determines that it may approve the rezoning with PRO, the City Council shall specify tentative conditions under Section 504 of the MZEA, MCL 125.3504, as amended, and direct the City Attorney to work with the applicant in the development of a proposed PRO Agreement. Upon completion of the PRO Agreement, the City Council shall make a final

determination to approve, approve with conditions, or deny the rezoning with PRO.

- E. **Effect of Approval.** Approval of the PRO Plan and PRO Agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the PRO Plan and after recordation as set forth in Paragraph H below. Approval of the usual preliminary site plan and final site plan as set forth in Section 6.1 shall be required before any improvements to the property may be undertaken. As described in Section C above, the applicant may, with the City's approval, pursue PRO Plan approval and preliminary site plan approval commensurately.
- F. **Amendment of PRO Agreement.** Amendment of an approved and recorded PRO Agreement shall be proposed, reviewed, and approved in the same manner as a new rezoning with PRO. Notwithstanding the foregoing, minor modifications to the approved PRO Plan can be approved administratively if the Zoning Ordinance would otherwise allow an administrative site plan review and approval, so long as the City Planner determines that the modifications (i) are minor, (ii) do not deviate from the general intent of the PRO Plan, and (iii) result in reduced impacts on the surrounding development and existing infrastructure. The City Planner may also defer the question to the Planning Commission. The Planning Commission shall also be permitted to authorize minor amendments to the PRO Plan in its review of the preliminary site plans with regard to parking-related, landscaping-related, and façade-related requirements, provided that it would otherwise have that authority under the Zoning Ordinance and such amendments would not be inconsistent with the PRO Conditions or the PRO Agreement. The Planning Commission may also defer the question to the City Council.
- G. **Recordation of PRO Agreement.** A rezoning with PRO shall become effective following publication in the manner provided by law and City Charter, and, after recordation of the PRO Agreement, whichever is later.
- H. **Fee.** The applicant for a rezoning with PRO shall pay as a fee the City's costs and expenses incurred by the City in the review of and preparation of documents for a rezoning with PRO. An escrow shall be established in an amount specified by City Council Resolution, and additional reasonable amounts shall be contributed as required in order to complete the process of review and approval. Any unexpended amounts from such escrow shall be returned to the applicant.
- I. **Expiration; extension.** Unless extended by the City Council for good cause, the rezoning with PRO shall expire following a period of two (2) years from the effective date of the PRO Agreement unless *bona fide* development of the property, pursuant to the approved building and other required permits issued by the City, commences within such two-year period and proceeds diligently and in good faith as required by the ordinance to completion.

- i. In the event *bona fide* development has not commenced within two (2) years from the effective date of the rezoning, the rezoning and PRO shall be void and of no effect.
- ii. If development and/or actions are undertaken on or with respect to the property in violation of the PRO Agreement, such development and/or actions shall constitute a nuisance *per se*. In such case, the City may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the PRO Agreement, the City may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.
- iii. The City Council may grant an extension of the rezoning with PRO for a period of up to two (2) years, and may grant at the conclusion of such extension additional subsequent extensions for similar periods of time. In determining whether good cause exists for an extension, the City Council shall consider the following factors:
  - a. The applicant has demonstrated that required utility services have been delayed;
  - b. The applicant has demonstrated that technical reviews of the final site plan (e.g., related to engineering approvals or approvals by other agencies) have raised unforeseen development delays;
  - c. The applicant has demonstrated that unforeseen economic events or conditions have caused delays;
  - d. The approved PRO Plan to be extended is in compliance with all current site plan criteria and current ordinances, laws, codes, and regulations;
  - e. There is no pending zoning ordinance amendment that would otherwise substantially change the requirements of final site plan approval for the approved PRO Plan.
- iv. If the rezoning with PRO becomes void in the manner provided herein:
  - a. The City will initiate a new rezoning of the property to a reasonable district classification in accordance with the procedure provided by law for rezonings in cities. Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.
  - b. The property owner may also seek a new rezoning of the property.

J. **Effective date.** The effective date of this ordinance amendment is \_\_\_\_\_, 2021. PROs that have been approved by City Council prior to that effective date are not to be considered non-conforming. The PRO Plans, and PRO Agreements shall be and remain valid and effective. Any amendments to such PRO Plans and PRO Agreements, however, shall be subject to the requirements of this amended ordinance.

**ALSO –**

**AMEND DEFINITIONS SECTION AS FOLLOWS:**

*Planned Rezoning Overlay (PRO) Conditions:* The conditions approved by the City Council as part of an approval under Section 7.13, including review and recommendation by the Planning Commission, which together with the PRO Agreement and PRO Plan shall constitute regulations for and in connection with the development and use of property approved with a PRO in conjunction with a zoning amendment.

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2. Planned Rezoning Overlay (PRO)

A. **Optional form of development subject to City Council approval; intent**

The Planning Commission and City Council have recognized that, in certain instances, it would be an advantage to both the City and to property owners seeking rezoning if a detailed plan of the proposed improvements, along with conditions and limitations that can be relied upon by the City, could be proposed as part of a petition for rezoning. Therefore, it is the intent of this Section to provide an election to property owners in connection with the submission of petitions seeking the amendment of this Ordinance to request approval of a rezoning with a Planned Rezoning Overlay (PRO) that would establish a site-specific use authorization under Section 503 of the Michigan Zoning Enabling Act (MZEA), Act 110 of 2006, being MCL 125.3503, so as to accomplish, among other things, the objectives of the zoning ordinance through a land development project review process based upon the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

The development authorized under this Section shall be considered an optional means of development only upon terms acceptable to the City. The provision of this option imposes no obligation on the City to encourage or foster its use. The decision whether to approve the use of this option shall be at the sole discretion of the City Council. This PRO option shall not be considered to be a conditional rezoning under Section 405 of the MZEA.

Through the review process and the use of an agreement recorded at the Oakland County Register of Deeds, this option permits flexibility in the regulation of land development in a way that provides benefits to both the City and the property owner, through a negotiated development agreement approved by the City, while insuring that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use and that the land use or activity is consistent with the public health, safety, and welfare of the City.

B. **Election by property owner; eligibility**

- i. A property owner shall have the option of making an election under this Section 7.13.2 in connection with a submission of a petition seeking a rezoning. Such election may be made at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning. The election shall be made by filing an application provided by the City conforming with this section for approval of a PRO that would establish a site-specific use authorization if the petition for



rezoning is granted. Such election shall be to seek a rezoning with PRO pursuant to Section 503 of the MZEA, MCL 125.3503, as amended, which would represent a legislative amendment of this Ordinance under that statutory provision.

- ii. In order to be eligible for the proposal and review of a rezoning with PRO, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, propose clearly-identified site-specific conditions relating to the proposed improvements that (2) are in material respects, more strict or limiting than the regulations that would apply to the land under the proposed new zoning district, including such regulations or conditions as set forth in Subsection C below; and (2) constitute an overall benefit to the public that outweighs any material detriments or that could not otherwise be accomplished without the proposed rezoning.
- iii. The applicant for a PRO shall follow the procedures and provide the information required for a PRO application as set forth in the City's Site Plan and Development Manual, as amended.

**C. Approval of rezoning with PRO**

- i. *Submission of application required.* Pursuant to Section 503 of the MZEA, MCL 125.3503, as amended, the City Council, following a public hearing held by the Planning Commission and its recommendation hereunder, may approve a petition for a rezoning with a PRO.
  - a. *Components of the PRO.* As an integral part of the PRO, the following shall be required:
    - (1) The PRO Plan as initially submitted shall be a conceptual plan showing the general layout and dimensions of the proposed physical improvements to the site that shall be shown in sufficient detail and allow the verification of any proposed ordinance deviations and any conditions being offered, including the following:
      - a. The location of existing and proposed buildings;
      - b. Proposed uses within the buildings and on all affected property;
      - c. Proposed curb cuts, parking, streets, and drives;
      - d. Preliminary landscape plan;
      - e. Preliminary engineering plan and stormwater facilities;

- f. Site survey and legal description; and
- g. All items as shown or required on the rezoning application form.
- h. Locations of all lakes, streams, rivers, ponds, and drainage ways, and any existing regulated woodlands on-site, and any proposed impacts to those features.

The conceptual Plan may also include:

- a. Building floor plans and building elevations;
- b. The total number of buildings and dwelling units by type (e.g., one-bedroom, two-bedroom, and the square footage of the same) if multiple family zoning or use is proposed;
- c. A plan showing the required open space calculations;
- d. Phasing plan, if proposed;
- e. ;
- f. Location and size of proposed site signage; and
- g. Other items as may be determined by the City.

The final approved PRO Plan shall include such detail as shall be required by the City Council in accordance with this Section, following recommendation by the Planning Commission. The approved PRO Plan shall not replace the requirement for preliminary and final site plan review and approval, or subdivision or condominium approval, as the case may be, which shall be required as set forth below. However, at the City's sole option, the applicant may be permitted to combine the PRO Plan approval and preliminary site plan approval processes into one application, in which case the PRO application and PRO Plan shall provide all the information required for site plan approval under this Ordinance, the City Code, and the City's Site Plan Development Manual.

- (2) PRO Conditions. These conditions to the PRO approval are an integral part of the development approval process as described herein and shall be required by the City Council following recommendation by the Planning Commission.

The PRO Conditions shall not authorize uses of land not permitted in the district proposed by the rezoning, and shall not permit uses or development expressly or implicitly prohibited in the PRO Agreement.

- (3) PRO Agreement. This document shall be prepared by the City Attorney, reviewed and commented upon by or on behalf of the applicant, and approved by the City Council. It shall incorporate the PRO Plan and set forth the PRO Conditions and any additional conditions imposed pursuant to MCL 125.3504, as amended, together with any other terms mutually agreed upon by the parties (including the minimum provisions specified in the definition of PRO Agreement, above).
  - (4) PRO Deviations. As part of its review and approval of the PRO, the City Council may authorize deviations from height, area, and bulk standards (but not use or density standards) of this Ordinance. The City Council may also, to the extent permitted, authorize as part of its approval deviations from other regulations (e.g., design and construction standards, sign regulations, and the like). These deviations shall be reduced to writing and shown on the PRO Plan and also listed in the PRO Agreement.
  - (5) Narrative. The PRO application shall include a written narrative explaining the development project and any proposed PRO Conditions and requested PRO Deviations. All such Conditions and Deviations shall be described in as much detail as is possible at the time of application. The narrative shall identify in text the intended land uses, the site-specific limitations and restrictions proposed, and the benefits to the public that are required to be provided as the basis for the PRO as set forth in the Standards for Approval in subsection (ii) below.
- b. *Manner of designation on zoning map.* If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "PRO, Planned Rezoning Overlay." The Zoning Map shall specify the new zoning district including a reference to "PRO"; e.g., the district classification for the property might be "RM-1, Low Density, Low-Rise Multiple Family with PRO, Planned Rezoning Overlay," with a Zoning Map Designation of "RM-1/PRO." Development and use of the property so classified and approved shall be restricted to the permission granted in the PRO Plan and PRO Agreement, subject to the PRO Conditions, and no other development or use shall be permitted.

c. *Compliance with underlying district regulations; PRO Deviations.* The use of the property in question shall, subject to sub-paragraphs (1) and (2), below, be in total conformity with all regulations governing development and use within the zoning district to which the property has been rezoned, including, without limitation, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density; provided, however, the following shall apply:

(1) *Restrictions/limitations not required by ordinance.* Development and use of the property shall propose and be subject to, following City Council review and approval, requirements shown, depicted, or specified on the PRO Plan, and/or in the PRO Conditions imposed, and/or in other conditions and provisions set forth in the PRO Agreement, that are more restrictive, in ways that are material and identifiable and capable of being shown or described and as required in this Ordinance. Such PRO Plan, PRO Conditions, and PRO Agreement shall overlay and supersede all inconsistent regulations otherwise applicable under this Ordinance.

(2) *PRO Deviations.* As part of the grant of final approval of a PRO, the City Council shall be authorized to grant deviations from the strict terms of this Ordinance governing dimensional requirements on the property.

Deviations granted hereunder shall be justified by documentation provided by the applicant in a form sufficient to allow recommendation by the Planning Commission and acceptable to the City Council. This documentation may include, at the City's discretion, additional traffic or infrastructure studies, environmental studies, market assessments, or the like beyond those required by ordinance or the Site Plan Manual.

The City may, at its discretion, consider the following in determining whether to grant each such deviation:

a. The PRO Plan, with the deviation, demonstrates an innovative, unified, planned approach to developing the site that has resulted in a proposal for a higher quality development than the City could otherwise require, and that the Ordinance standard, if the deviation were not granted, would likely prohibit an enhancement of the development that would be in the public interest or would significantly impair the use or operation of the overall development.

- b. The applicant has proposed measures that will eliminate, minimize, or mitigate any negative impacts of the deviation, and that the deviation will not be detrimental to the public health, safety, or welfare of the occupants of the development, the surrounding neighborhood, or the City as a whole.
    - c. The PRO Plan, with the deviation, meets the standards for approval under this Section, including the provision of restrictions or limitations on the use or development not otherwise required by the Ordinance.
  - ii. *Standards for approval.* The City Council shall apply the following standards in evaluating and acting upon the PRO and shall make the specific findings required hereunder. While the City Council shall have the full discretion afforded it by law to determine whether to grant the application under this option, the applicant shall have the burden of demonstrating that the following requirements and standards are met by the PRO Plan, Conditions, and PRO Agreement:
    - a. The PRO accomplishes the integration of the proposed land development project with the characteristics of the project area in such a manner that results in an enhancement of the project area as compared to the existing zoning that would be unlikely to be achieved, or would not be assured, in the absence of the use of a PRO.
    - b. Sufficient conditions have been included on and in the PRO Plan and the PRO Agreement such that the City Council concludes, in its discretion, that, as compared to the existing zoning and considering the site-specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with PRO. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles, as presented to the City Council, following recommendation by the Planning Commission, and also taking into consideration the special knowledge and understanding of the City by the City Council and Planning Commission.

The PRO Conditions shall not authorize uses or development not permitted in the district proposed by the zoning (and shall not permit uses or development expressly or implicitly prohibited in the PRO Agreement), and may include some or all of the following, in

addition to conditions that may be imposed by the City under MCL 125.3504:

- (1) Establishment of development features such as the location, size, height, area, or mass of buildings, structures, or other improvements in a manner that cannot be required under the Ordinance or the City's Code of Ordinances, to be shown on the PRO Plan.
- (2) Specification of the maximum density or intensity of development and/or use, as shown on the PRO Plan and expressed in terms fashioned for the particular development and/or use (for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like).
- (3) Provision for setbacks, landscaping, and other buffers in a manner that exceeds what the Ordinance of the Code of Ordinances can require.
- (4) Exceptional site and building design, architecture, and other features beyond the minimum requirements of the Ordinance or the Code of Ordinances.
- (5) Preservation of natural resources and/or features, such as woodlands and wetlands, in a manner that cannot be accomplished through the Ordinance or the Code of Ordinances and that exceeds what is otherwise required. If such areas are to be affected by the proposed development, provisions designed to minimize or mitigate such impact.
- (6) Limitations on the land uses otherwise allowed under the proposed zoning district, including, but not limited to, specification of uses that are permitted and those that are not permitted.
- (7) Provision of a public improvement or improvements that would not otherwise be required under the ordinance or Code of Ordinances to further the public health, safety, and welfare, protect existing or planned uses, or alleviate or lessen an existing or potential problem relating to public facilities. These can include, but are not limited to, road and infrastructure improvements; relocation of overhead utilities; or other public facilities or improvements.
- (8) Improvements or other measures to improve traffic congestion or vehicular movement with regard to existing

conditions or conditions anticipated to result from the development.

- (9) Improvements to site drainage (storm water) or drainage in the area of the development not otherwise required by the Code of Ordinances.
- (10) Limitations on signage.
- (11) Creation or preservation of public or private parkland or open space.
- (12) Other representation, limitations, improvements, or provisions approved by the City Council.

The restrictions, limitations, promises, undertakings, and conditions that are set forth in the PRO Plan, PRO Conditions, and PRO Agreement will run with the land and be enforceable in perpetuity unless amended by mutual agreement of the City and the property owner. There shall, where required by the City, be a written understanding for the permanent maintenance of any improvements or beneficial provisions made a condition of approval hereunder, including a method for paying for the cost of same, including the construction or maintenance of same by the property owner, or by or on behalf of the City in the event the property owner fails to timely perform after notice.

- c. Compliance with all of the General Standards for the approval of uses subject to special conditions are met, as enumerated in Section 6.1.2.C.

**D. Procedure for Application, Review and Approval**

The City Council is the decision-making body for purposes of this optional form of development as a legislative action. The Planning Commission's recommendation is not binding on the City Council.

- i. *Application.* At the time of making application for amendment of this ordinance seeking a rezoning of property, or at a later time during the process of City consideration of such rezoning, a property owner may submit an application for approval of a PRO to apply in conjunction with the rezoning. The application shall include the information described in Section C above, including a statement regarding eligibility for PRO approval under Subsection 2.B.ii.
- ii. *Initial staff review and report.* Upon submission of a complete application, the Community Development Department shall undertake a review of the application (with the assistance consultants, if desired by staff) and prepare

an initial report regarding the application for review by the Planning Commission and City Council, including such information and comment as the Department deems appropriate.

- iii. *Initial submission to Planning Commission and City Council for eligibility reviews.* Before the application is submitted to the Planning Commission for formal public hearing and **non-binding preliminary comments** to the City Council as described below, it shall be submitted to the Planning Commission for an initial review of eligibility of the application under Subsection 2.B.ii above. The submission shall be informational only, although the Planning Commission members shall have the opportunity to review and make comments upon the eligibility of the proposal. The Planning Commission's review and comments shall not constitute a recommendation and shall not be binding upon the applicant or the City. This initial meeting of the Planning Commission shall also be noticed as a public hearing before the on a proposed legislative amendment of the Zoning Ordinance pursuant to Section 503 of the MZEA.

Within 45 days after the submission to the Planning Commission, the application shall be forwarded to the City Council, which shall have a similar opportunity to review and comment upon the eligibility of the proposal. The City Council's review and comments shall not constitute a recommendation and shall not be binding on the applicant or the City. The initial reviews of both the Planning Commission and the City Council are intended to provide only an initial indication to the applicant as to whether an applicant should proceed **to proceed** to a formal submission of the PRO application.

The applicant may make changes, additions, or deletions to its application as a result of the Planning Commission's and/or the City Council's comments as to eligibility before making its formal submission.

- iv. *Formal submission of application; Planning Commission action.* Following the initial review process described above, and before submission to the Planning Commission, the **Plan Review Center** shall undertake a full staff review of the application. The proposed rezoning with PRO shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment of the Zoning Ordinance pursuant to Section 503 of the MZEA, MCL 125.3503, as amended. The Planning Commission may hold a preliminary meeting to discuss the application before setting it for public hearing. Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the City Council on the proposed rezoning with PRO. The recommendation may be to deny, to approve, or to approve with conditions.
- vii. *City Council action on PRO application.* Upon receipt of the recommendation of the Planning Commission, the City Council shall commence deliberations on the proposed rezoning with PRO. If the City



Council determines that it may approve the rezoning with PRO, the City Council shall specify tentative conditions under Section 504 of the MZEA, MCL 125.3504, as amended, and direct the City Attorney to work with the applicant in the development of a proposed PRO Agreement. Upon completion of the PRO Agreement, the City Council shall make a final determination to approve, approve with conditions, or deny the rezoning with PRO.

- E. **Effect of Approval.** Approval of the PRO Plan and PRO Agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the PRO Plan and after recordation as set forth in Paragraph H below. Approval of the usual preliminary site plan and final site plan as set forth in Section 6.1 shall be required before any improvements to the property may be undertaken. As described in Section C above, the applicant may, with the City's approval, pursue PRO Plan approval and preliminary site plan approval commensurately.
- F. **Amendment of PRO Agreement.** Amendment of an approved and recorded PRO Agreement shall be proposed, reviewed, and approved in the same manner as a new rezoning with PRO. Notwithstanding the foregoing, minor modifications to the approved PRO Plan can be approved administratively if the Zoning Ordinance would otherwise allow an administrative site plan review and approval, so long as the City Planner determines that the modifications (i) are minor, (ii) do not deviate from the general intent of the PRO Plan, and (iii) result in reduced impacts on the surrounding development and existing infrastructure. The City Planner may also defer the question to the Planning Commission. The Planning Commission shall also be permitted to authorize minor amendments to the PRO Plan in its review of the preliminary site plans with regard to parking-related, landscaping-related, and façade-related requirements, provided that it would otherwise have that authority under the Zoning Ordinance and such amendments would not be inconsistent with the PRO Conditions or the PRO Agreement. The Planning Commission may also defer the question to the City Council.
- G. **Recordation of PRO Agreement.** A rezoning with PRO shall become effective following publication in the manner provided by law and City Charter, and, after recordation of the PRO Agreement, whichever is later.
- H. **Fee.** The applicant for a rezoning with PRO shall pay as a fee the City's costs and expenses incurred by the City in the review of and preparation of documents for a rezoning with PRO. An escrow shall be established in an amount specified by City Council Resolution, and additional reasonable amounts shall be contributed as required in order to complete the process of review and approval. Any unexpended amounts from such escrow shall be returned to the applicant.
- I. **Expiration; extension.** Unless extended by the City Council for good cause, the rezoning with PRO shall expire following a period of two (2) years from the effective date of the PRO Agreement unless *bona fide* development of the property, pursuant to the approved building and other required permits issued by

the City, commences within such two-year period and proceeds diligently and in good faith as required by the ordinance to completion.

- i. In the event *bona fide* development has not commenced within two (2) years from the effective date of the rezoning, the rezoning and PRO shall be void and of no effect.
- ii. If development and/or actions are undertaken on or with respect to the property in violation of the PRO Agreement, such development and/or actions shall constitute a nuisance *per se*. In such case, the City may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the PRO Agreement, the City may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.
- iii. The City Council may grant an extension of the rezoning with PRO for a period of up to two (2) years, and may grant at the conclusion of such extension additional subsequent extensions for similar periods of time. In determining whether good cause exists for an extension, the City Council shall consider the following factors:
  - a. The applicant has demonstrated that required utility services have been delayed;
  - b. The applicant has demonstrated that technical reviews of the final site plan (e.g., related to engineering approvals or approvals by other agencies) have raised unforeseen development delays;
  - c. The applicant has demonstrated that unforeseen economic events or conditions have caused delays;
  - d. The approved PRO Plan to be extended is in compliance with all current site plan criteria and current ordinances, laws, codes, and regulations;
  - e. There is no pending zoning ordinance amendment that would otherwise substantially change the requirements of final site plan approval for the approved PRO Plan.
- iv. If the rezoning with PRO becomes void in the manner provided herein:
  - a. The City will initiate a new rezoning of the property to a reasonable district classification in accordance with the procedure provided by law for rezonings in cities. Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.
  - b. The property owner may also seek a new rezoning of the property.

J. **Effective date.** The effective date of this ordinance amendment is \_\_\_\_\_, 2021. PROs that have been approved by City Council prior to that effective date are not to be considered non-conforming. The PRO Plans, and PRO Agreements shall be

and remain valid and effective. Any amendments to such PRO Plans and PRO Agreements, however, shall be subject to the requirements of this amended ordinance.

**ALSO –**

**AMEND DEFINITIONS SECTION AS FOLLOWS:**

*Planned Rezoning Overlay (PRO) Conditions:* The conditions approved by the City Council as part of an approval under Section 7.13, including review and recommendation by the Planning Commission, which together with the PRO Agreement and PRO Plan shall constitute regulations for and in connection with the development and use of property approved with a PRO in conjunction with a zoning amendment.