

## CHAPTER 53: ZONING

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***PREAMBLE***

In accordance with the authority and intent of Public Act 207 of 1921, as amended, the city desires to provide for the orderly development of the city, which is essential to the well being of the community and which will place no undue burden upon developers, commerce or residents. The city further desires to assure the provision of adequate sites for commerce and residences; to provide for the free movement of vehicles upon the proper streets and highways of the city; to protect commerce and residences against incongruous and incompatible uses of land and to promote the proper use of land and natural resources for the economic well being of the city as a whole; to assure the provision of adequate space for the parking of vehicles of customers using commercial and retail areas; and that all uses of land and buildings within the city be so related as to provide for economy in government and mutual support. The result of the purposes of this chapter, which relates to the city's Comprehensive Development Plan, will promote and protect the public health, safety, comfort, convenience and general welfare of the residents, shoppers and workers in the city.

(Ord. 188, eff. 2-25-1981)

***ARTICLE I. TITLE***

**Sec. 53-1. SHORT TITLE.**

This chapter shall be known and may be cited as the "Zoning Chapter of the City of Plainwell".  
(Ord. 188, eff. 2-25-1981)

***ARTICLE II. DEFINITIONS***

**Sec. 53-2. USAGE.**

A. For the purpose of this chapter, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.

B. Unless the context clearly indicated to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural number include the singular; the word "herein" means this chapter; and the word "this chapter" shall mean "the chapter text, tables and maps included herein, as enacted or subsequently amended".



C. A “person” includes a corporation, a partnership and an unincorporated association of persons such as a club; “shall” is always mandatory; a building site includes a plot, lot, footprint or parcel, a “building” includes a structure; a “building” or “structure” includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used for or occupied”.

D. The “City” is the City of Plainwell in the County of Allegan, State of Michigan; and “City Council,” “Board of Appeals,” and “Planning Commission” are respectively the City Council, Board of Appeals and Planning Commission of the City of Plainwell.

E. Any words not defined in this chapter shall be construed as defined in the Housing Law of Michigan, Public Act 167 of 1917, as amended.  
(Ord. 188, eff. 2-25-1981)

### **Sec. 53-3. TERMS AND WORDS DEFINED.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ACCESSORY BUILDING.*** A detached subordinate building or structure on the same premises with a main building occupied or devoted to an accessory use which is appropriate, supplemental and customarily related to that use at the main building or premises. Where an ***ACCESSORY BUILDING*** is attached to a main building in a substantial manner by a wall or roof, such ***ACCESSORY BUILDING*** shall be considered part of the main building, including a carport, covered porch or other roofed structure, with the exception that a non-flammable carport may be abutted or attached to the main building and still be considered an ***ACCESSORY BUILDING***.

***ACCESSORY USE*** or ***ACCESSORY.*** A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related. When ***ACCESSORY*** is used in this text, it shall have the same meaning as ***ACCESSORY USE***.

1. An ***ACCESSORY USE*** to a residential principal use includes, but is not limited to the following:

- a. Residential accommodations for guests, servants and/or caretakers;
- b. Swimming pools for the use of the occupants of a residence, or their guests;
- c. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure; and

d. **HOME OCCUPATIONS** as defined herein.

2. An **ACCESSORY USE** to a nonresidential principal use includes, but is not limited to the following:

a. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations;

b. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations;

c. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located;

d. Uses clearly incidental to a main use such as, but not limited to: offices of an industrial or commercial complex located on the site of the commercial or industrial complex; and

e. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.

**ADULT CARE FACILITIES.** A facility for the care of adults, over 18 years of age, as licensed and regulated by the State under Michigan Public Act 218 of 1979, and rules promulgated by the Michigan Department of Social Services. Such organizations shall be defined as follows:

1. **ADULT FOSTER CARE FACILITY.** A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care. An **ADULT FOSTER CARE FACILITY** does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center(s), or a residential center for persons released from or assigned to a correctional facility.

2. **ADULT FOSTER CARE SMALL GROUP HOME.** A private home with the approved capacity to receive seven to 12 adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

3. **ADULT FOSTER CARE LARGE GROUP HOME.** A private home with the approved capacity to receive at least 13, but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for more than two consecutive weeks for compensation.

4. **ADULT FOSTER CARE FAMILY HOME.** A private home with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week, and for more than two consecutive weeks. The **ADULT FOSTER CARE FAMILY** home licensee must be a member of the household and an occupant of the residence.

**ALLEY.** A strip of land over which there is a right-of-way, public or private, on which generally no dwelling or land uses front, serving as a rear entrance to one or more properties.

**ALTERATIONS.** Any change, addition, or modification in construction of type of occupancy; and any change in the roof or supporting members of the building or structure, such as bearing walls, partitions, columns, beams, girders, or any change which may be referred to herein as “altered” or “reconstructed.”

**ANIMAL.** Dog, cat, bird, reptile, mammal, fish or any other living organism, excluding plants and bacteria.

**ANIMAL SERVICES, ANIMAL CLINIC / HOSPITAL.** An establishment used by a veterinarian where animals are treated. This use may include boarding and grooming as accessory uses. Also referred to as **VETERINARY CLINICS, OFFICES AND HOSPITALS.**

**ANIMAL SERVICES, KENNEL.** A commercial facility for the boarding, breeding, and/or maintaining of animals for a fee that are not owned by the operator. This use includes pet day care facilities, animal training facilities, and may include grooming as an accessory use. This use includes the breeding of animals in outdoor structures, cages or pens for sale, but does not include animals for sale in pet shops.

**ANIMAL SERVICES, RESCUE OR SHELTER.** A facility that keeps four or more impounded stray, homeless, abandoned, or unwanted animals.

**AREA OF SHALLOW FLOODING.** A designated AO zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and indeterminate, and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD.** The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

**AUTOMOBILE OR TRAILER SALES AREA.** An area used for the display, sale or rental of new and used recreation vehicles, motor vehicles, boats or trailers, (including mobile homes) in operable condition and where no repair work is done.

**AUTOMOBILE REPAIR-MAJOR.** Any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair, overall painting and vehicles rustproofing.

**AUTOMOBILE REPAIR-MINOR.** Any activity involving minor repairs to motor vehicles and the incidental replacement of parts of such vehicles. A place where either gasoline or any other fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and applied directly

into motor vehicles, including sale of accessories, greasing, oiling and minor automotive repair on the premises.

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

***BASE FLOOD.*** The flood having 1% chance of being equaled or exceeded in any given year.

***BASEMENT*** or ***CELLAR.*** A portion of a building having more than one-half of its height below grade.

***BED AND BREAKFAST FACILITY.*** A building, other than a hotel, where lodgings and light breakfasts for persons, other than family, are regularly served for compensation.

***BEDROOM.*** A room or area within a dwelling unit designed and intended to provide sleeping accommodations for one or more human beings.

***BLOCK.*** The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and other barrier to the continuity of development, or corporated boundary lines of the city.

***BOARD OF ZONING APPEALS.*** The City of Plainwell Board of Zoning Appeals, the members of which have been duly appointed by the City Council and which is authorized as a body to interpret, hear appeals, and grant variances only in accordance with the provisions of this chapter.

***BUILDING.*** An edifice, framed or constructed and designed to stand more or less permanently and covering a space of land, for use as a dwelling, store, storehouse, factory, sign, shelter or for some other useful purpose. ***BUILDING*** in this sense includes a trailer, tent, or vehicle used as a dwelling.

***BUILDING, EXISTING.*** Any building actually constructed or the construction of which is started previous to the effective date of this section; provided, that the construction of any such building continues uninterrupted and is completed within six months from such date. Any building damaged by fire, collapse, or decay to the extent of its full assessed value as of record at the time of damage shall not be considered an ***EXISTING BUILDING.***

***BUILDING HEIGHT.*** The vertical distance from the average elevation of the adjoining grade paralleling the front, or if on a street corner, the front and side, of the building, to the highest point of the roof surface if the roof is flat; to the deck line, if the roof is the mansard type; or the average height between the eaves and the ridge if the roof is gable, hip or gambrel type as is depicted in the building height requirements illustration provided below.

**BUILDING INSPECTOR.** The officer charged with the administration and enforcement of the building code, or his/her duly authorized representative.

**BUILDING LINE.** A line parallel to the front lot line, and which marks the location of the building.

**BUILDING PERMIT.** A permit signifying compliance with the provisions of this chapter as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in the city.

**BUILDING SITE.** A lot, or a two dimensional condominium unit of land (i.e. envelope, footprint) with or without limited common element designed for construction of a principal structure or a series of principal structures plus accessory building. All **BUILDING SITES** shall have access to public or private roads.

**CHURCH.** A building used principally for religious worship, but the word **CHURCH** shall not include or mean an undertaker's chapel or funeral building.

**CLINIC.** A building or group of buildings where human or animal patients are admitted, but not lodged overnight, for examination and treatment by more than one professional, such as a physician, dentist or the like.

**COMMERCIAL USE.** The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of offices or recreational or amusement enterprises. Garage, rummage, basement, porch, lawn sales and similar sales conducted on residential premises are deemed a **COMMERCIAL USE**, if such sales are conducted on more than two occasions during any consecutive 12 month period or if either of said two sales lasts for more than three days.

**COMMERCIAL VEHICLE.** Any motor vehicle other than a motorcycle or passenger automobile designed or used primarily for transportation of persons or property and in excess of 6,000 pounds gross vehicle weight.

**COMMON ELEMENTS.** Portions of the condominium project other than the condominium unit including natural areas, club houses, roads, trails and the like.

**COMMUNITY PUBLIC SAFETY FACILITY.** A public safety facility operated by a public agency including administrative offices; fire stations; other fire preventive and fire fighting facilities; and police and sheriff substations and headquarters, including interim holding facilities. May include ambulance dispatch on the same site.

**CONDOMINIUM UNIT.** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for

residential, office, industrial, business, recreational, or any other type of use approved by the Michigan Department of Commerce.

**CONSTRUCTION.** The building, erection, alteration, repair, renovation (or demolition or removal) of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot other than normal maintenance shall constitute **CONSTRUCTION**.

**CONVALESCENT OR NURSING HOME.** A home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders wherein seven or more persons are cared for. Said home shall conform and qualify for license under state law.

**CREMATORIUM.** A facility consisting of one or more cremator furnaces or cremation retorts for the ashes.

**CURB LEVEL (GRADE).** The mean level of the established curb in front of the building. Where no curb has been established the City Engineer shall determine the **CURB LEVEL** after review of topographic information submitted by an applicant for site plan review.

**DAY CARE FACILITY.**

1. **CHILD CARE CENTER.** A facility, other than a private residence, receiving one or more preschool or school aged children for care for a period of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. **CHILD CARE CENTER** or **DAY CARE CENTER** includes a facility which provides care for not less than two consecutive weeks regardless of the number of hours of care per day. The facility includes child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop in center. Said facilities shall conform and qualify for license under state law.

2. **FAMILY DAY CARE HOME.** A private home in which one to six minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. **FAMILY DAY CARE HOME** includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year. Said homes shall conform and qualify for license under state law.

3. **GROUP DAY CARE HOME.** A private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. **GROUP DAY CARE HOME** includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year. Said homes shall conform and qualify for license under state law.

**DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**DRY CLEANING PLANT.** A facility which performs the cleaning or washing of garments and textiles through use of volatile chemical solvents, agitation, and/or immersions. Such solvents may include, but are not limited to, solvents of the petroleum distillate type, the chlorinated hydrocarbon type, and/or liquid carbon dioxide.

**DWELLING.** A house or building, or portion thereof, which is occupied wholly as the home, residence, or sleeping place by one or more human beings, either permanently or transiently, but in no case shall a trailer coach, automobile chassis, tent, or portable building be considered as a **DWELLING**.

1. **DWELLING, MULTIPLE.** A building used for and as a residence for three or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including single-family homes.

2. **DWELLING, ONE-FAMILY.** A detached building occupied by one family and so designed and arranged as to provide living, cooking, and kitchen accommodations for one family only. Every **ONE-FAMILY DWELLING** shall have a minimum width throughout the entire length of the dwelling of 24 feet measured between the exterior part of the walls having the greatest length.

3. **DWELLING, TWO-FAMILY.** A detached two-family dwelling that is occupied by two families, each provided with separate facilities for each family for living accommodations. Also known as a **DUPLEX DWELLING**.

4. **DWELLING UNIT.** Any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence, or sleeping place of one family, either permanently or transiently, but in no case shall a travel trailer, motor home, automobile chassis, tent, or other portable building be considered a dwelling in single-family, two-family, or multiple-family residential areas. In cases of mixed occupancy where a building is occupied in part as a **DWELLING UNIT**, the part so occupied shall be deemed a **DWELLING UNIT** for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.

**EFFICIENCY UNIT.** A dwelling unit consisting of one room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room providing not less than 350 square feet of floor area.

**ERECTED.** Includes built, constructed, reconstructed, moved upon, and **ERECTING** includes any physical operations required for the building on the premises where the building is being constructed, reconstructed, or moved. Excavating, filling, draining, and the like, shall be considered a part of **ERECTING**.

**ESSENTIAL SERVICE.** The erection, construction, alteration, or maintenance by a public utility, or municipal department, of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water, transmission, distribution collection, supply, disposal systems, and waste treatment plants. This includes related poles, wires, pipes, conduit, cables, public safety alarm and communication equipment, traffic signals, hydrants and similar accessories that are necessary to furnish adequate service, addressing general public health, safety, convenience, or welfare. These do not include wireless telecommunication towers (unless located on public property and used as part of a municipal emergency communications network); wind energy conversion systems (WECS); offices, utility buildings, or structures that are enclosures or shelters for service equipment; or maintenance depots.

**EXCAVATION.** Any breaking of ground, except common household gardening and ground care.

**FAMILY.**

1. **FAMILY, DOMESTIC.** One or more persons living together and related by the bonds of consanguinity, marriage, or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic housekeeping unit in the dwelling.

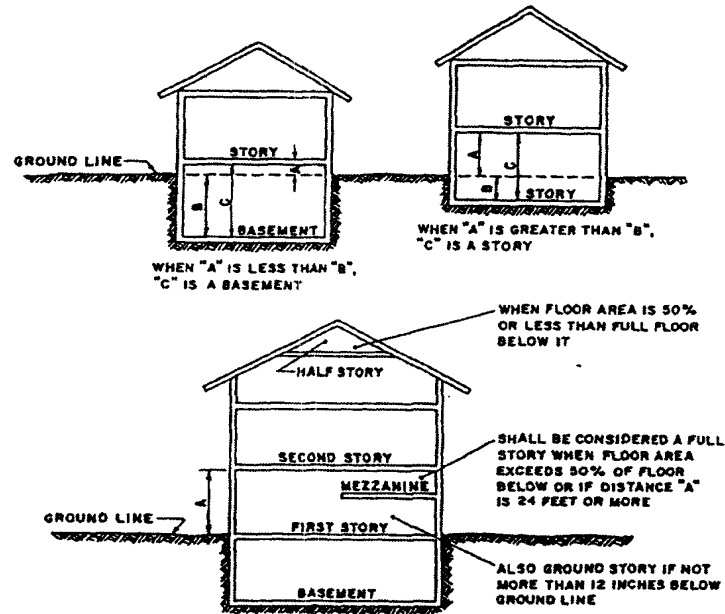
2. **FAMILY, FUNCTIONAL.** Persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group where the common living arrangements and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforced by the building inspector in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six.

**FARM.** A plot of land, under one description, having a minimum area of five acres, used for the raising of livestock and poultry, dairying, horticulture, sod, forestry, truck gardening and similar bonafide agricultural enterprises or uses of land and structures.

**FIRST STORY.** A first story is the lowest story of a building the ceiling of which is more than six feet above the average surface elevation of the ground, or sidewalk adjacent to its exterior walls as is depicted in the structural terminology illustration provided herein.



## STRUCTURAL TERMINOLOGY ILLUSTRATION



**FLOOD** or **FLOODING**. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and
2. The unusual and rapid accumulation or run off of surface waters from any source.

**FLOOD HAZARD AREA**. Land which on the basis of available flood plain information is subject to a 1% or greater chance of flooding in any given area.

**FLOOD HAZARD BOUNDARY MAP (FHBM)**. An official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

**FLOOD INSURANCE RATE MAP (FIRM)**. An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY.** The official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the Flood Hazard Boundary-Floodway map and the water surface elevation of the base flood.

**FLOODPLAIN.** Any land area susceptible to being inundated by water from any source (see definition of **FLOOD**).

**FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas designated in the **FLOOD INSURANCE STUDY** which must be reserved in order to discharge the base flood.

**FLOOR AREA.**

1. **GROSS FLOOR AREA.** The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The **FLOOR AREA** of a building which is what this normally is referred to as, shall include the basement floor area when more than one half of the basement height is above the established curb level or finished lot grade, whichever is higher (see **BASEMENT** definition). Any space devoted to off-street parking or loading shall not be included in **FLOOR AREA**. Areas of basements, utility rooms (i.e. where water heater and furnace are located), breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.

2. **MULTIPLE-FAMILY RESIDENTIAL.** For the purpose of computing the minimum allowable floor area in a multiple-family residential dwelling unit, the floor area shall be the net floor area exclusive of hallways. **NET FLOOR AREA** is the sum of the horizontal areas of the several rooms measured from the interior faces of the walls of each room. The floor area measurement shall be exclusive of any common hallways, utility and storage areas, basements, garages, patios, porches, and balconies.

3. **ONE-FAMILY RESIDENTIAL.** For the purpose of computing the minimum allowable floor area in a residential dwelling unit the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

4. **USABLE.** That area used for or intended to be used for the sale of merchandise or services, or used to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of **USABLE FLOOR AREA**. Measurement of **USABLE FLOOR AREA** shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**FRONTAGE.** The total length along which a parcel of land fronts on a street, measured along the line where the property abuts the street right-of-way. For corner lots, this will include two property lines.

***FUNERAL PARLORS OR MORTUARIES.*** An establishment which provides internment and funeral services for the dead and their families. Services rendered may include a prepared wake and funeral and the provision of a chapel for the funeral. However, this does not include ***CREMATORIUMS***.

***GARAGE, AUTOMOTIVE COMMERCIAL.*** Any premises available to the public and used solely for the storage of automobile or motor-driven vehicles, for remuneration, hire, or sale, where any such vehicles or engines may also be serviced for operation, or repaired, rebuilt or reconstructed.

***GARAGE, PRIVATE.*** A building or other structure designed for the housing of automobiles and having capacity for not more than three automobiles.

***GARAGE, PUBLIC.*** Any building or premises, other than a gasoline filling station, used for the housing or care of more than three automobiles, or where any such automobiles are equipped for operation, repaired or kept for remuneration, hire, or sale.

***GASOLINE FILLING STATION.*** A space, structure, building or part of a building, used for the retail sale, service or supply of motor vehicle fuels, lubricants, air, water, batteries, tires, other accessories, motor vehicle washing or lubricating; or customary facilities for the installation of such commodities in or on such motor vehicles, including special facilities for minor repair or similar servicing thereof.

#### ***GENERAL OFFICES AND SERVICES.***

1. ***BANK/FINANCIAL SERVICES.*** Includes establishments such as financial institutions, including, but not limited to: banks, credit agencies, investment companies, security and commodity exchanges, and ATM facilities.

2. ***BUSINESS SERVICES.*** Establishments providing direct services to consumers, including, but not limited to: employment agencies, insurance agent offices, real estate offices, and travel agencies.

3. ***BUSINESS SUPPORT SERVICES.*** Establishments providing services to other businesses, including, but not limited to: computer rental and repair, copying, quick printing, mailing and mailbox services.

4. ***CONTRACTORS SERVICES.*** Establishments providing services to other businesses or consumers where services rendered are typically performed off-site, including, but not limited to: landscaping and tree removal companies, plumbing, exterminators, carpet cleaners, and general contractor's offices without exterior storage.

5. ***PERSONAL SERVICES.*** Establishments providing non-medical services to individuals, including, but not limited to: barber and beauty shops, dry cleaners, small appliance repair, laundromats, massage therapists, pet grooming with no boarding, shoe repair shops, tanning salons and funeral homes

(not including crematory services). These uses may include incidental retail sales related to the services they provide.

6. **PROFESSIONAL AND ADMINISTRATIVE SERVICES.** Office-type facilities occupied by businesses or agencies that provide professional or government services, or are engaged in the production of intellectual property.

**GOVERNMENT BUILDINGS AND FACILITIES.** Buildings, structures and facilities that may include administrative offices, public works services, libraries, museums, cemeteries, recreational centers and storage areas for public equipment and materials for local, county, state and federal public agencies.

**HALFWAY HOUSE.**

1. **RECOVERY HALFWAY HOUSE.** A facility licensed by the Michigan Department of Public Health to provide substance abuse treatment and support services in addition to room and board to recovering alcoholics and drug abusers.

2. **REHABILITATION HALFWAY HOUSE.** A facility licensed by the Michigan Department of Corrections or the Federal Bureau of Prisons which provides supervision and rehabilitation support services in addition to room and board to criminal offenders.

**HARMFUL INCREASE.** An unnaturally high stage on a river, stream or lake which causes, or, may cause damage to property, threat to life, personal injury, or damage to land or water resources.

**HAZARDOUS MATERIALS.** Any of the following:

1. **HAZARDOUS SUBSTANCES.** As defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. Law No. 96-510, 94 Stat., 2767, as amended; or as defined in Part 201 of Act No. 451 of the Michigan Public Acts of 1994, as amended; or as defined under other local, state or Federal laws, rules or regulations.

2. **HAZARDOUS WASTE.** As defined under 40 CFR part 261; or as defined under Part 111 of Act No. 451 of the Michigan Public Acts of 1994, as amended; or as defined under other local, state or Federal laws, rules or regulations.

3. **PETROLEUM.** As described in Part 213 of Act No. 451 of the Michigan Public Acts of 1994, as amended.

4. **TOXIC WASTE or POLLUTANT.** Any material defined or listed as a **TOXIC WASTE** or **POLLUTANT** in 40 CFR 401.15; in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality; or under other local, state or Federal laws, rules or regulations.

5. Any substance or material in quantity or form which, in the determination of the city, poses a substantial present or potential hazard to human life, health and safety, welfare, property, or the environment, and shall include, but shall not be limited to, such substances as chemicals, explosives, oxidizers, peroxides, poisons, radioactive materials, petroleum or petroleum products, gases, poisons, etiologic (biologic) agents, flammables and corrosives.

6. Any materials which have otherwise been declared hazardous by any state or Federal agency.

#### ***HOME OCCUPATION AND BUSINESS ESTABLISHMENTS.***

1. ***HOME BUSINESS.*** The rendering of a service or the assembling of a product conducted entirely within the home (not including accessory structures) by one or more members of the family residing on the premises plus up to a maximum of two on-premise(s) employees at one time; provided that not more than 25% of the home's total floor area is used for the ***HOME BUSINESS*** (including the basement), there is no outdoor storage or display of goods, materials, or finished products, there is no external advertising, and the nature of the business will not alter the general character of the immediate area and neighborhood.

2. ***HOME OCCUPATION.*** Any occupation or profession carried entirely within the home (not including accessory structures) by one or more members of the family residing on the premises; provided that no commodity or service other than those customarily associated with the business is sold or provided on the premises; provided further that not more than one on-premise(s) person other than a member of the immediate family residing on the premises is employed at one time; no mechanical equipment is installed except such as is normally used for purely domestic or household purposes; not more than 20% of the home's total floor area (not including basement area) is used for the occupation or the profession; the ***HOME OCCUPATION*** does not detract from the residential character of the immediate neighborhood. Beauty shops, nursery schools, private schools, and photography studios are not considered to be ***HOME OCCUPATIONS***.

***INSTITUTIONAL USES.*** Churches, schools, hospitals, and other similar public or semipublic uses. This excludes nursing homes, convalescent homes, adult foster care facilities.

***LABORATORY.*** A place devoted to experimental, routine study or basic study such as testing and analytical operations, and which manufacturing of product or products, except prototypes for testing market, is not performed.

***LAND USE PLAN, OFFICIAL.*** The plan so designated by the Planning Commission.

***LIMITED COMMON ELEMENTS.*** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

***LIQUEFIED PETROLEUM GAS (LPG) SALES.*** An establishment providing LPG dispensing and bulk containers for sale.

**LOADING BERTH.** An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking. A loading space is 528 square feet in area.

**LODGING HOUSE.** A building or part thereof, other than a hotel, including so called tourist homes, where lodgings are provided for hire, more or less transiently, and with or without provision for meals. A **LODGING HOUSE** does not include a bed and breakfast facility.

**LOT.** A measured portion of a parcel or tract of land which is described and fixed in a recorded plat and having frontage on a public street or road either dedicated to the public or designated on a recorded subdivision.

1. **LOT AREA.** Area of a lot bounded by lot lines.
2. **LOT, CORNER.** A lot located at the intersection of two roadways that has frontage on each roadway. A **CORNER LOT**, the side yard of which is substantially a continuation of the front lot line of the lot to its rear shall be regarded as having two front yards.
3. **LOT COVERAGE.** The amount of a lot, stated in terms of percentage, that is covered by all roofed buildings and/or structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lathe roofs, or fully roofed but shall not be deemed to include fences, walls, or hedges used as fences, or swimming pools.
4. **LOT LINE.** A boundary line of a lot.
5. **LOT LINE, FRONT.** The exterior line or right-of-way of a road on which a lot fronts or abuts.
6. **LOT LINE, REAR.** Any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.
7. **LOT LINE, SIDE.** Any lot line not a front or rear lot line.
8. **LOT OF RECORD.** A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
9. **LOT, ZONING.** A single tract of land, located within a single block, which at the time of filing for a building permit, is designated by its owner or control. A **ZONING LOT** shall satisfy this chapter with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A **ZONING LOT** therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record.

10. **LOT WIDTH.** The horizontal distance between the side lot lines measured at right angles (90 degrees). Where the front lot line is not a straight line, or when the side lot lines are not parallel, the lot frontage shall be measured by a line equal to the front yard setback from and parallel to the chord of the lot frontage. (The chord of the lot frontage is a straight line joining the two points where the side lot lines intersect the front lot line).

**MANUFACTURING, PROCESSING, AND PACKAGING - LIGHT.** A facility accommodating manufacturing processes involving less intense levels of fabrication and/or production such as the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. The premises may include secondary retail or wholesale sales. Examples of light manufacturing uses include: artisan/craft product manufacturing; clothing and fabric product manufacturing; electrical equipment, instrument, and appliances, food preparation and packaging; furniture and fixtures manufacturing, cabinet shop, media production, pharmaceutical drugs; photo/film processing lab not accessory to a retail business; and printing and publishing. Also includes associated office and administrative space and services.

**MANUFACTURING, PROCESSING, AND PACKAGING - HEAVY.** A facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community. Examples of heavy manufacturing uses include the following: chemical product manufacturing; concrete, gypsum, and plaster product manufacturing; glass product manufacturing; paving and roofing materials manufacturing; petroleum refining and related industries; plastics, other synthetics, and rubber product manufacturing; primary metal industries; pulp and pulp product manufacturing; textile and leather product manufacturing, wineries, distilleries, and breweries. Also includes associated offices and administrative space and services.

**MEZZANINE.** An intermediate floor in any story not to exceed 50% percent of the floor area of such story.

**MINI-WAREHOUSE/SELF-STORAGE.** A building or group of buildings in a controlled access and/or fenced compound that contains varying sizes of individualized, compartmentalized and controlled access rooms, stalls or lockers for the storage of customer's goods or wares.

**MINING OPERATION.** The mining, removal, loading, filling, processing and/or transporting of topsoil, sand, stones, rocks, clay, gravel, or other earth minerals on, to, or from a lot, tract or parcel, and including the incidental maintenance of machinery or equipment used in connection with such mining or fill operation. Minor alterations of the grade elevation by cutting or filling earth (not to exceed 300 cubic yards of material) for noncommercial purposes, such as preparing land for construction, shall not constitute a mining or fill operation.

**MINOR OR LOCAL STREET.** A street of limited continuity used primarily for access to abutting residential properties.

**MOBILE HOME.** A factory assembled portable structure designed or used for year-round living, designed and built to be towed on its own chassis, connected to utilities, and installed on a home site with or without a permanent foundation. A **MOBILE HOME** may also be two or more separately towable components designed to be joined into one integral structure capable of being separated into components for repeated towing. (For **MODULAR HOME DEFINITION**, see below).

**MOBILE HOME PARK.** Any lot, site, parcel, or tract of land under the control or management of any person, upon which two or more mobile homes are parked, or which is offered to the public for that purpose, regardless of whether the charge is made for the use of the housing site, and including any building, structure, tent, vehicle, or enclosure used for or intended to be used as part of the equipment of such mobile home park.

**MODULAR.** A structure which meets the requirements of the Plainwell Building Code, and which is transported in one or more sections on a removable chassis, and is designed to be used on a permanent foundation, when connected to the required utilities, such as plumbing, heating, and electrical systems.

**MOTEL** or **MOTOR HOTEL.** A building or a series of attached, semi-detached, or detached rental units providing long term or transient lodging with motor vehicle parking in an area contiguous to the building. No kitchen or cooking facilities are to be provided without the approval by the City Council with the exception of units for use of the manager and/or caretaker.

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of this chapter.

**NONCONFORMING LOTS OF RECORD (SUBSTANDARD LOT).** A lot lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the minimum area requirements of the zoning district in which it is located.

**NONCONFORMING STRUCTURE.** A structure, or portion thereof, lawfully existing at the effective date of this chapter, or affecting amendment, and which fails to meet the minimum yard setback requirements of the zoning district in which it is located.

**NONCONFORMING USE.** A use lawfully existing in a building or on land at the effective date of this chapter, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

**NUISANCE.** Embraces public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to the public health, safety, welfare, or the environment; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewer-aged, drained, cleaned or lighted in reference to its intended or actual use; and the presence of hazardous materials in a quantity which is or may become injurious to the public health, safety, or welfare, or the environment; and whatever renders the land, water, air or human food or drink unwholesome, are also severally, in contemplation of this chapter, nuisances and all such nuisances are declared illegal.



***OFF-STREET PARKING LOT.*** A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.



**OPEN AIR BUSINESS.** Includes the following:

1. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment;
2. Sidewalk cafes;
3. Retail sale of fruits and vegetables;
4. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses;
5. Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sale; rental or repair services; and
6. Outdoor display and sale of garages, swimming pools, motor homes, mobile homes, snowmobiles, farm implements, and similar products.

**OPEN FRONT STORE.** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term **OPEN FRONT STORE** shall not include automobile repair stations or automobile service stations.

**ORDINARY HIGH WATER MARK.** The line between upland and lake or stream bottom land which persists through successive changes in water levels, and below which the presence and action of the water is so common or recurrent as to mark upon the soil a character, distinct from that which occurs on the upland.

**OUTDOOR DISPLAY, SALES.** The outdoor placement, storage or keeping, for display purposes, of equipment, vehicles, trailers and other similar goods for sale on premises.

**OUTDOOR STORAGE.** The outdoor placement of goods such as, building or construction materials, equipment, vehicles, trailers and other supplies, for future use, production, assembly, preservation or disposal.

**PARCEL.** A tract or continuous area or acreage of land which is occupied or intended to be occupied by a building, series of buildings, accessory building(s), condominium units, or by any other use or activity permitted thereon and including open spaces and setbacks required under this chapter, and having its frontage on a public or private street.

**PARKING FACILITY, PUBLIC OR COMMERCIAL.** A public or commercial parking lot or structure providing parking either for free or for a fee. Does not include towing impound and storage facilities.

**PARKING SPACE.** An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles. Perpendicular and angle parking spaces shall have a minimum dimension of nine by 20 feet. Parallel parking shall be a minimum of eight by 20 feet in dimension.

**PAVED ROAD OR STREET, PRIVATE.** A private right-of-way reserved for the use of the occupants of the abutting structures. Said **PRIVATE STREET** shall not be accepted by the city for maintenance in any form and shall have a minimum 22 foot paved width.

**PLANNING COMMISSION.** The City of Plainwell Planning Commission and shall have all powers granted under authority of Act 33 of the Public Acts of 2008, as amended, and as provided in this chapter.

**PUBLIC UTILITY BUILDINGS AND USES.** See **ESSENTIAL SERVICE.**

**RECREATION FACILITY: COMMERCIAL INDOOR.** An establishment providing indoor amusement and entertainment services, often for a fee or admission charge, including, but not limited to: bowling alleys, commercial health and fitness facilities, coin-operated amusement arcades, movie theaters, electronic game arcades (video games, pinball, and the like), indoor ice skating and roller skating rinks, pool and billiard rooms as primary uses. Does not include adult-oriented businesses. May include bars and restaurants as accessory uses. Any establishment with four or more electronic games or amusement devices (e.g., pool or billiard tables, pinball machines, and the like) or a premise where 50% or more of the floor area is occupied by electronic games or amusement devices is considered an indoor recreation facility; three or fewer machines or devices are not considered a use separate from the primary use of the site.

**RECREATION FACILITY: COMMERCIAL OUTDOOR.** A facility for outdoor recreational activities where a fee is often charged for use. Examples include, but are not limited to, amusement and theme parks; go-cart tracks; golf driving ranges; miniature golf courses; watercraft rentals; and water parks. May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, and the like. This use does not include golf courses or campgrounds.

**RECREATION VEHICLES.** A vehicle primarily designed as temporary living quarters or recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle (Act 419, Michigan P.A. of 1976, as amended).

**REPAIRS.** The rebuilding or renewal of a part of an existing building for the purpose of maintaining its original type and classification.

**RESEARCH AND DEVELOPMENT FACILITY.** Any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or

revised theories of laws and the development thereof. **DEVELOPMENT** may include a limited number of test units of a given product resulting from such research and shall include limited production while a product is being test-marketed which is the interim step between full research and development and ultimate full scale production.

**RESTAURANT.** A business establishment whose method of operation involves either the delivery of prepared food by servers to customers seated at indoor or outdoor areas, or prepared food is acquired by customers at a counter or cafeteria line and consumed at tables within a completely enclosed building, but does not include drive-through services, which are separately defined and regulated. Service of alcoholic beverages by the drink is incidental to the service of food and food receipts exceed 50% of sales.

1. **BAR/LOUNGE/TAVERN.** A structure or part of a structure designed, maintained, and operated primarily for the dispensing of alcoholic beverages. The selling of food and snacks may also be permitted. If the **BAR/LOUNGE/TAVERN** is part of a larger dining facility, it shall be defined as that part of the structure so designated and/or operated.

2. **RESTAURANT WITH DRIVE-THROUGH.** A business establishment whose method of operation involves the delivery of prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises. A drive-through restaurant may also have indoor or outdoor seating.

3. **RESTAURANT WITH OUTDOOR DINING.** A restaurant with seating on a sidewalk, patio, deck or other on-site outdoor location.

**ROAD OR STREET, PUBLIC.** A public right-of-way of 66 feet or more in width which has been dedicated for the purposes of providing access to abutting private lots of land including the space for pavement and sidewalks.

**SALVAGE OR IMPOUND OPERATIONS.** Any land or structure used for storing, dismantling, reconditioning, collecting, purchasing or selling of scrap metal or other discarded goods and materials, including the collection, dismantlement and salvage of two or more inoperative vehicles, boats, trucks, or other types of machinery or equipment, or the impounding of any operable or inoperable vehicle associated with towing or wrecker services.

**SCHOOL, SPECIALIZED TRAINING.** Small-scale facilities that provide individual and group instruction, education and/or training, including tutoring and vocational training in limited subjects, including, but not limited to: the arts, dance, photography, martial arts training, gymnastics instruction, production studios for individual musicians, painters, sculptors, photographers, and other artists, business and vocational schools, and driver education schools.

**SETBACK.** The minimum horizontal distance a foundation or wall of a building or structure or any portion thereof is required to be located from the boundaries of a lot, parcel, building site of land, building, or road upon which the same is situated.

***SHED.*** A lightly constructed one or two story building for temporary use during the erection of a permanent building; or a light one story structure attached to, or auxiliary to another building and intended for storage only.

***SHOPPING CENTER.*** A retail commercial establishment or a group of retail establishments which is planned, developed, owned and managed as a unit, with off-street parking provided on the property and related in its location, size and type of shops to the trade area.

***SIGN.*** Any announcement, declaration, display, illustration or insignia used to advertise or promote the interests of any person or product when the same is placed out-of-doors in view of the general public.

***SITE CONDOMINIUM PROJECT.*** A plan or project consisting of not less than two single family units established in conformance with the Michigan Condominium Act P.A. 59 of 1978, as amended.

***SPECIAL USE PERMIT.*** A use permitted only where specified facts and conditions, detailed in this chapter, are found to exist. The facts and conditions set forth in this chapter for the exception must be met without modification or alteration, unless a variance, as hereinafter defined, is obtained pursuant to the provisions of § 53-130.

***STRUCTURAL CHANGES OR ALTERATIONS.*** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof.

***STRUCTURE.*** A walled and roofed building that is principally above ground, including gas or liquid storage facilities and mobile homes.

***SUBSTANTIAL IMPROVEMENT.***

1. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

2. For the purposes of this definition, ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

**SWIMMING POOL.** Any structure or container, either above or below grade, located either in part or wholly outside a permanently enclosed and roofed building, designed to hold water to a depth of greater than 12 inches when filled to capacity, intended for immersion of the human body, whether for swimming or wading or both. Outdoor hot tubs would be included in this definition.

**TEMPORARY BUILDING OR USE.** A structure or use permitted by the Building Inspector to exist during periods of construction of the main use or for special events, not to exceed six months. Two extension periods of six months each are allowed.

**TOWNHOUSES.** A row of three or more attached one-family dwellings, not more than two and one-half stories in height and for which there is an entrance to each dwelling. **TOWNHOUSE** shall not be used as a synonym for the term **CONDOMINIUM UNIT** which refers to how property or space is owned rather than for a particular housing style.

**TRAILER.** Includes any trailer coach, motor home, tent camper, demountable camper, or unit designed as a vacation unit for short-term seasonal occupancy, which measures nine feet or less in width, and 35 feet or less in length, which is designed to be operated on highways, which is in good running condition and which complies with all requirements of state law for licensing of such vehicles.

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

**VARIANCE.** A varying or relaxation of the standards of the zoning chapter by the Board of Zoning Appeals; and where such **VARIANCES** will not be contrary to the public interest; and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in practical difficulty.

**VEHICLE SALES AND RENTAL: AUTOMOBILES, LIGHT TRUCKS, BOATS.** A retail or wholesale establishment selling and/or renting automobiles, light trucks (less than two-ton load capacity), vans, trailers, boats, and/or any other motorized or non-motorized vehicles (e.g. scooters, jet skis, golf carts, motorcycles) that includes outdoor display. May also include repair shops and the sales of parts and accessories incidental to vehicle dealerships. Does not include businesses dealing exclusively in selling used parts, auto wrecking and/or salvage (see **SALVAGE OR IMPOUND OPERATIONS**); the sale of auto parts/accessories separate from a vehicle dealership; or service stations (see **GASOLINE FILLING STATIONS**).

**VEHICLE SALES AND RENTAL: HEAVY EQUIPMENT, HEAVY TRUCKS, RVS, MANUFACTURED HOMES.** A retail or wholesale establishment selling and/or renting heavy equipment and/or trucks, RVs, or mobile homes. May also include accessory repair shops.

**VEHICLE WASH.** A building or portion of a building with machine or hand- operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.

**VEHICLE WASH, TRUCKS AND HEAVY EQUIPMENT.** A building or portion of a building with machine or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of trucks and heavy equipment.

**VETERINARY CLINICS, OFFICES AND HOSPITALS.** See **ANIMAL SERVICES, ANIMAL CLINIC /HOSPITAL.**

**WALL, OBSCURING.** A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

**WAREHOUSING.** Facilities for the storage of furniture, household goods, or other commercial goods of any nature. May include an outdoor storage component, provided that the outdoor storage is not the primary use. Does not include mini-storage facilities offered for rent or lease to the general public (see **MINI-WAREHOUSE/SELF-STORAGE**) or warehouse facilities primarily used for wholesaling and distribution (see **WHOLESALE AND DISTRIBUTION**).

**WASTE MANAGEMENT FACILITY.** A site used for collecting waste and recyclables, sorting and transferring materials.

**WHOLESALE AND DISTRIBUTION.** An establishment engaged in selling merchandise in bulk quantities to retailers; to contractors, industrial, commercial, agricultural, institutional, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

**WIRELESS COMMUNICATION FACILITY.** All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including radio and television towers; cellular telephone and paging devices; telephone devices and exchanges; microwave relay towers; telephone transmission equipment buildings; and commercial mobile radio service facilities. (Not included are facilities for citizen band radio; short wave radio; ham and amateur radio; television reception antennae; satellite dishes; and government facilities which are subject to state and Federal law.) **WIRELESS COMMUNICATION FACILITIES** shall be specifically excluded from the definitions of **ESSENTIAL SERVICES** and **PUBLIC UTILITIES**.

**WIRELESS COMMUNICATION SUPPORT STRUCTURE.** Any structure used to support attached wireless communication facilities, or other antennae or facilities, including support lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, or similar structure which support wireless communication facilities.

**YARD.** A yard is an open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided herein, and on the same lot with a building. The measurement of a **YARD** shall be the minimum horizontal distance between the lot line and the building or structure.



1. **FRONT YARD.** A yard on the same lot with a building between the front line of the building and the front lot line and extending from one side lot line to the other side lot line.

2. **REAR YARD.** The same lot with a building between the rear line of the building and the rear lot line and extending from one side lot line to the other side lot line.

3. **REQUIRED YARD.** The portion of any lot on which the erection of a main building is prohibited.

4. **SIDE YARD.** The same lot with a building between the side lot line and the nearest side line of the building and extending from the rear yard to the front yard.  
(Ord. 188, eff. 2-25-1981; Ord. 350, adopted 6-22-2009; Ord. 358, adopted 4-11-2011; Ord. 361, adopted 9-12-2011; Ord. 373, passed 10-26-2015; Ord. 379, passed 3-7-2018; Ord. 389, passed 12-28-2020)

**ARTICLE III. MAPPED DISTRICTS**

**Sec. 53-4. DISTRICTS.**

For the purpose of this chapter, the city is divided into the following districts:

- A. R-1A, R-1B: Single-Family Residence District;
- B. R-1C: Single- and Two-Family Residence District;
- C. R-2: Multiple-Family Residential District;
- D. R-MH: Planned Mobile Home District;
- E. C-1: Local Commercial District;
- F. C-2: General Commercial District;
- G. CBD: Central Business District;
- H. CS: Community Service District;
- I. I: Industrial District;
- J. FP: Floodplain District.

(Ord. 188, eff. 2-25-1981; Ord. 379, passed 4-9-2018)

**Sec. 53-5. MAP.**

A. The boundaries of these districts are shown upon the map attached hereto and made a part of this chapter, which map is designated as the Zoning Map of the city. The Zoning Map attached hereto and on file in the office of the Clerk of the city and all notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the Zoning Map and all notations, references and other information shown thereon were fully set forth or described herein.

B. Except where reference on the map to a street or other designated line by the dimensions shown on the map, the district boundary lines follow lot lines or the centerlines of the streets or alleys or the lines extended and the corporate limits of the city, as they existed at the time of the adoption of this chapter.

C. Where a district boundary line, as established in this section or as shown on the Zoning Map, divides a lot which was in a single ownership and of record at the time of enactment of this chapter, the use authorized thereon and the other district requirements applying to the least restricted portion of the lot, under this chapter shall be considered as extending to the entire lot; provided that, the more restricted portion of the lot is entirely within 25 feet of the dividing district boundary line. The use so extended shall be deemed to be conforming.

D. Questions concerning the exact location of district boundary lines shall be determined by the Board of Zoning Appeals after recommendation from the City Planning Commission, according to rules and regulations which may be adopted by it.

(Ord. 188, eff. 2-25-1981)

***Editor's note:***

*To view the map, please see the copy on file in the Clerk's office.*

***ARTICLE IV. R-1A, R-1B, SINGLE-FAMILY RESIDENCE DISTRICT*****Sec. 53-6. STATEMENT OF PURPOSE.**

The Single-Family Residence District is established as a district in which the principal use of land is for single-family dwellings. For the Single-Family Residential District, in promoting the general purpose of this chapter, the specific intent of this section is:

A. To encourage the construction of and the continued use of the land for single-family dwellings;

B. To prohibit business, commercial or industrial use of the land and to prohibit any other use which would substantially interfere with development or continuation of single-family dwellings in the district;

C. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter; and

D. To discourage any land use which would generate traffic on minor or local streets other than normal traffic generated by the residences on those streets.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-7. PRINCIPAL PERMITTED USES.**

In the R-1A and R-1B Districts, no uses shall be permitted unless otherwise provided in this chapter, except the following:

A. Single-family detached dwellings;

B. Publicly owned and operated parks, playfields, museums, libraries and other recreation facilities; provided that, any building shall be located not less than 20 feet from any other lot in any residence district;

C. Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for profit; provided that, the building shall be located not less than 20 feet from any other lot in any residence district;

D. Municipal, state or federal administrative or service buildings; provided that, the buildings shall be located not less than 20 feet from any other lot in a residence district;

E. Accessory buildings and uses customarily incidental to the above principal permitted uses;

F. Off-street parking in accordance with the requirements of Article XIX;

G. Family day care homes; and

H. Home occupations as defined in § 53-3 and in accordance with the requirements of § 53-132A of this chapter.  
(Ord. 188, eff. 2-25-1981; Ord. 359, adopted 5-9-2011)



**Sec. 53-8. PERMITTED USES AFTER SPECIAL APPROVAL.**

The following uses shall be permitted subject to the conditions hereinafter imposed and subject further to the approval of the City Council after recommendation from the City Planning Commission:

A. Private parks, country clubs, golf courses and golf driving ranges, when located on a parcel of five acres or more in area; any structure on the parcel shall be located at least 200 feet from the lot line of any adjacent residential district;

B. Public utility buildings, telephone exchange buildings, electric transformer stations and substations and gas regulator stations, but not including storage yards, when operating requirements necessitate location within the District to serve the immediate vicinity and the use is not injurious to the surrounding neighborhood;

C. Day care facilities, including child care centers, family day care homes and group day care homes (not including dormitories); provided that, for each child so cared for, there shall be provided and maintained a minimum of 200 square feet of outdoor play area. The play area shall have a total minimum area of at least 1,000 square feet. Outdoor advertising shall not exceed three square feet in area;

D. Cemeteries adjacent to or an extension of existing cemeteries, subject to the following conditions:

1. The site shall be so located as to have at least one property line abutting a major thoroughfare. All ingress and egress to the site shall be directly onto a major thoroughfare; and

2. Any structure located on the site shall be at least 100 feet from any lot line.

E. Temporary buildings for use incidental to construction work for a period not to exceed one year;

F. Dwelling unit conversions subject to the requirements of this section and to the requirements of § 53-127;

G. Churches and other facilities normally incidental thereto, subject to the following conditions.

1. Minimum lot width shall be 150 feet.

2. Minimum lot area shall be two acres.

3. The lot location shall be such that at least one property line abuts a collector street, secondary thoroughfare or major thoroughfare.

4. No building shall be located less than 20 feet from any other residentially zoned district.

5. For every foot of height by which the building, exclusive of spire, exceeds the maximum height limitation for the district, an additional foot of front, side and rear yard setback shall be provided.

6. A suitable buffer (masonry wall or planting strip) shall be provided whenever parking lots abut a residentially zoned district. The buffer shall be approved by the City Council.

H. Bed and breakfast facilities subject to the requirements of this code;

I. Medical offices, dental offices, chiropractic offices, (not including immediate health care facilities), veterinary clinics, including a dwelling unit suitable for a caretaker, when located on a site of a single-family dwelling, subject to the following conditions.

1. Minimum lot size shall be three acres.

2. Minimum lot frontage shall be 200 feet.

3. The lot shall have frontage on a collector street, secondary thoroughfare or major thoroughfare.

4. There shall be a minimum setback of 60 feet between the building and any adjacent residentially zoned property.

5. Off-street parking requirements shall be in accordance with Article XIX.

6. Any clinic or office must be architecturally compatible with the design of the dwelling unit.

7. One sign, not exceeding six square feet in area, may be permitted.

8. Landscaped buffers or areas may be required on certain locations on the site in order to reduce any anticipated negative impacts on adjacent properties.

9. Maximum lot coverage of all buildings and structures on the site, excluding swimming pools, shall not exceed 30%.

10. Upon the sale or transfer of the business on the property, the new proprietor must apply for re-issuance of the special exception use permit. During the permitting process, the new proprietor shall be made aware of the necessity for compliance with all of the conditions of this section.

J. Group day care home, subject to the following conditions:

1. A group day care home shall not be located closer than 1,500 feet to any of the following facilities, as measured along a street, road or other public thoroughfare, excluding an alley:

a. Another licensed group day care home;

- b. An adult care large group home licensed by the state;
  - c. A state-licensed facility offering substance abuse treatment and rehabilitation services to seven or more people; and
  - d. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
- 2. All outdoor play areas shall be enclosed by a fence that is at least 48 inches high.
  - 3. The property (building and grounds) shall be maintained in a manner that is consistent with the character of the neighborhood. No play equipment, except on corner lots, shall be placed in the front yard.
  - 4. One identification sign shall be permitted. The sign shall not exceed two square feet, shall be mounted flush to a wall, and shall not be illuminated.
  - 5. In addition to the parking normally required for the residence, one off-street parking space shall be provided for each non-family employee of the group day care home.
  - 6. Hours of operation shall not exceed 16 hours a day in a 24-hour period, and activity shall be prohibited between the hours of 8:00 p.m. and 6:00 a.m.

K. Adult foster care small group home, subject to the following conditions:

- 1. An adult foster care small group home shall not be located closer than 1,500 feet to any of the following facilities, as measured along a street, road or other public thoroughfare, excluding an alley:
  - a. A licensed group day care home;
  - b. Another foster care facility;
  - c. A state-licensed facility offering substance abuse treatment and rehabilitation services to seven or more people; and
  - d. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
- 2. It shall have all licenses required by and be operated in compliance with the laws, rules, regulations and license requirements of the state of Michigan.
- 3. The property (building and grounds) shall be maintained in a manner that is consistent with the character of the neighborhood.

4. One identification sign shall be permitted. The sign shall not exceed two square feet, shall be mounted flush to a wall, and shall not be illuminated.

5. In addition to the parking normally required for the residence, one off-street parking space shall be provided for each employee of the facility.

6. An adult foster care small group home site that was licensed by the state of Michigan and operating on January 1, 2013, and that was given approval by the city prior to July 1, 2000, whether by action of the Zoning Board of Appeals or another officer or body, shall be considered a legally pre-existing, specially approved use for that site.

(Ord. 188, eff. 2-25-1981; Ord. 359, adopted 5-9-2011; Ord. 364, adopted 1-13-2014)

#### **Sec. 53-9. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.

(Ord. 188, eff. 2-25-1981)

### ***ARTICLE V. R-1C, SINGLE- AND TWO-FAMILY RESIDENCE DISTRICT***

#### **Sec. 53-10. STATEMENT OF PURPOSE.**

The Single- and Two-Family Residence District is established as a district in which the principal use of land is for single- and two-family dwellings. For the Single- and Two-Family Residence District, in promoting the general purpose of this chapter, the specific intent of this section is:

A. To encourage the construction of and the continued use of the land for single- and two-family dwellings;

B. To prohibit business, commercial or industrial use of land and to prohibit any other use which would substantially interfere with development or continuation of single- and two-family dwellings in the district;

C. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter;

D. To discourage any land use which would generate traffic on minor or local streets other than normal traffic generated by the residences on those streets; and



E. To prohibit new subdivisions with lots less than 70 feet in width.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-11. PRINCIPAL AND PERMITTED USES.**

In the R-1C District, no uses shall be permitted unless otherwise provided in this chapter, except the following:

- A. All principal permitted uses in the R-1A and R-1B Districts;
- B. Two-family dwellings;
- C. Accessory buildings and uses customarily incidental to the above principal permitted uses; and
- D. Off-street parking in accordance with the requirements of Article XIX.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-12. PERMITTED USES AFTER SPECIAL APPROVAL.**

The following uses shall be permitted subject to the conditions hereinafter imposed and subject further to the approval of the City Council after recommendation from the City Planning Commission:

A. All permitted uses after special approval in the R-1A and R-1B Districts, subject to the terms and conditions therein;

B. The intent of these regulations is to permit, where feasible, owners fronting on major thoroughfares, to carry on a commercial enterprise within their dwellings and still retain the appearance of a single-family area. Commercial uses should be limited to or similar in nature to the following: antique shops, art galleries, photography studios, dress making or tailoring shops, real estate, accounting, tax or legal offices or specialty shops;



C. Dwelling unit conversions subject to the requirements of this section and to the requirements of § 53-127;

D. Conversions of vacant lodge, fraternal or assembly halls to nonresidential uses when it is determined that the current condition of the vacant facility is a blighting influence on the neighborhood and furthermore that the following standards be met.

1. A site and landscape plan shall be submitted emphasizing how the conversion will aesthetically blend with the adjacent land uses and immediate neighborhood.

2. All parking requirements shall be met in accordance with this code; lacking sufficient off-street parking space an alternative plan may be considered, such as lease agreements for parking on nearby properties.

3. Outdoor storage shall have buffering so as to effectively screen the storage area from view of adjacent properties. All outdoor storage shall be kept in suitable containers.

4. Outdoor advertising shall be limited to one sign not exceeding eight square feet in area and having no internal or external lighting.

5. Light, noise, dust, glare, odors generated by the nonresidential use shall be Judged not to have a negative impact on the adjacent properties and immediate neighborhood.

6. Electrical interference generated by the use and detectable to the residents of adjacent properties shall be prohibited.

7. The use will not create traffic congestion, parking shortages or otherwise adversely affect the pedestrian or vehicular circulation of the area.

8. The use is Judged to be consistent and compatible with the character of the immediate area.

E. Bed and breakfast facilities subject to the requirements of this code;

F. Adult foster care small group home, subject to the following:

1. A state licensed adult foster care small group home shall not be located within 1,500 feet of another similar state licensed facility.

2. One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit. The driveway may be used for this purpose.

3. The property (buildings and grounds) shall be maintained in a manner that is consistent with the character of the neighborhood.

G. Three-family or four-family residential dwelling, subject to the following requirements:

1. A minimum lot size of 7,200 square feet for the first unit and an additional 3,500 square feet for each additional unit shall be provided.
2. Two on-site parking stalls shall be provided for each dwelling unit.
3. A minimum lot width of 70 feet shall be required for all new multiple dwelling unit parcels.
4. A site plan in accordance with this code shall be provided.
5. The use is determined by the Planning Commission to be consistent and compatible with the general character of the immediate area and otherwise meet the requirements of special land use approval as outlined in this code.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-13. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.  
(Ord. 188, eff. 2-25-1981)

***ARTICLE VI. R-2, MULTIPLE-FAMILY RESIDENCE DISTRICT***

**Sec. 53-14. STATEMENT OF PURPOSE.**

The Multiple-Family Residence District is designed primarily for two- or three-story apartments, dwelling groups and duplexes. It is designed to promote a harmonious mixture of residential types and related educational, cultural and religious land uses in a basically residential environment.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-15. PRINCIPAL PERMITTED USES.**

In the R-2 District, no uses shall be permitted unless otherwise provided in this chapter, except the following:

- A. All permitted uses after special approval in the R-1A, R-1B and R-1C Districts, subject to the terms and conditions therein;

B. Two-family dwellings;

C. Multiple-family dwellings, including apartments, townhouses, row houses and dwelling groups;

D. New churches and other facilities normally incidental thereto, provided ingress and egress from the site is onto a major thoroughfare. The minimum site size shall be two acres and no building shall be located less than 20 feet from any other lot in any residential district;

E. Publicly owned and operated parks, playfields, museums, libraries and other recreational facilities; provided that, any building shall be located not less than 20 feet from any other lot in any residential district;

F. Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for profit; provided that, the buildings shall be located not less than 20 feet from any other lot in any residential district;

G. Municipal, state or federal administrative or service buildings; provided that, the buildings shall be located not less than 20 feet from any other lot in a residential district;

H. Private schools and educational institutions;

I. Accessory buildings and uses customarily incidental to the above principal permitted uses;

J. Off-street parking in accordance with the requirements of Article XIX; and

K. Home occupations as defined in § 53-3 and in accordance with the requirements of § 53-132A of this chapter. The site plan requirements of § 53-18 below shall not apply to a home occupation. (Ord. 188, eff. 2-25-1981; Ord. 359, adopted 5-9-2011)

#### **Sec. 53-16. PERMITTED USES AFTER SPECIAL APPROVAL.**

Adult foster care large group home or a recovery or rehabilitation halfway house and subject to the following.

A. A state licensed adult foster care large group home or a recovery or rehabilitation halfway house shall not be located within 1,500 feet of another similar state facility.

B. One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit.

C. A designated passenger loading/unloading area shall be provided near a barrier free entrance.

D. A loading/unloading area shall be provided for delivery vehicles.

E. A landscaped buffer shall be provided along all property lines that abut a R-1A, R-1B, R-1C District and around the visible perimeters of all parking and loading/unloading areas.

F. All exterior lighting of entryways, parking spaces or loading/unloading areas shall not reflect onto adjacent properties.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-17. SCREENING REQUIREMENT.**

Where required parking lots of any use permitted in an R-2 District are erected so that the headlights of the cars in the parking lot will face into a single-family residential district, a solid masonry wall or planting strip, as determined by the Planning Commission, which shall be a minimum of three feet in height, shall be required along that parking lot boundary line facing the single-family residential district. The city may require a guarantee or bond to insure adequate maintenance of the screen.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-18. SITE PLAN REVIEW.**

For all uses permitted in an R-2 District, a site plan shall be submitted and no building permit shall be issued until the City Council has approved the site plan after recommendation from the City Planning Commission. In addition to the criteria set forth herein, the Planning Commission shall not recommend the approval of any multiple-family dwelling site plan which does not meet the following criteria.

A. All site plans shall show two means of ingress and egress to the project to permit adequate circulation for safety equipment; except that, for projects under ten acres, one boulevard entranceway may be sufficient.

B. In all multiple projects of over 25 dwelling units, parking shall not be allowed along the main circulation drive.

C. All townhouse units must include an individual outdoor paved patio area not less than 100 square feet in area.

D. There shall be no more than seven townhouses in anyone attached row.

E. An apartment house shall not exceed 200 feet in length.

F. Townhouse units with attached garages may not include the space in front of the garage door as part of the parking requirement. Townhouse units with attached garages may reduce their parking requirement to one and one-half spaces per dwelling unit.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-19. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.

(Ord. 188, eff. 2-25-1981)

***ARTICLE VII. RMH RESIDENTIAL MOBILE HOME DISTRICT*****Sec. 53-20. STATEMENT OF PURPOSE.**

The RMH Residential Mobile Home District is designed for those who prefer mobile home living. Although an assembly of single-family units, mobile home developments typically have a higher density impact than conventional single-family development. In order to not adversely impact other areas of the city, certain land areas are recognized as appropriate for continued mobile home use; provided that, proper site design standards and requirements are met.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-21. PRINCIPAL USES PERMITTED.**

In the RMH District, no building or use shall be permitted unless otherwise provided in this chapter, except for the following:

- A. Mobile homes located in a mobile home park;
- B. Mobile home parks;
- C. Publicly owned and operated parks, playfields, museums, libraries and other recreation facilities;
- D. Municipal uses except DPW yards or garages;
- E. Home occupations;
- F. Public, parochial and other private elementary schools offering courses in general education and not operated for profit;
- G. Essential services; and

H. Accessory buildings and uses customarily incidental to the above principal permitted uses.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-22. STANDARDS AND REQUIREMENTS FOR MOBILE HOME PARKS.**

Mobile home parks shall conform to the requirements as promulgated by the State Mobile Home Commission Rules, as amended.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-23. SITE PLAN APPROVAL.**

For permitted uses, a site plan shall be submitted in accordance with this code.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-24. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

A. The minimum lot area for a mobile home park shall be 20 acres.

B. The minimum width of any part of the lot, which contains dwellings and buildings open to occupants of the mobile home park shall be 200 feet.

C. 1. A mobile home and its accessory buildings (i.e., sheds) shall not occupy more than 35% of the area of the site on which it is located. Where a roofed area, such as a carport or outdoor recreation shelter is open for 40% or more of its perimeter, its lot coverage shall be computed as one-half the area covered by the roof.

2. When the site is adjacent to an approved common open space, not less than ten feet in minimum width, other than vehicular access, an additional 5% of the site may be occupied by the dwelling unit.

D. The following minimum distances shall be provided and maintained from a mobile home unit and shall be measured from the face of the mobile home unit. If the mobile home unit has an attached or add-on structure, which is enclosed for more than 50% of its perimeter, the applicable difference shall be measured from the face of the attached structure:

1. Twenty feet between mobile home units;
2. Ten feet from an on-site parking space on an adjacent site;
3. Ten feet from a detached accessory structure;
4. Fifty feet from any principal building which is not a mobile home;
5. Twenty feet from the right-of-way line of a street within the mobile home park;



6. Seven and one-half feet from any parking bay; and

7. Seven feet from a common pedestrian walkway.

(Ord. 188, eff. 2-25-1981)

### ***ARTICLE VIII. C-1, LOCAL COMMERCIAL DISTRICT***

#### **Sec. 53-25. STATEMENT OF PURPOSE.**

The C-1, Local Commercial District, is intended to permit retail business and service uses which are needed to serve the nearby residential areas. In order to promote the business developments so far as is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare or heavy truck traffic. The intent of this District is also to encourage the concentration of local business areas to the mutual advantage of both the consumers and merchants and to promote the best use of land at certain strategic locations and to avoid the continuance of encouraging marginal strip, business development along major thoroughfares.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-26. PRINCIPAL PERMITTED USES.**

In the C-1 District, no uses shall be permitted unless otherwise provided in this chapter, except the following:

A. Grocery store, including beer, wine and liquor, fruit, vegetable, meat, dairy products and baked goods;

B. Drug stores;

C. Confectioneries, delicatessens and restaurants. Establishments with a character of a drive-in or open front store are prohibited;

D. Dress, tailor, pressing and dry cleaning shops employing not more than two assistants; provided that, the cleaning fluid used has a base which is of nonexplosive and nonflammable materials;

E. Hand laundry;

F. Wearing apparel shop;

G. Hardware, paint and wallpaper, furniture and household appliance stores;

- H. Financial institutions, not including drive-in facilities;
- I. Variety and dry goods stores;
- J. Laundromat;
- K. Offices for plumbing, roofing, heating contractors, taxidermists, decorators, upholsterers and similar establishments;
- L. Flower shop;
- M. Gift shop;
- N. Shoe repair shop;
- O. Watch, television and radio repair shops;
- P. Barber and beauty shops;
- Q. Professional offices;
- R. Mixed uses (i.e., commercial and residential uses combined in one building);
- S. Accessory buildings and uses customarily incidental to the above permitted principal uses; and
- T. Off-street parking in accordance with the requirements of this code.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-27. PERMITTED USES AFTER SPECIAL APPROVAL.**

The following uses may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the City Council after recommendation from the City Planning Commission:

- A. Public utility buildings and uses, but not including storage yards, when operating requirements necessitate locating within the District to serve the immediate vicinity;
- B. Day care facilities; provided that:
  - 1. Lot area of not less than 100 square feet shall be provided for every child enrolled;
  - 2. For each child care enrolled, there shall be provided, equipped and maintained, on the premises a minimum of 2,000 square feet or a minimum of 200 square feet per child whichever is greater; and/or

3. The outdoor play area shall be fenced or screened by a landscaped buffer from any abutting residentially zoned area.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-28. REQUIRED CONDITIONS.**

The following conditions are required for all uses in the C-1 District.

A. All business, servicing or processing shall be conducted wholly within a completely enclosed building; provided further that, all lighting in connection with permitted uses shall be so arranged as to reflect the light away from all adjacent residential buildings or residentially zoned property. Outdoor play areas associated with day care facilities shall be exempt from this requirement.

B. All business or service establishments shall be for the purpose of dealing directly with consumers. All goods produced or processed on the premises shall be sold at retail on the premises where produced and/or processed.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-29. SITE PLAN REVIEW.**

For all uses permitted in the C-1 District, a site plan shall be submitted and no building permit shall be issued until the City Council has approved the site plan after recommendation from the City Planning Commission in accordance with this code.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-30. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.  
(Ord. 188, eff. 2-25-1981)

***ARTICLE VIII-A. SB, SERVICE BUSINESS DISTRICT***

**Sec. 53-31. STATEMENT OF PURPOSE.**

The Service Business District is designed to accommodate various types of office uses performing administrative, professional and personal services. These are typically small office or limited commercial facilities which have the appearance of residential structures and which can serve as transitional uses

between more intensive uses of land such as that along M-89 and less intensive uses of land such as single-family residential development. The district is intended to promote alternatives to residential development along major thoroughfares while protecting the integrity of the abutting residential development. This district is specifically intended to prohibit commercial establishments which have extended hours, high rates of customer turnover and require short-term parking.  
(Ord. 188, eff. 2-25-1981)

### **Sec. 53-32. PRINCIPAL PERMITTED USES.**

In the SB Service Business District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses:

- A. Executive, administrative, insurance, real estate, dental and professional offices, but excluding medical offices and clinics;
  - B. Banks and similar financial institutions, but excluding drive-in or drive-through facilities;
  - C. Libraries, government office buildings (excluding offices which generate significant traffic) and public utility offices, but excluding outdoor storage yards;
  - D. Child care center with less than 12 children;
  - E. Photographic studios and interior decorating studios;
  - F. Establishments which perform personal services on the premises such as beauty parlors and barber shops, but excluding sun tan salons and physical culture facilities;
  - G. Art galleries, including artist supply sales and book shops;
  - H. Dwelling units when incorporated into the same building which contains a permitted use of this district; provided that, stairways leading to the second floor shall be located within the walls of the building wherever practical and off-street parking shall be approved by the City Council as part of the site plan;
  - I. Gift shops, craft shops, dress shops, antique shops and retail shops (excluding pet shops) of similar character;
  - J. Off-street parking lots which are accessory to the respective business;
  - K. Accessory buildings or uses customarily incidental to any of the above permitted uses; and
  - L. Single-family dwellings.
- (Ord. 188, eff. 2-25-1981)

**Sec. 53-33. PERMITTED USES AFTER SPECIAL APPROVAL.**

The following uses may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the City Council after recommendation from the Planning Commission:

A. Veterinary offices and clinics, subject to the following conditions:

1. The practice shall be limited to small animals (including exotic animals) and birds;
2. All facilities associated with the office or clinic shall be within a completely enclosed building;
3. Minimum lot size shall be 20,000 square feet;
4. Boarding of animals is not permitted, except for overnight surgical cases; and
5. Outdoor storage of cadavers is not permitted.

B. Medical and chiropractic offices, subject to the following conditions:

1. The facility shall not contain more than two physicians or chiropractors; and
  2. Minimum lot size shall be 20,000 square feet.
- (Ord. 188, eff. 2-25-1981)

**Sec. 53-34. BUFFERING AND SCREENING REQUIREMENTS.**

In addition to the minimum landscaping requirements contained in this code, the City Council with recommendation from the Planning Commission shall have the authority to require additional, but reasonable, landscaping and screening to protect the integrity of adjacent residential development. Specific emphasis shall be placed on buffering and screening when a use permitted in the SB District abuts a residentially used or zoned parcel or lot.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-35. OUTSIDE TRASH CONTAINERS.**

Outdoor trash containers (dumpsters) shall be in accordance with this code.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-36. SITE PLAN REVIEW.**

For all uses permitted in the SB Service Business District, a site plan shall be submitted and no building permit shall be issued until the City Council has approved the site plan after recommendation from the City Planning Commission in accordance with this code.  
 (Ord. 188, eff. 2-25-1981)

**Sec. 53-37. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Unless otherwise specified are as provided in Article XV.

Minimum lot width	100 feet
Minimum lot area	12,000 square feet
Maximum lot coverage	35 %
Maximum building height	35 feet
Minimum front yard	20 feet
Minimum side yard	10 feet for one-way traffic
	18 feet for two-way traffic
Minimum rear yard	35 feet

(Ord. 188, eff. 2-25-1981)

***ARTICLE IX. C-2, GENERAL COMMERCIAL DISTRICT***

**Sec. 53-38. STATEMENT OF PURPOSE.**

The C-2, General Commercial District, is intended to permit a wider range of business and entertainment activities than those permitted in the local district. The permitted uses are intended to provide businesses and services usually found in major shopping centers and business areas at the juncture of major streets. These uses generate large volumes of vehicular traffic, require substantial access for off-street parking and loading and require detailed planning particularly as to relationships with adjacent residential areas.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-39. PRINCIPAL PERMITTED USES.**

In the C-2 District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

- A. All principal permitted uses in the C-1 District;
  - B. Any retail business whose principal activity is the sale or rental of merchandise within a completely enclosed building;
  - C. Business service establishments performing services on the premises such as office machine and typewriter repair, printing and blueprinting;
  - D. Any service establishment of an office, showroom or workshop nature within a completely enclosed building such as that of a taxidermist, decorator, upholsterer, caterer, exterminator, building contractor (including electrical, glazing, heating, painting, paper hanging, plumbing, roofing, ventilating and plastering) and similar establishments that require a retail adjunct. No outside storage yards shall be permitted;
  - E. Photographic film developing and processing;
  - F. Physical culture establishments, including gymnasiums, reducing salons and steam baths;
  - G. Bowling alleys, skating rinks, sports arenas and other indoor recreational facilities, when conducted within a completely enclosed building and when located at least 150 feet from any property zoned in a residential classification;
  - H. Hotels and motels;
  - I. Eating and drinking establishments;
  - J. Assembly halls;
  - K. Funeral parlors or mortuaries;
  - L. Television and radio studios and towers subject to the requirements of this code;
  - M. Mixed uses (i.e., commercial and residential uses combined in one structure);
  - N. Other uses similar to the above, subject to the following restrictions:
    - 1. All goods produced on the premises shall be sold at retail on the premises where produced;
- and

2. All business or servicing, except for off-street parking and loading, shall be conducted within a completely enclosed building.

O. Indoor theaters;

P. Off-street parking in accordance with the requirements of this code;

Q. Accessory buildings and uses customarily incidental to the above principal permitted uses; and

R. Animal boarding facilities subject to the requirements of § 53-132B (Ord. 188, eff. 2-25-1981; Ord. 361, adopted 9-12-2011)

#### **Sec. 53-40. PERMITTED USES AFTER SPECIAL APPROVAL.**

The following uses may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the City Council after recommendations from the Planning Commission:

A. Veterinary hospitals and clinics;

B. Automobile car wash establishments including steam-cleaning, but not rust-proofing; provided, off-street waiting space is provided in accordance with this code;

C. Drive-in restaurants or other drive-in establishments serving food and/or beverage; provided that, the entrance to or exit from any such use is located at least 35 feet from the intersection of any two streets; that all such uses shall have direct access to a major thoroughfare; that all lighting or illuminated display shall not reflect onto any adjacent residential zone; and that consideration is given to proximity of existing traffic safety and sanitation;

D. Drive-in windows for financial institutions;

E. Automobile gasoline and automobile service stations subject to the requirements of this code;

F. Wholesale store, storage facilities, buildings, warehouses, distributing plants and freezers and lockers;

G. Open air business uses as follows, in conformance with this code:

1. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment;

2. Retail sale of fruit and vegetables;

3. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses;



4. Bicycle, trailer, motor vehicle, boat or home equipment rental services;
5. Outdoor display and sale of garages, swimming pools and similar uses;
6. New and used car sales rooms, including outdoor sales space;
7. Salesrooms, including outdoor sales space, for recreation vehicles, including boats, snowmobiles, travel trailers, campers, tents and accessory equipment;
8. Planned community shopping centers; provided, the following criteria are met:
  - a. The center shall consist of a group of establishments engaging exclusively in retail business or service, arranged as a functionally coherent unit, together with appurtenant features, such as parking areas and storage facilities;
  - b. The center shall occupy a site of not less than 20 acres;
  - c. A minimum building setback from the property line of 75 feet each for the front and rear of the building and 50 feet each for the sides of the building;
  - d. No building or structure shall exceed three stories or 40 feet in height unless approved by the Planning Commission;
  - e. A planting strip of at least 20 feet wide shall be provided around the entire perimeter of the site, except for driveways onto the public street system. A wall or barrier of suitable material not less than five feet high shall be constructed along those property lines which abut a residential district;
  - f. The proposed site shall have at least one property line abutting a major thoroughfare. All ingress and egress to the site shall be directly from the thoroughfare. Turning and approach lanes shall be provided when determined necessary by the City Engineer;
  - g. A landscape plan which includes the entire site shall be submitted for approval with the site plan to determine compliance with screening and planting strips;
  - h. All signs shall be affixed to the face of the building and shall be a uniform design throughout; except that, one ground pole sign advertising the name of the shopping center is allowed;
  - i. All off-street parking shall be within its own area, as specified in this code, and an internal system of roads and walks which will effectively separate pedestrian and vehicular traffic is required;
  - j. Outdoor trash containers shall be provided and maintained in accordance with this code;

k. All areas accessible to vehicles shall be paved and maintained so as to provide a durable, smooth and well-drained surface and to ensure that run-off does not negatively impact adjacent property; and

l. All vehicle and pedestrian areas shall be illuminated during business hours of darkness. All lighting fixtures shall be installed so as to reflect light away from adjacent residential properties.

H. Day care facilities; provided that:

1. Lot area of not less than 100 square feet shall be provided for every child enrolled;

2. For each child care enrolled, there shall be provided, equipped and maintained, on the premises a minimum of 2,000 square feet or a minimum of 200 square feet per child whichever is greater; and

3. The outdoor play area shall be fenced or screened by a landscaped buffer from any abutting residentially zoned area.

I. Adult-oriented establishments, as listed and defined in the adult-oriented establishments ordinance; provided, however, that, it shall be illegal to operate or cause to be operated any adult-oriented establishment at any location in the city, except as provided in this chapter and subject to the following conditions.

1. No sexually-oriented business shall be permitted in a location in which any main building or accessory structure, including signs, is within 1,000 feet of any main building or accessory structure of another sexually-oriented business.

2. No sexually-oriented business shall be established on a parcel within 300 feet of any residential district or any parcel used for a single- or multiple-family residence, public park, school, child care facility, church or place of worship, public library, hospital, city hall, Police Department or Fire Department, youth center or commercially operated school attended by children such as, for example, dance schools, gymnastic centers, etc.

a. The distance between a proposed sexually-oriented business and any such zoned area or existing use shall be measured in a straight line from the nearest property line upon which the proposed sexually-oriented business is to be located to the nearest property line of that zoned area or existing use.

b. A sexually-oriented business lawfully operating is not rendered a nonconforming use by the subsequent location of one or more of the uses listed in this division I.2.b.; provided, however, that, if the sexually-oriented business ceases operation for a period of 90 days or more regardless of any intent to resume operation, it may not recommence operation at that location.

(1) It shall be unlawful to cause or to permit the operation of more than one sexually-oriented business in the same building, structure or portion thereof.

(2) Any sign or advertising for the sexually-oriented business must comply with the provisions of this chapter. Any sign or advertising may not include photographs, silhouettes or drawings of any specified anatomical areas or specified sexual activities or obscene representations of the human form and may not include animated or flashing illumination.

(3) The entrances to the proposed sexually-oriented business at both the exterior and interior walls, in a location visible to those entering and exiting the business, must be clearly marked with lettering at least two inches in height stating: "Persons under the age of eighteen (18) are not permitted to enter the premises" and "No alcoholic beverages of any type are permitted within the premises"; unless specifically allowed pursuant to a license duly issued by the Liquor Control Commission.

3. No product or service for sale or rental or any picture or other representation of any product or service for sale or rental, shall be displayed so as to be visible to a person outside the building whether through a window or doorway or otherwise.

4. All off-street and on-site parking areas shall comply with this chapter and shall additionally be illuminated at all times as follows.

a. All off-street parking areas and entries of sexually-oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on all parking surfaces and/or walkways.

b. The premises of all sexually-oriented businesses shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which the public is permitted access to provide an illumination of not less than one foot-candle of light as measured at the floor level.

5. All exterior refuse, trash and garbage receptacles shall be screened by solid fencing not less than six feet in height or fully enclosed within an accessory structure. The requirements set forth in this chapter shall be in addition to any other applicable requirements found in the general and zoning ordinances of the city. Any special approval granted pursuant to this chapter shall be subject to compliance with all applicable ordinance provisions and all applicable laws, rules and regulations of authorities with competent jurisdiction.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-41. SITE PLAN REVIEW.**

For all uses permitted in a C-2 District, a site plan shall be submitted and no building permit shall be issued until the City Council has approved the site plan after recommendation from the City Planning Commission in accordance with this code.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-42. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.

(Ord. 188, eff. 2-25-1981)

***ARTICLE X. CBD, CENTRAL BUSINESS DISTRICT*****Sec. 53-43. STATEMENT OF PURPOSE.**

The CBD, Central Business District, is intended to permit a variety of commercial, administrative, financial, civic, cultural, residential, entertainment and recreational uses in an effort to provide the harmonious mix of activities necessary to further enhance the Central Business District as a commercial and service center.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-44. PRINCIPAL PERMITTED USES.**

In the CBD District, no uses shall be permitted unless otherwise provided in this chapter, except the following:

A. All principal permitted uses in the C-2 District, excluding bowling alleys and animal boarding facilities; except that off-street parking shall not be required as specified in this code;

B. Hotels and motels;

C. Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings;

D. Arcades, billiard parlors and other indoor recreational facilities;

E. Business and professional offices;

F. Mixed uses (i.e., commercial and residential uses combined in one structure);

G. Government buildings and facilities;

H. Sidewalk and outdoor cafés;

I. Other uses similar to the above and subject to the following restrictions.

1. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.

2. All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

3. Storage of commodities shall be within buildings and shall not be visible to the public from a street or thoroughfare.

J. Housing for the elderly;

K. Accessory buildings and uses customarily incidental to the above principal permitted uses; and

L. Single-family dwellings.

(Ord. 188, eff. 2-25-1981; Ord. 361, adopted 9-12-2011)

#### **Sec. 53-45. PERMITTED USES AFTER SPECIAL APPROVAL.**

Off-street parking lots and structures the requirements of which shall be in accordance with the requirements of this code.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-46. SITE PLAN REVIEW.**

For all uses permitted in the CBD District, a site plan shall be submitted and no building permit shall be issued until the City Council has approved the site plan after a recommendation from the City Planning Commission in accordance with this code.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-47. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.

(Ord. 188, eff. 2-25-1981)

***ARTICLE XI. CS, COMMUNITY SERVICE DISTRICT*****Sec. 53-48. STATEMENT OF PURPOSE.**

This district is intended to set aside land for major medical, educational and institutional uses within the city. The district is established to promote well-designed medical and educational complexes without the intrusion of intense commercial activity and low key residential uses.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-49. PRINCIPAL PERMITTED USES.**

In the CS District, no uses shall be permitted unless otherwise provided in this chapter, except the following:

**A. Hospitals, subject to the following conditions:**

1. The proposed site shall have at least one property line abutting a major thoroughfare. All ingress and egress to the off-street parking area, for guests, employees, staff as well as any other uses of facilities, shall be directly onto the major thoroughfare;

2. Any building shall be located not less than 50 feet from any lot in a residential district; and

3. Ambulance and delivery areas shall be obscured from all residential view with a wall or barrier of suitable material at least six feet in height and the wall or barrier shall be further subject to the requirements of this code.

**B. Convalescent and/or nursing home, not to exceed a height of two and one-half stories, when the following conditions are met:**

1. The proposed site shall have at least one property line abutting a major thoroughfare. All ingress and egress to the off-street parking area, for guests, employees and staff, as well as any other uses of the facilities, shall be directly onto the major thoroughfare; and

2. No building shall be closer than 25 feet from any property line.

C. Medical buildings and facilities, including medical offices, clinics and associated laboratories;

D. Museums, libraries and other cultural institutions; and

E. Housing for the elderly.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-50. SITE PLAN REVIEW.**

For all uses permitted in the CS District, a site plan shall be submitted and no building permit shall be issued until the City Council has approved the site plan after a recommendation from the City Planning Commission.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-51. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.

(Ord. 188, eff. 2-25-1981)

***ARTICLE XII. I, INDUSTRIAL DISTRICT***

**Sec. 53-52. STATEMENT OF PURPOSE.**

In the I District, the intent is to permit industries such as manufacturing or processing of previously refined materials and other uses that support the permitted industries or are of an intense nature due to truck traffic, building size, hours of operation and similar characteristics that make them incompatible within traditional business or residential districts. The district also allows certain commercial uses that are complementary to the industrial nature of the district by way of serving the industries and/or the workers employed there. It is intended that the district provide jobs for citizens of the community and surrounding areas, contribute to a sustainable tax base and create value for property owners and the City of Plainwell.

(Ord. 379, passed 4-9-2018)

**Sec. 53-53. PRINCIPAL PERMITTED USES.**

Any of the following uses when the manufacturing, compounding or processing is conducted entirely within a completely enclosed building. The portion of the land used for open storage facilities for

materials or equipment used in the manufacturing, compounding, final product storage or processing shall be totally obscured by a fence and/or landscaping six feet in height so as to screen the storage area from the public streets and adjoining properties:

- A. Community public safety;
- B. Dry cleaning plants;
- C. Essential services;
- D. Laboratories;
- E. Liquefied petroleum gas (LPG) sales;
- F. Manufacturing, processing and packaging — light;
- G. Mini-warehouse/self-storage;
- H. Parking facility, public or commercial;
- I. Research and development facility;
- J. Warehousing;
- K. Wholesale and distribution;
- L. Wireless communications (under 75 feet in height); and
- M. Wireless communications, collocations and state-authorized increases;
- N. Vehicle wash, trucks and heavy equipment; and
- O. Accessory buildings and uses.

P. Any other uses similar to any of the above permitted uses as determined by the Zoning Administrator in accordance with Sec. 53-132.C. of this chapter.  
(Ord. 379, passed 4-9-2018)

#### **Sec. 53-54. PERMITTED USES AFTER SPECIAL APPROVAL.**

The following uses may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the City Council after recommendation from the City Planning Commission:



A. Animal services, animal clinic/hospital, kennel, rescue, or shelter;

B. Automobile repair, minor or major;

C. Automobile wash establishment;

D. Crematorium;

E. General offices and services, including: business support services, contractor services, and professional offices; but not including: bank/financial services, business services, and personal services;

F. Manufacturing, processing and packaging — heavy;

G. Mining operations within the Industrial zoning district, subject to the following standards:

1. *Additional site plan requirements.* In addition to the regular application materials and site plan as required for any special approval use, an application submittal for a mining or fill operation shall be accompanied by all of the following additional information:

a. Name and address of the owner(s) of the land on which mining or fill will take place.

b. Name, address and telephone number of the person or entity which will be conducting the actual mining or fill operation.

c. Location, size and legal description of the subject property, and total site area to be mined or filled.

d. A reclamation plan for extraction or fill and reclamation for the total project, which shall include:

(1) Surface overburden and topsoil stripping and stockpiling plans.

(2) Provisions for grading, re-vegetation, and stabilization that will prevent soil erosion, blowing dust, sedimentation problems and public safety concerns.

(3) A feasible and detailed plan for the re-use of the reclaimed site, consistent with the zoning district(s) in which the land is located and consistent with the intent and vision of the City Master Plan.

(4) Surface water drainage provisions and outlets.

(5) The location and size of any existing or proposed structures and any proposed vehicle or equipment staging and parking areas.

(6) Approved soil erosion permits. If such permit has not been issued, a copy of the permit application may be appended to the special approval use application and any approval shall be conditioned upon issuance of such soil erosion permit.

(7) Proposed haul routes.

(8) Proposed noise and dust minimization plans.

2. *Reclamation.* All extraction or fill areas shall be reclaimed progressively as they are worked out. The Planning Commission shall determine the amount of the site that may be open at any time; however, at no time shall more than 20 acres be used for active mining or fill. Reclaimed sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level and below water level to a depth of six feet shall be graded to angles which do not exceed one foot in elevation for each three feet of horizontal surface and they shall be treated to prevent erosion and any other potential deterioration. Topsoil of a quality equal to that occurring naturally in the area shall be placed or replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one year period. Where reclaimed, topsoil shall be applied to a minimum depth of four inches and sufficient to support vegetation. Vegetation shall be restored by the appropriate seeding of grasses and/or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion. Upon cessation of mining operations, the operating company or landowner, within a reasonable time period (not to exceed 12 months), shall remove all plant structures, foundations, buildings, stockpiles and equipment; provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan, may be retained. Substantial completion of reclamation and rehabilitation shall be completed within one year after termination of the fill, mining or excavation activity.

3. *Site development requirements.*

a. Setbacks, in which no part of the mining or fill operation may take place, except for ingress and egress, shall be as follows:

(1) Excavation below the existing grade of adjacent roads or property lines shall not take place within 100 feet from any adjacent property line or road right-of-way.

(2) No structures or machinery will be stored, erected or maintained within 100 feet of any property line or road right-of-way.

b. If fencing, landscaping, and/or berming is deemed a reasonably necessary requirement, the Planning Commission shall specify the type, size, characteristics, and location of the required fencing, landscaping, and/or berming.

c. Interior access roads, parking lots, haul roads, crushing and processing operations, loading and unloading areas, and stockpiled materials shall be maintained and operated so as to limit the nuisance caused by any wind-blown dust.

d. Hours and days of operation for the mining or fill operation shall be established by the Planning Commission as part of the special approval use.

e. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.

f. All mining operations shall be located on or near a primary road, as defined by the Allegan County Road Commission, for ingress and egress thereto; and on a road which if used as the access to the proposed operation will not result in significant increase in truck traffic through an area developed primarily for residential purposes. Where necessary as determined by the Planning Commission, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck traffic created by the operations as a condition of the permit, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads, that may not be constructed to accommodate a large volume of heavy vehicles. The operation shall be managed and controlled so that truck and heavy equipment traffic generated by the use is controlled by the permit holder and haul routes to and from the site shall be approved by the Planning Commission.

g. No crushing or processing shall occur unless expressly approved by the Planning Commission.

4. Failure to maintain all required county, state or federal licenses and/or to develop and maintain a surface mining or fill operation in accord with the terms of the special approval use may result in the immediate revocation of a special approval use permit and any and all other sanctions and/or penalties available to the city, county, and/or state.

5. *Continuing use.* A special approval use permit for a mining or fill operation shall not last for over two years unless extended by the Planning Commission. When the Zoning Administrator determines a mining or fill operation or portion thereof to be abandoned, he/she shall give the landowner written notice of the intention to declare the mining or fill operation or portion thereof abandoned. Within 30 days following receipt of said notice, the landowner shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he/she shall not declare abandonment.

6. *Financial guarantees.* A monetary performance guarantee shall be filed with the City Treasurer. The performance guarantee shall be in the form of a letter of credit, cash or surety bond acceptable to the city and with the city named as the beneficiary. The security shall be returned when all conditions stipulated in the special approval use permit have been met and the special approval use permit deemed ended prior to the security's release. There shall be no partial release of the security. The city shall determine the amount of the monetary security guarantee.

7. *Inspection and amendments.* Permits granted for a period exceeding one year shall be inspected a minimum of once a year by the Zoning Administrator to ensure compliance with the permit and ordinance. Special approval use permits for mining or fill operations may be amended by the Planning Commission in accordance with the following procedures:

a. A request for amendment of a special approval use permit must be made at least 30 days prior to the expiration of the existing permit.

b. The written request shall provide information concerning the mining or fill operation/activities conducted during the current year and also show that such operation/activities are in compliance with the special approval use approval and the permit requirements.

c. Any financial guarantee shall also be established or revised in accordance with Section 53-54, G, 6 above, for the duration of the extension of the special approval use permit.

8. *Modification of the site plan.* The site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology, or to correct an oversight. The Planning Commission may require the modification of the site plan when:

a. Modification of the plan is necessary so that it will conform to existing laws;

b. It is found that the previously approved plan is clearly impractical to implement and maintain; and/or

c. The approved plan is obviously not accomplishing the intent of the ordinance.

9. No mining or fill operation shall be approved if it would cause very serious consequences.

H. Parks, playgrounds, outdoor recreation;

I. Recreation facility, commercial indoor;

J. Recreation facility, commercial outdoor;

K. Salvage and impound operations;

L. School, specialized/training;

M. Vehicle sales and rental: automobiles, light trucks, boats, heavy equipment/tools, heavy trucks, RVs, manufactured homes;

N. Waste management facility;

O. Wireless communications 75 feet in height or greater, subject to the following provisions:

1. The structure shall be located on a site not less than 20,000 square feet in area and 100 lineal feet of road frontage.

2. The structure shall only be located in industrial zoned areas. However, in the event that agriculturally zoned land may be annexed to the city, wireless communication facilities may be permitted in agriculturally zoned areas; provided that, they comply with the provisions of this section.
3. The structure shall be constructed so as to hold not less than three wireless communication facilities.
4. The maximum height of the tower shall be the minimum height demonstrated to be necessary by the radio frequency engineer of the applicant.
5. The site plan for the structure shall be accompanied by a signed certification by a registered civil engineer regarding the integrity of the structure and the manner in which the structure may fall. This will enable the city to determine appropriate setbacks on the site plan.
6. The structure shall not be artificially lighted, unless required by the FAA. If the lighting is required, it shall be the flip-over type and shall be directed away from residential property while causing the least disturbance to surrounding properties.
7. Whenever possible, proposed wireless communication facilities shall co-locate on existing buildings, structures and existing wireless communication structures. If a provider fails to or refuses to permit co-location, such a structure shall be a nonconforming structure and shall not be altered or expanded in any way.
8. When a wireless communication structure has not been used for a period of 90 consecutive days or 90 days after new technology is available which permits the operation of the facility without the necessity of a wireless communication structure, all parts of the structure shall be removed within 180 days. The removal of antennae or other equipment from the structure or the cessation of reception or transmission of radio signals shall be considered the beginning of non-use. The city may secure the removal of the structure if it is still standing 30 days after the city has notified the operator that the tower must be removed, the city may charge up to 125% of the removal cost to the operator and or the land owner. The city may also require a form of financial guarantee acceptable to the city to ensure that a tower will be removed in a timely manner.
9. Accessory buildings and structures shall not exceed 600 square feet in area or have an area shown to be necessary to house related technical equipment.
10. Where the property line of a site containing a wireless communication structure abuts a residentially or commercially used or zoned area, the operator shall provide a planting screen sufficient in density and height so as to have an immediate buffering impact on the adjacent site. In addition, there shall be no interference with reception of any kind on any adjacent sites.
11. There shall be no advertising of any kind visible from the ground or other structures, other than required for emergency purposes.

12. Minimum spacing between tower locations shall be one mile, as measured by a straight line.
13. The base of the tower shall not exceed 500 square feet in area.
14. The base of the tower and wire cable supports shall be enclosed with a minimum six-foot high security fence.
15. Communication towers in excess of 100 feet in height above grade level shall be prohibited within a one-mile radius of a public airport or one-half mile radius of a helipad.

16. All signals and remote-control conductors of low energy extending horizontally above the ground between structure or towers shall be at least eight feet above the ground, unless buried underground.

17. Support structures shall comply with all applicable state, federal and local regulations and codes. All towers shall be equipped with an anti-climbing device so as to prevent unauthorized access.

P. Accessory buildings and uses; including:

1. General offices related to a principal use;
2. Outdoor display and sales, not including vehicle and equipment sales; and
3. Outdoor storage related to a principal use.

Q. Any other uses similar to any of the above special uses as determined by the Zoning Administrator in accordance with Sec. 53-132.C. of this chapter.  
(Ord. 379, passed 4-9-2018; Ord. 389, passed 12-28-2020)

#### **Sec. 53-55. INDUSTRIAL PERFORMANCE STANDARDS.**

A. *Application.* After the effective date of this chapter:

1. Any use established or changed to and any building, structure or tract of land developed, constructed or used for, any permitted or permissible principal or accessory use shall comply with all of the performance standards herein set forth for the district involved;

2. If any existing use or building or other structure is extended, enlarged, moved, structurally altered or reconstructed or any existing use of land is enlarged or moved, the performance standards for the district involved shall apply with respect to the extended, enlarged, moved, structurally altered or reconstructed building or other structure or portion thereof and with respect to land use which is enlarged or moved;

3. No main or accessory building shall be situated less than 50 feet from any residential property line;

4. No parking, access and/or service area may be located less than 25 feet from any residential property line;

5. All lot areas not used for buildings or parking, loading and storage areas shall be landscaped. It shall be done attractively with lawn, trees, shrubs, and the like and be properly maintained thereafter in a well-kept condition;

6. A wall or barrier of suitable material not less than eight feet high shall be constructed along those property lines which abut a residential district;

7. Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors. These facilities will be arranged in a manner as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind;

8. No operation or activity shall be carried out in the I District which causes or creates measurable noise levels exceeding the maximum sound levels prescribed below in Table 12A., as measured on or beyond the boundary lines of the lot on which the operation or activity is located. A sound level meter and an octave band analyzer shall be used to measure the intensity and frequency of the sound or noise levels encountered. Sounds of very short duration, which cannot be measured accurately with the sound level meter, shall be measured by an impact noise analyzer; and the measurements so obtained may be permitted to exceed the maximum levels as set forth in Table 12A. by no more than six decibels in each octave band. For purposes of this chapter, impact noises shall be considered to be those noises whose peak values are more than six decibels higher than the values indicated on the sound level meter. In addition, sounds of an intermittent nature or characterized by high frequencies, which the Building Inspector deems to be objectionable in adjacent districts, shall be controlled so as not to generate a nuisance in adjacent districts, even if the decibel measurement does not exceed that specified in the table.

<b>Table 12A</b> <b>Maximum Permitted Sound Intensity Levels in Decibels</b> <b>(Post-1960 Preferred Frequencies)</b>	
<i>Center Frequency</i> <i>(Cycles per Second)</i>	<i>I District</i>
34.5	76
63.0	74
125.0	68
250.0	63
500.0	57
1,000.0	52
2,000.0	45
4,000.0	38
8,000.0	32



9. The following uses and activities shall be exempt from the noise level regulations:

- a. Noises not directly under the control of the property user;
- b. Noises emanating from construction and maintenance activities between 7:00 a.m. and 9:00 p.m.;
- c. The noises of safety signals, warning devices and emergency pressure relief valves; and
- d. Transient noises of moving sources such as automobiles, trucks, airplanes and railroads.

B. *Smoke and particulate matter.* The emission of smoke, dust, dirt, fly ash or other particulate matter shall, in no manner, be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. The emission shall be in strict conformance with all applicable state and county health laws pertaining to air pollution and smoke abatement. In addition, the following requirements shall apply.

1. In the I District, the emission of smoke from any chimney, stack, vent, opening or combustion process shall not exceed a density or equivalent opacity of No.1 on the Ringelmann Chart as published by the United States Bureau of Mines.

2. In the I District, the rate of emission of particulate matter, such as dust, soot and fly ash, from all sources within the boundaries of any lot shall not exceed a net figure of one pound per acre of lot area during any one-hour period, after deducting from the gross hourly emission per acre.

<b>Table 12B. ALLOWANCE FOR HEIGHT OF EMISSION</b>	
<i>Height of Emission Above Grade (Feet)</i>	<i>Correction Pounds Per Hour Per Acre</i>
50	0.01
100	0.06
150	0.10
200	0.16
300	0.30
400	0.50
NOTES TO TABLE: *Interpolate for intermediate values not shown in table.	

3. Determination of the total net rate of emission of particulate matter within the boundaries of any lot shall be made as follows:

a. Determine the maximum emission in pounds per hour from each source of emission and divide this figure by the number of acres of lot area, thereby obtaining the gross hourly rate of emission in pounds per acre.

b. From each gross hourly rate of emission derived in division 13.3 .a. above, deduct the correction factor (interpolating as required) for height of emission set forth in the table, thereby obtaining the net rate of emission in pounds per acre per hour from each source of emission.

c. Add together the individual net rates of emission derived in division 13.3.b. above, to obtain the total net rate of emission from all sources of emission within the boundaries of the lot. The total shall not exceed one pound per acre of lot area during any one-hour period.

C. *Vibration.*

1. In the I District, no activity or operation shall cause or create earth borne vibrations in excess of the displacement values set forth in Table 12C. Vibration displacements shall be measured with a seismograph or accelerometer, preferably the former. For purposes of this chapter, steady state vibrations are vibrations which are continuous or vibrations in discrete impulses more frequent than 60 per minute. Discrete impulses which do not exceed 60 per minute shall be considered impact vibrations.

**Table 12C.  
MAXIMUM PERMITTED VIBRATION, I DISTRICT**

<i>Frequency (Cycles per Second)</i>	<i>Maximum Displacement<sup>a</sup> (inches)</i>	<i>Maximum Displacement<sup>b</sup> (inches)</i>
0 to 9	.0008	.0004
10 to 19	.0005	.0002
20 to 29	.0002	.0001
30 to 39	.0002	.0001
40 to 49	.0001	.0001
50 and over	.0001	.0001

**NOTES TO TABLE:**

<sup>a</sup> As measured along the nearest adjacent lot line.

<sup>b</sup> As measured on or beyond a Residential District boundary line.

2. Between the hours of 7:00 p.m. and 7:00 p.m., all of the above maximum vibration levels, as measured on or beyond a residential district boundary line, shall be reduced to one-half of the indicated values.

D. *Noxious and odorous matter.* In the I District, no activity or operation shall cause, at any time, the discharge of matter across the lot lines in concentrations as to be noxious. The emission of odorous matter in quantities as to be readily detectable without the use of instruments at any point along lot lines is prohibited.

E. *Glare and heat.* In the I District, any operation or activity producing intense glare or heat shall be performed within a completely enclosed building in a manner as to not create a public nuisance or hazard along the lot lines of the lot upon which the source of the glare or heat is located. Exposed sources of light shall be shielded so as not to create a nuisance beyond the lot lines of the lot upon which the source of the light is located. Direct or indirect illumination from the source of light shall not cause illumination in excess of 0.5 foot-candles in any residential district, as measured with a foot-candle meter or sensitive photometer on or beyond a residential district boundary line.

F. *Fire and explosive hazards.*

1. In an I District, the storage, utilization or manufacture of solid materials ranging from incombustible to moderate burning is permitted.

2. Storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted; provided that, the materials or products shall be stored, utilized or manufactured within completely enclosed buildings having incombustible exterior walls and protected through-out by an automatic fire extinguishing system.

3. The storage or utilization of flammable liquids or materials which produce flammable or explosive vapors or gases shall be permitted provided the storage and handling of the flammable liquids or materials shall comply with all state rules and regulations as established by the Fire Prevention Act, Public Act 207 of 1941, as amended and with all other applicable city codes and regulations.

G. *Gases.* The escape or emission of any gas which is injurious, destructive or explosive shall be unlawful and shall be summarily caused to be abated. Sulphur dioxide gas, as measured at the property line at ground elevation, shall not exceed an average of 0.3 p.p.m.; hydrogen sulfide likewise shall not exceed 1 p.p.m.; fluorine shall not exceed 0.1 p.p.m.; nitrous fumes shall not exceed 5 p.p.m.; and carbon monoxide shall not exceed 15 p.p.m.; all measured as the average during any 24-hour sampling period.

H. *Electromagnetic radiation.* Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are made a part of this chapter.

1. Drifting and airborne matter, general. The drifting or airborne transmission beyond the lot line of dust, particles or debris from any open stockpile shall be unlawful and shall be summarily caused to be abated.

(Ord. 379, passed 4-9-2018)

**Sec. 53-56. COMPLIANCE WITH COUNTY AND STATE REGULATIONS.**

Any use permitted in the I District must also comply with all applicable county and state health and pollution laws and regulations.

(Ord. 379, passed 4-9-2018)

**Sec. 53-57. SITE PLAN REVIEW.**

For all uses permitted in an I District, a site plan shall be submitted and no building permit shall be issued until the City Council has approved the site plan after recommendation from the City Planning Commission in accordance with this code.

(Ord. 379, passed 4-9-2018)

**Sec. 53-58. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.

(Ord. 379, passed 4-9-2018)

***ARTICLE XIII. RESERVED***

***ARTICLE XIII-A. P-1, OFF-STREET PARKING DISTRICT***

**Sec. 53-66. INTENT.**

The P-1 Vehicular Parking District is intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities.

(Ord. 188, eff. 2-25-1981)

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**Sec. 53-67. PRINCIPAL USES PERMITTED.**

Premises in the districts shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to regulations as are hereinafter provided.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-68. REQUIRED CONDITIONS.**

A. The parking area shall be accessory to and for use in connection with one or more businesses or industrial establishments, located in adjoining business or industrial districts or in connection with one or more existing professional or institutional office buildings or institutions.

B. Parking areas shall be used solely for parking of private passenger vehicles, for periods of less than 48 hours and shall not be used as an off-street loading area.

C. No commercial repair work or service of any kind or sale or display thereof shall be conducted in the parking area.

D. No signs of any kind, other than signs designated entrances, exits and conditions of use, shall be maintained on the parking area.

E. No building other than those for shelter or attendants shall be erected upon the premises and they shall not exceed 15 feet in height and 50 square feet in area.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-69. MINIMUM DISTANCES AND SETBACKS.**

A. *Side and rear yards.* Where the P-1 District is contiguous to the side and/or rear lot lines of premises within a residentially zoned district, screening shall be provided in accordance with this chapter.

B. *Front yards.* Where the P-1 District is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for the residential district or a minimum of 25 feet or whichever is greater. Screening shall be provided in accordance with this chapter.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-70. SITE PLAN REVIEW.**

For all proposed parking lots permitted in this district, a dimensional layout shall be submitted in accordance with this code.

(Ord. 188, eff. 2-25-1981)

***ARTICLE XIV. FLOOD HAZARD AREAS*****Sec. 53-71. STATEMENT OF PURPOSE.**

A. It is the purpose of this article to significantly reduce hazards to persons and damage to property as a result of flood conditions in the city and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41. No. W. Tuesday, 10-26-1976 and redesignated at 44 FR31177, 5-31-1979.

B. Further, the objectives of this article include:

1. The protection of human life, health and property from the dangerous and damaging effects of flood conditions;
  2. The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas;
  3. The prevention of private and public economic loss and social disruption as a result of flood conditions;
  4. The maintenance of stable development patterns not subject to the blighting influence of flood damage;
  5. To ensure that the public has access to information indicating the location of land areas subject to periodic flooding; and
  6. To preserve the ability of floodplains to carry and discharge a base flood.
- (Ord. 188, eff. 2-25-1981)

**Sec. 53-72. SUPPLEMENTARY DEFINITIONS.**

For the purpose of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year.

**DEVELOPMENT.** Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD AREA.** Land which on the basis of available floodplain information is subject to a 1% or greater chance of flooding in any given year.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOODPLAIN.** Any land area susceptible to being inundated by water from any source (see definition of **FLOOD**).

**HARMFUL INCREASE.** An unnaturally high stage on a river, stream or lake which causes or may cause damage to property, threat to life, personal injury or damage to land or water resources. (Ord. 188, eff. 2-25-1981)

**Sec. 53-73. DELINEATION OF THE FLOOD HAZARD AREA OVERLAY ZONE.**

A. The flood hazard area zone shall overlay existing zoning districts delineated on the official city Zoning Map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood. The term **FLOOD HAZARD AREA**, as used in this chapter, shall mean the flood hazard area zone.

B. Where there are disputes as to the location of a flood hazard area zone boundary, the Zoning Board of Appeals shall resolve the dispute in accord with this code.

C. In addition to other requirements of this chapter applicable to development in the underlying zoning districts, compliance with the requirements of this article shall be necessary for all development occurring within the flood hazard area zone. Land uses permitted in the flood hazard overlay zone outlined in this chapter may only be permitted if such land use is permitted in the underlying zoning district, or if the land use is accessory to a permitted principal use within the underlying zone. Conflicts between the requirements of this article and other requirements of this chapter or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more stringent and would further the objectives of this article to a greater extent than the requirements of this article. In these cases, the more stringent requirement shall be applied.

(Ord. 188, eff. 2-25-1981; Ord. 387, passed 11-9-2020)

#### **Sec. 53-74. USE AND PRINCIPAL STRUCTURE REGULATIONS.**

Within the flood hazard area overlay zone, no land shall be used, except for one or more of the following uses:

- A. Grading and agriculture, pastureland and animal grazing;
- B. Harvesting of a native or wild crop permitted by law such as wild rice, marsh hay, berries and seeds;
- C. Harvesting of trees;
- D. Parks, picnic areas, playgrounds, playfields, athletic fields, golf courses, bridle paths, nature paths and trails;
- E. Wildlife preserves;
- F. Fishing, trapping and hunting in compliance with current laws and regulations;
- G. Hunting and conservation club, noncommercial archery, rifle and shooting ranges;
- H. Historic sites and structures;
- I. Swimming beaches, fishing and boating docks in accord with the provisions of the Inland Lakes and Streams Act of 1972;
- J. Sand and gravel extraction;
- K. Required open space or lot area for structural uses that are landward of the overlay zone; and



L. Accessory structures and uses, including the following: off-street parking, streets, roads, bridges, outdoor play equipment, sheds and garages, boathouses, boat hoists, utility lines, pumphouses, bleachers, bank protection structures, signs, fences, gazebos and similar outdoor equipment and appurtenances; provided, each of the following requirements are met.

1. The structure would not cause an increase in water surface elevation, obstruct flow or reduce the impoundment capacity of the floodplain.

2. All equipment and structures shall be anchored to prevent flotation and lateral movement.

3. Compliance with these requirements is certified by an engineering finding by a registered engineer.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-75. FILLING AND DUMPING.**

Dredging and filling and/or dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the floodplain, the flow and impoundment capacity of the floodplain will be maintained or improved and unless all applicable state regulations are met including, but not limited to, approvals pursuant to: Public Act 245 of 1929, as amended by Public Act 167 of 1968; Public Act 347 of 1912, as amended; Public Act 346 of 1912, as amended; and Public Act 203 of 1919, as amended.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-76. GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION.**

A. No building or structure shall be erected, converted or substantially improved or placed and no land filled or structure used in a floodplain district unless a zoning compliance permit or variance from the Zoning Board of Appeals, is obtained, which approval shall not be granted until a permit from the Department of Natural Resources under authority of Public Act 245 of 1968 has been obtained. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

B. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.

C. The Building Inspector or his or her representative shall review development proposals to determine compliance with the standards in this section and shall transmit his or her determination to the Zoning Administrator.

D. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this article.

E. The flood-carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood carrying capacity shall be maintained.

F. Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-77. FLOOD HAZARD AREA APPLICATION INFORMATION.**

In addition to the information required with an application for a zoning compliance permit, special use permit, variance or any other type of development permission required under this chapter, the following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard area zone:

A. The elevation in relation to mean sea level of the floor, including basement, of all structures;

B. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

C. Proof of development permission from appropriate local, state and federal agencies including a floodplain permit, approval or letter of no authority from the State Department of Natural Resources under authority of Public Act 245 of 1929, as amended by Public Act 167 of 1968, the Floodplain Regulatory Authority;

D. Base flood elevation data where the proposed development is subject to Public Act 288 of 1967, the Land Division Act or greater than five acres in size; and

E. Additional information which may be reasonably necessary to determine compliance with the provisions of this chapter.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-78. SITE PLAN REVIEW.**

For all uses permitted in an FP District, a site plan shall be submitted and no building permit shall be issued until the City Council has approved the site plan after recommendation from the Planning Commission in accordance with this code.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-79. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Area, height, bulk and placement requirements unless otherwise specified are as provided in Article XV.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-80. DISCLAIMER OF LIABILITY.**

A. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by human-made or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage.

B. This chapter does not imply that areas outside the flood hazard area will be free from flood damage. This chapter does not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 188, eff. 2-25-1981)

***ARTICLE XIV-A. WELLHEAD PROTECTION OVERLAY DISTRICT*****Sec. 53-81. STATEMENT OF PURPOSE.**

The Wellhead Protection Overlay District is designed to safeguard the public health, safety and welfare of users of the city's water system by regulating the land use and the storage, handling, use and/or production of regulated substances within the wellhead capture zone described as the land adjacent to and up gradient from existing and proposed municipal water well fields. The intent of this designation is to protect the area's potable water supply against contamination.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-82. SUPPLEMENTARY DEFINITIONS.**

For the purpose of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

***AQUIFER.*** The glacial formation, group of glacial formations or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.

***DIRECT RECHARGE AREA.*** The portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.

***GROUND WATER GRADIENT.*** The slope (gradient) of the ground water surface defining the direction of ground water movement.

***POTABLE WATER.*** Water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

***RECHARGE POND/LAGOON.*** A natural or human-made recharge area or pond designed and maintained to recharge storm water, cooling and/or treated water to the ground water and a rate greater than that occurring naturally.

***REGULATED SUBSTANCES.*** Substances to be regulated and consist of chemicals and mixtures of chemicals which are health hazards. ***REGULATED SUBSTANCES*** include those listed by MIOSHA and as currently reported on MIOSHA material safety data sheets and petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

***TEN-YEAR CAPTURE AREA.*** The area around and up gradient from the public water supply well fields delineated by the ten-year travel time contour capture zone boundary.

***TRAVEL TIME CONTOUR.*** A locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.

***UNDERGROUND STORAGE TANK.*** Any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances and the volume of which (including the underground piping connected thereto) is 10% or more beneath the surface of the ground. Flow through process tanks are excluded from the definition of ***UNDERGROUND STORAGE TANK.***

***UNDERLYING ZONE.*** The present zoning classification as it exists under the overlay zone.

***WELL FIELD.*** A tract of land that contains a number of wells for supplying water.

***WELLHEAD PROTECTION ZONE.*** The area outlined on the zoning map as determined to be a well field capture zone by computation and in consideration of natural surface runoff boundaries.

***ZONE OF INFLUENCE.*** A zone delineated by iso-travel time contours around well fields. The ***ZONE*** is calculated on the rate of movement of ground water in the vicinity of the wells with an allowance for the dispersion of a pollutant entering into and moving with the ground water.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-83. PRINCIPAL USES PERMITTED.**

The uses permitted in the Wellhead Protection Overlay Zone shall include all of the uses as allowed in the underlying zoning district, except for the following:

- A. The processing or compounding of chemicals or drugs or bulk storage;
  - B. Foundries; and
  - C. Heavy equipment repair.
- (Ord. 188, eff. 2-25-1981)

**Sec. 53-84. PERMITTED USES AFTER SPECIAL APPROVAL.**

Any of the uses subject to special approval in the underlying zone may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the City Council after a recommendation from the Planning Commission, with the exception of the following:

- A. Sanitary landfills of any type;
  - B. Mining, extraction, excavation or processing of sand, gravel or limestone;
  - C. Gasoline stations or convenience stores selling gasoline or farm fuels;
  - D. Bus or truck terminals;
  - E. Junk or salvage yards;
  - F. Automobile and truck body shops;
  - G. Concrete or asphalt plants;
  - H. Metal processing plants and/or electroplating plants; and
  - I. Painting and coating manufacturing plants.
- (Ord. 188, eff. 2-25-1981)

**Sec. 53-85. GROUND WATER PROTECTION STANDARDS.**

A. Use of regulated substances in conjunction with the permitted and special approval uses in this zone shall be limited to:

1. The aggregate of regulated substances in use may not exceed 20 gallons or 160 pounds at any one time; and

2. The total use of regulated substances may not exceed 50 gallons or 400 pounds in any 12-month period.

B. A limited exclusion from the provisions of permitted uses after special approval, is authorized for non-routine maintenance of repair of property in the Wellhead Protection Overlay Zone; provided, the uses are limited as follows:

1. The aggregate of regulated substances in use may not exceed 50 gallons or 400 pounds at any time; and

2. The total use of regulated substances may not exceed 100 gallons or 800 pounds at any time.

C. A limited exclusion authorized for regulated substances which are cleaning agents; provided, however, that, the cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public and shall not exceed 100 gallons or 800 pounds at any time. In no case shall regulated substances claimed under the exclusion include hydrocarbon or halogenated hydrocarbon solvents.

D. A limited exclusion from the provisions hereof is authorized for medical research laboratory uses in the Wellhead Protection Overlay Zone; provided that, regulated substances shall be stored, handled or used in containers not to exceed five gallons or 40 pounds of each substance and the aggregate inventory of regulated substances shall not exceed 250 gallons or 2,000 pounds.

E. Storage of fuel or lubricants for vehicle operations and fuel for building and/or processing or heating in conjunction with permitted and conditional uses in this zone shall be in aboveground storage tanks.

F. Notwithstanding other provisions of this article, nonconforming uses in this zone presently using underground storage tanks for fuel and lubricants for vehicle operations and fuel for building and/or processing heating shall be permitted to replace existing tanks with those constructed pursuant to specifications of Public Act 423 of 1984 and all regulations enacted pursuant thereto and not exceeding the capacity of existing tanks. Replacement of underground tanks for regulated substances other than the above-noted fuels and lubricants not permitted.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-86. INFORMATION REQUIRED FOR SITE PLAN REVIEW.**

All buildings and structures conducted or remodeled requiring the approval of a site plan as set forth in this code are within the Wellhead Protection Overlay Zone shall also comply with the following additional site plan requirements:

A. A copy of the MIOSHA Material Safety Data Sheet or “Hazardous Reporting Form for Site Plan Review”;

B. Location of existing and proposed facilities and structures, above and below ground, including, but not limited to, the following:

1. Public and private ground water supply wells on-site and in adjacent properties;
2. Septic systems and other wastewater treatment systems;
3. All interior and exterior areas to be used for the storage, use, loading and unloading, recycling or disposal of hazardous substances;
4. Location of all underground and aboveground storage tanks for such uses as fuel storage, waste oil, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water and similar uses; and
5. Location of interior and exterior drains, dry wells, catch basins, retention /detention areas, storm water retention ponds, sumps and other facilities designed to collect, store or transport storm water or wastewater and the point of discharge for all drains and pipes shall be identified on the site plan.

C. Location of existing wetlands, water bodies, watercourses and floodplains;

D. Soil characteristics of the site (e.g., the U.S. Soil Conservation Service); and

E. Delineation of areas on the site which are known to be contaminated, together with a report on the status of the site cleanup.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-87. SITE PLAN REVIEW.**

In addition to the standards set forth in herein, the Planning Commission and the City Council shall be governed by the following standards.

A. *Ground water protection standards.*

1. The project and the related improvements shall be designed to protect the natural environment, including wetlands, water bodies, watercourses, floodplains, ground water and soils.

2. Storm water management and drainage facilities shall be designed to retain natural retention and storage capacity of any wetland, water body or watercourse and shall not increase flooding or the possibility of polluting surface or ground water, on-site or off-site.

3. General purpose floor drains shall be connected to a public sewer system, an on-site holding tank or a system authorized through a state ground water discharge permit.

4. Chemical loading and unloading areas shall not have drains which discharge into the storm sewer piping or collection system unless equipped with an appropriate sump pump which can be shut down in the case of a spill. Further, chemical loading and unloading areas should be designed to contain or direct spillage in a manner as to prevent potential discharge to the ground or ground water, storm water piping or recharge lagoons.

5. Sites at which hazardous substances are loaded and unloaded, stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, wetlands, water bodies, watercourses or ground water.

6. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.

*B. Aboveground storage and use areas for hazardous substances and polluting materials.*

1. Secondary containment of hazardous substances shall be provided. Secondary containment shall be sufficient to store 110% of the stored substance for the maximum anticipated period of time necessary for the recovery of any released substance.

2. Secondary containment structures such as buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to nearby drains, soils, wetlands, water bodies, watercourses or ground water. Where allowed, the secondary containment provided in division B.1. above shall apply.

*C. Underground storage tanks.*

1. Existing underground storage tanks or replacements allowed above shall be registered with the State Police Fire Marshal Division and in accordance with U.S. EPA.

2. Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with the requirements of the State Police Fire Marshal Division. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring of inventory control must be kept and made available for review by the city and other applicable government officials.



3. Out-of-service or abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the State Police Fire Marshal Division and the MDEQ.

*D. Sites with contaminated soils and/or ground water.*

1. Site plans shall take into consideration the location and the extent of any contaminated soils and/or ground water on the site and the need to protect the public health and the environment.

2. Development shall not be allowed on or near contaminated areas of a site unless information from the MDEQ is available with an indication that the cleanup will proceed in a timely fashion. (Ord. 188, eff. 2-25-1981)

**ARTICLE XV. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

**Sec. 53-88. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.**

Zoning District	Minimum Lot Width (In Feet)	Minimum Lot Area (Square Feet)	Maximum Lot Coverage (Percent)	Maximum Building Height		Minimum Requirements				Minimum Floor Area per Dwelling Unit (In Square Feet)
				In Stories	In Feet	Front	Least 1	Total of 2	Rear	
R-1A	80	12,000	35	2-1/2	35	30a,b	8d	15d	25	1200c
R-1B	70	9,800	35	2-1/2	35	301a,b	84d	15d	25	1000
R-1C	60	7,200e	35	2-1/2	35	30a,b	5d	10d	25	1000
R-2	f	f	f	f	f	f, a, b	f, g, h	f, g, h	f	f
R-MH	See Article VII	720								
C-1				2-1/2	35		i, j		j, k	
C-2				3	40		i, j		j, k	l
CBD				2-1/2	35		k			
CS	100	10,000	35	2-1/2	35	30	20	40	25	
I	100	20,000	65	3	50	30	20	40	30	
FP										

(Ord. 188, eff. 2-25-1981; Ord. 371, adopted 12-8-2014; Ord. 379, passed 4-9-2018)

**Sec. 53-89. FOOTNOTES TO SCHEDULE OF REGULATIONS.**

A. In all residential districts, the required front yard shall not be used for off-street parking, loading or unloading and shall remain as open space unoccupied and unobstructed from the ground upward, except for landscaping, plant materials or vehicle access drives. This requirement shall not be construed to prohibit the parking of vehicles on designated driveways.

B. Where lots are on rivers, the property shall be treated as a through lot and have required front yards on both frontages. If an accessory building is requested on a lot with river frontage, the accessory building shall be located in either the side lot area or the frontage along the river setback at least ten feet from any existing structure.

C. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds or utility rooms.

D. In the R-1A, R-1B and R-1C Districts, the width of side yards, which abut upon a street on the same side or on the opposite side of the same block, upon which other residential lots front, shall not be less than the required front yard for the homes which front upon the side street.

E. For two-family dwellings, the minimum lot area shall be 10,000 square feet.

F. Site requirements:

	<i>Garden Apartments</i>	<i>Townhouse</i>	<i>Housing for the Elderly</i>
Gross site area	2 acres (min.)	2 acres (min.)	3 acres (min.)
Maximum floor area	.3 x developable area	.25 x developable area	.4 x developable area
Maximum lot coverage	.25 x developable area	.25 x developable area	.25 x developable area
Maximum height (b)	2-1/2 stories or 35 feet	2-1/2 stories or 35 feet	4 stories or 60 feet
Minimum parking	2 spaces per unit	2 spaces per unit	Spaces per unit
Minimum landscaped area	.2 x gross site area	.25 x gross site area	.3 x gross site area
Maximum density	14 units per acre	8 units per acre	25 units per acre
Minimum front yard (a)	25 feet	25 feet	25 feet
Minimum side yard (b, c, d)	20 feet, 40 feet (total two)	20 feet, 40 feet (total two)	25 feet, 50 feet (total two)
Minimum rear yard (b)	30 feet	30 feet	40 feet
Minimum floor per unit efficiency	600 square feet	600 square feet	500 square feet
One-bedroom	750 square feet	750 square feet	600 square feet

	<i>Garden Apartments</i>	<i>Townhouse</i>	<i>Housing for the Elderly</i>
Two-bedroom	900 square feet	900 square feet	750 square feet
Three-bedroom	1,200 square feet	1,200 square feet	
Four-bedroom	1,500 square feet	1,500 square feet	

G. For every lot on which a multiple, row or terrace dwelling is erected, there shall be provided a side yard on each side of the lot, as indicated in the schedule. Each side yard shall be increased beyond the yard spaces indicated by one foot for each ten feet or part thereof by which the length of the multiple, row or terrace dwelling exceeds 40 feet in overall dimension along the adjoining lot line.

H. Where two or more multiple, row or terrace dwellings are erected upon the same lot, a minimum yard space of 20 feet in width shall be provided between structures. This yard width shall be increased by two feet for each ten feet or part thereof, by which each multiple, row or terrace dwelling, having common yards, exceeds 40 feet in length on that side of the dwelling facing the common yard.

I. Where any C-1, C-2 or CBD District borders on a side street, whereon a residential zoning district exists in the same block, there shall be provided a setback of five feet for all commercial buildings and parking and loading areas.

J. Where C-1, C-2 or CBD District borders a residentially zoned district and the Districts are not separated by an alley or street, there shall be a minimum building setback of ten feet from the property line.

K. Loading space shall be provided for the rear yard in the ratio of at least ten square feet per front foot of building. Where an alley or street exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley or street. The Board of Appeals may waive this requirement in cases where this section causes undue hardship.

L. Where motels or hotels are permitted in a C-2 District, a minimum of 250 square feet of floor area per unit shall be provided.

M. Orientation of all new residential dwellings or remodeling of residential dwellings should enhance the overall cohesiveness and character of the surrounding neighborhood. Unless site specific hardships are present that are not self-created, the front door or main entrance shall be oriented toward the street. Blank walls without openings are not allowed on any public faces of any residential building. (Ord. 188, eff. 2-25-1981)

**Sec. 53-90. SUPPLEMENTARY DEFINITIONS.**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**GARDEN APARTMENTS.** A residential structure having a height limit of two and one-half stories and containing three or more attached rooms or suites of rooms, each room or suite having its own cooking facilities and being used as a dwelling for one family.

**GROSS SITE AREA.** The total area within and conforming to the legal description of the site.

**HANDICAPPED PERSON.** A person or persons who may be classified as having a physical impairment that manifests itself in one or more of the following ways: nonambulatory; semiambulatory; visually impaired; deaf or hard-of-hearing; having faulty coordination; and having reduced mobility, flexibility, coordination or perceptiveness due to age or physical or mental conditions. **HANDICAPPED PERSON** is one whose impairment is expected to be continued and of indefinite duration.

**HOUSING FOR THE ELDERLY.** A multiple-family housing development having the following tenant eligibility requirements. At the time of rental application, tenants must be:

1. Families of two or more persons, the head of which (or the spouse of which) is 62 years of age or older or is handicapped; or
2. Single persons who are 62 years of age or older or who are handicapped.

**LANDSCAPED AREA.** A portion of land area which has been changed, rearranged or to which plant materials or scenery have been added to produce an aesthetic effect appropriate for a residential area.

**MAJOR THOROUGHFARE.** A two-lane or four- or more lane arterial street as shown and defined in the Plainwell Transportation Plan.

**SITE PLAN.** A plan drawn to scale showing uses and structures proposed for a parcel of land in accordance with the requirements of this code.

**SITE PLAN REVIEW.** The process as the Planning Commission reviews the site plan(s) of a proposed development to assure that it conforms to the stated purposes and standards of the respective district, provides for necessary public facilities, protects adjacent properties through appropriate site of structures and landscaping.

(Ord. 188, eff. 2-25-1981)

**ARTICLE XVI. GENERAL PROVISIONS****Sec. 53-91. CONFLICTING REGULATIONS.**

Whenever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this chapter shall govern.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-92. SCOPE.**

No building or structure or part thereof, shall hereafter be erected, constructed reconstructed or altered and maintained and no new use or change shall be made or maintained of any building, structure or land or part thereof, except in conformity with the provisions of this chapter.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-93. STREETS, ALLEYS AND RAILROAD RIGHTS-OF-WAY.**

All streets, alleys and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon the streets, alleys or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of the street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-94. PERMITTED USES.**

No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, designed or arranged for any purpose other than is permitted in the district in which the building or land is located. Where a use is defined or listed as a permitted use or a special use in a given zoning district, such use shall not be permitted in any zoning district where it is not listed. This is true even if such use might be similar to a listed permitted use.

(Ord. 188, eff. 2-25-1981; Ord. 358, adopted 4-11-2011)

**Sec. 53-95. PERMITTED AREA.**

No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in conformity with the area regulations of the district in which the building is located.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-96. PERMITTED HEIGHT.**

No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit hereinafter established for the district in which the building is located; except that, roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, individual domestic radio and television aerials and wireless masts, water tanks or similar structures may be erected above the height limits herein prescribed. No structure may be erected to exceed by more than 15 feet the height limits of the district in which it is located, nor shall the structure have a total area greater than 25% of the roof area of the building, nor shall the structure be used for any residential purpose or any commercial purpose other than a use incidental to the main use of the building.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-97. ZONING LOT.**

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot, as herein defined, and, in no case, shall there be more than one building on one lot unless otherwise provided in this chapter.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-98. LOT AREA, YARDS AND OPEN SPACE REQUIREMENTS.**

Space which has been counted or calculated as part of a side yard, rear yard, front yard, court, lot area or other open space to meet the requirements of this chapter for a building, shall not be counted or calculated to satisfy or comply with a yard, court, lot area or other open space requirement for any other building. An open porch or paved terrace may occupy a required front yard or rear yard; provided that, the unoccupied portion of the front yard or rear yard furnishes a depth of not less than 21 feet.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-99. PROJECTIONS INTO YARDS.**

Architectural features, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of the side yard and may extend or project into a required front yard or rear yard not more than three feet. Architectural features shall not include those details which are normally demountable (i.e., awnings).

(Ord. 188, eff. 2-25-1981)

**Sec. 53-100. USE OF YARD SPACES AND OTHER OPEN AREAS FOR JUNK STORAGE.**

A. No machinery, equipment, vehicles, lumber piles, crates, boxes, building blocks or other materials either discarded, unsightly or showing evidence of a need for repairs, with or without a current license, shall be placed, stored, parked, abandoned or junked in any open area that is visible from the street, public place or adjoining residential property for longer than 48 hours. In the event the above items are permitted to be placed, stored, parked, abandoned or junked in the area, the Building Inspector shall give written notice to the owner of the premises on which the item is stored and/or to the owner of the stored item to remove or cause to be removed, the item within 48 hours after the giving of the notice. Failure to comply with the notice within 48 hours shall constitute a violation of this chapter. The above notwithstanding, the Building Inspector may, upon investigation, issue a letter to the owner or owners authorizing a grace period not to exceed 30 days.

B. No upholstered furniture or appliance designed for use inside a building or vehicle shall be used, remain or be stored outside for longer than 24 hours.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-101. STREET ACCESS.**

No building permit shall be issued for any construction located on any lot or parcel of land in the city that does not abut on a public street or highway; provided that, this chapter shall not be the basis for preventing the issuance of a building permit for ordinary repair or maintenance of any building that is already erected on the date of the adoption of this chapter upon a lot or parcel of land that does not so abut a street or highway.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-102. VISIBILITY.**

No structure, wall, fence, shrubbery or trees shall be erected, maintained or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection, excepting that shrubbery and low retaining walls not exceeding two and one-half feet in height above the curb level and shade trees where all branches are not less than eight feet above the street level will be permitted. For residential corner lots, in the R-1A, R-1B, R-1C and R-2 Districts, this unobstructed area will be a triangular section of land formed by the two street curb lines and a line connecting them at points 25 feet from the intersection of the curb lines.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-103. DWELLINGS IN NONRESIDENTIAL DISTRICTS.**

No dwelling unit shall be erected in the I District. However, the sleeping quarters of a watchperson or a caretaker may be permitted in the district in conformance with the specific requirements of the particular district.

(Ord. 188, eff. 2-25-1981; Ord. 379, passed 4-9-2018)

**Sec. 53-104. ONE SINGLE-FAMILY STRUCTURE PER LOT.**

No single-family residential structure shall be erected upon a lot with another single-family residential structure.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-105. ACCESSORY BUILDINGS.**

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

A. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to main or principal buildings;

B. Accessory buildings shall not be erected in any required yard except a rear yard, and shall not be closer than three feet to any side or rear lot line;

C. Accessory buildings shall not exceed the ground floor area (in square footage) of the main building;

D. Accessory buildings shall not exceed the height of the main building or 35 feet, whichever is the lesser;

E. No detached accessory building shall be located closer than ten feet to any main building;

F. When an accessory building is located on a corner lot, the side yard of which is substantially a continuation of the front lot line of the lot to its rear, such accessory building shall not project beyond the front yard line required on the lot to the rear of such corner lot;

G. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages whenever there are any principal buildings fronting on said streets in the same block or adjacent blocks; and



H. A carport made of non-flammable materials may be abutted or attached to the main building. It shall not be erected in any required yard except a side or rear yard, and shall not be closer than three feet to any side or rear lot line.

(Ord. 188, eff. 2-25-1981; Ord. 350, adopted 6-22-2009; Ord. 373, passed 10-26-2015)



**Sec. 53-106. ACCESSORY ANTENNAS; DISH ANTENNAS; SATELLITE RECEIVING STATIONS.**

Accessory antennas, except as otherwise permitted in this chapter, shall be subject to the following regulations.

A. Accessory antennas shall be permitted in all districts as accessory uses provided they are not used for commercial or profit making activities. If used for commercial or profit making activities, accessory antennas shall be governed by § 53-29 of this chapter.

B. Where the accessory antenna is structurally attached to a main building, it shall be subject to and must conform to all regulations of this chapter applicable to main or principal buildings.

C. An accessory antenna may be erected in any required yard except a front yard, shall not project beyond the front building line of the respective building and shall not be closer than three feet to any side or rear lot line. Movable antennas shall not revolve closer than three feet to any side or rear lot line.

D. An accessory antenna shall not exceed one story or 15 feet in height. The total yard area devoted to an accessory antenna use shall not exceed 100 square feet of yard area.

E. A corner lot, the side yard of which is substantially a continuation of the front lot line of the lot to its rear shall be regarded as having two front yards. When an antenna is located on this type of lot, it shall not project beyond the continued front lot line of the rear lot.

F. In the case of double frontage lots, accessory antennas shall observe front yard requirements on both street frontages whenever there are any principal buildings fronting on the streets in the same block or adjacent blocks.

G. In all cases, an accessory antenna shall be anchored or fastened securely to the building or surface to which it is attached or upon which it rests.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-107. PARKING AND STORAGE OF CAMPERS, TRAILERS AND BOATS.**

A. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BOAT.*** A vessel used or capable of being used as a means of transportation on water.

***CAMPER (CAMPING TRAILER, TRUCK CAMPER).*** A vehicular portable temporary living quarters used for recreational camping or travel and of a size and weight that does not require a special

highway movement permit when drawn by a motor vehicle. May be classified as Class B on an industry wide basis.

***FOLDING TENT TRAILER.*** A folding structure, mounted on wheels for towing and designed for travel and vacation use.

***GOOD REPAIR.*** In a state that the ordinary user would find the unit habitable and fit for ordinary use.

***MAINTENANCE.*** Preservation from failure or decline.

***MOBILE HOME.*** A structure, transportable in one or more sections, that is built on a chassis and is designed to be used as a dwelling with or without a permanent foundation, when it is connected to the required utilities (plumbing, heating, air conditioning, electrical systems, water, sewer, septic) contained in the structure.

***MOTOR HOME.*** A motor vehicle constructed or altered to provide living quarters, including permanently installed cooking and sleeping facilities, which is used for recreation, camping or other noncommercial use. May be classified as Class A or Class C on an industry-wide basis.

***OTHER RECREATIONAL EQUIPMENT.*** Includes snowmobiles, jet skis, all terrain or special terrain vehicles, and utility trailers plus the normal equipment used to transport them on the highway.

***PICKUP CAMPER.*** A non-self-propelled recreational vehicle, without wheels for road use, that is designed to rest all of its weight upon and be attached to a motor vehicle; is primarily intended for use as temporary living quarters in connection with recreational, camping or travel purposes. Excludes truck covers or caps as long as the cover or cap does not allow the pickup to be used as a dwelling. May be classified as Class B on an industry-wide basis.

***RECREATIONAL VEHICLE.*** A new or used vehicle that has its own motive power or is towed by a motor vehicle; is primarily designed to provide temporary living quarters for recreation, camping, travel or seasonal use; does not require a special highway movement permit.

***SNOWMOBILES.*** Any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes self-type runners or skis, an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated.

***TRAILER.*** Every vehicle with or without motive power designed for carrying property or persons and for being drawn by a motor vehicle, constructed so that no part of its weight rests upon the towing vehicle. Excludes pole-trailers or implements of husbandry.

***TRAVEL TRAILER.*** A vehicular portable structure mounted on wheels and of a size and weight that does not require a special highway movement permit when drawn by a stock passenger

automobile or when drawn with a fifth wheel mounted on a motor vehicle, primarily designed, constructed and used to provide temporary living quarters for recreational camping or travel. May be classified as Class B on an industry-wide basis.

B. *General provisions.*

1. This division includes units that are similar in nature and use as those defined above.
2. All units subject to this section must be:
  - a. Properly registered and licensed;
  - b. For personal use only;
  - c. Kept in good running condition to allow immediate movement from place to place at the time a request to move is made;
  - d. Kept locked and secured at all times, to prevent vandalism or entry by children or trespassers;
  - e. Covered with a tarpaulin or canvas that is not tattered or ripped, to prevent vandalism or entry by children or trespassers;
  - f. Parked or stored in the rear or side yard;
  - g. In compliance with front, side and rear-yard setbacks; and
  - h. In compliance with Section 25-4 C (Nuisances).
3. All units subject to this section are included in the calculation to determine the 35% maximum permitted lot coverage.
4. One unit may be parked in a driveway that is a minimum of 25 feet from the city right-of-way.
5. For the purpose of loading and unloading, a unit subject to this section may be parked at a residence and connected to electricity or water for a maximum of 72 hours.
6. For the purpose of maintenance, a unit subject to this section may be parked at a residence for a maximum of 72 hours.
7. In order to park or store a unit subject to this section, the real property owner or lessee of the real property owner must also be the registered owner of the unit.

8. The exteriors of all units subject to this section must be kept in good repair.

*C. Prohibitions.*

1. Mobile homes must not be parked or stored outside of a mobile home park or the lot of a dealer who, in the ordinary course of business, sells mobile homes.
2. All units or a combination of units subject to this section must not:
  - a. Be used or occupied for sleeping or dwelling while parked or stored;
  - b. Parked in a yard that is directly in front of a residence;
  - c. Connected to electricity, water, gas or sanitary sewer facilities;
3. All units subject to this section must not be parked or stored to create a vision obstruction for vehicles or pedestrian traffic.
4. Maintenance of units subject to this section:
  - a. Must not create excessive noise, vibration, odor or other nuisance to neighbors;
  - b. Must not release hazardous or toxic chemicals into the environment; and
  - c. Is restricted to one unit at a time.
  - d. Winterization, oil changes, brake repairs, flushing of systems (such as but not limited to: refrigerant, gray water, dark water), or removal of winterization is prohibited.

*D. Violations and penalties.*

1. Any person who violates any provision of this section is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$250, plus costs and other sanctions, for each violation.
2. Repeat offenses shall be subject to increased fines as provided by code, except that the increased fine for a repeat offense shall be as follows.
  - a. The fine for any offense which is a first repeat offense shall be not less than \$500, plus costs and other sanctions.

b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$1,000, plus costs and other sanctions.  
(Ord. eff. 7-12-1985; Ord. 318, adopted 11-12-2001; Ord. 366, adopted 10-13-2014)

**Sec. 53-108. AUTOMOBILE SERVICE STATIONS AND PUBLIC GARAGES.**

All automobile service stations erected after the effective date of this chapter shall comply with all requirements of this section. No automobile service station existing on the effective date of this chapter shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this section than existed on the effective date of this chapter.

A. An automobile service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than 40 feet from any street lot line.

B. All driveways providing ingress or egress from an automobile service station shall be not more than 30 feet wide at the property line. No more than one curb opening shall be permitted for each 50 feet of frontage or major fraction thereof along any street and no more than two curb openings are permitted on any street. No driveway or curb opening shall be located nearer than 20 feet to any corner or adjoining property lot line, as measured along the property line.

C. A raised curb six inches in height shall be erected along all street lot lines, except for driveway openings.

D. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists, shall be enclosed entirely within a building.





E. All gasoline pumps shall be located not less than 15 feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.

F. Where an automobile service station adjoins property located in any residential zone, a masonry wall five feet in height shall be erected and maintained along the service station property line. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall.

G. All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.

H. 1. When a structure designed and used for automobile service station or filling station purposes ceases to operate on a continuing basis for a period of 180 consecutive days, the owner of the premises shall be served written notice by the Building Inspector of the requirement within 60 days of the date of the notice, to either:

- a. Resume operation of the premises on a continuing basis as a lawful automobile service station or filling station;
- b. Lawfully convert the structure to another permitted use in that district;
- c. Demolish the structure and completely remove the debris from the premises; or
- d. Demonstrate evidence to the City Council that aggressive marketing efforts are being pursued so that either divisions H.1.a. or b. can be met.

2. The evidence must be demonstrated every 60 days after having been served the written notice. In all cases, an abandoned or vacant automobile service or gasoline filling station shall be maintained in accordance with this section.

I. An abandoned automobile service or filling station may be converted to a principal permitted use in the district in which the station is located; provided, the following conditions are met.

1. The use shall not be out of architectural harmony with the surrounding neighborhood by reason of its character or quality of development.

2. All gasoline pumps and signs shall be removed and underground gasoline storage tanks shall be abandoned in conformance with prescribed city and state fire safety provisions.

3. All buildings shall meet all applicable requirements of the City Building Code for safety and structural condition.

4. There shall be adequate off-street parking provided in accordance with this code.

5. No outside storage areas shall be permitted.

6. The use shall meet all area, height, bulk and placement requirements of the district in which the use is located in accordance with this code.

7. The use shall comply with all other requirements of the applicable district unless otherwise provided in this chapter.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-109. MAINTENANCE OF VACANT OR ABANDONED BUILDINGS.**

All vacant or abandoned buildings shall be maintained in accordance with the following requirements.

A. All building exteriors shall be secured and continuously maintained to prevent vandalism.

B. No outdoor storage shall be permitted on the site.

C. All sites shall be cleaned of debris and maintained in a condition so as to not cause a threat to health, safety and welfare of the city, the immediate neighborhood and adjacent land uses.

D. For commercial and industrial land uses which have ceased operation on a continuing basis for a period of 180 days, all identification signs shall be removed within 60 days of notice receipt.

E. For automobile service or gasoline filling stations which have ceased to operate on a continuing basis for a period of 180 consecutive days, all signs, pumps, pump islands, grease and oil storage areas shall be removed within 60 days of notice receipt. In addition, the site shall be thoroughly cleaned of all oil and grease deposits.

F. Maintenance of all vacant and abandoned buildings shall comply with all applicable state and local ordinances.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-110. RESTORING UNSAFE BUILDINGS.**

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector or required compliance with his or her lawful order, except as provided in this code.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-111. DRIVE-IN ESTABLISHMENTS.**

A. When a drive-in establishment adjoins property located in any residential district, an ornamental masonry wall, five feet in height shall be erected and maintained along the interior line or if separated from the residential zone by an alley, then along the alley lot line. In addition, all outside trash areas shall be enclosed by the five-foot masonry wall. The wall shall be protected from possible damage inflicted by vehicles using the parking area by means of pre-cast concrete wheel stops at least six inches in height or by firmly implanted bumper guards not attached to the wall or by other suitable barriers.

B. The entire parking area shall be paved with a permanent surface of concrete or asphaltic cement. Any unpaved area of the site shall be landscaped with lawn or other horticultural materials, maintained in a neat and orderly fashion at all times and separated from the paved area by a raised curb or other equivalent barrier.

C. Lighting shall be installed in a manner which will not create a driving hazard on abutting streets or which will not cause direct illumination on adjacent residential properties.

D. Before approval is given for any use, a site plan shall be first submitted to the Planning Commission for review as to suitability of location of entrances and exits to the site, parking area, screening, lighting and other design features.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-112. BUILDING GRADES.**

A. Any building requiring yard space shall be located at an elevation that a sloping grade shall be maintained to cause the flow of water to run away from the walls of the structures thereon. The balance of yard spaces shall be graded and adequate drainage provided where necessary to deflect proper drainage of surface waters from the premises.

B. When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building and the yard around the new building shall be graded in a manner as to meet existing grades.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-113. BUILDINGS TO BE MOVED.**

Any building or structure which has been wholly or partially erected on any premises within or outside the city shall not be moved to and/or placed upon any premises in the city unless a building permit for the building or structure shall have been secured. Any building or structure shall fully conform to all the provisions of this chapter in the same manner as a new building or structure.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-114. EXCAVATIONS OR HOLES.**

The construction, maintenance or existence within the city of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells or of any excavations, holes or pits which constitute or are reasonably likely to constitute a danger or menace to public health, safety or welfare, are prohibited; provided, however, this section shall not prevent any excavation under a permit issued pursuant to this chapter or the Building Code of the city where the excavations are properly protected and warning signs posted in a manner as may be approved by the Building Inspector.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-115. EXCAVATION, REMOVAL AND FILLING OF LAND.**

The use of land for the excavation, removal, mixing, crushing, filling, or depositing of any type of earth material, sand, topsoil, clay, aggregates, stones, gravel, or rock is not permitted in any zoning district, except under a permit or approval granted by the authority of this chapter or other city ordinance. This regulation does not apply to normal soil removal or fill for basement or foundation work when a building permit has previously been duly issued within the same calendar year by the Building Inspector for such basement or foundation or for minor earth material removal or fill of less than 300 cubic yards in total. Minor earth material removal or fill may include, but is not limited to, work related to the installation of a pool or hot tub, driveway, street, swale, drainage ditch, or pond. This regulation shall also exclude those excavations or fill required or directed by a federal or state agency to provide for flood mitigation or removal of contaminated soils. No property shall be filled or graded so as to cause or increase a discharge of surface water run-off onto abutting properties or properties within 500 feet in such a manner that will cause flooding, inconvenience or damage to adjacent properties or properties within 500 feet and shall generally maintain existing drainage courses. No property shall have fill deposited which exceeds 300 cubic yards in total without a permit or approval pursuant to a city ordinance. When property is developed or modified, existing grades on adjacent property shall have favored status.

(Ord. 188, eff. 2-25-1981; Ord. 387, passed 11-9-2020)

**Sec. 53-116. CONSTRUCTION BEGUN PRIOR TO ADOPTION OF ORDINANCE.**

Nothing in this chapter shall be deemed to require any change in the plans, construction or design use of any building upon which actual construction was lawfully begun prior to the adoption of this chapter and upon which building actual construction has been diligently carried on; and, provided further that, the building shall be completed within two years from the date of passage of this chapter.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-117. VOTING PLACE.**

The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with municipal or other public election.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-118. APPROVAL OF PLATS.**

No proposed plat of a new subdivision shall hereafter be approved by either the City Council or the City Planning Commission unless the lots within the plat equals or exceeds the minimum size and width requirements set forth in the various districts of this chapter and unless the plat fully conforms with the statutes of the state and all other provisions of this code.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-119. ESSENTIAL SERVICES.**

The City Council shall have the power to permit the location in any use district of a public utility building, structure or use, if the Council shall find the use, building or structure or use are designed, erected and landscaped to conform harmoniously with the general architecture and character of the district.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-120. SIGNS.**

A building permit shall be required for the erection, construction or alteration of any sign, except as hereinafter provided, and all signs shall be approved by the Building Inspector as to compliance with the requirements of the Zoning District wherein the sign or signs are to be located and with the requirements of Chapter 51 of this code.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-121. RADIO, TELEVISION TOWERS.**

All commercial radio, television and other transmitting or relay antenna towers shall be permitted in any commercial or industrial district which abuts upon a major commercial or industrial thoroughfare. The setbacks for the towers from all abutting streets or adjacent property shall be a distance equal to the height of the tower. The structural plans must be approved by the Building Inspector.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-122. OPEN AIR BUSINESS USES.**

Open air business uses, where permitted in a C-2 or I District, shall be subject to the following regulations.

- A. The minimum area of the site shall be 10,000 square feet.
- B. The minimum street frontage shall be 100 feet.

C. There shall be provided around all sides of the site, except at entrances, exits and along sides of premises enclosed by buildings, a fence or wall five feet in height in order to intercept wind-blown trash and other debris.

D. Lighting shall be installed in a manner which will not create a driving hazard on abutting streets or cast direct illumination on adjacent properties.

E. All open air business uses shall comply with all city and county health regulations regarding sanitation and general health conditions.

(Ord. 188, eff. 2-25-1981; Ord. 379, passed 4-9-2018)

### **Sec. 53-123. HISTORICAL DESIGNATION.**

The City Planning Commission and City Council may designate certain properties or structures as “historical structures or properties”. The occupation of these structures or properties for uses other than those permitted in the zoning district in which it lies may be permitted after a public hearing by the City Planning Commission and approval of the City Council. Treatment of properties in officially established historical districts shall be in conformance with the city’s historical preservation ordinance.

(Ord. 188, eff. 2-25-1981)

### **Sec. 53-124. MINIMUM LANDSCAPING REGULATIONS AND STANDARDS.**

Whenever required as part of the site plan approval process (§ 53-128), a landscaping plan shall be prepared and implemented in accordance with the following requirements.

A. 1. For multiple-family uses and nonresidential uses in residential districts, the following percentages of the total site shall be in functional open space:

Garden apartments	20%
Housing for the elderly	30%
Mixed residential developments	30%
Nonresidential uses	30%
Townhouse developments	25%

2. The open space shall be landscaped with one tree or shrub for every 1,000 square feet or portion thereof, plus one tree for every 1,500 square feet or portion thereof not covered by a building or by required parking. (Plant materials existing on the site prior to development may be included as part of the requirement.) Ground cover is required in all landscape areas.

B. For nonresidential uses in nonresidential districts, a minimum of 15% of the total lot area in landscaping, one tree or shrub for every 1,000 square feet or portion thereof, plus one tree for every 1,500 square feet of landscaped area or portion thereof shall be required. (Plant materials existing on the site prior to the development may be included as part of the requirement.) Ground cover is required in all landscape areas. Landscaping of adjacent right-of-way area shall be included in satisfying the minimum on-site requirement if it is maintained by the adjacent property owner. A minimum of 33% of required landscape area shall be located between any building and the street.

C. All areas shall be landscaped and shall meet the following standards.

1. No synthetic plant materials such as artificial grass, shrubs, trees or flowers shall be used to fulfill any landscaping requirements.

2. Berms, whenever utilized shall be designed and landscaped to minimize erosion. Berms adjacent to public rights-of-way shall have a slope no greater than three to one, unless designed as part of a retaining wall.

3. All landscaping materials shall consist of healthy specimens compatible with local climate, soil characteristics, drainage and water supply. All plant material shall be reasonably resistant to drought and disease. Non-nursery derived stock shall not be used to satisfy these requirements.

4. Grass or other living plants shall be the primary ground cover in required landscaped areas. Both sod planting and seeding are acceptable.

5. Ground covers other than grass shall be planted in required areas to provide complete coverage within two growing seasons. Vines shall not be used adjacent to pedestrian areas.

6. Materials such as river rock, cobble, boulders, paving stone, patterned concrete, bark and wood chips shall be limited to small areas and shall not exceed 25% of the required landscape area. All ground covers shall be at least six inches deep. Loose gravel less than three-inch minimum aggregate size shall not be used in areas abutting public streets or sidewalks.

D. Maintenance shall include all reasonable and regular irrigation, weeding, fertilizing and pruning. Plant materials which show signs of insect pests, diseases and/or damage shall be appropriately treated. Dead plant material shall be replaced immediately or as soon as practical under the seasonal conditions existing and according to the approved site plan. The developer and subsequent owner(s) shall be responsible for maintaining all on-site landscaping.

E. The city maintains a list of recommended and preferred trees for installation on private sites. These species were selected by the Parks and Trees Commission because of their aesthetic quality and climate compatibility. Developers are encouraged to select trees from the list.

F. Minimum planting sizes for required landscaping shall be as follows:

1. Large deciduous trees (over 30-foot mature height): 2M caliper measured 6M above ground;
2. Small deciduous trees (under 30-foot mature height, generally ornamental and flowering trees): one and one-half feet caliper measured six inches above ground;
3. Evergreen trees: four feet in height;
4. Shrubs: three-gallon container. Generally, deciduous shrubs will be 18 inches high. Spreading shrubs will have a 15 inches and 18 inches spread;
5. Ground covers (except vines): two and one-fourth inches to four inches;
6. Vines: up to one-gallon container; and
7. Plant material in addition to required quantities is not subject to size requirements.

G. Landscaping shall not interfere with public safety and shall not interfere with the safe movement of motor vehicles, bicycles or pedestrians. Planting shall be restricted in certain areas as follows.

1. In order to preserve sight distance, an unobstructed view shall be maintained within these triangular areas:

a. At the intersection of two streets or where a street intersects with an alley: a triangle defined by measuring 25 feet in length along each curb or edge of roadway from their point of intersection, the third side being a diagonal line connecting the first two. The city may require a greater distance in certain high volume or high speed traffic intersections.

b. At the intersection of a driveway and a street: two sides of the triangle defined by measuring 15 feet in length along the edge of the driveway and along the curb or edge of roadway line from their point of intersection, the third side being a diagonal line connecting the first two. No shrubs, ground covers, boulders, berms, fences or other material constituting visual obstructions shall exceed a height of 30 inches above the grade of the lower roadway within the triangular areas.

2. Landscape materials shall not obstruct the operation and maintenance of fire hydrants and electric facilities.

H. On projects in excess of three acres, the developer may file a phased plan for completing the landscaping pursuant to these standards. All phases must be completed within three years of approval. (Ord. 188, eff. 2-25-1981)



**Sec. 53-125. FENCES, WALLS AND OTHER PROTECTIVE BARRIERS.**

Fences may be constructed in the city in accordance with the following requirements.

A. No electrically charged fences are permitted.

B. No barbed wire or other material having jagged or cutting edges shall be used in connection with the construction of any fence in any residentially zoned area.

C. In nonresidential zones, barbed wire or other pointed materials may be used; provided, the material is over seven feet above the ground and any projections at the top shall be over the fence owner's property and shall not overhang onto abutting properties.

D. In residentially zoned areas, only decorative or ornamental fences not exceeding 48 inches in height may be permitted in required front yards. Decorative or ornamental fences may include wrought iron, split rail, picket, board on board, cyclone, planting screen or masonry wall. In no residentially zoned area shall any solid fence, wall or planting screen greater than 30 inches in height as measured from grade, be located within a triangular section of land formed by two 15-foot perpendicular lines intersecting at the driveway and street pavement point and a connecting line (see attachment "A").

E. In residentially zoned areas, a fence or wall shall not exceed six feet in height on rear or side property lines or in rear or side yards.

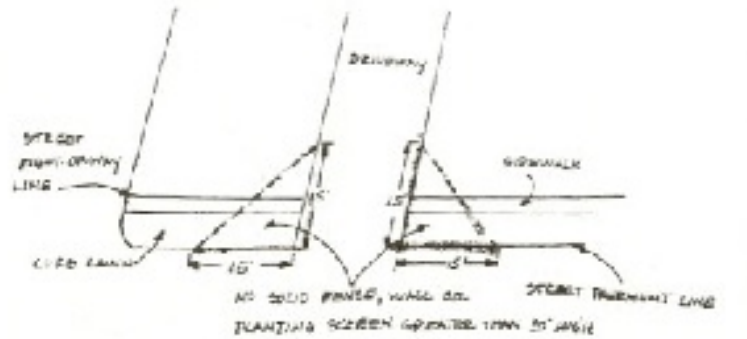
F. All fences erected by individual property owners must be located on his or her property.

G. All fences shall be maintained in a good condition so that they do not result in an unreasonable hazard to persons who might come near them.

H. No fence, wall or planting screen shall be erected, established or maintained on any corner lot which obstructs the view of a driver of a vehicle approaching an intersection.

I. Persons seeking to install fences greater than the specified permitted height must seek a variance from the Board of Zoning Appeals.

J. Fences constructed of wood or other material having one side designed and considered the decorative side shall be erected with the side facing the adjoining street or abutting property owner's premises.



(Ord. 188, eff. 2-25-1981)

### Sec. 53-126. INCINERATORS AND TRASH CONTAINERS.

All commercial buildings constructed after the passage of this chapter shall have incinerator facilities subject to all city, county and state health regulations. Outside trash containers shall be permitted in the R-2, R-MH, C-1, C-2, CBD, CS, and I Districts; provided that, they comply with the following requirements.

A. Adequate vehicular access shall be provided to the containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.

B. A solid ornamental screening wall or fence shall be provided around all sides of trash containers which shall be provided with a gate for access and be of the height as to completely screen the containers, the maximum height of which shall not exceed six feet.

C. The trash container(s), the screening wall or fence and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, waste paper or other debris. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.

D. The trash container(s) shall not be located closer than five feet to any lot line of adjacent residentially zoned property.

(Ord. 188, eff. 2-25-1981; Ord. 379, passed 4-9-2018)

**Sec. 53-127. DWELLING UNIT CONVERSIONS.**

The provisions of this section allows for the possibility of converting a single-family dwelling (within an existing structure) to a two- or three-family dwelling in the R-1A, R-1D and R-1C Districts; provided that, the conversion be in conformance with the standards and procedures set forth herein.

A. *“Dwelling unit conversion” defined.* A **DWELLING UNIT CONVERSION** is defined as the process in which the owner of a single-family dwelling located in an R-1A, R-1D and R-1C District may apply for conversion of the dwelling into a greater number of dwelling units than existed in the dwelling prior to conversion. Consideration of the application shall be in accordance with the procedures and standards set forth herein.

B. *Application, filing procedure and fee.* The owners of a single-family dwelling located in R-1A, R-1B and R-1C Zoning Districts who wish to convert their existing single- or two-family dwelling into an additional dwelling unit(s) shall make an application on a form prescribed by the City Council with the City Clerk not less than one week (seven days) before the next regularly scheduled Planning Commission meeting. The application shall include a site plan with front and side elevations in conformance with the requirements of § 53-128. A separate application shall be required for each structure petitioned for dwelling unit conversion and each application shall be accompanied by a fee of \$50, no part of which shall be refunded.

C. *Application of review procedure.*

1. Upon receipt of the application and site plan, the City Clerk shall transmit copies of the application and site plan to the Planning Commission and other individuals and departments as specified in § 53-128, for comment and recommendation, which comments and recommendations shall be forwarded to the City Clerk within 30 days of receipt of the plans.

2. Upon receipt of comments and recommendations from the Planning Commission and other contributing departments or individuals, the City Clerk shall schedule a public hearing on the application before the Zoning Board of Appeals at its next regularly scheduled meeting; provided that, the notice requirements required herein cannot be complied with, the hearing shall be scheduled no later than the second regularly scheduled meeting thereafter.

D. *Notice requirement for public hearing.* Once notice that an application for a dwelling unit conversion has been filed 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 property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet; except that, the notice shall be given not less than five and not more than 15 days before the application will be considered by the Zoning Board of Appeals. The notice shall:

1. Describe the nature of the dwelling unit conversion request;

2. Indicate the property which is the subject of the dwelling unit conversion request;
3. State when and where the dwelling unit conversion request will be considered; and
4. Indicate when and where written comments will be received concerning the request.

E. *Review power of Zoning Board of Appeals.* The Zoning Board of Appeals may deny, approve or approve with conditions, requests for dwelling unit conversion approval. The decision on the dwelling unit conversion shall be incorporated in a statement of conclusions relative to the dwelling unit conversion under consideration. The decision shall specify the basis for the decision and any conditions imposed. Consideration of the application by the Zoning Board of Appeals shall be based upon conformance with the standards set forth herein. The Zoning Board of Appeals shall render a decision within 30 days after the public hearing required above.

F. *Review.* All applications for dwelling unit conversion as provided herein, shall be reviewed on the basis of whether or not the application and proposed use conform with the following standards:

1. The conversion will not be detrimental to the neighborhood;
2. The proposed conversion shall add no more than two apartments to the existing dwelling and the maximum number of bedrooms per additional dwelling unit shall not exceed two and result in no more than three units maximum;
3. Conversion of any dwelling unit will not result in leaving a dwelling unit whose minimum gross floor area per unit is less than 500 square feet for an efficiency unit, 600 square feet for a one-bedroom unit and 750 square feet for a two-bedroom unit;
4. One of the dwelling units must be occupied by the owner who agrees that all construction and maintenance of the structure and all dwelling units therein and maintenance of the grounds will be in accordance with and conform to all city construction codes, including, but not limited to, the Building Code, Electrical Code, Plumbing Code, Mechanical Code and Housing Code;
5. Each dwelling unit shall be self-contained consisting of complete lavatory and kitchen facilities and a separate living area;
6. Each dwelling unit shall provide adequate light and ventilation pursuant to the Housing Code;
7. Stairways leading to the second or any higher floor shall be located within the walls of the building wherever practical and stairways and fire escapes shall otherwise be located on the rear wall in preference to either side wall and in no case on a front wall or side wall facing a street;

8. Except as may be necessary for purposes of safety in accordance with the preceding paragraph, there shall be no major structural change in the exterior of the building in connection with the conversion and after conversion the building shall retain substantially the same structural appearance it had before the conversion; and

9. There shall be provided two parking spaces per dwelling unit. The location of the off-street parking spaces shall be consistent and compatible with existing off-street parking in the neighborhood. Where possible, parking should be enclosed or screened from view from any public street. In no case shall an application be approved where parking is intended to be located in the front yard of any dwelling unit for which conversion has been applied for.

G. *Building permit and certificate of occupancy.* If the application is approved, the applicant shall obtain a building permit from the city prior to the construction associated with the conversion. After all construction or reconstruction has been completed, the applicant shall obtain a certificate of occupancy prior to the rental or use of the additional dwelling units. Failure to comply with the provisions of this section will constitute a violation of this chapter for the city and subject the offender to penalties defined in § 53-203.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-128. SITE PLAN REVIEW.**

Before issuance of a building permit for permitted uses and special approval uses in the R-2, RMH, C-1, C-2, CBD, CS, and I Districts and for special approval uses in the R-1A, R-1B and R-1C Districts, a site plan shall be provided. A site plan is also required when a petitioner seeks a variance to this chapter, the procedure for which is outlined in Article XX. In all cases, pertinent information is requested on a site plan so that proper decisions can be made as to the project's ability to meet the standards of this chapter and the objectives of the city's Comprehensive Planning Program.

A. Site plans shall be reviewed and approved in accordance with the following process.

1. A site plan for a special land use shall be subject to review and approval by the City Council after receiving a recommendation from the City Planning Commission in accordance with the provisions of this section. A site plan for a use permitted by right shall be approved administratively by the City Manager or designee or by the Planning Commission, consistent with the regulation and standards set forth in this section.

2. Two hard copies of the site plan, plus one electronic copy, including all items required to be incorporated in a site plan shall be submitted to the City Manager's office 14 days before a regularly scheduled Planning Commission meeting. The City Manager shall then transmit copies of the site plan to the Planning Commission and to other departments and/or bodies as considered appropriate by the City Manager for review and comment. Departments or bodies receiving a site plan for review shall forward written comments to the City Manager within the ten days of receipt of the plan, in order that the

reviewing body may review the comments before its regularly scheduled meeting. As applicable, the Planning Commission shall forward its recommendation to the City Council within 30 days of its receipt of the site plan. The City Council shall receive the recommendation from the Planning Commission, departments and other bodies, at its next regularly scheduled meeting and shall take action within 45 days of having received the site plan.

3. An approved site plan shall regulate the development on the site unless modified in the same manner as the plans were originally approved; provided, however, that, incidental or minor variations of the approved site plan shall not invalidate prior site plan approval; provided that, the variations have first been revised and written approval received for the variations from the Building Inspector and City Manager.

4. The building permit may be revoked by either the Building Inspector or the City Manager in any case where the conditions of the permit have not been or are not being complied with. The building permit shall not be reinstated until the permittee complies with the conditions of the original permit or as otherwise provided by law. Upon receiving notice of revocation of the building permit, the permittee shall be entitled to a hearing before the City Council at the next regularly scheduled Council meeting at which time the City Council shall review the basis of the revocation and either affirm or rescind the action of the Building Inspector or City Manager.

B. The following information shall accompany all plans submitted for review:

1. A legal description of the property under consideration;

2. A map indicating the gross land area of the development, the present zoning classification thereof and the zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements; and

3. The names and addresses of the architect, planner, designer or engineer responsible for the preparation of the site plan.

C. The following information shall be included on the site plan:

1. A scale of not less than one inch equals 40 feet, if the subject property is less than three acres and one inch equals 100 feet, if it is three acres or more;

2. Date, north point and scale;

3. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties;

4. The siting of all structures on the subject property and abutting properties;

5. The location of each proposed structure in the development area, the use or uses to be contained therein, the number of stories, gross building areas, distances between structures and lot lines, setback lines and approximate location of vehicular entrances and loading points;
6. The location of all existing and proposed drives and parking areas with the number of parking and/or loading spaces provided;
7. All pedestrian walks, malls or open areas;
8. Location and height of all walls, fences and screen planting, including a general plan for the landscaping of the development and the method by which landscaping is to be accomplished and be maintained; (Plant materials shall be chosen and installed in accordance with § 53-124.)
9. The location and right-of-way widths of all abutting streets;
10. Types of surfacing such as paving, turfing or gravel to be used at the various locations;
11. A grading plan with topographic elevation of at a minimum of two-foot contours in the area, showing method of storm drainage into the city storm sewer system through catch basins, of addressing the storm drainage on-site through retention or detention ponds;
12. Size and location of proposed sewer and water lines and connections;
13. The number of proposed units for multiple-family developments;
14. Significant environmental features such as wetlands, streams, woodlots, existing trees and vegetation; and
15. Information as may be required by the City Manager, the Planning Commission and City Council to assist in the consideration of the proposed development.

D. In order that building, open space and landscaping will be in harmony with other structures and improvements in the area and to assure that no undesirable health, safety, noise and traffic conditions will result from the development, the reviewing body shall determine whether the site plan meets the following criteria, unless the reviewing body determines that one or more of the criteria are inapplicable:

1. The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment;
2. Pedestrian walkways shall be provided as deemed necessary by the Planning Commission for separating pedestrian and vehicular traffic;
3. Recreation and open space areas shall be provided in all multiple-family residential developments;

4. The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in the Zoning Chapter, unless otherwise provided;

5. The requirements for fencing, walks and other protective barriers shall be complied with as provided in this chapter and as deemed appropriate by the Planning Commission;

6. The site plan shall provide for adequate on-site storage space for the proposed uses;

7. Security measures shall be provided as deemed necessary by the Police Chief for resident protection in all multiple-family residential developments;

8. Fire protection measures shall be provided as deemed necessary by the Fire Chief in conformance with all applicable laws of the state for the protection of residents and/or occupants of the structures; and

9. The site plan shall comply with all requirements of the applicable zoning district, unless otherwise provided.

E. The site plan shall be reviewed by the City Planning Commission and other appropriate bodies for recommendations on any conditions or changes that may be attached to the site plan.

F. The reviewing body shall have the authority to request additional professional review from the City Attorney, engineering consultant and/or planning consultant and the permittee shall be responsible for any and all charges incurred there for.

G. The building permit may be revoked in any case where the conditions of the permit have not been or are not being complied with, in which case the City Council shall give the permittee notice of intention to revoke the permit at least ten days prior to review of the permit by the City Council. After conclusions of the review the City Council may revoke the permit if it feels that a violation in fact exists and has not been remedied prior to the hearing.

H. Three copies of an approved site plan, with or without changes and/or conditions, shall contain the signatures of the City Manager and the applicant. One copy of the signed plan shall be kept on file in the city, one given to the Building Inspector and one returned to the applicant.

I. 1. *Site change.* Any structure, use, field change or other amendment to the approved final site plan approval must be reviewed and approved by the appropriate reviewing body.

2. *Phase construction.* Where phases or staged construction is contemplated for the development of a project, the site plan submitted must show the interrelationship of the proposed project to the future stages, including the following:

a. Relationship and identification of future structures;



- b. Pedestrian and vehicular circulation;
- c. Time schedule for completion of the various phases of the proposed construction; and
- d. Temporary facilities or construction of same as required to facilitate the stated development.

J. Administrative short form.

1. The City Council shall be responsible to review and approve all site plans associated with special land use requests consistent with the provisions of this section.

2. Except as otherwise provided in this division, the Planning Commission shall be responsible to approve all site plan reviews required under this chapter.

3. To facilitate an expedited review and approval of minor developments as set forth herein, the City Manager or designee shall be responsible to review and approve site plans otherwise required for the following:

- a. An increase or decrease in existing floor space of 10% or less;
- b. Signage;
- c. Fencing;
- d. Accessory buildings;
- e. Changes in the type of finished surface of walks, roads, drives, parking lots and loading areas, all of which require paving;
- f. Changes in the species of required trees, shrubs and ground covers to be used on the site plan;
- g. Changes in the height of buildings or structures which increase their height by less than 10%; and
- h. Increasing the length or height of walls, fencing or screening by 10% or less.

4. The City Manager or designee is authorized to refer a matter otherwise delegated to the Planning Commission and to solicit the opinion of department heads with regard to any question regarding the site plan review or of the impact of the proposed construction or alteration of the structure(s) on adjacent properties. The City Manager or designee may further waive the data submission requirements of this section and accept a site plan with the following limited information:

- a. A legal description of the subject property;

- b. A description of the land uses surrounding the project;
- c. Date, north point and scale;
- d. The dimensions of all lot and property lines;
- e. The siting of all structures on the subject property;
- f. Significant environmental features such as wetlands, trees, bodies of water, and;
- g. A description of the proposed project.

(Ord. 188, eff. 2-25-1981; Ord. 379, passed 4-9-2018; Ord. 385, passed 11-11-2019)

#### **Sec. 53-129. BED AND BREAKFAST FACILITIES.**

The provisions of this section allow larger, older houses, particularly those within established historical districts, to convert to bed and breakfast facilities; provided that, the following conditions are met.

- A. The minimum lot size shall be 7,500 square feet with a minimum frontage of 60 feet on a public street.
- B. A residence shall not have or be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this amendment.
- C. The minimum size of rental room shall be: one person: 90 square feet; two persons: 120 square feet; three or more persons: 50 square feet per person.
- D. The minimum size for manager/owner living quarters shall be 450 square feet, excluding common areas and areas devoted to kitchen and baths.
- E. A common room or area for relaxation of guests is required. For those facilities which are not owner occupied, a manager must reside on the premises and have an equity interest in the facility.
- F. One off-street parking space shall be provided for each rental room in addition to the two off-street spaces required for single-family dwellings. Parking shall be adequately screened from adjacent residentially developed or zoned property.
- G. Bathrooms must be furnished for guest rooms at a ratio of not less than one bathroom (minimum three-fourths bath) per four rental rooms.
- H. The premises (including corner lots) may be permitted one advertising sign not exceeding six square feet in area.

I. Approval by the Building Inspector is required prior to occupancy of the facility. Thereafter, the Building Inspector shall conduct an annual compliance inspection.

J. The operation shall be in compliance with all applicable state, county and local regulations, including the city's Minimum Housing Code.

K. The maximum stay at a bed and breakfast facility shall be 30 continuous days.

L. A site plan shall be submitted in accordance with § 53-128.

M. The use of the facility shall not, in the judgment of the City Planning Commission and the City Council, be detrimental to adjacent land uses and the immediate neighborhood. If for any reason the bed and breakfast facility ceases operation for a period of six continuous months, the facility shall revert back to its original use.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-130. SPECIAL APPROVAL USE PROCEDURE, SPECIAL APPROVAL USE PERMITS.**

In order that this chapter be flexible and reasonable, special approval uses are provided for in various zoning districts and require special approval use permits granted by the City Council after the body has received a written recommendation from the City Planning Commission. Conformance to special approval use standards is required in addition to all other requirements of this chapter. All uses are declared to possess characteristics of the unique and distinct form that each specific use shall be considered on an individual case. The granting of a special use permit does not negate the requirements for any other required permit(s).

A. *Standards for the consideration of special approval uses.* The review of a special approval use shall consider the following:

1. The general safety, health and welfare of the community-at-large; this shall include:
  - a. Accessibility of the property in question to fire and police protection;
  - b. Traffic conditions, creating or adding to a hazardous situation;
  - c. Transportation design requirements, if any, which will be needed to accommodate any traffic impact for the use intended; and
  - d. Appropriateness of the location, nature and height of the proposed use to the size, type and kind of buildings, uses and structures in the vicinity and adjacent properties, including the safety and convenience of people therefrom.

2. Any potential decrease in the market value of adjacent buildings, uses and structures which are permitted by right under current zoning, if the proposed use is granted;

3. Harmony with the Land Use Planning Program of the city. This considers whether the location and size of the proposed use, the nature and intensity of the activities involved, the size of the site with respect to existing and future streets (giving access to it), parks and drainage systems will be in harmony with the Land Use Plan of the city and the character of land use which is intended by the Land Use Plan for the area or district in question;

4. Impact from the applicant's proposed use, its location and intensity and the height of its buildings, walls, fences and other structures upon the appropriate character of development intended for the area as deemed desirable by the city's Land Use Plan;

5. Any hazards arising from storage and use of inflammable fluids; and/or

6. The operations in connection with any special approval use shall not be environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration or lights to an extent which is more than would be the operations of any use permitted by right for that district wherein the special use is proposed.

*B. Conditional approval.*

1. As a condition of granting a special approval use permit, the City Council may require that certain development precautions and remedies be taken by the applicant in order to satisfy the special approval use review standards and the site plan review standards set forth in this chapter; and which essentially are designed to protect the general health, safety and welfare, as well as to promote environmental preservation and nuisance abatement. Site development guidelines are provided in this chapter. They include, but are not limited to, drainage, soil erosion, planning and design of site, fencing, screening, buffer strips, landscaping, on-site lighting, signing and off-street parking. The measures must be incorporated by the applicant onto the site plan and maintained at all times.

2. Compliance with performance standards for certain uses enumerated in this chapter is required.

*C. Site plan approval required.* Site plan approval is required by the City Council for all special approval use permits after the Council receives a recommendation from the Planning Commission.

*D. Time constraints.* A special approval use permit shall be deemed to authorize only one particular special approval use and shall expire if the special approval use shall cease for more than 12 months for any reasons. Initial development must begin within the one-year extension granted by City Council. More stringent requirements may be imposed, if, in the judgment of the City Council, a 12-month discontinuance may have a negative impact on adjacent land uses.

E. *Existing violations.* No permit shall be issued for a special approval use for a property where there is an existing violation of this chapter (an unlawful nonconformity).

F. *Decisions in writing.* It is further provided that in granting or denying a special approval use permit, the City Council shall specify in the written decision the particular reason relied upon and its relation to the proposed use.

G. *Appeals.* Any and all appeals regarding a decision or condition imposed upon a special approval use application may be made to the Zoning Board of Appeals within 30 days from the date of decision or imposed condition.

H. *Application procedures for special approval permits by the City Council.* Prior to construction or physical development of a proposed special approval use, as specified by this chapter, an application for a special approval use permit must be obtained. An application for a special approval use permit must be made to the City Clerk.

1. Contents of application. Among the data to be supplied by the applicant and which shall constitute the application package, the following shall be included:

- a. Name and address of applicant or applicants and owner of record.
- b. Location, shape, area and dimension of the lot and of the proposed structure or improvement (shown on a site plan);
- c. Description of proposed use and of the building (dwelling, structure, barn, garage, etc.) or improvement;
- d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users;
- e. The yard, open space and location of parking space (as shown on a site plan); and
- f. A required site plan which must be approved before any granting of a special approval use permit.

2. A fee as set by the City Council and listed in the city's schedule of fees shall accompany any plans or applications in order to defray the cost of administration and inspection.

3. General procedural steps. Upon submission of an application for a special approval use permit;
  - a. The City Clerk:
    - (1) Reviews the application package:
      - (a) To make sure that it is the proper application for the zoning action requested;
      - (b) To see that all required information is submitted; and
      - (c) To make sure that the proposed use is permitted in a particular district by special approval use permit.
    - (2) Takes one or more of the following actions:
      - (a) Requests from the applicant that any omitted or pertinent and necessary information now be submitted;
      - (b) If necessary, seeks ordinance interpretation from the Board of Appeals;
      - (c) Makes advisory comments about the site plan based on site plan review standards;
      - (d) Forwards the complete application with comments to the City Planning Commission for review and recommendation; and/or
      - (e) Forwards site plan to various departments for technical review.
  - b. The Planning Commission:
    - (1) Reviews the site plan according to site plan review standards, as set forth in this chapter;
    - (2) Reviews the proposed special approval use according to standards for special approval use permits, as set forth in this chapter;
    - (3) Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by this chapter; and

(4) Give a public notice in a newspaper of general circulation of official receipt of an application for a special approval use permit which:

- (a) Describes the nature of the special approval use request;
- (b) Indicates the property in question;
- (c) States the time and place where the special use request will be considered;
- (d) Indicates when and where written comments will be received concerning the request; and
- (e) Indicates that a public hearing by the Planning Commission on the proposed special approval use is optional, but may be requested by any property owner or the occupant of any structure located within 300 feet of the boundary of the property being considered for a special approval use permit.

4. This notice is also mailed or delivered to property owners and occupants within 300 feet of the property in question. These notices must be made between five and 15 days before the date on which the application is to be considered. A record of mailing or delivery of notice must be maintained. All public input is considered and evaluated. A summary of the public comments should be retained for the record.

5. Advertises and holds a “public hearing”, but only if requested by the Planning Commission, the applicant or any owner of property (or the occupant of any structure) located within 300 feet of the boundary of the subject property. Proper notice of the public hearing shall be given in the same manner and content as described above in “public notice of receipt”; except that it shall be known as the “notice of public hearing” and further that this division is omitted.

I. *Planning Commission report and recommendation.*

1. After thoroughly evaluating all factors in the application, the Planning Commission shall make a recommendation to Council for one of the following actions:

- a. Approval;
- b. Approval with identified conditions; or
- c. Denial.

2. The recommendation shall be in writing and shall be submitted to Council within 45 days of having received the application.

J. *Final approval, denial or approval with conditions by Council to be in writing.*

1. The City Council shall consider the application in light of the Planning Commission's recommendations and make its decision within 30 days of having received the recommendation.

2. When an application for a special approval use permit is finally approved, denied or approved subject to conditions, the decision must be incorporated into an official written statement which contains the conclusions relative to the special approval use permit request. The decision shall specify the basis for the decision, any conditions which may be imposed in the case of approvals. When conditions are imposed, they must be reasonable and address the following criteria:

a. The proposed use will not adversely affect existing adjacent uses;

b. There will be no adverse affect upon public health, safety or general welfare and that it will not impair the intent of this chapter;

c. The conditions will be designed to protect natural resources, the health, safety and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole;

d. The conditions will be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity;

e. The conditions will be necessary to meeting the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards; and

f. The conditions imposed with respect to the approval of a special approval use shall be recorded in the record of the approval action and shall remain unchanged, except upon the mutual consent of the City Council and the landowner. The approving Council shall maintain a record of conditions which are changed.

K. *Inspection.* At least two site inspections by the Building Inspector must be held: one during development and one before the use or structure is occupied. If development is phased or in stages, then two inspections per phase or stage shall be made.

(Ord. 188, eff. 2-25-1981)



**Sec. 53-131. OUTDOOR DISPLAY OF MERCHANDISE.**

The provisions of this section allow outdoor display of merchandise in the C-1, C-2 and CBD zoning districts by retail businesses other than open air businesses; provided that:

A. Merchandise shall be limited to that normally sold by the business, including the sale of seasonal merchandise such as Christmas trees and seasonal produce;

B. In the case of sales of cut trees intended to be displayed during the Christmas season, all trees, poles, lights, wires or other items incidental to this use shall be removed from the premises by December 31;

C. Merchandise shall not be stored in any required yard space, landscaped areas or required off-street parking or loading area;

D. Merchandise displayed in the public right-of-way shall abut the building whenever possible and shall be located so as to leave a minimum of a six-foot unobstructed sidewalk width for the safe and convenient circulation of pedestrians;

E. Merchandise shall not be displayed beyond the hours of operation of the business without approval from the City Planning Commission and City Council;

F. Merchandise shall be for display only and not in a state of operation;

G. Merchandise shall not have sharp edges, open flames, barbed wire or otherwise represent a health and safety hazard to customers or passers-by;

H. A site plan showing the proposed location of the outdoor display area shall be submitted for review by the Planning Commission and approval by the City Council; and

I. There shall be no loose piles of mulch, wood chips, fertilizer, top soil, sand or landscaping stone, (other than that associated with a lawn and garden center). All materials shall be stored in bags and stacked in neat piles.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-132. OUTDOOR CAFÉS.**

Restaurants shall be permitted by special permit to operate outdoor cafés or eating areas, on frontage sidewalks (located between the front of the building and the roadway), including areas within the public right-of-way and in courtyards; provided that, pedestrian circulation and access to store entrances shall not be impaired.

A. *Permit required.* Any establishment in the city which is licensed to sell food for consumption may apply to the City Council by and through the City Clerk's office for a special permit to conduct a portion of the licensed business in a sidewalk café on a part of the public way immediately adjoining the licensed premises. The permit shall be valid for one year from the date of Council approval and renewable on an annual basis.

B. *Restrictions.*

1. Each permit issued for a sidewalk café shall be valid during the period from April 1 at to November 1 at of the calendar year the permit is issued.

2. Each permit issued pursuant to this article shall specify the area in which the café may be operated; provided that, no sale or service shall be permitted in any portion of the street designated for vehicular travel.

3. Permit procedure:

a. An applicant for a permit under this article shall file his or her application therefore with the City Council on forms provided by the City Clerk. A scaled diagram will be required to be submitted with information as requested on the application, including, but not limited to, the dimension of the sidewalk café area, position of tables, fixtures and anything else to be placed on the sidewalk and the width of the sidewalk remaining for pedestrian use. In the case of establishments holding licenses for on-sale liquor, this diagram will be considered an expansion of the previously designated premises for the sale of liquor.

b. The City Clerk shall also notify the Public Services Department, the Police Department and the County Health Department of the application and they shall each report to the City Clerk and make recommendations as they deem appropriate.

c. The recommendation of these departments, including the recommended minimum unobstructed sidewalk width necessary for pedestrian traffic on the application, shall be reported to the City Council for its action.

C. *Insurance.* No permit authorized by this article shall be effective until the applicant has filed with the City Clerk evidence of insurance insuring the applicant against liability imposed by law arising out of the ownership, maintenance or operation of the sidewalk café in amounts of at least \$50,000 for the injury or death of one person; \$300,000 for the injury or death of two persons; and \$10,000 for damage to property.

D. *Permit suspension and revocation.* Any special permit authorized by this article may be revoked at any time by the City Council when it appears that adequate grounds exist. Any permit may be suspended by the City Council for the period as the Council shall determine.

E. *Permit fees.* Each year at the time of filing the application for a permit, the applicant shall pay to the City Clerk the sum of \$50.

F. *General requirements.*

1. To allow for pedestrian circulation, a minimum of four feet of sidewalk along the curb and leading to the entrance to the establishment shall be maintained free of tables and other encumbrances.

2. The outdoor eating area shall not exceed 15% of the gross floor area of the principal building.

3. Planters, posts with ropes or other removable enclosures are encouraged and shall be used as a way of defining the area to be occupied by cafés.

4. Extended awnings, canopies or large umbrellas shall be permitted and located to provide shade. Colors shall complement building colors. Awnings and canopies shall have at least eight feet of open vertical clearance between the sidewalk and the bottom edge of the awning or canopy. Large umbrellas shall provide at least six feet of open vertical clearance between the sidewalk and bottom edge of the umbrella.

5. Tables, chairs, planters, trash receptacles and other elements of street furniture shall be compatible with the architectural character the building where the restaurant is established and the existing street furniture provided by the city.

6. Outdoor cafés shall not be entitled to additional signage beyond what is permitted for the permanent establishment.

7. The outdoor eating areas shall not be located within 30 feet of any properties zoned for residential purposes. The area shall be completely screened from view from all residential properties by an obscuring wall or greenbelt.

8. The operators of outdoor cafés shall be responsible for maintaining a clean, litter-free and well-kept appearance within and immediately adjacent to the area of the outdoor seating area. Outdoor cafés shall be required to provide additional trash receptacles.

9. All vending machines shall be located within a completely enclosed building.

G. *Riverwalk seating.* Restaurants located along or within 300 feet of the riverwalk may maintain limited seating on the riverwalk, subject to the requirements and restrictions of divisions A. through G. of this section.

H. *Deck seating.* Restaurants may provide outdoor seating on open or enclosed decks located in either the side or rear yard of the facility. The seating shall be subject to the requirements and restrictions of divisions A. through G. of this section.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-132A. HOME OCCUPATIONS.**

A. Home occupations shall be approved by the Zoning Administrator, who may issue a certificate of occupancy, which shall specify the home occupation as to use, size, and the specific measures by which compliance with this section will be maintained.

B. The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 20% of the floor area of the dwelling shall be used in the conduct of the home occupation (not including basement area). No part of the home occupation shall be conducted in any accessory building.

C. There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation, or depart from the residential character of the dwelling or the immediate neighborhood.

D. There shall be no sale of products or services except as are produced on the premises or those products that may be directly related to and incidental to the home occupation. There shall be no outdoor, on-site storage of materials, equipment or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.

E. The home occupation must not require parking spaces in excess of two spaces, located in the driveway or on the street directly adjacent to the property.

F. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

G. No more than two customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.

H. Visits by customers, clients, students or patients to a home occupation shall be limited to between the hours of 7:00 a.m. to 5:00 p.m., local time. A relative on the premises for purposes other than availing him or herself of the services of a home occupation shall not be required to adhere to the requirements of this division H.

I. All applicable building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.

J. A registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health (the "General Rules"), the Michigan Medical Marihuana Act (the "Act"), and the requirements of this section, shall be allowed as a home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from prosecution for the growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the Act and the General Rules. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:

1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.

2. A registered primary caregiver must be located outside of a 1,000-foot radius from any school or library, as defined by the Michigan Public Health Code, 1978 PA 365, as amended, M.C.L.A.. 333.7410, to insure community compliance with federal "Drug-Free School Zone" requirements.

3. Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel.

4. Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.

5. All medical marihuana shall be contained within the main building in an enclosed, locked facility, inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the City Building Official and the City Police Department.

6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.

7. If a room with windows is utilized as a growing location, any lighting methods that exceed the usual residential periods between the hours of 11:00 p.m. to 7:00 a.m., local time, shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.

8. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, or where the storage of any chemicals such as herbicides, pesticides and fertilizers occurs, shall be subject to inspection and approval by the City Fire Department to ensure compliance with applicable provisions of the fire code.

9. A registered primary caregiver, as defined by and in compliance with the General Rules and the Act, assisting, exclusively, one registered qualifying patient, as defined by and in compliance with the General Rules and the Act, in the medical use of marihuana shall not be required to comply with the home occupation requirements of this section, provided that each of the following conditions are continuously met:

a. The registered primary caregiver and the registered qualifying patient reside in the same residential dwelling;

b. The registered qualifying patient is the spouse, child, sibling, parent or immediate family member of the registered primary caregiver;

c. The medical use of marihuana complies at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.

d. All medical marihuana shall be contained within the main building in an enclosed, locked facility, inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or registered qualifying patient.

(Ord. 358, adopted 4-11-2011)

#### **Sec. 53-132B. ANIMAL BOARDING FACILITIES.**

All animal boarding facilities shall comply with the requirements of this section.

A. The permanent building or structure used in the operation of an animal boarding facility shall be provided with proper sanitary refuse receptacles, and with floors that can be properly cleaned and flushed.

B. Fenced yard areas used in conjunction with an animal boarding facility shall be determined by site plan and shall comply with § 53-125 of this chapter. Animals shall be under direct supervision at all times while kept in any fenced yard area.

C. No more than 15 animals shall be boarded, housed or otherwise kept at an animal boarding facility at any one time.

D. Boarding shall only occur within the permanent building or structure used in the operation of an animal boarding facility.

E. The operator of an animal boarding facility shall comply with all applicable laws, rules and regulations of the State of Michigan and the County of Allegan, including, without limitation, regulations pertaining to the proper age of animals, health, spaying and/or neutering requirements, and vaccination requirements.

(Ord. 361, adopted 9-12-2011)

#### **Sec. 53-132C. SIMILAR USES.**

A. *Intent.* Since every potential land use cannot be addressed in the Zoning Ordinance, each district may accommodate similar uses, as referenced in this section.

B. *Decision.* All applications for a use not specifically addressed in a zoning district, or inquiries concerning a use, shall be submitted to the Zoning Administrator for review and a decision.

1. *Factors.* The Zoning Administrator shall base their determination on the following factors:

a. The proposed use is not listed as a permitted or special land use in any other zoning district.

b. The use is consistent with the district purpose.

c. The use is similar to other allowed uses relative to its character, scale, and overall compatibility.

d. The use is not expected to create objectionable impacts to public health, safety, and welfare if it were established in the applicable zoning district.

e. The use would not be more appropriate within a different zoning district.

2. *Zoning Board of Appeals.* The Zoning Administrator may, in their sole discretion, submit a proposed use to the Zoning Board of Appeals for a similar use determination if consideration of the review factors does not lead to a clear conclusion.

C. *Compliance.* If a proposed use is determined to be similar to a use listed within the district, the proposed use shall comply with all the standards or requirements associated with the listed use. If the named use is a special land use within the applicable zoning district, the use shall be reviewed and approved per the applicable requirements within the Zoning Ordinance.

D. *Determination.* The determination of whether a proposed use is similar to another listed use shall be considered as an interpretation of the use regulations and is not determined to be a use variance. Once a use has been determined to be similar, it shall be specifically determined to be the named use with which it shares similarities.

E. *Prohibited use.* If a use is not specifically listed anywhere in this ordinance and is not determined to be similar to any other specifically listed uses, the use-is prohibited .

F. *Notification.* In the event the Zoning Administrator has made a determination in accordance with this provision, the Zoning Administrator shall notify the Planning Commission during the subsequent regularly-scheduled meeting.  
(Ord. 379, passed 4-9-2018)

## ***ARTICLE XVII. PLANNED UNIT DEVELOPMENT***

### **Sec. 53-133. OBJECTIVES FOR PLANNED UNIT DEVELOPMENTS.**

A. It shall be the policy of the city to promote progressive development of land and construction thereon by encouraging planned unit developments to achieve:

1. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks and area requirements;

2. A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services;

3. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation and prevents the disruption of natural drainage patterns;

4. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets; and

5. A development pattern in harmony with land use density, transportation facilities and community facilities objectives of the city's Land Use Plan.



B. The city is also prepared to accept a greater population density in undeveloped areas than that reflected by present zoning provided the developer can demonstrate that any increment of public cost clearly attributable to increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.  
(Ord. 188, eff. 2-25-1981)



**Sec. 53-134. PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENTS.**

Because of the special characteristics of planned unit developments, special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this article and those of the other articles of this chapter, the provisions of this article shall prevail. Subjects not covered by this article shall be governed by the respective provisions found elsewhere in this chapter.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-135. APPLICATION AND PROCEDURE.**

Upon approval by the Planning Commission and the City Council, a planned unit development district may be applied to any existing residential district. Upon approval of a final development plan, the Official Zoning Map shall be annotated for the land area involved so that the district name includes the notation, "PUD". Planned unit development districts shall be approved by the Planning Commission and the City Council in the manner provided in §§ 53-147 through 53-161.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-136. RESERVED.****Sec. 53-137. USES PERMITTED.**

A. Compatible residential, commercial and public uses may be combined in PUD districts; provided that, the proposed location of the commercial or industrial uses will not adversely affect adjacent property, and/or the public health, safety and general welfare. Building site area and other setback requirements of the residential districts shall apply, except as modified herein.

B. The amount of land devoted to commercial use in a residential-commercial development shall be determined by the Planning Commission and approved by the City Council.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-138. MINIMUM PROJECT AREA.**

The gross area of a tract of land to be developed in a planned unit development district shall be a minimum of five acres. Smaller parcels may be considered; provided that, they meet the requirements of § 53-133. Provisions for smaller parcels are also contained in § 53-164. When the planned unit development proposes a mixture of residential uses with commercial uses, the Planning Commission may limit the development to not more than 8% of the tract to commercial uses.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-139. PROJECT OWNERSHIP.**

The project land may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. The ownership may be by a public or private corporation.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-140. COMMON OPEN SPACE.**

A minimum of 20% of the land developed in any planned unit development project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. The open space shall be disposed of as required in § 53-141.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-141. DISPOSITION OF OPEN SPACE.**

A. The required amount of common open space land reserved under a planned unit development shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or be dedicated to the city and retained as common open space for parks, recreation and related uses. All land dedicated to the city must meet the Planning Commission's requirements as to size, shape and location. Public utility and similar easements and rights-of-way for water courses and other similar channels are not acceptable for common open space dedication to the city unless the land or right-of-way is usable as a trail or other similar purpose and approved by the Planning Commission.

B. The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-142. UTILITY REQUIREMENTS.**

Underground utilities, including telephone and electrical systems, are required within the limits of all planned unit developments. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Planning Commission finds that the exemption will not violate the intent or character of the proposed planned unit development.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-143. BUILDING SITE AREA PER SINGLE-FAMILY DWELLING.**

A. In platted area or site condominium projects, the building site area per dwelling unit may be reduced by not more than 40% of the minimum building site area required in the schedule of regulations.

B. Building site widths may be varied to allow for a variety of structural designs. It is also recommended that setbacks be varied.

C. Densities may not exceed 150% of that which is permitted in the existing zoning district.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-144. BUILDINGS SITES TO ABUT UPON COMMON OPEN SPACE.**

Every property developed under the planned unit development approach should be designed to abut upon common open space or similar areas. A clustering of dwellings is encouraged. In areas where townhouses are used, there shall be no more than eight townhouse units in any contiguous group.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-145. HEIGHT REQUIREMENTS.**

For each foot of building height over the maximum height regulations, the distance between the buildings and the side and rear property lines of the planned unit development project area shall be increased by a one-foot addition to the side and rear yard required in the districts.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-146. PARKING.**

Off-street parking, loading and service areas shall be provided in accordance with Article XIX of this chapter. However, off-street parking and loading areas shall not be permitted within 15 feet of any residential use.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-147. PERIMETER SETBACKS.**

Notwithstanding the provisions of this article, every building site abutting the perimeter of the planned unit development district shall maintain all setback requirements for the applicable conventional zoning district.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-148. ARRANGEMENT OF COMMERCIAL USES.**

A. When planned unit development districts include commercial uses, commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares. Planning screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas.

B. The plan of the project shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, landscaping and other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding noncommercial areas.

C. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by this chapter.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-149. PROCEDURE FOR APPROVAL OF PUD DISTRICT.**

Planned unit development districts shall be approved in accordance with the procedures in §§ 53-149 through 53-154.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-150. PRE-APPLICATION MEETING.**

The developer shall meet with the City Manager and Planning Commission prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this chapter and the criteria and standards contained herein and to familiarize the developer with the policies contained in the city's Land Use Plan.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-151. CONTENTS OF APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN.**

A. An application for preliminary planned unit development shall be filed with the City Clerk by at least one owner or lessee of property for which the planned unit development is proposed. At a minimum, the application shall contain the following information submitted in with 15 copies:

1. Name, address and phone number of applicant;

2. Name, address and phone number of registered surveyor, register engineer and/or site designer assisting in the preparation of the preliminary development plan;
3. Legal description of property;
4. Description of existing use;
5. Zoning district(s);
6. A vicinity map at a scale approved by the Planning Commission, showing property lines, streets, existing and proposed zoning and other items as the Planning Commission may require to show the relationship of the planned unit development to the land use and to existing schools and other community facilities and services;
7. A preliminary development plan at a scale approved by the Commission showing topography at two-foot intervals; location and type of residential, commercial and industrial land uses; layout, dimensions and names of existing and proposed streets, rights-of-way, utility easements, parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone and natural gas; and other characteristics as the Planning Commission deems necessary;
8. Proposed schedule for the development of the site; and
9. Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within two years.

B. The application for preliminary planned unit development shall be accompanied by a written statement by the developer setting forth the reasons why the planned unit development would be in the public interest and would be consistent with the city's statement of objectives for planned unit developments in § 53-133.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-152. PUBLIC HEARING BY PLANNING COMMISSION.**

Within 30 days after receipt of the preliminary development plan, the Planning Commission shall hold a public hearing.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-153. NOTICE OF PUBLIC HEARING BY PLANNING COMMISSION IN NEWSPAPER.**

Before holding the public hearing provided in § 53-152, notice of the hearing shall be given in one or more newspapers of general circulation of the city at least 15 days before the date of the hearing. The notice shall set forth the time and place of the public hearing and a general description of the planned unit development.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-154. NOTICE TO PROPERTY OWNERS BY PLANNING COMMISSION.**

Before holding the public hearing required in § 53-152, written notice of the hearing shall be sent by the Chairperson of the Planning Commission by first class mail, at least 20 days before the hearing, to all owners of property contiguous to or directly across the street from the area proposed to be included within the planned unit development district. The failure to deliver the notice, as provided in this section, shall not invalidate any approval. The notice shall contain the same information as required of notices published in newspapers as specified in § 53-153.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-155. APPROVAL IN PRINCIPLE BY PLANNING COMMISSION.**

Within 30 days after the public hearing required by § 53-152, the Planning Commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this chapter; whether the proposed development advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses and the interrelationship with the land uses in the surrounding area justify the deviation from standard district regulations. The Commission's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a formal development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels or engineering feasibility.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-156. FINAL DEVELOPMENT PLAN.**

After approval in principle of the preliminary development plan, the developer shall submit a final development plan to the Planning Commission. The final development plan shall be in general conformance with the preliminary development plan approved in principle. Five copies of the final development plan shall be submitted and may be endorsed by a qualified professional team which should include a registered land surveyor, registered civil engineer and registered landscape architect.

(Ord. 188, eff. 2-25-1981)



**Sec. 53-157. CONTENTS OF APPLICATION FOR APPROVAL OF FINAL DEVELOPMENT PLAN.**

An application for approval of the formal development plan shall be filed with the City Clerk by at least one owner or lessee of property for which the planned unit development is proposed. Each application shall be signed by the owner or lessee, attesting to the truth and exactness of all information supplied on the application for final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within two years from the date of issuance of the approval. At a minimum, the application shall contain the following information:

- A. A survey of the proposed development site, showing the dimensions and bearings of the property lines, area in acres, topography, existing features of the development site, including major wooded areas, structures, streets, easements, utility lines and land uses;
  - B. All the information required on the preliminary development plan; the location and sizes of lots, location and proposed density of dwelling units, nonresidential building intensity and land use considered suitable for adjacent properties;
  - C. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type, estimated residential population by type of housing; estimated nonresidential population; anticipated timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from standard zoning districts or other ordinances governing development;
  - D. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone and natural gas installations; waste disposal facilities; street improvements and nature and extent of earth work required for site preparation and development;
  - E. Site plan, showing building(s), various functional use areas, circulation and their relationship;
  - F. Preliminary building plans, including floor plans and exterior elevations;
  - G. Landscaping plans; and
  - H. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon, including those areas which are to be commonly owned and maintained.
- (Ord. 188, eff. 2-25-1981)

**Sec. 53-158. PUBLIC HEARING BY PLANNING COMMISSION.**

Within 30 days after submission of the final development plan, the Planning Commission may hold a public hearing. If a second public hearing is held, notice shall be given as specified in §§ 53-152 and 53-153.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-159. RECOMMENDATION BY PLANNING COMMISSION.**

Within 60 days after receipt of the final development plan, the Planning Commission shall recommend to the City Council that the final development plan be approved as presented, approved with supplementary conditions or disapproved. The Planning Commission shall then transmit all papers constituting the record and the recommendations to the City Commission.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-160. CRITERIA FOR RECOMMENDATIONS BY PLANNING COMMISSION.**

Before making its recommendation as required in § 53-159, the Planning Commission shall find that the facts submitted with the application and presented at the public hearing establish that:

- A. The proposed development can be initiated within two years of the date of approval;
- B. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that the objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under standard district regulations;
- C. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in amounts as to overload the street network outside the planned unit development;
- D. Any proposed commercial development can be justified at the locations proposed;
- E. Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accord with the planned unit development and the adopted policy of the Planning Commission and the City Council;
- F. The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development;
- G. The planned unit development is in general conformance with the Land Use Plan of the city; and

H. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-161. ACTION BY CITY COUNCIL.**

Within 60 days after receipt of the final recommendation of the Planning Commission, the City Council shall either approve, approve with supplementary conditions or disapprove the application as presented. If the application is either approved or approved with conditions, the City Council shall direct the Building Inspector to issue building permits only in accordance with the approved formal development plan and the supplementary conditions attached thereto.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-162. SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.**

In approving any planned unit development district, the City Council may prescribe appropriate conditions and safeguards such as performance bonds or escrow accounts in conformity with this chapter. Violation of the conditions or safeguards, when made a part of the terms under which the final development plan is approved, shall be deemed a violation of this chapter.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-163. EXPIRATION AND EXTENSION OF APPROVAL PERIOD.**

A. The approval of a final development plan for a planned unit development district shall be for a period not to exceed two years to allow for preparation and recording of the required subdivision plat and the development of the project. If no construction has begun within two years after approval is granted, the approved formal development plan shall be void and the land shall revert to the district regulations in which it is located. An extension of the time limit or modification of the approved final development plan may be approved if the Planning Commission finds that the extension or modification is not in conflict with the public interest.

B. No zoning amendment passed during the time period granted for the approved final development plan shall, in any way, affect the terms under which approval of the planned unit development was granted.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-164. CLUSTER HOUSING PROVISION FOR SMALL PARCELS.**

A. On parcels less than five acres, the PUD provision can be utilized. The purpose of this provision is to encourage innovative residential development on small, irregularly shaped parcels that have limited potential for platting. The development shall be limited to single-family attached or detached dwellings and the density shall not exceed that which is permitted by the existing zoning district. The parcel under consideration for this cluster housing provision shall have a minimum frontage of 66 feet on a public street.

B. The developer shall have a pre-application meeting as specified in § 53-150. The developer shall submit an application the contents of which are specified in § 53-151. The Planning Commission shall hold one public hearing in accordance with §§ 53-152 and 53-153 and recommend to the City Council, approval, approval with conditions or denial of the application within 30 days of review. Criteria for the Planning Commission's recommendation shall be:

1. The area surrounding the development can be planned and developed in coordination and substantial compatibility with the proposed development;
2. The planned development is in general conformance with the Land Use Plan for the city;  
and
3. The planned development will not generate traffic in amounts as to have a significant negative impact on adjacent properties.

C. Within 60 days of receipt of the recommendation of the Planning Commission shall approve, approve with conditions or deny the application. Supplementary conditions and safeguards as specified in § 53-162 may also apply.  
(Ord. 188, eff. 2-25-1981)

***ARTICLE XVIII. NONCONFORMING USES AND BUILDINGS*****Sec. 53-165. NONCONFORMANCE REGULATED.**

Any lawful use of the land or buildings existing at the date of passage of this chapter and located in a district in which it would not be permitted as a new use under the regulations of this chapter is declared to be a "nonconforming use" and not in violation of this chapter; provided, however, that, a nonconforming use shall be subject to and the owner comply with, the regulations in this article.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-166. NONCONFORMING USES OF LAND.**

Where at the time of passage of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter and where the use involves no individual structure with an assessed value exceeding \$500, the use may be continued so long as it remains otherwise lawful; provided:

A. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

B. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective date of adoption or amendment of this chapter;

C. If any nonconforming use of land ceases for any reason for a period of more than one year, the land shall conform to the regulations specified by this chapter for the district in which the land is located; and

D. No additional structure not conforming to the requirements of this chapter shall be erected in connection with the nonconforming use of land.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-167. NONCONFORMING USES OF STRUCTURE.**

If lawful use involving individual structures with an assessed value of \$500 or more or of structure premises in combination, exists at the effective date of adoption of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located.

B. If any nonconforming use of a structure ceases for any reason for a period of more than six months, the use shall conform to the regulations specified by this chapter for the district in which the use is located.

C. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this chapter, but no use shall be extended to occupy any land outside the building.

D. If no structural alterations are made, any nonconforming use of a structure or structure and premises, may be changed to another nonconforming use; provided that, the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use.

E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the entire structure shall eliminate the nonconforming status of land.  
(Ord. 188, eff. 2-25-1981)

### **Sec. 53-168. NONCONFORMING STRUCTURES.**

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, the structures may be continued so long as it remains otherwise lawful, subject to the following provisions.

A. No structure may be enlarged, altered or rebuilt in a way which increases its nonconformity. The structures may be enlarged, altered or rebuilt in a way which does not increase its nonconformity.

B. Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

C. In the event any nonconforming building or structure shall be damaged by fire, wind or an act of God or the public enemy, the same shall be permitted to be rebuilt provided it does not increase its nonconformity.  
(Ord. 188, eff. 2-25-1981)

### **Sec. 53-169. NONCONFORMING LOTS OF RECORD.**

A. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though the lots fail to meet the requirements for area or width or both, that are generally applicable in the district; provided that, yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which the lot is located.

B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall

be considered to be an undivided parcel for the purposes of this chapter and no portion of the parcel shall be used or occupied which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this chapter.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-170. REPAIRS AND MAINTENANCE; UNSAFE CONDITIONS; NUISANCE PER SE.**

A. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 25% of the state equalized valuation of the nonconforming structure or nonconforming portion of the structure as the case may be; provided that, the cubic content existing when it became nonconforming shall not be increased.

B. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to a lack of repairs and maintenance or due to the presence of hazardous materials in a quantity which is or may become injurious to the public health, safety or welfare or the environment and is declared by the Building Inspector to be unsafe or unlawful because of its physical condition or the presence of hazardous materials, it shall not thereafter be restored, repaired or rebuilt, except in conformity with the regulations of the district in which it is located. Further, any nonconforming structure or portion of a structure containing a nonconforming use which is declared unsafe or unlawful, as provided by this section, is declared a nuisance per se, subject to abatement by a court of competent jurisdiction.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-171. RECONSTRUCTION OF DAMAGED NONCONFORMING BUILDINGS AND STRUCTURES.**

Nothing in this chapter shall prevent the reconstruction, repair or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of this chapter, wherein the expense of the reconstruction does not exceed 50% of the state equalized valuation of the entire building or structure at the time the damage occurred; provided that, the restoration and resumption shall take place within six months of the time of the damage and that it be completed within one year from time of the damage; and, provided further that, the use be identical with nonconforming use permitted and in effect directly preceding the damage. Where pending insurance claims require an extension of time, the Building Inspector may grant a time extension; provided that, the property owner submit a certification from the insurance company attesting to the delay. Until a time as the debris from the fire damage is fully removed, the premises shall be adequately fenced or screened from access by children who may be attracted to the premises.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-172. MOVING.**

No nonconforming building or structure shall be moved in whole or in part to another location unless the building or structure and the off-street parking spaces, yard and other open spaces provided are made to conform to all the regulations of the district in which the building or structure is to be located. (Ord. 188, eff. 2-25-1981)

**Sec. 53-173. CERTIFICATE OF OCCUPANCY.**

A. 1. At any time after the adoption of this chapter should the city become aware of a nonconforming use, the owner of the nonconforming use shall be notified by the City Clerk of the provisions of this section and that his or her property constitutes a nonconforming use. Within 30 days after receipt of the notice, the owner shall apply for and be issued a certificate of occupancy for the nonconforming use. The application for the certificate shall designate the location, nature and extent of the nonconforming use and other details as may be necessary for the issuance of the certificate of occupancy.

2. If the owner of a nonconforming use fails to apply for a certificate of occupancy within 30 days after receipt of the foregoing notice, the use ceases to be nonconforming and is declared to be in violation of this chapter. The City Clerk and the City Attorney shall take appropriate action to enjoin the violation.

B. If the Building Inspector shall find, upon reviewing the application for a certificate of occupancy, that the existing use is illegal or in violation of any other ordinance or law or if he or she finds that the building for which the certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the Building Code or this chapter in effect at the time of construction or alteration, he or she shall not issue the certificate of occupancy, but shall declare the use to be in violation of this chapter.

C. After the adoption of this chapter or any amendments thereto, the Building Inspector shall prepare a record of all known nonconforming uses and occupations of lands, buildings and structures, including tents and trailer coaches, existing at the time of the ordinance or amendment. The record shall contain the names and addresses of the owners of record of the nonconforming use and of any occupant, other than the owner, the legal description of the land and the nature and extent of use. The list shall be available at all times in the office of the City Clerk.

(Ord. 188, eff. 2-25-1981)



**Sec. 53-174. PLANS ALREADY FILED.**

In any case where plans and specifications for a building or structure have been filed, which would conform with the zoning regulations effective at the date of the filing, but not with the regulations of this chapter, and where a building permit for the building or structure has been issued and construction work started at the effective date of this chapter, the work may proceed, provided it is completed within one year of the date.

(Ord. 188, eff. 2-25-1981)

***ARTICLE XIX. OFF-STREET PARKING AND LOADING REQUIREMENTS*****Sec. 53-175. REQUIRED OFF-STREET PARKING, GENERAL.**

A. Off-street parking in conjunction with all land and building uses shall be provided as herein prescribed.

1. For the purpose of this article, 300 square feet of lot area shall be deemed a parking space for one vehicle, including access aisle; except that, the standard shall be 325 square feet where parking is perpendicular to the access aisle; and, except that, 180 square feet open area which has a direct means of ingress and egress from an alley or street may also be deemed a parking space.

2. When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

3. The minimum number of off-street parking spaces shall be determined in accordance with the following table in § 53-176. For uses not specifically mentioned therein, off-street parking requirements shall be interpreted by the Board of Zoning Appeals from requirements for similar uses.

4. Any area once designated as required off-street parking shall never be changed to any other use unless and until equally required facilities are provided elsewhere. Off-street parking existing at the effective date of this chapter in connection with the operation of an existing building or use shall not be reduced to an amount less than would hereinafter be required for the building or use.

5. Off-street parking may be provided either by individual action or by a parking program carried out through public action, whether by a special assessment district or otherwise.

6. Required off-street parking shall be for the use of occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise, motor vehicles for sale or the repair of vehicles is prohibited. All off-street parking, whether public or private, for nonresidential uses

shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot, except in the Central Business District.

7. Residential off-street parking space shall consist of a parking strip, garage or a combination thereof and shall be located on the premises it is intended to serve and not closer than three feet from any street lot line.

8. Nothing in this article shall be construed to prevent collective provision of off-street parking facilities for two or more buildings or uses; provided, the facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table.

9. In stadiums, sports arenas, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 24 inches of the seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this article.

B. The City Council may, upon recommendation of the City Planning Commission, vary or modify the parking space requirements set forth in this article as follows. In a case where existing off-street parking facilities have unused parking capacity and where the facilities are open to the use of the public free of charge or at reasonable rates, the City Council may reduce the parking space requirement for any use within 300 feet from the facility or facilities; provided that, the total number of stalls in the reduction shall be not greater than the total number of stalls of excess capacity.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-176. TABLE OF PARKING REQUIREMENTS.**

The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table and the space, so required shall be stated in the application for a building permit and shall be irrevocably reserved for the use and/or shall comply with the initial part of this section. Land uses within the Central Business District Zoning District may be exempt from the table of parking requirements, if the Board of Appeals determines that required parking cannot be met.

	<i>Use</i>	<i>Number of Minimum Off-street Parking Spaces per Unit of Measure</i>
<b>1.</b>	<b>Residential</b>	
a.	Residential, one-family and two-family	2 for each dwelling unit

	<i>Use</i>	<i>Number of Minimum Off-street Parking Spaces per Unit of Measure</i>
b.	Residential, multiple-family	2 for each dwelling unit for developments of 1-24 units
		1.75 space for each dwelling unit for developments of 24+ units
c.	Mobile home park and mobile home courts	2 for each trailer or mobile home site and 1 for each employee of the trailer or mobile home court
d.	Boarding and rooming house and bed and breakfast facility	1 for each sleeping room
e.	Senior citizen apartments	1 space for each unit, plus 1 visitor space for every 6 dwelling units
<b>2.</b>	<b>Institutional</b>	
a.	Churches, temples or synagogues	1 for each 3 seats, maximum seating capacity in the main unit of workshop or 1 space for each 35 square feet of gross floor area, whichever is greater
b.	Hospitals	1 per 600 square feet of gross floor area
c.	Sanitariums, convents, homes for the aged, convalescent homes, children's homes	1 per 600 feet of gross floor area
d.	Adult foster care facilities	½ space per bed, plus 1 space for each employee
e.	Public or private elementary and junior high schools	1 for each classroom plus one space for each 5 fixed seats of any area used for auditorium purposes or for each 35 square feet of seating area where there are no fixed seats
f.	Senior high schools	1 space for each classroom and each other room used by students, plus 1 for each 10 full-time students in addition to the requirements for auditorium. (see k)
g.	Private clubs or lodge halls	1 for each 3 allowed within the maximum occupancy load as established by Local, County or State Fire, Building or Health Codes
h.	Private golf clubs, swimming pool clubs, tennis clubs or racquetball clubs	1 for each 3 member families or individuals
i.	Golf course open to the general public, except miniature or "par 3" courses	6 for each 1 golf hole and 1 for each 1 employee
j.	Stadium, sport arena or similar place of outdoor assembly	1 for each 3 seats or 10 feet of bench
k.	Theaters and auditoriums (indoors)	1 for each 4 seats, plus 1 for each 2 employees

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	<i>Use</i>	<i>Number of Minimum Off-street Parking Spaces per Unit of Measure</i>
l.	Libraries, museums and noncommercial art galleries	1 for each 250 square feet of gross floor area
m.	Day-care, preschool and nursery schools	1 space for each staff member, plus 1 space for every 5 children or 1 space for every 10 children if adequate off-street drop-off facilities are provided
n.	Jail	1 space for each staff member, plus 1 space for every 5 cells, in addition to off-street loading spaces for delivery and transport vehicles
<b>3.</b>	<b>Business and commercial</b>	
a.	Automobile service stations, gasoline stations, convenience stores in conjunction with service or gas stations	2-1/2 for each lubrication stall, rack, pit or pump, plus 1 for every 75 square feet of gross floor area devoted to retail sales, plus 1 for each employee
b.	Auto wash, auto reconditioning, auto cleaning (interior/exterior)	1 for each 1 employee, plus 1 for each 250 square feet of gross floor area devoted to reconditioning or cleaning
c.	Beauty parlor or barber shop	3 spaces for each of the first 2 beauty or barber chairs and 1-1/2 spaces for each additional chair
d.	Bowling alleys	5 for each 1 bowling lane, plus employees
e.	Dance halls, pool or billiard parlors, roller or ice rinks, exhibition halls and assembly halls without fixed seats	1 for each 3 seats or 1 for each 100 square feet of gross floor area, whichever is greater
f.	Drive-in establishments	1 for each 40 feet of gross floor area, with a minimum of 25 parking spaces
g.	Establishments for sale and consumption on the premises of beverages, food or refreshments	1 for every 6 seats or 80 square feet, whichever requires the greater amount of parking
h.	Furniture and appliance, household equipment, repair shop, showroom of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses	1 for each 800 square feet of floor area, occupied in processing or manufacturing
i.	Laundromats and coin operated dry cleaners	1 for each 2 washing machines
j.	Miniature golf courses	3 for each 1 hole, plus 1 for each 1 employee
k.	Mortuary establishments	1 for each 100 square feet of gross floor area
l.	Motel, hotel or other commercial lodging establishments	1 for each 1 occupancy unit, plus 1 for each 1 employee, plus extra spaces for dining rooms, ballrooms or meeting rooms based upon maximum occupancy load
m.	Motor vehicles sales and service establishments, trailer sales and rental boat showrooms	1 for each 400 square feet of gross floor area of sales room

	<i>Use</i>	<i>Number of Minimum Off-street Parking Spaces per Unit of Measure</i>
n.	Open air business	1 for each 600 square feet of lot area
o.	Restaurant, carry-out	1 for each 100 square feet of gross floor area
p.	Retail stores	1 for each 300 square feet of gross floor area
q.	Shopping center or clustered commercial	1 for each 300 square feet of gross floor area
r.	Auto body shop	1 space for each 500 square feet of gross floor area, plus 1 space for each employee
s.	Autotruck sales	1 space for each 500 square feet of gross floor area for automobile sales
t.	Cocktail lounges and taverns	1 space for each 75 feet of gross floor area
u.	Health spas, gymnasiums and health clubs	10 for each club of spas, plus 1 space for each 200 square feet of gross floor area in excess of 1,000 gross square feet
<b>4.</b>	<b>Offices</b>	
a.	Banks, savings and loan offices	1 for each 200 square feet of gross floor area
b.	Business offices or professional offices except as indicated in the following item c., but including courthouses and governmental offices	1 for each 400 square feet of gross floor area
c.	Medical or dental clinics, professional offices of doctors, dentists or similar professions	1 for each 175 square feet of gross floor area
<b>5.</b>	<b>Industrial</b>	
a.	General manufacturing establishments	1 space for every 650 square feet of gross floor area, plus 1 space per each 350 square feet of office space
b.	Light and limited industrial manufacturing	1 space for every 500 square feet of gross floor area, plus 1 space per each 350 square feet of office, sales or similar space
c.	Research and development	1 space for every 350 square feet of gross floor area, plus 1 space per each 350 square feet of office, sales or similar space
d.	Warehousing	1 space for every 2,000 square feet of gross floor area

(Ord. 188, eff. 2-25-1981)

**Sec. 53-177. OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION AND MAINTENANCE.**

Wherever a parking lot is built as required off-street parking, the parking lot shall be laid out, constructed and maintained in accordance with the following requirements.

A. The building of a parking lot is subject to the requirements for a building permit. The Building Inspector in reviewing the application may request the findings of the City Engineer on the basis of the requirements, set forth in divisions B. through J. below.

B. Each parking space shall constitute a net land area of at least 170 feet. The total parking lot space, including access lanes, shall constitute at least 300 square feet land area per parking space.

C. Adequate ingress and egress to the parking lot by means of clearly limited and bermed drives shall be provided for vehicles.

D. Where the parking lots abuts a residential district:

	<i>Required Setback of Parking Spaces</i>
Contiguous common frontage in same block	5 feet from the street lot line
Rear lot line	None
Side lot lines	2 feet from the side lot line

E. There shall be bumper stops or wheel chocks provided so as to prevent any vehicle from projecting over the lot line.

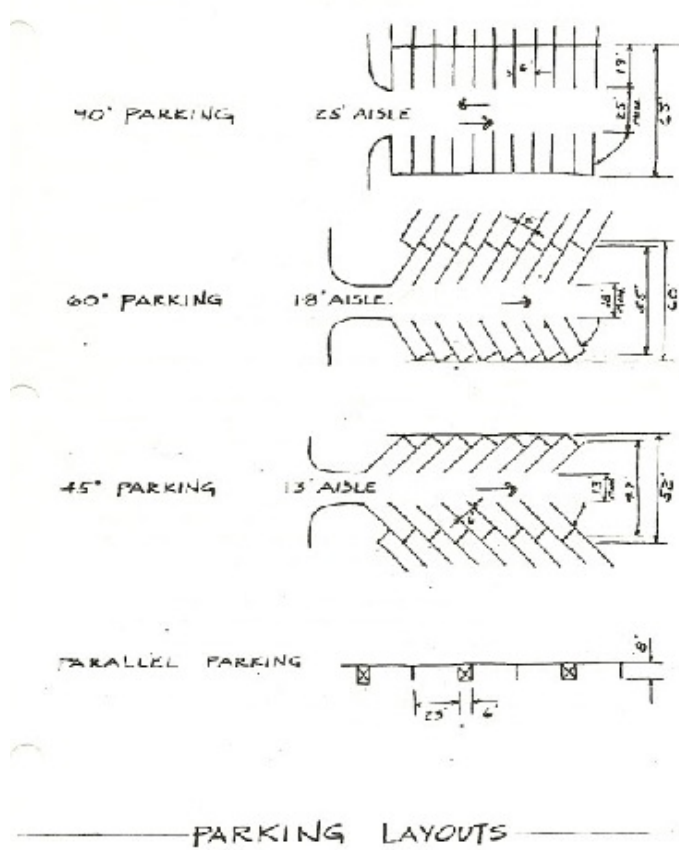
F. The parking lot shall be drained to eliminate surface water.

G. The surface of the parking lot, including drives and aisles, excepting the buffer strips, shall be constructed of a concrete or bituminous concrete surfacing. Lighting shall be arranged to reflect away from residential areas.

H. Parking structures may be built to satisfy off-street parking requirements, when located in commercial or industrial zone districts, subject to the area, height, bulk and placement regulations of the districts in which located.

I. Automotive sales areas. Every parcel of land hereafter used as an automobile or trailer sales area or as an automobile service station shall be subject to the above requirements of this section.

J. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements.



(Ord. 188, eff. 2-25-1981)

**Sec. 53-178. OFF-STREET WAITING AREA FOR DRIVE-THROUGH FACILITIES.**

A. An **OFF-STREET WAITING SPACE** is defined as an area at a minimum of ten feet wide by 24 feet long and shall not include the use of any public space, street, alley or sidewalk and shall be located entirely within the Commercial Zoning District.

B. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement where the automobile engine is not turned off, there shall be provided five off-street waiting spaces for each service window.

C. Automatic auto wash establishment shall provide a minimum of 15 off-street waiting spaces, with at least one off-street waiting space on the exit side, for each wash lane. Manual or coin operated auto wash establishments shall provide at least three off-street waiting spaces on the entrance side for each auto wash stall and one off-street waiting space on the exit side for each auto wash stall.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-179. OFF-STREET LOADING AND UNLOADING.**

A. On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing display, or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading, designed to avoid interference with public use of the streets or alleys. The loading and unloading space shall be an area in minimum 12 feet in width by 50 feet in length with a 15-foot height clearance, and shall be provided according to the following table:

<i>Gross Floor Area Square Feet</i>	<i>Loading and Unloading Spaces Required in Terms of Square Feet or Gross Floor Area</i>
0 – 2,000	None
2,101 – 20,000	1 space
20,001 – 100,000	1 space, plus 1 space for each 20,000 square feet in excess of 20,000 square feet
100,001 – 500,000	5 spaces, plus 1 space for each 40,000 square feet in excess of 100,000 square feet
Over 500,000	15 spaces, plus 1 space for each 80,000 square feet in excess of 500,000 square feet

B. No loading space shall be located closer than 50 feet from any residence district unless adjoining a public alley or located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall or ornamental fence of a type approved by the Planning Commission not less than six feet in height.

C. Except as otherwise provided within division D. below, in the I District truck or rail docks will be located at the side or rear of the building.

D. Subject to the review and approval of the Planning Commission, buildings and properties located within a certified industrial park that was approved before 2000 may locate and maintain front yard truck docks or loading spaces when the Planning Commission determines they are needed due to site design



or property space limitations. No truck dock or loading space shall be permitted to encroach upon the required front yard setback. No truck dock or loading space shall be located within 75 feet of the right-of-way line of the street upon which it fronts.

(Ord. 188, eff. 2-25-1981; Ord. 352, adopted 11-9-2009; Ord. 379, passed 4-9-2018)

## ***ARTICLE XX. BOARD OF ZONING APPEALS***

### **Sec 53-180. INTENT AND PURPOSE.**

The purpose of this article is to ensure that the objectives of this chapter are fully and equitably achieved, that a means be provided for competent interpretation of this chapter, that flexibility be provided for the strict application of this chapter, that the spirit of this chapter be observed, public safety secured and substantial justice done.

(Ord. 188, eff. 2-25-1981)

### **Sec. 53-181. APPOINTMENT.**

The City Council shall appoint a Board of Zoning Appeals, hereinafter sometimes referred to as the Board, while Board shall have the powers and duties prescribed by law and by this chapter. The City Council shall also have the power to appoint itself as the Board of Zoning Appeals.

(Ord. 188, eff. 2-25-1981)

### **Sec. 53-182. CREATION AND MEMBERSHIP.**

A. A Board of Zoning Appeals is established in accordance with Public Act 207 of 1921, as amended. The Board shall consist of five members: the Chairperson of the Planning Commission, a member of the City Council appointed by the City Council; and the remaining members appointed by the City Commission from the electors residing in the city. In addition to the five regular members, the Council shall appoint two alternate members to serve the same term as regular members. Alternate members may be called on a rotating basis to sit as regular members in the absence of a regular member. Alternate members may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. Alternate members shall have the same voting rights as regular members.

B. Members may be reappointed. An elected officer of the city shall not serve as Chairperson of the Board of Zoning Appeals. An employee of the city may not serve as a member of the Board. Members shall be appointed for three-year terms. Members of the Board of Appeals shall be removable

by the City Council for nonfeasance, malfeasance and misfeasance of office. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so shall constitute misconduct in office. If the City Council sits as the Board of Zoning Appeals, its membership shall consist of duly elected members of the Council.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-183. ORGANIZATION.**

A. *Rules of procedure.* The Board of Zoning Appeals may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Board shall annually elect a Chairperson, a Vice-Chairperson and a Secretary.

B. *Meetings and quorum.* Meetings of the Board of Zoning Appeals shall be held at the call of the Chairperson and at other times as the Board, in its rules of procedure, may specify. A majority of the total membership of the Board shall comprise a quorum. All meetings shall be open to the public.

C. *Oaths and witnesses.* The Chairperson may administer oaths and compel the attendance of any witness in order to ensure a fair and proper hearing.

D. *Records.* The minutes of all meetings shall contain the grounds for every determination made by the Board and the final ruling on each case. The Board of Zoning Appeals shall file its minutes in the office of the City Clerk.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-184. JURISDICTION.**

The Board of Zoning Appeals shall act upon questions as they arise in the administration of this chapter. The Board shall perform its duties and exercise its powers as provided in Public Act 207 of 1921, as amended. The Board of Zoning Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this chapter, but does have the power to act on those matters for which this chapter provides an administrative review, interpretation, variance or temporary use permit. Within this capacity the Board of Zoning Appeals may reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination of the Building Inspector, Planning Commission or any official administering or enforcing the provisions of this chapter as set forth in § 53-201.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-185. AUTHORIZED APPEALS.**

A. The Board of Zoning Appeals shall hear the following specified categories of appeals in accordance with the following standards.

1. *Administrative review.* The Board of Zoning Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Building Inspector or by any other official in administering or enforcing the provisions of this chapter.

2. *Interpretation of the ordinance.* The Board of Appeals shall hear and decide upon request to:

a. Interpret the provisions of this chapter when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon the request, the Board of Zoning Appeals shall ensure that its interpretation is consistent with the intent and purpose of this chapter and the article in which the language in question is contained;

b. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Building Inspector;

c. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district; and

d. Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed by an analysis of the specific needs or developing a requirement based on evaluation of documented need.

3. *Variance.* The Board of Zoning Appeals shall have the power to authorize specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements, of this chapter; provided that, all the required findings listed below are met:

a. There are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. Where hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land;

b. A genuine hardship exists because of unique circumstances or physical condition such as narrowness, shallowness, shape or topography of the property involved or to the intended use of the property, that do not generally apply to other property uses in the same zoning district and shall not be recurrent in nature;

c. The hardship or special conditions or circumstances do not result from actions of the applicant;

d. The variance will be in harmony with the general purpose and intent of this chapter and will not cause a substantial adverse effect upon surrounding property, property values and the use and enjoyment of property in the neighborhood or district;

e. Granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district;

f. The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship; and/or

g. The variance shall not permit the establishment, within a district, of any use which is not permitted by right within the zoning district or any use for which a special use permit or a temporary use permit is required.

B. In granting the variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of the conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this chapter and shall automatically invalidate the permit.

C. Each variance granted under the provisions of this chapter shall become null and void unless:

1. The construction authorized by the variance or permit has commenced within six months of granting of the variance; and/or

2. The occupancy of land, premises or building has taken place within one year after the granting of the variance.

D. No application for the variance which has been denied, wholly or in part, by the Board of Zoning Appeals shall be resubmitted for a period of one year from the date of the last denial, except on the ground of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

(Ord. 188, eff. 2-25-1981)

### **Sec. 53-186. APPEAL PROCEDURES.**

A. *Notice of appeal.* Appeals to the Board of Zoning Appeals may be made by any person aggrieved or by an officer or department of the city, filing a written notice of appeal with the City Clerk. Upon receipt of a notice of appeal, the City Clerk shall promptly transmit the records concerning the appealed

action to the members of the Appeals Board. Any appeal from the ruling of the Building Inspector concerning the enforcement of the provisions of this chapter shall be filed within ten days after the date of the Building Inspector's decision.

B. *Hearing.* Upon receipt of a notice of appeal, the Chairperson of the Board of Appeals shall fix a reasonable time and date for a public hearing, not to exceed 30 days from the date of filing of the notice of appeal. Upon determination of the date and time of the public hearing, the City Clerk shall notify the following, by first class mail or by personal service, not more than 15 or less than eight days before the public hearing:

1. The appellant;
2. The Building Inspector;
3. All persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 30 feet;
4. The Mayor; and
5. The City Manager.

C. *Notice of hearing.* Where the hearing, in the opinion of the City Clerk, concerns matters of general applicability in the city and does not concern only individual lots or parcels, the notice shall be given in a newspaper of general circulation in the city not more than 15 or less than eight days before the public hearing.

D. *Appearance.* Upon the hearing, any party may appear in person or by agent or attorney. The Board may recess the hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.

E. *Fee.* A fee as established by the City Council, shall be paid to the City Clerk at the time the petitioner files an application with the Board. The purpose of the fee is to cover the necessary advertisements, investigations, hearing records and other expense incurred by the Board in connection with the appeal. No fee shall be charged if the city or any official body of the city is the moving party.

F. *Decision.* The Board of Appeals shall render its decision within 30 days of filing of notice of appeal unless an extension of time is necessary to review new information pertinent to making the decision and is agreed upon by the appellant and a majority of members of the Appeals Board present. The vote of a majority of members of the Board shall be necessary to take action on an appeal.

G. *Bonding.* In authorizing any variance or in granting any conditional, temporary or special approval permits, the Board may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the city covering the estimated cost of improvements associated with

a project for which zoning approval is sought, be deposited with the City Clerk to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing then activity or project. The Board may not require the deposit of the performance guarantee before the date on which the permit is to be issued. The Board shall establish procedures under which a rebate of any cash deposits in reasonable proportions to that ratio of work completed on the required improvements will be made as work progresses.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-187. ADMINISTRATIVE VARIANCE.**

##### *A. Procedure and criteria.*

1. The Building Inspector is authorized to grant an administrative variance to the provisions of this chapter in an amount not to exceed a 10% variation from the site development standards, parking and loading requirements and the specific provisions and requirements contained in this chapter.

2. Upon receipt of a request for an administrative variance, the Building Inspector shall prepare a report of the situation and all factual data concerning the site in terms of the criteria stated in this chapter. Upon completion of the report, the Building Inspector shall determine whether or not the request meets the above stated criteria and shall approve or deny the request exclusively on that basis. Decisions rendered by the Building Inspector shall be in the form of a letter which states specifically a determination on each of the items contained in § 53-185 of this chapter, with reference to the above mentioned report.

3. The City Manager may assist the Building Inspector in the implementation of the administrative variance. This may include accompanying the Building Inspector on a site visit, providing the inspector with information, discussing the details of the situation with the inspectors or acting to expedite the process in lieu of the availability of the Building Inspector. If an administrative variance is granted by the City Manager, a report of the action must be provided to the Council stating the reason for the action taken.

*B. Appeals.* The decision of the Building Inspector may be appealed to the Board of Appeals pursuant to § 53-186.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-188. FLOOD HAZARD AREA VARIANCES.**

A. Variances from the provisions of Article XIV, Flood Hazard Areas, shall only be granted by the Board of Zoning Appeals upon a determination of compliance with the general standards for variances contained in this chapter and each of the following specific standards.

1. A variance shall be granted only upon:

a. A showing of good and sufficient causes;

b. A determination that failure to grant the variance would result in an exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in a harmful increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing laws or ordinances.

2. The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.

B. The Board of Zoning Appeals may attach the conditions to the granting of a variance to ensure compliance with the standards contained in this chapter.

C. Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Historic Markers listing of historic sites or any other state register of historic places without regard to the requirements of this section governing variances in flood hazard areas.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-189. MAPPING DISPUTES.**

A. Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the Board of Zoning shall resolve the dispute and establish the boundary location. In all cases, the decision of the Board of Zoning Appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information shall be utilized.

B. Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the Board of Zoning Appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.

C. All parties to a map dispute may submit technical evidence to the Board of Zoning Appeals.  
(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-190. REVIEW BY CIRCUIT COURT.**

Any party aggrieved by an order, determination or decision of any officer, agency, board, commission, board of appeals or legislative body of the city which has acted pursuant to the provisions of Public Act 207 of 1921 as amended may obtain a review thereof both on the facts and the law, in the

Circuit Court of the county; provided that, all other means of local appeal and review as provided in this chapter have first been exhausted. The Circuit Court shall review the record and decision of the Board of Appeals to ensure that the decision:

- A. Complies with the constitution and laws of the state;
- B. Is based upon proper procedure;
- C. Is supported by competent, material and substantial evidence on the record; and
- D. Represents the reasonable exercise and discretion granted by the Board of Appeals.  
(Ord. 188, eff. 2-25-1981)

### *ARTICLE XXI. AMENDMENTS*

#### **Sec. 53-191. PROCEDURE.**

The City Council may, from time to time, amend, supplement or repeal the regulations and provisions of this chapter in the manner prescribed by Public Act 207 of 1921, as amended and in accordance with the following procedural outline.

A. A proposed amendment, supplement or repeal may be originated by the City Council, City Planning Commission or by petition. All proposals not originating with the City Planning Commission shall be referred to the Commission for a report thereon before any action is taken on the proposal by the City Council.

B. 1. The City Planning Commission shall study the proposed amendment, supplement or repeal. If it decides the proposal has merit, the City Planning Commission shall hold a public hearing thereon in accordance with procedures stated in Public Act 207 of 1921, as amended and make a report of its findings and recommendation to the City Council.

2. If the City Planning Commission decides that a proposed amendment, supplement or repeal does not have merit, it shall so report to the City Council, without holding a public hearing.

C. When the City Council receives an adverse report on a proposed amendment or change that has not received a public hearing by the City Planning Commission, it may concur with the recommendation and stop further action, or, if it does not agree with the recommendation, the City Council shall refer the proposed amendment or change back to the City Planning Commission, with a request that the City Planning Commission hold a public hearing on the proposed amendment, supplement or repeal and make a final report to the City Council.



D. When the City Council receives a recommendation from the City Planning Commission on a proposal that has been given a public hearing by the Planning Commission, the City Council shall hold a public hearing thereon. If a hearing is held, notice shall be given in the manner prescribed by Public Act 207 of 1921, as amended, and the City Council may adopt the amendment, supplement or repeal without further reference to the City Planning Commission unless the recommendation from the City Planning Commission is to be amended in which case, the same shall be referred again to the City Planning Commission for reconsideration.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-192. PROTESTS.**

Whenever a written protest against the proposed amendment, supplement or change be presented, duly signed by the owners of 20% or more of the frontage proposed to be altered or by the owners of 20% or more of the frontage immediately in the rear thereof or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered, the amendment shall not be passed except by the favorable vote of three-fourths of the entire City Council.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-193. FEE.**

Each request or application for amendment to this chapter shall be accompanied by a fee of \$50, no part of which shall be refunded.

(Ord. 188, eff. 2-25-1981)

### ***ARTICLE XXII. ADMINISTRATION***

#### **Sec. 53-194. BUILDING INSPECTOR.**

A. The provisions of this chapter shall be administered and enforced by the Building Inspector or any other employees, inspectors and officials as the Building Inspector may delegate to enforce the provisions of this chapter.

B. The powers and duties of the Building Inspector shall include the following:

1. To issue all permits and certificates required by this chapter;
2. To cause any building, structure, land, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein in violation of any provisions of this chapter; and

3. To carry out and enforce any decisions and determinations of the Board of Zoning Appeals.

C. For the purposes of this chapter, the Building Inspector shall have the powers of a police officer.  
(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-195. BUILDING PERMIT, PLAT.**

In order to facilitate administration of the conditions of this chapter, each application for a building permit shall be accompanied by a drawing or plat, in duplicate, drawn to scale and showing the lot and the proposed building and dimensions of both; the exact location of the proposed building on the lot, notations as to the use for the building and any existing building on the same lot; the information on front yard depths and other yard sizes on other lots; and other information as the Building Inspector shall require for the proper enforcement of this chapter.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-196. CERTIFICATE OF OCCUPANCY.**

A. A certificate of occupancy, stating that all of the provisions of this chapter have been fully complied with shall have been obtained from the Building Inspector before:

1. Any structure for which a building permit is required is used or occupied;
2. Any use of an existing structure is changed to a use of a different classification; and/or
3. Any use of a nonconforming use is changed.

B. In the case of a structure or use established, altered, enlarged or moved after the conditional approval thereof by the Board of Zoning Appeals, the certificate shall be issued only if all the conditions thereof shall have been satisfied.

(Ord. 188, eff. 2-25-1981)

#### **Sec. 53-197. APPLICATION FOR CERTIFICATE.**

A. Application for a certificate of occupancy shall be made and filed with the Building Inspector when any structure or use for which the certificate is required is ready for use or occupancy.

B. Within ten days after the filing thereof the Building Inspector shall inspect the structure or use and if found to be in conformity with all provisions of this chapter, shall sign and issue a certificate of occupancy.

(Ord. 188, eff. 2-25-1981)

**Sec. 53-198. PERMIT, LICENSE APPLICATIONS.**

No permit or license required by the city or other governmental agency shall be issued by any department, official or employee of the city or governmental agency, unless the application for the permit or license is accompanied by a certificate of occupancy issued by the Building Inspector.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-200. ENFORCEMENT.**

All departments, officials and employees of the city who are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, structure or purpose if the same would not conform to the provisions of this chapter.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-201. CORRECTION ORDER.**

In case of any violation of this chapter, the Building Inspector shall, after inspection, order in writing the correcting of the conditions as are found to constitute a violation. If, within 30 days or longer time as the Building Inspector may, in writing, authorize, any conditions have not been corrected, it shall be the duty of the Building Inspector to institute appropriate action.  
(Ord. 188, eff. 2-25-1981)

**Sec. 53-202. FLOODPLAIN MANAGEMENT ADMINISTRATIVE DUTIES.**

A. With regard to the National Flood Insurance Program and the regulation of development within the flood hazard area zone as prescribed in Article XIV, the duties of the Building Inspector shall include, but are not limited to:

1. Notification to adjacent communities and the Department of Natural Resources of the proposed alteration or relocation of any watercourse and the submission of the notifications to the Federal Insurance Administration; and

2. Recording of written notification to all applicants to whom variances are granted in a flood hazard area indicating the terms of the variance, the increased danger to life and property and what the cost of flood insurance will increase commensurate with the increased flood risk and may reach amounts in excess of \$25 for \$100 of insurance coverage per year. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.

B. All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Building Inspector and shall be open for public inspection.

C. It shall be the responsibility of the Building Inspector to obtain and utilize the best available flood hazard data for purposes of administering this chapter in the absence of data from the Federal Insurance Administration.  
(Ord. 188, eff. 2-25-1981)

### ***ARTICLE XXIII. VIOLATIONS AND PENALTIES***

#### **Sec. 53-203. VIOLATIONS AND PENALTIES.**

A. Any person (including, but not limited to, any owner, agent-in-charge, occupant, architect, contractor or builder) who violates, disobeys, omits, neglects or refuses to comply with any provision of this chapter or any condition or requirement of any permit, certificate, plan, agreement, variance or other approval or authorization granted under this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$500, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by § 1-8 of this code.

B. Any building or structure erected, moved, altered, razed or converted (including tents and trailer coaches) or any use of land which is begun or changed subsequent to the effective date of this chapter or its amendment, that is in violation of any provision of this chapter or any condition or requirement of any permit, certificate, plan, agreement, variance or other approval or authorization granted under this chapter, is declared to be a nuisance per se and shall be abated by any court of competent jurisdiction.

C. For purposes of chapter, the city officials authorized to issue municipal civil infraction citations and notices include, but are not limited to, the Building Inspector, the Zoning Administrator and their designated representatives.  
(Ord. 188, eff. 2-25-1981)

### ***ARTICLE XXIV. INTERPRETATION AND APPLICATION***

#### **Sec. 53-204. INTERPRETATION AND APPLICATION.**

In interpreting applying the provisions of this chapter, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued and not in conflict with any of the provisions of this chapter or which shall be adopted or issued pursuant to law relating to the use of

buildings or premises and likewise not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this chapter imposes a greater restriction upon the use of buildings or land or upon height of buildings or requires larger open spaces or larger lot areas than are imposed or required by the ordinance or agreements, the provisions of this chapter shall control.  
(Ord. 188, eff. 2-25-1981)

#### ***ARTICLE XXV. SEVERABILITY***

##### **Sec. 53-205. SEVERABILITY.**

Articles, sections, divisions, clauses, provisions and portions of this chapter are deemed to be severable and should any section, division, clause, provision or portion of this chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.  
(Ord. 188, eff. 2-25-1981)

#### ***ARTICLE XXVI. ENACTMENT AND EFFECTIVE DATE***

##### **Sec. 53-206. ENACTMENT AND EFFECTIVE DATE**

This chapter is declared to have been adopted by the City Council, at a meeting thereof, duly held on 3-10-1980, is ordered to be given publication in the manner prescribed by law and shall be given immediate effect.  
(Ord. 188, eff. 2-25-1981)