

## Chapter 46 - ZONING

*Footnotes:*

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**State Law reference**— *Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.*

## ARTICLE I. - IN GENERAL

## Sec. 46-1. - Title.

This chapter shall be known as the "East Jordan Zoning Ordinance."

(Code 2009, § 48-1; Ord. No. 142, § 1.01, 2-6-1990)

## Sec. 46-2. - Purpose.

This chapter is derived from an ordinance for the protection of the public health, safety and other aspects of the general welfare of the city through the establishment of zoning districts for the planned orderly growth and development of the city within which the proper use of land and natural resources may be encouraged or regulated, and within which zoning district's provisions may also be adopted designating the location of, the size of, the land and structural uses that may be permitted without or with special use conditions; the minimum open spaces, sanitary, safety and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings and structures that may be erected or altered; to provide, based upon the planned orderly growth and development of the city, in an orderly manner and through the wise and efficient use of public services required to be provided to the residents of the city; to provide for the conservation of the use of energy; the conservation of open space lands, wetlands and land areas containing natural or cultural resources or features necessary to the social and economic well-being of present and future generations; to provide for a method of adoption of amendments to this chapter, to provide for conflicts with other state laws and state administrative rules and regulations and local ordinances and regulations with this chapter; to provide for penalties for violations of this chapter; to provide for the assessment, levy and collection of taxes on property zoned, developed and used in accordance with the provisions of the Michigan zoning enabling act (MCL 125.3101 et seq.) and this chapter; to provide for the collection of fees for zoning permits required under this chapter; to provide for petitions and public hearings in accordance with the provisions of the Michigan zoning enabling act, and this chapter, and to provide for appeals of the provisions of this chapter.

(Code 2009, § 48-2; Ord. No. 142, § 1.02, 2-6-1990)

## Sec. 46-3. - State legislation enabling authority.

The ordinance from which this chapter is derived is adopted pursuant to the Michigan zoning enabling act (MCL 125.3101 et seq.), and, when so far as it is applicable, the Michigan planning enabling act (MCL 125.3801 et seq.). Said public acts covering municipal planning and zoning are hereby made a part of this chapter as if contained verbatim in their complete textual forms, as amended.

(Code 2009, § 48-3; Ord. No. 142, § 1.03, 2-6-1990)

## Sec. 46-4. - Enactment declaration.

This chapter, and its contained provisions, are hereby declared to be necessary to the providing of a planned orderly growth and development of the city, in the interest of providing for the public health, safety, peace, enjoyment, convenience, comfort and other aspects of the general welfare of the residents of the city in order to provide adequately for the necessities in the pursuit of their daily living pattern.

(Code 2009, § 48-4; Ord. No. 142, § 1.04, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-5. - Adoption of new zoning ordinance and repeal of present zoning ordinance.

The zoning ordinance of the city presently in effect in the city and all amendments thereto, hereby are superseded by the ordinance from which this chapter is derived, which reorganizes, and amends the present zoning ordinance on the effective date of the ordinance from which this chapter is derived; provided, however, if this chapter as a whole shall subsequently be judicially determined to have been unlawfully adopted, by having a public referendum overrule its adoption by the city commission, or be declared null and void for any other reason shall automatically reinstate the present zoning ordinance and all of its amendments to their full effect.

(Code 2009, § 48-5; Ord. No. 142, § 1.05, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-6. - Relationship to adopted master plan.

The zoning map and text and the plans and specifications for the future development and redevelopment of the city are based upon the master land use studies and plan for the city. The master land use studies and plan has been and will continue to be a basis for amending or changing the zoning ordinance map and text in the future.

(Code 2009, § 48-6; Ord. No. 142, § 1.06, 2-6-1990)

Sec. 46-7. - Rules applying to text.

All words used in the present tense shall include the future, all words in the singular number include the plural number, and all words in the plural number include the singular number; the term "building" includes the term "structure," and the term "dwelling" includes the term "residence;" the term "person" includes the term "corporation," the term "co-partnership," and the term "association" as well as the term "individual;" the term "shall" is mandatory and directory. Terms not herein defined shall have the meaning customarily assigned to them, except when it is deemed necessary to amend this chapter with additional words to be defined or when a word needs to be defined by interpretation, the zoning board of appeals shall define such terms.

(Code 2009, § 48-7; Ord. No. 142, § 2.01, 2-6-1990)

Sec. 46-8. - Definitions.

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

*Accessory building.* See *Building, accessory.*

*Accessory use.* See *Use, accessory.*

*Adjacent property* means property which adjoins any side or corner of a specific parcel of land.

*Administrator.* See *Zoning administrator*.

*Alley* means automotive access easement or right-of-way located along the rear of lots or parcels and connected to a public or private street.

*Alterations* means any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as altered or reconstructed.

*Animal hospital* means a self-enclosed building wherein animals including domestic household pets and farm animals are given medical or surgical treatment and use as a boarding place for such animals limited to short time boarding incidental to hospital use. Such hospitals include only those under direction of a licensed veterinarian registered in the state. Such animal hospitals shall be constructed in such a manner that noise and odor are not discernible beyond the property upon which it is located.

*Animal shelter* means a building supported by a governmental unit or agency or by a nonprofit corporation where domestic pets or other animals are kept because of requirements of public health officials, loss by owner, neglect or violation of a public law or ordinance.

*Apartments* means the dwelling units in a multiple-family dwelling, as defined in this section.

*Efficiency unit* means a dwelling unit consisting of not more than one room, in addition to kitchen, dining and necessary sanitary facilities, and for the purpose of computing density shall be considered as a one-room unit.

*One-bedroom unit* means a dwelling unit consisting of not more than two rooms, in addition to kitchen, dining and necessary sanitary facilities, and for the purpose of computing density, shall be considered as a two-room unit.

*Two-bedroom unit* means a dwelling unit consisting of not more than three rooms, in addition to kitchen, dining and necessary sanitary facilities, and for the purpose of computing density, shall be considered as a three-room unit.

*Three-or-more bedroom unit* means a dwelling unit wherein for each room in addition to the three rooms permitted in a two-bedroom unit, and for the purpose of computing density, said three-bedroom unit shall be considered a four-room unit, and each increase in a bedroom over three shall be an increase in the room count by one over the four.

*Appeal.* See *Zoning appeal*.

*Automobile carwash* means a building, or portion thereof, where self-propelled motor vehicles are washed as a commercial enterprise.

*Automobile or trailer sales area* means any enclosed building or area or open space used for display, sales, or rental of motor vehicles or trailers in new or used and operable condition.

*Automobile repair garage* means a place where, with or without the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; or painting and undercoating of motor vehicles.

*Automobile service station* means a place where gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on premises; including sale of minor accessories and service for automobiles.

*Automobile storage, damaged*, means any storage or inoperable vehicles intended to be repaired back to operable condition, but not including such vehicles which are incident or accessory to an automotive repair garage or a licensed salvage yard used as a depository for such vehicles.

*Awning or canopy* means a prefabricated overhead attachment to the front of buildings and structures for the purpose of providing shelter from sun and inclement weather for pedestrians walking in front of a building or structure on a sidewalk or entering and exiting a building or structure and constructed of pipe and canvas, wood, plastic, metal or other suitable material.

*Basement* means that portion of a building partly below grade, but so located that the vertical distance from the grade level to the basement floor is greater than the vertical distance from the grade level to the basement ceiling. A basement shall not be included as a story for height measurement, nor counted as floor area, unless the room has walk-out capability. The term "walk-out basement" means a room with at least one wall below grade which provides barrier free access to the exterior of the structure and with at least 50 percent of one wall with no grade and two exits which are fire escape routes.

*Bed and breakfast facility* means any single-family dwelling used or designed in such a manner that certain rooms in excess of those used by the owner are rented to the transient public for compensation.

*Bedroom* means a dwelling room used for or intended to be used solely for sleeping purposes by human beings.

*Berm* means a continuous mound of earth having slopes which do not exceed a ratio of one unit of height to four feet of length.

*Block* means that section of one side of a street located between two intersecting streets and having no other intersecting street between them.

*Board of appeals*. See *Zoning board of appeals*.

*Body piercing* means the perforation of human tissue, other than an ear, for a nonmedical purpose and other than perforation of human tissue by a licensed medical practitioner.

*Body piercing establishment* means an establishment where body piercing is performed, whether or not it is in exchange for compensation or any other form of consideration.

*Breezeway* means any covered passageway with open sides between two buildings.

*Building* means an independent structure, either temporary or permanent, having a roof supported by columns or walls which includes sheds, garages, stables, greenhouses, or other accessory structures. A detached building is one separated on all sides from adjacent buildings by open spaces from the ground up. When any portion thereof is completely separated from every other part thereof, by division walls from the ground up, and without openings, each portion of such structure shall be deemed a separate building.

*Building, accessory*, means a supplemental building or structure on the same lot or parcel of land as the main building, or buildings, or part of the main building occupied by or devoted exclusively to any accessory uses, but such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings.

*Building area* means the space remaining on a lot or parcel after the minimum yard and open space requirements of this chapter have been complied with.

*Building height* means the vertical distance from the established grade to the highest point of the roof surface for flat roofs, to the decline of mansard roofs; and to the average height between eaves and ridge for gables, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

*Building inspector* means the city official appointed by the city commission to administer and enforce the standards of this chapter.

*Building line* means a line formed by the face of the building, and for the purposes of this chapter, a minimum building line is the same as the front setback line.

*Building, main*, means the building or structure in which the principal use or activity on a lot or parcel takes place.

*Building permit* means a building permit is the written authority issued by the building inspector in conformity with the provisions of chapter 8, article II.

*Building, principal*, means a building in which is conducted the principal use of the premises on which it is situated.

*Building setback line* means the line formed by the outer surface of a structure or enclosure wall at or with the finished grade or surface of the ground; pertaining to defining those minimum (building) setback lines which are established, in general, parallel to the front street right-of-way and within which setback area no part of a building shall project or be located, except as otherwise provided for by this chapter.

*Building, temporary*. See *Temporary use or building*.

*Campground* means the uses and activities which take place on a lot or parcel of land for temporary short-term resort or recreation purpose in accordance with part 125 of the public health code (MCL 333.12501 et seq.) and the administrative rules promulgated under the public health code (MCL 333.1101 et seq.) as administered by the county, district or state public health departments.

*Canopy*. See *Awning*.

*Child day care center* means a building where the principal use of the property is to care for six or more unrelated children in an institution setting.

*Church* means a building wherein persons assemble regularly for religious worship, maintained and operated by an organized religious body. Accessory uses, buildings and structures customarily associated with a church. The term "church" includes temples or synagogues.

*Clinic, animal*, means a building or group of buildings and/or structure where domestic animals are admitted for examination, treatment and care by a licensed veterinarian or related paraprofessionals and technicians and where such animals may be provided with overnight housing.

*Clinic, human*, means a building or group of buildings where human patients are admitted for examination and treatment by more than one professional; such as, a physician, dentist, or the like, except that such human patients are not lodged therein overnight.

*Club or lodge* means an organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit, and open only to members and not the general public.

*College* means a place of higher learning providing facilities for teaching and research of a general, technical, or religious nature, either public or private, and which is operated on a nonprofit basis.

*Commercial* means a retail trade and for a professional, personal, technical and mechanical service business primarily operated for profit.

*Commercial district or center* means a concentration of commercial uses or activities, on a specific area planned or zoned for commercial purposes.

*Common areas, uses and services* means land areas, improvements facilities and utilities, the use, enjoyment and maintenance of which are intended to be shared by the owners and occupants of individual building units in a subdivision or a planned development.

*Construction code* means a city building or construction code which meets the requirements of the state construction code act or any code established in accordance with its provisions.

*Convalescent or nursing home* means a structure with sleeping rooms where persons are housed or lodged and are furnished with meals, nursing and medical care.

*District* means zoning district.

*Drive-in establishment* means any establishment which offers goods and/or services over the counter or in motor vehicles.

*Drive-in restaurant* means any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages, or other food served directly to or permitted to be consumed by patrons in cars or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside the main building.

*Dwelling* means a building designed and built in accordance with the city construction code or used exclusively as a living quarters for one or more families but not including automobile chassis, tents or portable buildings.

*Dwelling, group (group housing)*, means two or more single- or multiple-family dwelling structures on a parcel of land under single ownership.

*Dwelling, mobile home*, means a dwelling unit manufactured in one or more sections, designed for year-round dwelling purposes, capable of being transported upon its own or a separate wheeled chassis and not motorized or self-propelled, but which meets the minimum floor area requirements of this chapter and installed in accordance with all of the other requirements of this chapter and the construction code specified for dwellings, when located outside of a state-licensed mobile home park. When a licensed mobile home is located in a state-licensed mobile home park it shall meet the requirements of the state mobile home commission act and the rules and regulations established by the mobile home commission.

*Dwelling, multiple-family*, means a dwelling structure, or portion thereof, designed for occupancy by two or more families living independently of each other.

*Dwelling, one-family*, means a dwelling structure designed exclusively for occupancy by one family.

*Dwelling, two-family or duplex*, means a multiple-family dwelling structure designed exclusively for occupancy by two families independent of each other.

*Dwelling unit* means a dwelling unit is any building or portion thereof or a mobile home having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently. 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 a dwelling.

*Erected* includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and other similar construction, shall be considered a part of erection.

*Essential services* means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith in the interest of the public health, safety and welfare, but not including buildings which are necessary for the furnishing of services by such public utilities or municipal departments.

*Excavation* means any breaking of ground, except farm use, common household gardening and ground care.

*Exception.* See *Zoning exception*.

*Exit ramp* means an automotive exit from a highway.

*Family* means:

- (1) An individual or group of two or more persons related by blood, marriage or adoption, together with foster and step children and servants or the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- (2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit.

The term "family" shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

*Fence* means a permanent partition, structure or gate erected as a dividing marker, barrier or enclosure, and not a part of a principal building or structure or other accessory structure. An ornamental fence is one that is less than three feet in height, and is normally used in setting off planting areas and gardens.

*Filling* means the depositing or dumping of any matter into or onto the ground, except common household gardening and general care.

*Filling station.* See *Automobile service station*.

*Floodplain* means that portion of land adjacent or connected to a water body or watercourse which is subject to periodic inundation in accordance with the 100-year flood cycle as determined by the U.S. Army Corps of Engineers or other applicable federal agency.

*Floor area, gross, (GFA)* means the sum of the gross horizontal areas of the several floors of the building measured from the exterior face of the exterior walls or from the centerline of walls separating two dwelling units. The gross floor area of a building 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 and of interior finished construction similar to first or main floor. Any space devoted to off-street parking or loading shall not be included in gross floor area. Areas of dwelling basements, unfinished attics, utility rooms, breezeways, porches (enclosed or unenclosed) or attached garages are not included.

*Floor area, usable, (UFA)* means the measurement of usable floor area shall be that portion of floor area (measured from the interior face of the exterior walls) used for or intended to be used for services to the public as customers, patrons, clients, or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas used or intended to be used principally for storage or merchandise, utility or mechanical equipment rooms, or sanitary facilities. In the case of a half-story area, the usable floor area shall be considered to be only that portion having a clear height of more than 90 inches of headroom.

*Frontage, street.* See *Street frontage*.

*Garage, commercial,* means any garage, other than a private garage available to the public, operated for gain, and used for storage, repair, rental, greasing, washing, sales, servicing, adjusting, or equipping of automobiles or other motor vehicles.

*Garage, private,* means an accessory building not to exceed the height or 50 percent of the usable floor area of the principal structure used for parking of vehicles or storage as may be required in connection with the permitted use of the principal building.

*Gas station.* See *Automobile service station*.

*Grade* means a ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

*Grading permit* means a permit required in all zoning districts for any manmade earth change to the natural cover or topography of land which may result in or contribute to soil erosion or sedimentation of the water of the city. Grading permits are not usually required for minor single-family residential projects unless the projects are subject to the soil erosion and sedimentation control provisions of part 91 of the natural resources and environmental protection act (MCL 324.9101 et seq.). Grading permits are usually made part of the standard zoning permit, but may be applied for and issued separately.

*Greenbelt.* See *Landscaping*.

*Grocery store* means a retail store where a minimum of 50 percent of the floor area or more than 25,000 square feet of floor area is devoted to food items including, but not limited to, fresh produce, fresh meats, fresh dairy products and prepackaged foods.

*Group child care home* means a residential dwelling where the care of seven to 12 unrelated children is given in a family setting, incidental to the principal use of the dwelling.

*Group housing.* See *Dwelling, group*.

*Highway* means any public thoroughfare dedicated and maintained for the use and operation of vehicular traffic by the state department of transportation. See *Street*.

*Highway, major arterial,* means those highways defined as such in the city master plan for streets and highways.

*Historical building, site or area* means those parcels and/or uses of land and/or structures whose basic purpose is to:

- (1) Safeguard the heritage of the city by preserving or allowing a structure or use which reflects elements of the community's cultural, social, economic, political, or architectural history;



- (2) Stabilize and improve property values in the area;
- (3) Foster civic beauty;
- (4) Strengthen the local economy; and
- (5) Promote the use of such sites for the education, pleasure, and welfare of the local residents and of the general public.

*Home, motor*, means a motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. The term "motor home" does not include mobile homes.

*Home business* means any use customarily conducted within a dwelling, an accessory structure or on a property and carried on by the inhabitants thereof, may involve employees, but does not change the general character thereof, and which does not endanger the health, safety, and welfare of any other persons residing in that area by reasons of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such business, profession or hobby. Such business shall be permitted to make external alterations of construction features or have outdoor work areas, storage, or signs not customarily permitted in residential areas.

*Home occupation* means any use customarily conducted entirely within a dwelling, an accessory structure or an enclosed area and carried on by the inhabitants thereof, not involving employees other than members of the immediate family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof, and which does not endanger the health, safety, and welfare of any other persons residing in that area by reasons of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, profession or hobby. Such occupation shall not be permitted to make external alterations of construction features or have outdoor work areas, storage, or signs not customarily permitted in residential areas.

*Hospital* means an institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

*Hotel* means a building occupied or used as a more or less temporary abiding place of individuals or groups of individuals with or without meals, and in which there are more than five sleeping rooms, and in which no provisions are made for cooking in any individual room. Bed and breakfast facilities located in dwellings are excluded from the term "hotel." See *Motel*.

*Industrial* means a product manufacturing or conversion through assembly of new or used products or through the disposal or reclamation of salvaged material business and service activity that are operated primarily for profit.

*Industrial park* means a special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

*Inoperative vehicles* means an automotive vehicle that is inoperable and unlicensed for current driving on public streets.

*Institution* means an organization having a social, educational or religious purpose established by law, custom, practice or a system to serve a public.

*Junk* means all rubbish, refuse, waste material, garbage, including, but not limited to, the following: waste composed of animal, fish, fowl, fruit or vegetable matter, dead animals, putrescible and nonputrescible solid waste (except body wastes), ashes, glass, cans, bottles, discarded or abandoned machinery, household appliances, industrial wastes, discarded,

inoperative, dismantled or partially dismantled motorized vehicles or parts thereof. This shall not preclude home or farm composting for on-site use.

*Junkyard* means any lot, parcel, field or tract of land on which there is an accumulation of junk, equipment or machinery, whether operated for profit or not for profit bases. The term "junkyard" includes automobile wrecking yards and salvage areas of more than 200 square feet for the storage, keeping or abandonment of junk or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include uses contained entirely within an enclosed building.

*Kenel* means any lot or premises on which four or more dogs of more than six months in age are kept or boarded temporarily or permanently, for the purpose of breeding, boarding, for sale, or otherwise. It shall also include any lot or premises on which other fur-bearing household or domestic pets of like number are bred or sold.

*Laboratory* means a place in which the principal use is devoted to experimental, routine, or basic study such as testing and analytical operations.

*Lake* means a permanent natural or manmade body of surface water of at least five acres in area.

*Land use permit. See Zoning permit.*

*Landscaping and greenbelts* means any combination of existing or planted trees, shrubs, vines, ground covers, flowers, lawns, fences, fountains, pools, ponds, artworks, screens, walls, benches, drives, parking areas, walks, paths, steps, terraces and garden structures located in a yard or along the border of a yard and used as a buffer or screen between two or more incompatible land uses or activities.

*Lighting, source of,* refers to the light bulb or filament which is exposed or visible through a clear material. Exposed mercury, sodium vapor lamps or neon gas lamps shall be considered a direct source of light.

*Loading space* means an off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and/or unloading merchandise or materials.

*Lot* means a parcel of land occupied, or intended to be occupied, by a principal building or a group of such buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records. (See *Parcel* or *Plat*). A lot shall not include road easements or road rights-of-way.

*Lot area* means the total horizontal flat plane area contained within the lot lines of a lot or parcel.

*Lot, corner,* means a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purpose of this chapter if the arc is of less radius than 150 feet and the tangents to the curve at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

*Lot coverage* means that percentage of the flat plane lot or parcel covered by all buildings and structures located in the lot or parcel.

*Lot depth* means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

*Lot, double frontage*, means any interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to a street shall be considered frontage and front yards shall be provided as required.

*Lot, interior*, means any lot other than a corner lot.

*Lot line, front*, means, in the case of an interior lot, that line separating said lot from the street. In the case of a corner lot, or double frontage lot, the term "front lot line" means all lines separating said lot from adjacent streets. Also the line separating said lot from the body of surface water by the shoreline upon which it fronts.

*Lot line, rear*, means that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten feet long farthest from the front lot line and wholly within the lot.

*Lot line, side*, means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

*Lot lines* means the exterior perimeter boundary lines of a lot or parcel.

*Lot of record* means a lot or parcel recorded in the office of the county register of deeds. For the purpose of this chapter, land contracts, leaseholds and purchase options not recorded in the county register of deeds' office, but dated and notarized shall also constitute a lot or parcel of record.

*Lot, waterfront*, means a lot having a frontage directly upon a lake, river or other reasonable sized impoundment of water. The portion adjacent to the water shall be designated as the water frontage of the lot.

*Lot width* means the horizontal distance between the side lot lines, measured at the two points where the required building setback line intersects the side lot lines.

*Major thoroughfare* means a street, or highway designated as such in the city master plan for streets and highways.

*Marginal access street* means a public or private street or driveway paralleling and adjacent to any one of the major streets and arterials as designated in the city master plan for streets and highways.

*Master plan* means the plan prepared and adopted by the city planning commission in accordance with state law, relative to the agreed upon desirable physical land use pattern for future city development. The plan consists of a series of maps, plans, charts, and written material, representing in summary form, the soundest planning direction to the city as to how it should grow in order to realize the very best orderly land use arrangement and community living environment.

*Mobile home* means a dwelling unit manufactured in one or more sections, designed for year-round, temporary or transient dwelling purposes, capable of being transported upon its own or a separate wheeled chassis, not motorized or self-propelled, built for the purpose of being located in a licensed mobile home park, meets the requirements of the FHA standards of the United States Department of Housing and Urban Development (HUD) and installed in accordance with this chapter, the construction code and/or the rules and regulations of the state mobile home park commission act when located in a state-licensed mobile home park.

*Mobile home park* means a specifically designated parcel of land which has been designed and constructed to accommodate three or more licensed mobile homes for residential dwelling use, and the mobile home park licensed by the state in accordance with the mobile home commission act (MCL 125.2301 et seq.).

*Mobile home space or pad* means a specified area of ground within a mobile home park designed for the accommodation of one mobile home.

*Motel or motor court* means a business comprising a dwelling unit or a group of dwelling units so arranged as to furnish temporary or transient lodging accommodations for the public for compensation. See *Hotel*.

*Nonconforming building or structure* means a nonconforming building is a building or portion thereof lawfully existing at the effective date of the ordinance from which this chapter is derived, or amendments thereto, and which does not conform to the dimensional requirements of the chapter in the zoning district in which it is located.

*Nonconforming use* means a use which lawfully occupied a building or land at the effective date of the ordinance from which this chapter is derived, or amendments thereto, that does not conform to the use regulations of the zoning district in which it is located, but which continues to have a legal vested right to continue to be used exactly as it existed at the time of adoption of the ordinance from which this chapter is derived or any amendment to it, except as otherwise provided in this chapter.

*Nuisance* means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or adversely affect a human being.

*Nuisance per se* means a nuisance which is subject to remedy as a matter of law and is a violation of this chapter.

*Nursing home*. See *Convalescent home*.

*Occupied* means a building, structure, or land area designed and used for the purpose of and occupied for a useful purpose permitted under the provisions of this chapter.

*Office* means an enclosed area which has as its primary use, rooms for professional or financial organizations, individuals, and labor unions, civic, social, fraternal and/or other related organizations or enterprises.

*Office park* means the district or area for office and office related accessory uses.

*Off-street parking*. See *Parking, off-street*.

*Off-street parking lot*. See *Parking, off-street, lot*.

*Off-street parking space*. See *Parking, off-street, space*.

*Open-air business uses* means business uses operated for profit, substantially in the open air, usually without buildings or structures, including uses such as the following:

- (1) Bicycle, utility truck or trailer, motor vehicle, boats or home equipment sale, repair, or rental services.
- (2) Outdoor display and sales of garages, motor homes, mobile homes, snowmobiles, farm implements, swimming pools and similar products.
- (3) Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer.
- (4) Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving range, children's amusement park or similar recreation uses (transient or permanent).

*Open space* means any land area that exists in its natural state or which is reserved for growing vegetation, recreation, gardens or household service activities, such as, clothes drying, but not occupied by any buildings or other aboveground or surface structures, except as provided in this chapter.

*Open space uses* means any principal or accessory use of a lot or parcel not involving the use of buildings or structures which are required to meet the state construction code or any construction requirement of ordinances, rules or regulations, except as provided in this chapter.

*Open storage* means a land area occupied and used for outdoor storage of building materials, sand, gravel, stone, lumber, equipment and other supplies.

*Outdoor advertising signs (billboards).* See *Signs, outdoor advertising.*

*Parcel.* See *Lot.*

*Parking lot, off-street,* means 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 two automobiles.

*Parking, off-street,* means vehicular parking provided on a lot or parcel, but not within a highway or street right-of-way or a reserved or dedicated easement.

*Parking space* means a land area of not less than nine by 20 feet, exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle and so located as to be readily accessible to a public street or alley.

*Parking space, off-street,* means 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 storage or parking of permitted vehicles on lots or parcels, but not within a public highway or public or private street right-of-way.

*Pet* means only such animals as may commonly be housed within domestic living quarters.

*Planned unit development (PUD)* means a planned residential, commercial, industrial, public or semipublic land use development consisting of two or more principal uses located on a parcel of land of prescribed minimum area, prepared in accordance with the PUD requirements of this chapter and approved by the city after site plan review.

*Plat* means a map or plan of the layout of the subdivision of a parcel of land which is in conformance with all of the provisions of Public Act No. 288 of 1967 (MCL 560.101 et seq.), the land division act, and the subdivision regulations of the city.

*Pond* means a small body of surface water of less than five acres but more than one-quarter of an acre in area and at least 18 inches deep which exists in a natural state or is established by either the damming of surface water or by excavation of soil to expose groundwater.

*Porch, enclosed,* means a covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached. The term "enclosed porch" includes a patio.

*Porch, open,* means a covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached. The term "open porch" includes a patio and deck.

*Practical difficulties.* See *Zoning variance.*

*Private street.* See *Street, private.*

*Public utility* means any person, firm, corporation, municipal department, agency, board, or commission duly authorized to furnish, and furnishing under federal, state, or municipal regulations to the public; electricity, gas, steam, communications, telegraph, transportation, water, stormwater collection or wastewater collection and treatment.

*Recreation vehicle* means a motorized vehicle primarily designed and used as temporary living quarters for recreational camping or a vehicle mounted on or drawn by another vehicle, but not including mobile homes.

*Recreation vehicle park (RV park)* means a family recreation oriented facility for the overnight or short-term (not to exceed 14 days consecutively) parking of travel trailers, recreation vehicles or tents, but not including mobile homes. An RV park may also be known as a campground.

*Restaurant* means a building in which food or beverages are cooked or prepared and offered for sale, and where consumption is permitted on the premises whether or not entertainment is offered.

*Restaurant, fast food*, means a restaurant serving food and beverages on the premises in one of the following manners: in automobiles; at a drive-through window; or at an establishment which otherwise has a carry out service as part of the business.

*Restaurant, sit-down*, means a restaurant serving food and beverages (both alcoholic and nonalcoholic) in which the customer is served food and beverages within the establishment or at outside tables. Sit-down restaurants as herein described shall not have any exterior window opening which permits food and beverages to be picked up by automobile or pedestrians for the consumption off the premises or within the automobiles on the premises.

*Right-of-way, street*, includes highway and street right-of-way. See *Street right-of-way*.

*Roadside stand* means a temporary or permanent building or structure operated for the purpose of selling only products or produce raised or produced on the same premises including the immediate surrounding area, by the proprietor of the stand or his family; its use shall not make it a commercial district or land which is basically classified as residential, nor shall its use be deemed a commercial activity. The maximum floor area of a roadside stand shall not exceed 400 square feet.

*Salvage* means the same as junk. See *Junk*.

*Sanitary landfill* means a private or public landfill that meets all of the requirements of part 111 of the natural resources and environmental protection act (MCL 324.11101 et seq.) and part 115 of such act (MCL 324.11501 et seq.), and the rules promulgated under these acts by the state.

*Setback, street*, means the minimum required distance between the street right-of-way line and the nearest point of the foundation or the vertical wall extended to the ground of the principal structure.

*Setback, waterfront*, means the minimum required distance between the established shoreline and the nearest point of the foundation or the vertical wall extended to the ground of the principal structure.

*Shopping center* means a group of three or more stores, offices, or shops selling merchandise or services and served by a common off-street automobile parking area which is located on private property.

*Shoreline* means ordinary high water mark (OHWM), being defined to mean the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is common or recurrent so that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the

configuration of the soil and the vegetation. On an inland lake which has had a level established by law, it means the high established level. On a river or stream, the ordinary high water mark shall be the ten-year-flood limit line. The ordinary high water mark shall be at elevation 582.35 feet (International Great Lake Datum, IGLD) for Lake Charlevoix.

*Sign* means the use of any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as to show an individual firm, profession, business, product or message and visible to the general public. Framing and decorative borders shall be included as a part of the measurable surface of the sign. See further definitions of the term "sign" in article VIII of this chapter.

*Sign, lighted*, means any sign visible to the outdoors having a conspicuous, continuous or intermittent variation in the illumination of the physical position of any part of the sign.

*Sign, outdoor advertising*, means any construction or portion thereof upon which a sign or advertisement used as an outdoor display for the purpose of making anything known to the general public is affixed. The term "outdoor advertising sign" does not include any bulletin boards used to display official court or public notices. An outdoor advertising sign includes a billboard.

*Site plan* means a legal plat of survey of a lot or parcel and the plan for all of the proposals to develop or change the existing character of the lot or parcel.

*Special use* means a use with conditions specified in this chapter, which is subject to approval by the city after site plan review. A special use which shall be granted when all of the provisions specified by this chapter are met. A permitted special use is not considered to be a nonconforming use, but is one which is a necessary and integral part of the zoning district in which specified special uses are permitted.

*Special use permit* means a permit issued by the city to a person intending to undertake the operation of a use and/or an activity upon land or within a structure which is specifically mentioned in this chapter.

*State-licensed residential facility* means a structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act (MCL 400.701 et seq.), or Public Act No. 116 of 1973 (MCL 722.111 et seq.), and provides residential services for six or fewer persons under 24-hour supervision or care.

*Story* means that part of a building included between the surface of one floor, and the surface of the next floor; or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than 50 percent, by cubic content, is below the height level of the adjoining ground.

*Story, half*, means an uppermost story lying under a sloping roof, the usable floor area of which, at a height of four feet above the floor does not exceed two-thirds of the floor area in the story directly below, and the height above at least 200 square feet of floor space is seven feet, six inches.

*Story height* means the vertical distance from the top surface of one floor to the top surface of the next above. The height of the topmost story is the distance from the top surface of the floor to the ceiling above it.

*Street* means any public or private thoroughfare dedicated and maintained for the use and operation of vehicular traffic and which meets the minimum standards of construction of the city's street department.

*Street block* means that portion of both sides of a street located between two intersecting streets and having no other intersecting street between them.

*Street, collector*, means a street specified in the master plan for street and highways which connects to minor streets and subsequently to major streets.

*Street, connecting*, means a street specified in the master plan for streets and highways which connects two major streets or highways, and carries, or is planned to carry, major volumes of traffic.

*Street frontage* means the legal line which separates a dedicated street right-of-way or easement from abutting land.

*Street, frontage access*, means a public or private street paralleling and providing driveway ingress and egress to adjacent lots and parcels but connected to the major highway or street only at designated intersections or interchanges.

*Street, hard surface*, means a highway or street built to the concrete or asphalt surface street building specifications of the city or the state department of transportation.

*Street, local arterial*, means a street specified in the master plan for streets and highways for the city which provides for the handling of large volumes of local traffic over extended distances.

*Street, minor*, means a street specified in the master plan for streets and highways for the city which provides for the handling of small volumes of local traffic and provides direct driveway access to individual lots and parcels.

*Street, private*, means a nonpublic street which serves at least two separately owned lots or parcels and which meets the city's street construction standards.

*Street right-of-way line* means the line which forms the outer limits of a street right-of-way or easement, and which forms the line from which all setbacks and front yards are measured, unless otherwise specified in this chapter.

*Structural alterations* means any change in the supporting members of a building such as bearing walls, columns, beams or girders or any substantial changes in the roof and exterior walls.

*Structure* means any manmade surface feature or designed earth feature other than normal finished grading for drainage purposes including drives, parking areas, garden houses, pole barns, sheds, pergolas, decks, porches, play houses, game courts and berms, but excluding lot or parcel boundary fences, walls and screens. See *Building*.

*Swimming pool* means any outdoor permanent, nonportable structure or container, including Jacuzzis, hot tubs and any other pool meeting these specifications, located either above or below grade designed to hold water to depth of 18 inches or more, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

*Tattoo parlor* means any place where persons are tattooed, other than by a licensed medical practitioner, or any place where tattooing is conducted whether or not it is in exchange for compensation or any other form of consideration.

*Tattoo, tattooed, or tattooing* means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance, by the aid of needles or other instruments designed to touch or puncture the skin, resulting in either the coloration of the skin, or the production of scars or scarring.

*Television satellite dish* means an outdoor structure used for the purpose of receiving television signals and programs from space satellites.

*Temporary building*. See *Building, temporary*.

*Temporary use*. See *Use, temporary*.

*Tent* means a shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground, but shall not include those types of small tents used solely for children's recreational purposes.



*Travel trailer* means a portable nonmotorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for periodic overnight lodging. The term "travel trailer" also includes folding campers and truck-mounted campers, but does not include mobile homes.

*Unnecessary hardship.* See *Zoning variance*.

*Use* means the lawful purpose for which land or premises or a structure or building thereon is designed, arranged, intended, or for which is occupied, maintained, let or leased for a use or activity.

*Use, accessory,* means a use or activity normally and naturally incidental to, subordinate to, and related exclusively to the principal use of the land or buildings, including all structures detached from the principal structure above and below ground; such as garages, sheds, barns, television satellite dishes, and designed surface structures and areas such as drives, walks, court game areas, play apparatus areas, and other types of paved surfaces.

*Use, commercial,* means any use permitted in the commercial zones in this chapter.

*Use, industrial,* means any use permitted in the industrial zones in this chapter.

*Use, institutional,* means any of the public or private organizational uses permitted in this chapter.

*Use, land,* means the principal and accessory uses and activities being made of all land areas, buildings and structures located upon a lot or parcel.

*Use, principal,* means the one primary or dominant use or activity to which a lot or parcel is put.

*Use, public,* means any of the publicly-owned or leased uses of land, buildings or structures administered and operated by a public agency or official.

*Use, residential,* means any of the uses permitted in the residential zones in this chapter.

*Use, temporary,* means a use, activity, or building permitted to exist during the period of construction of the main building or use, or for special temporary or transient events.

*Variance.* See *Zoning variance*.

*Variety store* means a retail store that sells a wide variety of relatively small and inexpensive items.

*Yard* means the required open spaces on the same lot with the principal and accessory building and structures, which remain permanently unoccupied and unobstructed above and below the ground, except as otherwise provided in this chapter.

*Yard, front,* means the open space between the front street lot line or waterfront shoreline and the main building in which the principal use is located.

*Yard, front required,* means the required open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building in which the principal use is located.

*Yard, front, street and waterfront,* are both defined as front yards or setbacks from street right-of-way lines and shorelines of water bodies.

*Yard, rear,* means the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building in which the principal use is located.

*Yard, required*, means the minimum yard or setback required by this chapter as specified in each zoning district.

*Yard sale*. See chapter 34, article II for provisions pertaining to garage sales.

*Yard, side*, means the open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot to the nearest point of the main building in which the principal use is located.

*Zone*. See *Zoning district*.

*Zoning administrator* means the same as building inspector, but is the commission appointed official designated to administer and enforce duties and responsibilities as specified in this chapter.

*Zoning appeal* means an entreaty or demand for a hearing and/or review of facts and/or actions conducted by the zoning board of appeals in accordance with the duties and responsibilities specified in this chapter.

*Zoning board of appeals* means the city's zoning board of appeals (ZBA).

*Zoning district* means a portion of an area of the city within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this chapter and which is designated on the zoning district map.

*Zoning exception*. See *Zoning interpretation* and *Zoning variance*.

*Zoning interpretation* means a review which is necessary when the provisions of this chapter are not precise enough to all applications without interpretation, and such review of the provisions of this chapter is therefore required in accordance with the procedures and provisions of this chapter.

*Zoning permit* means a permit for commencing construction issued by the zoning administrator in accordance with a plan for construction that complies with all the provisions of this chapter and an approved site plan.

*Zoning variance* means a modification of literal provisions of this chapter granted when strict enforcement of this chapter would cause unnecessary hardship or practical difficulties due to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are unnecessary hardship, practical difficulties, unique circumstances, and exceptional and unusual elements are present which would preclude the same type of development permitted in the zoning district from being repeated, but, which with a variance, would permit compatible development similar to the character of development permitted in a zoning district. The term "zoning variance" shall not include granting variances for substantially larger buildings or additional uses other than those permitted in the respective zoning districts.

*Practical difficulties* means those dimensional zoning requirements which cannot be met by an existing lot or parcel because of its unique or unusual shape and size due to its narrowness, shallowness, irregular shape or natural or existing development characteristics and such lots or parcels are different in the sense of these characteristics from other more typical lots located in the same zoning district.

*Unnecessary hardship* means that a permitted principal or accessory use because of its specific limitations by normal definition is in need of modification through combining permitted principal or accessory uses when only one such use is permitted on a lot or parcel.

(Code 2009, § 48-8; Ord. No. 142, § 2.02, 2-6-1990; Ord. No. 142G, §§ 4, 8, 14, 10-15-1996; Ord. of 12-2-1997; Ord. No. 142K, § 1, 11-17-1998; Ord. No. 142U, 5-6-2003; Ord. No. 143L, 12-5-2016; Ord. No. 144C, 1-18-2022; Ord. No. 144E, § (1), 4-5-2022)

Secs. 46-9—46-34. - Reserved.

## ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. - GENERALLY

#### Sec. 46-35. - Purpose.

The purpose of this article is to provide for the organization of personnel and procedures for the administration of this chapter, including the submittal and review of land use and development plans, issuance of land and structural use zoning permits, inspections of properties for compliance with the zoning map and regulations, establishment and collection of permit fees, handling of violators and enforcement of the provisions of this chapter and any amendments to it.

(Code 2009, § 48-35; Ord. No. 142, § 23.01, 2-6-1990)

#### Sec. 46-36. - Administration.

- (a) The provisions of this chapter shall be administered by the city commission, the zoning administrator, the city planning commission and such personnel as designated by the city commission in accordance with the Michigan planning enabling act (MCL 125.3801 et seq.), and the Michigan zoning enabling act (MCL 125.3101 et seq.) and this chapter.
- (b) The city commission shall employ a zoning administrator who shall act as the officer to carry out the enforcement of this chapter. The person selected, the terms of employment and the rate of compensation shall be established by the city commission.

(Code 2009, § 48-36; Ord. No. 142, § 23.02, 1-6-1990; Ord. No. 142G, § 8, 10-15-1996)

#### Sec. 46-37. - Duties of zoning administrator.

- (a) The zoning administrator shall receive and review all applications for zoning permits and approve or disapprove such applications based on compliance with the provisions of this chapter and shall approve issuance of the permit, if the use and the requirements of this chapter are met.
- (b) The zoning administrator shall assist the city commission, the planning commission and the zoning board of appeals in the processing and administering of all zoning appeals and variances, special uses and planned unit development applications and amendments to this chapter.
- (c) The city clerk, with the assistance of the zoning administrator, shall be responsible for updating the zoning map and keeping it current.
- (d) The zoning administrator shall prepare and submit to the city commission and the planning commission a written record of all zoning permits issued during each month. The record shall state the owner's name, location of property, intended use and estimate cost of construction for each permit.
- (e) The zoning administrator shall maintain written records of all actions taken by the zoning administrator.

(Code 2009, § 48-37; Ord. No. 142, § 23.03, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

#### Sec. 46-38. - Zoning permit.

- (a) *Zoning permit requirements.* A zoning permit is required for all developments and shall be obtained after the effective date of the ordinance from which this chapter is derived from the office of the zoning administrator or his agent by the owner for the following conditions:
- (1) The administrative coordination of zoning permits issued by the city and building permits issued by the building inspector shall be in accordance with section 46-193.
  - (2) The construction, enlargement, alteration or moving of any dwelling, building or structure or any part thereof, being used or to be used for agricultural, residential, commercial, industrial, public or semipublic purposes.
  - (3) Repairs of a minor nature or minor alterations which do not change the use, occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building shall not require a zoning permit.
- (b) *Application for a zoning permit.* Application for a zoning permit shall be made in writing upon a form furnished by the zoning administrator, including the following information:
- (1) The location, shape, area and dimensions for the parcel, lot or acreage, and all existing improvements on the lot or parcel.
  - (2) The location of the proposed construction, upon the parcel, lot or acreage affected.
  - (3) The dimensions, height and bulk of structures.
  - (4) The nature of the proposed construction, alteration, or repair and the intended use.
  - (5) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other uses.
  - (6) The present use of any structure affected by the construction or alteration.
  - (7) The yard, open area and parking space dimensions, if applicable.
  - (8) The proposed plan and specifications of off-street parking spaces, if applicable.
  - (9) The proposed plan and specifications of off-street loading and unloading spaces provided, if applicable.
  - (10) Any other information deemed necessary by the zoning administrator to determine and provide for the compliance with and the enforcement of this chapter.

If the information included in and with the application is in compliance with these requirements and all other provisions of this chapter, the zoning administrator shall issue a zoning permit upon payment of the required zoning permit fee.

- (c) *Voiding of permit.* Any zoning permit granted under this article shall be null and void unless the development proposed shall have its first inspection within one year from the date of granting the permit. The zoning administrator shall notify the holder of the permit at least 30 days prior to the expiration of the one-year period before voidance of the zoning permit is actually declared. The zoning administrator may suspend or revoke a permit issued in error or on a basis of incorrect information supplied by the applicant or his agent or in violation of any of the ordinances or regulations of the city.
- (d) *Fees, charges, and expenses.* The city commission shall establish a schedule of fees, charges, and expenses, and a collection procedure, for zoning permits, appeals and other matters pertaining to this chapter. The schedule of fees shall be posted in the city office and may be altered or amended only by the city commission. No permit, certificate, special use or planned unit development approval, or variance shall be issued until such costs, charges, fees or expenses listed in this chapter have been paid in full, nor shall any action be taken on proceedings before the zoning board of appeals, until preliminary charges and fees have been paid in full.

- (e) *Inspection.* The construction or usage affected by any zoning permit shall be subject to the following inspections:
- (1) At time of staking out of building foundation or location of structure or activity area.
  - (2) Upon completion of the construction authorized by the permit.
  - (3) It shall be the duty of the holder of every permit to notify the zoning administrator when construction is ready for inspection. Upon receipt of such notification for the first inspection, the zoning administrator shall determine whether the location of the proposed building, as indicated by corner stakes, is in accordance with yard setbacks and other requirements of this chapter. The zoning administrator shall issue his written approval at the time of inspection if the building or proposed construction meets the requirements of this chapter.
  - (4) Should the zoning administrator determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provision of this chapter, or any other applicable law, he shall notify, in writing, the holder of the permit. Further construction shall be stayed until correction of the defects set forth has been accomplished and approved upon notice and request for reinspection by the applicant and those inspections completed and compliance certified by the zoning administrator.
  - (5) Should a zoning permit holder fail to comply with the requirements of the zoning administrator at any inspection stage, the zoning administrator shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the chapter requirements, and such posting shall be considered as service upon the notice to the permit holder of cancellation thereof; and no further work upon said construction shall be undertaken or permitted until such time as the requirements of this chapter have been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed.

(Code 2009, § 48-38; Ord. No. 142, § 23.04, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

#### Sec. 46-39. - Violations.

Any building or structure, including mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained or changed in violation of any provision of this chapter, are hereby declared to be a nuisance per se, a violation of this chapter and subject to the penalties of it.

(Code 2009, § 48-39; Ord. No. 142, § 23.05, 2-6-1990)

#### Sec. 46-40. - Penalties.

Any person or the agent in charge of such building or land who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any provision of this chapter or any amendment thereof, shall be fined; upon conviction, not more than \$500.00, together with the cost of prosecution, or shall be punished by imprisonment in the county jail for not more than 90 days for each offense, or may be both fined or imprisoned as provided herein. Each and every day during which any illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. The city commission, or any owner or owners of real estate within the district in which such buildings, structures or land use is situated may institute injunction, mandamus abatement or any other appropriate action, actions,

or proceedings to prevent, enjoin, abate, or remove any said unlawful erection, construction, maintenance or use of land, buildings or structures. The rights and remedies herein are cumulative, and in addition to all other remedies provided by law.

(Code 2009, § 48-40; Ord. No. 142, § 23.06, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Secs. 46-41—46-68. - Reserved.

DIVISION 2. - SITE PLAN REVIEW

*Footnotes:*

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**Editor's note**— Ord. No. 143Y, adopted July 21, 2020, repealed the former div. 2., §§ 46-69—46-85, and enacted a new div. 2 as set out herein. The former div. 2 pertained to site plans and derived from Code 2009, §§ 48-69—48-85; Ord. No. 142, §§ 22.01—22.17, adopted Feb. 6, 1990; Ord. No. 142G, §§ 1, 8, adopted Oct. 15, 1996; and Ord. No. 143O, adopted Dec. 5, 2016.

**State Law reference**— Submission and approval of site plan, MCL 125.3501.

Sec. 46-69. - Purpose.

The purpose of this article is to establish uniform requirements for the planning and design of developments within the city in order to achieve the following objectives:

- (1) To determine compliance with the provisions of this division;
- (2) To apply provisions of this division equitably and fairly;
- (3) To promote the orderly development of the city;
- (4) To prevent depreciation of land values;
- (5) To ensure a consistent level of quality throughout the community;
- (6) To ensure a harmonious relationship between new development and the existing natural and manmade surroundings;
- (7) To achieve the goals and recommendations of the city master plan; and
- (8) To promote consultation and cooperation between applicants and the city in order that applicants may accomplish their objectives in the utilization of land, consistent with the public purposes of this division and the master plan.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-70. - Applicability.

Site plan review shall be required, as applicable, under the following conditions, or under other circumstances required by this division, unless exempted by section 46-71.

Type of project/Level of site plan

|                                   |  |
|-----------------------------------|--|
| Principle Uses and accessory uses | R-3, PO, WF, C-1, C-2, and I districts |
|-----------------------------------|--|

|                                 |               |
|---------------------------------|---------------|
| Special Uses and accessory uses | All districts |
| Planned Unit Developments       | All districts |

(Ord. No. 143Y, 7-21-2020)

Sec. 46-71. - Exemptions.

Site plan review shall not be required for single family homes and mobile homes located on separate lots or parcels and their accessory uses in any residential (R) district although a land use permit is required from the zoning administrator.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-72. - Role of the zoning administrator.

The zoning administrator shall not issue a zoning permit for construction of, or addition to, any use until a final site plan has been approved by the planning commission and is in effect. A use of land requiring site plan review and approval, not involving a building or structure, shall not be commenced or expanded until a final site plan has been approved by the planning commission and a zoning permit has been issued.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-73. - Site plan approval required prior to construction or use of land.

No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence until a final site plan is approved and is in effect, except as provided in this division.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-74. - Pre-application conference.

East Jordan zoning administrator and/or planner shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process and other ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the planning commission.

This conference is not mandatory, but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the planning commission to make a proper review.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-75. - Site plan review procedures.

The process for reviewing the site plan shall be as follows:

- (1) Site plan and level "A" reviews shall be performed by the zoning administrator as follows:
  - a. Three copies of a full-size complete site plan and an electronic version, in a format specified by the city, shall be submitted along with an application for that purpose and a fee, as established by the city council.
  - b. The zoning administrator shall review the site plan for completeness and shall obtain comments, as deemed necessary, from city departments or consultants.
  - c. If the site plan is found to be incomplete, the zoning administrator shall return the plot plan or site plan to the applicant with a list of items needed to make the plot plan or site plan complete.
  - d. Once the site plan is determined to be complete, the zoning administrator shall notify and seek comment from other city departments as applicable. A joint review of all the applicable departments shall be arranged and held within seven days.
  - e. The zoning administrator shall consider the site plan, any comments received and the applicable standards of this division and shall either approve the site plan, as submitted, if all applicable requirements and the standards of section 48-76 have been met; approve the plot plan or site plan with conditions; or deny approval of the site plan, if applicable requirements and standards have not been met.
  - f. The reasons for the zoning administrator's action, along with any conditions that may be attached, shall be stated in writing and provided to the applicant.
  - g. If approved, two copies of the final site plan shall be signed and dated by the zoning administrator and the applicant. One copy, along with the digital version, shall be kept on file with the city and one copy shall be returned to the applicant or their designated representative. If the plan is approved with conditions, a revised plan shall be submitted reflecting those conditions and signed by the applicant and zoning administrator prior to the issuance of any permits.
- (2) Site plan and level "B" reviews shall be performed by the zoning administrator and planning commission as follows:
  - a. Three copies of a full size complete plot plan or site plan and an electronic version, in a format specified by the city, shall be submitted along with an application for that purpose and a fee, as established by the city council.
  - b. The zoning administrator shall review the site plan for completeness and shall obtain comments, as deemed necessary, from city departments or consultants.
  - c. If the site plan is found to be incomplete, the zoning administrator shall return the site plan to the applicant with a list of items needed to make the site plan complete.
  - d. Once the zoning administrator determines the site plan is complete, the applicant will submit three revised copies, if applicable, of a full size complete site plan, seven 11-inch by 17-inch copies and an electronic version, in a format specified by the city. The zoning administrator shall notify and seek comment from other city departments as applicable. A joint review of all the applicable departments shall be arranged and held within seven days.
  - e. The zoning administrator shall transmit the site plan to the planning commission for consideration at its next meeting that meets the noticing requirements. Comments, if any, from the public, city departments and consultants shall be transmitted to the planning commission prior to its review of the plan.
  - f. The planning commission shall consider the site plan and shall either recommend approval of the site



plan, as submitted, if all applicable requirements and standards have been met; recommend approval of the site plan with conditions; or recommend denial of the site plan if applicable requirements and standards have not been met. The planning commission review shall be based on the requirements of this chapter, comments received from city departments and consultants, and, specifically, the review standards of section 48-78.

- g. If approved, two copies of the final site plan shall be signed and dated by the planning commission chairman and the applicant. One copy, along with the digital version, shall be kept on file with the city and one copy shall be returned to the applicant or their designated representative. If the plan is approved with conditions, a revised plan shall be submitted reflecting those conditions and signed by the applicant and planning commission chairman prior to the issuance of any permits.
- h. If required, the zoning administrator shall forward the recommendation to city council for review, including all relevant documentation and planning commission comments as to what the city council review would be based upon in part. City council shall consider the site plan and shall either approve the site plan, as submitted, if all applicable requirements and standards have been met; approve the site plan with conditions; or deny approval of the site plan if applicable requirements and standards have not been met. The city council review shall be based on the requirements of this chapter, comments received from city departments and consultants, and, specifically, the review standards of section 46-78.
- i. If approved, two copies of the site plan shall be signed and dated by the city clerk on behalf of the city council and the applicant. One copy, plus the digital copy, shall be kept on file with the city and one copy shall be returned to the applicant or their designated representative. If the plan is approved with conditions, a revised plan shall be submitted reflecting those conditions and signed by the applicant and the planning commission chairperson, prior to the issuance of any permits.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-76. - Submittal requirements.

(a) *Required content.* Each site plan submitted shall contain the information detailed in Table 46-76 as applicable:

Required for site plan—Two levels

| Table <u>46-76</u> : Required Site Plan Content  |           |           |
|--|-----------|-----------|
| Required Information   | Level "A" | Level "B" |
| GENERAL INFORMATION  |           |           |
| Date, north arrow and scale  | X         | X         |
| Name and firm address of the professional individual responsible for preparing the site plan | X         | X         |
| Name and address of the property owner or petitioner   | X         | X         |

|   |   |   |
|---|---|---|
| Location sketch   | X | X |
| Legal description of the subject property   | X | X |
| Size of subject property in acres or square feet  | X | X |
| Boundary survey   | X | X |
| Preparer's professional seal  |   | X |
| Revision block (month, day and year)  | X | X |
| EXISTING CONDITIONS   |   |   |
| Existing zoning classification of subject property  | X | X |
| Property lines and required setbacks (dimensioned)  | X | X |
| Location, width and purpose of all existing easements   | X | X |
| Location and dimension of all existing structures on the subject property   | X | X |
| Location of all existing driveways, parking areas and total number of existing parking spaces on subject property   | X | X |
| Abutting street right-of-way width  | X | X |
| Location of all existing structures, driveways and parking areas within 300 feet of the subject property's boundary |   | X |
| Existing water bodies (rivers, creeks, wetlands and the like)   | X | X |
| Existing landscaping and vegetation on the subject property   | X | X |
| Size and location of existing utilities   |   | X |
| Location of all existing surface water drainage facilities  | X | X |
| PROPOSED DEVELOPMENT  |   |   |
| Location and dimensions of all proposed buildings   | X | X |

|   |   |   |
|---|---|---|
| Location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks, walls, fences, signs, exterior lighting, curbing, parking areas (including dimensions of a typical parking space and the total number of spaces to be provided) and unloading areas | X | X |
| Setbacks for all buildings and structures   | X | X |
| Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use  |   | X |
| Flood plain areas and basement and finished floor elevations of all buildings   |   | X |
| Landscape plan (showing location of proposed materials, size and type)  | X | X |
| Layout and typical dimensions of proposed parcels and lots  |   | X |
| Number of proposed dwelling units (by type), including typical floor plans for each type of unit  | X | X |
| Number and location (by code, if necessary) of efficiency and 1-, 2- and 3- or more bedroom units   | X | X |
| All deed restrictions or covenants  | X | X |
| Brief narrative description of the project including proposed use, existing floor area (sq. ft.), size of proposed expansion (sq. ft.) and any change in the number of parking spaces   | X | X |
| ENGINEERING   |   |   |
| Proposed method of handling sanitary sewage and providing potable water   | X | X |
| Location and size of proposed utilities, including connections to public sewer and water supply systems and/or size and location of on-site systems   | X | X |
| Location and spacing of fire hydrants   |   | X |
| Location and type of all proposed surface water drainage facilities   | X | X |
| Grading plan at no more than 2-foot contour intervals   |   | X |

|  |   |   |
|--|---|---|
| Proposed streets (including pavement width, materials and easement or right-of-way dimensions) |   | X |
| BUILDING DETAILS   |   |   |
| Typical elevation views of all sides of each building  | X | X |
| Gross and usable floor area  | X | X |
| Elevation views of building additions  | X | X |
| Building height  | X | X |

- (b) *Information waiver.* Specific requirements of either a level "A" or "B" site plan may be waived by the zoning administrator where it is determined that such information is not applicable to the request. The planning commission and/or the city council reserves the right to request the waived information for level B site plan reviews in their decision making process.
- (c) *Additional reports/study.* The zoning administrator, planning commission or city council may require additional studies, reports or written opinions from qualified consultants to determine compliance with this division or to ensure negative impacts to public health, safety and welfare are avoided or mitigated. These reports/studies may include, but are not limited to, traffic studies, transportation plans, geotechnical reports, flood hazard evaluations or environmental assessments. The zoning administrator, planning commission, or city council shall have the authority to choose the individual consultant, firm or company. The costs of additional study shall be paid for by the applicant.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-77. - Coordination with other department and agencies.

- (a) The zoning administrator shall forward level "A" and level "B" site plans and applications to the following department and agencies where applicable for their information and opportunity to comment:
- (1) City of East Jordan Fire and Rescue Department.
  - (2) City of East Jordan Public Works Department.
  - (3) Charlevoix County Road Commission.
  - (4) Michigan Department of Transportation.
  - (5) District health department.
  - (6) Charlevoix County Drain Commissioner.
  - (7) City of East Jordan Police Department.
  - (8) City of East Jordan Downtown Development Authority.
  - (9) Any other agency that may be affected by the site plan.

- (b) This review does not alleviate the applicant from obtaining any and all required permits and/or approvals from the agencies. Any comments received within a reasonable time (15 days) will be reviewed and considered by the planning commission and/or the ZBA.
- (c) The planning commission may approve an application conditioned on obtaining agency permits, or may, if the permit is critical to the site plan, require the permit or approval prior to issuance of their approval.
- (d) No construction activity associated with an approved site plan shall be undertaken until permits and approvals from all applicable agencies have been presented to the zoning administrator.
- (e) Whenever possible, site plan review by the zoning administrator and planning commission shall be coordinated and done simultaneously with other reviews by the zoning administrator and planning commission on the same application.
- (f) When an application is dependent on the need for a dimensional variance from the ZBA, re-zoning of property, or a zoning ordinance text amendment, such action must be completed prior to final site plan approval by the planning commission.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-78. - Standards for site plan approval.

A site plan shall be approved or approved with conditions, only upon a finding of compliance with the following standards:

- (1) The site plan must comply with all standards of this article and all applicable requirements of this division, as well as with all other applicable city, county, state and federal laws and regulations.
- (2) The site must be designed in a manner that is harmonious, to the greatest extent possible, with the character of the surrounding area.
- (3) The site must be designed to minimize hazards to adjacent property and to reduce the negative effects of traffic, noise, smoke, fumes and glare to the maximum extent possible.
- (4) The site plan does not have a negative impact on the provisions of human services, housing, transportation needs, and access to food in the community.
- (5) Protection of natural environment and conservation of natural resources and energy.
- (6) Unless a more specific design standard is required by the city through a different ordinance or regulation, all uses and structures subject to site plan review shall comply with the following design standards:
  - a. 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 this division, unless otherwise provided.
  - b. *Vehicular and pedestrian circulation.* Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. A pedestrian circulation system shall be provided and shall be as insulated as completely as reasonably possible from the vehicular circulation system. The number, location and size of access and entry points, and internal vehicular and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, as well as circulation within the site. In reviewing traffic features, the number, spacing and alignment of existing and proposed access points shall be considered relative to their impact on traffic movement on abutting streets and adjacent properties.

1. Walkways from parking areas to building entrances.
  - i. Internal pedestrian walkways shall be developed for persons who need access to the building(s) from internal parking areas and shall be designed to provide access from these areas to the entrances of the building(s)
  - ii. The walkways shall be designed to separate people from moving vehicles.
  - iii. These walkways shall have a minimum width of five feet with no car overhang or other obstruction.
  - iv. The walkways must be designed in accordance with the Michigan Barrier Free Design Standards.
  - v. The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.
- c. *Storm water.* Storm water will meet the City of East Jordan Storm Water Ordinance. Storm water retention and drainage systems shall be designed so the removal of surface water will not adversely affect neighboring properties or public storm water drainage systems. Unless impractical, storm water shall be removed from all roofs, canopies and paved areas by an underground surface drainage system. Low impact design solutions such as rain gardens and green roofs are encouraged.
- d. *Snow storage.* Proper snow storage areas shall be provided so to not adversely affect neighboring properties, vehicular and pedestrian clear vision, and parking area capacity.
- e. *Landscaping.* The landscape shall be preserved in its natural state, insofar as practical, by minimizing unnecessary tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. Provision or preservation of landscaping, buffers or greenbelts may be required to ensure the proposed uses will be adequately buffered from one another and from surrounding property.
- f. *Screening.* Where non-residential uses abut residential uses, appropriate screening shall be provided in accordance with section 46-507 (d) to shield residential properties from noise, headlights and glare.
- g. *Lighting.* Lighting shall be designed to minimize glare on adjacent properties and public streets. As a condition of site plan approval, reduction of lighting during non-business hours may be required.
- h. *Utility service.* All utility service shall be underground, unless impractical due to engineering difficulties.
- i. *Exterior uses.* Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, waste storage areas, utility buildings and structures, and similar accessory areas shall be located to have a minimum negative effect on adjacent properties and shall be screened, if reasonably necessary, to ensure compatibility with surrounding properties.
- j. *Emergency access.* All buildings and structures shall remain readily accessible to emergency vehicles and personnel at all times.
- k. *Water and sewer.* Water and sewer installations shall comply with all city specifications and requirements.
- l. *Signs.* Permitted signs shall be located to avoid creating distractions, visual clutter and obstructions for traffic entering or exiting a site.

## Sec. 46-79. - Conditions of site plan approval.

Conditions which are designed to ensure compliance with the intent of this division and other regulations of the City of East Jordan may be imposed on site plan approval. Conditions imposed shall be based on the following criteria:

- (1) Ensure that public services and facilities affected by the proposed land use and site plan will not be adversely affected.
- (2) Ensure that the use is compatible with adjacent land uses and activities.
- (3) Protect natural resources, the health, safety, welfare and 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.
- (4) Ensure compatibility between the proposed use or activity and the rights of the city to perform its governmental functions.
- (5) Meet the intent and purpose of the zoning ordinance, be related to the regulations and standards established in the ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
- (6) Ensure compliance with the intent of other city ordinances that are applicable to the site plan.
- (7) Ensure compatibility with other uses of land in the vicinity.

(Ord. No. 143Y, 7-21-2020)

## Sec. 46-81. - Authority and limitations.

- (a) A person aggrieved by a decision of the Zoning Administrator or Commission in granting or denying approval of a site plan, or regarding any conditions attached to an approval, may appeal the decision to the ZBA per the requirements of section 46-122.
- (b) Decisions on a special use permit or planned unit development site plan may not be appealed to the ZBA, and may be appealed directly to circuit court.
- (c) Land use permits associated with an approved site plan will not be issued until permits and approvals from applicable outside agencies have been presented to the zoning administrator. Such permits and approvals shall include but not be limited to soil erosion and sedimentation control permits, wetland permits, floodplain permits, driveway and road permits, and health department permits.

(Ord. No. 143Y, 7-21-2020)

## Sec. 46-81. - Amendment to approved site plan.

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

- (1) The holder of an approved site plan shall notify the zoning administrator of any proposed change to an approved site plan.
- (2) Changes to a level "A" site plan may be approved by the zoning administrator.
- (3) Minor changes to a level "B" site plan may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include the following:

- a. Reduction in building size or increase in building size up to five percent of total approved floor area.
  - b. Movement of buildings or other structures by no more than ten feet.
  - c. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
  - d. Changes in building materials to a comparable or higher quality.
  - e. Changes in floor plans which do not alter the character of the use.
  - f. Changes required or requested by a city, county, state or federal regulatory agency in order to conform to other laws or regulations.
- (4) A proposed change to a level "B" site plan, determined by the zoning administrator to not be a minor change, shall be submitted to the planning commission as a site plan amendment and shall be reviewed in the same manner as the original application.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-82. - Expiration.

Site plan approval shall expire 12 months after the date of approval, unless substantial construction has been commenced and is continuing. The zoning administrator, in the case of a level "A" site plan, or the planning commission, in the case of level "B" site plan, may grant one extension of up to 12 additional months; provided the applicant requests an extension in writing prior to the date of expiration of the site plan. The extension shall be approved if the applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant and the project will proceed within the extension period. If the above provisions are not fulfilled or the extension has expired prior to construction, the site plan approval shall become null and void.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-83. - As built plan.

- (a) For a project which requires level B site plan, an as-built site plan shall be submitted to the city within 90 days of completion or occupancy, whichever comes first. This site plan shall be prepared to the same standard as the approved site plan. The zoning administrator shall use this as-built site plan as a comparison to the approved site plan, and the actual construction on the ground to ensure compliance with the conditions, and other requirements of the site plan, planned unit development, special use permit, and requirements of this division.
- (b) If the as-built site plan does not show compliance with the conditions, and other requirements of the site plan, planned unit development, special use permit, and requirements of this division the deviation shall be considered a violation of this division and shall be subject to any applicable enforcement remedy.

(Ord. No. 143Y, 7-21-2020)

Sec. 46-84. - Performance guarantee.

To assure compliance with this division and any conditions of approval, performance guarantees may be required. The city council may require that a performance guarantee be furnished to ensure compliance with the requirements and conditions imposed under the city's zoning ordinance. The amount of the performance guarantee shall be set forth by the city council, and shall be an amount acceptable to the city in covering the estimated cost of improvements associated with



the project for which zoning approval is sought. This performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or a surety bond, and shall be deposited with the treasurer of the city. The performance guarantee shall be deposited at the time of issuance of the permit authorizing the activity or project. The city shall not require the deposit of the performance guarantee before the date on which the city is prepared to issue the permit. The city shall rebate any cash deposits in reasonable proportion to the ratio of work completed on the required improvement as work on the required improvements progresses.

(Ord. No. 143Y, 7-21-2020)

**State Law reference**— Performance guarantee, MCL 125.3505.

#### Sec. 46-85. - Violations.

The approved final site plan shall regulate development of the property. Any violation of this division, including any improvement not in conformance with an approved final site plan, shall be deemed a violation of this division, and shall be subject to the penalties of this chapter.

(Ord. No. 143Y, 7-21-2020)

#### Secs. 46-86—46-113. - Reserved.

### DIVISION 3. - ZONING BOARD OF APPEALS

#### *Footnotes:*

--- (3) ---

**State Law reference**— *Zoning board of appeals, MCL 125.3601 et seq.*

#### Sec. 46-114. - Establishment.

There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided by article VI of the Michigan zoning enabling act (MCL 125.3601 et seq.) and as provided in this division in such a way that the objectives of this division shall be enforced, the public health and safety secured, and substantial justice done.

(Code 2009, § 48-114; Ord. No. 142, § 24.01, 2-6-1990)

#### Sec. 46-115. - Membership and terms of office.

- (a) The zoning board of appeals shall consist of five members, to be appointed by the city commission. The first member of such board of appeals may be a member of the city planning commission, to be appointed by the city commission, for the terms of his office; the second member may be a member of the city commission, elected by the city commission for the term of his office; and the other three members shall be selected and appointed by the city commission from among the electors residing in the city for a term of staggered three-year terms, provided that no elected officer of the city, nor any employee or contractor of supported by the city commission may serve simultaneously as the elector member or as an employee of the zoning board of appeals. The

chairperson of the zoning board of appeals shall be elected from any of its members each year at the first regular meeting held at the beginning of each calendar year. The city commission member appointed to the zoning board of appeals shall not serve as chairperson.

- (b) The city commission may appoint not more than two alternate members to the board of appeals for a term of three years each. An alternate member shall serve in the place of a regular member who is absent or who must abstain in a particular case because of a conflict of interest. The alternate member shall continue to serve in the place of the regular member, who was absent or abstained, in that particular case until a final decision has been made. The alternate members shall serve on a rotating basis as needed. An alternate member serving on the zoning board of appeals has the same voting rights as a regular member.
- (c) A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his duties.
- (d) A member of the zoning board of appeals may be removed by the city commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- (e) A vacancy on the zoning board of appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.
- (f) A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.
- (g) A member of the zoning board of appeals who is also a member of the planning commission, or the city commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the city commission. However, the member may consider and vote on other unrelated matters involving the same property.

(Code 2009, § 48-115; Ord. No. 142, § 24.02, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996; Ord. No. 142Q, 5-2-2000)

**State Law reference**— Similar provisions, MCL 125.3601.

#### Sec. 46-116. - Rules of procedure; majority vote.

The zoning board of appeals shall adopt its own bylaws of rules and procedures as may be necessary to properly conduct its meetings and activities. The concurring vote of a majority of the full membership of the zoning board of appeals shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator or to decide in favor of the applicant any matter upon which they are required to pass under this division or to effect any variation in this division due to unnecessary hardship or practical difficulties.

(Code 2009, § 48-116; Ord. No. 142, § 24.03, 2-6-1990)

**State Law reference**— Majority vote of entire commission required, MCL 125.3603.

#### Sec. 46-117. - Meetings.

Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the board in its bylaws may specify.

(Code 2009, § 48-117; Ord. No. 142, § 24.04, 2-6-1990)

**State Law reference**— Similar provisions, MCL 125.3602(1).

Sec. 46-118. - Public meetings and minutes.

All meetings of the zoning board of appeals shall be open to the public. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered, together with the record of the vote of each member by name of the board and the final disposition of each use. The grounds of every determination shall be stated, in writing, and recorded as part of the official minutes and record of the board. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the zoning board of appeals' permanent records. Such minutes shall be filed in the office of the city clerk and the planning commission and shall be sent promptly to the applicant or appellant and to the zoning administrator. The city clerk shall act as the depository for all official files of the board.

(Code 2009, § 48-118; Ord. No. 142, § 24.05, 2-6-1990)

**State Law reference**— Record of proceedings, MCL 125.3602(2).

Sec. 46-119. - Powers and duties.

The zoning board of appeals shall have powers to interpret the provisions of this division and to grant variances from the strict application of any provisions of this division, except as otherwise provided in this division. The zoning board of appeals shall hear and decide appeals from, and review any order, requirement, decision or determination made by the city commission, planning commission or zoning administrator in the administration of this division as hereinafter provided. In addition, the board shall have the power:

- (1) To decide any question involving the interpretation of any provision of this division, including determination of the exact location of any district boundary if there is uncertainty with regard thereto.
- (2) To grant variances from any of the regulations or provisions contained in this division in cases in which there are practical difficulties or unnecessary hardships in the way of their strict application. No variance shall be granted to permit the establishment within a district of any use which is excluded or for which a special use approval by the planning commission is required.
- (3) To permit the erection and use of a building, or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or larger area than the requirements herein established; and permit the location in any district of a public utility building, structure or use, if the planning commission shall find use, height, area, building or structure reasonably necessary for the public convenience and service; and provided such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan for such district.
- (4) Determine the classification of off-street parking and loading requirements in sections 46-853 and 46-854.

(Code 2009, § 48-119; Ord. No. 142, § 24.06, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

**State Law reference**— General powers of board, MCL 125.3603.

Sec. 46-120. - Variances.

A variance from the terms of this division shall not be granted by the zoning board of appeals unless and until:

- (1) A written application for a variance is submitted, demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, land use, structure or building in the same zoning district so as to present such a unique situation that a precedent will not be established for other properties in the district to also ask the same or similar change through the zoning appeal procedure.
  - b. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this chapter.
  - c. That granting of the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, structures, or buildings in the same zoning district.
  - d. That no nonconforming use of other lands, structures, or buildings in the same zoning district, and not permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the issuance of a variance.
- (2) The zoning board of appeals shall make findings that the requirements of this chapter have been met in the zoning district in which it is located by the applicant for the variance requested.
- (3) The zoning board of appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.
- (4) The zoning board of appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious or otherwise detrimental to the public welfare of the zoning district in which it is to be located.
- (5) In granting any variance, the zoning board of appeals may prescribe appropriate conditions and safeguards in order for the variance to be in conformance with this chapter as much as reasonably possible. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter, and punishable under section 46-40.
- (6) Under no circumstances shall the zoning board of appeals grant a variance to allow a use not permissible under the terms of this chapter in the zoning district in which the variance is to be located.

(Code 2009, § 48-120; Ord. No. 142, § 24.07, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

**State Law reference**— Variances, MCL 125.3604.

Sec. 46-121. - Voiding of and reapplication for variances.

- (a) Each variance granted under the provisions of this chapter shall become null and void unless the use and construction authorized by such variance or permit has been commenced within one year after the granting of such variance.
- (b) No application for a variance which has been denied wholly or in part by the zoning board of appeals shall be resubmitted for a period of one year from such denial, except on grounds of new evidence or proof of changed conditions found by the zoning board of appeals to be valid.

(Code 2009, § 48-121; Ord. No. 142, § 24.08, 2-6-1990)

Sec. 46-122. - Procedure for appealing to the zoning board of appeals.

- (a) *Appeals, how taken.* An appeal under this section shall be taken within such time as prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.
- (b) *Who may appeal.* Appeals to the zoning board of appeals may be taken by any person aggrieved or by an officer, department, board, agency or bureau of the city, county, state, federal or other legally constituted form of government.
- (c) *Fee for appeal.* A fee prescribed by the city commission shall be submitted to the city clerk at the time of filing the letter of appeals. The appeals fee shall immediately be placed in the city general fund.
- (d) *Effect of appeal.* An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the zoning board of appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning board of appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (e) *Hearing by the zoning board of appeals; request; notice; hearing.* If the zoning board of appeals receives a written request seeking an interpretation of this chapter or an appeal of an administrative decision, the zoning board of appeals shall conduct a public hearing on the request. Notice shall be given as required under section 103 of the Michigan zoning enabling act (MCL 125.3103). However, if the request does not involve a specific parcel of property, notice need only be published as provided in section 103(1) of such act, and given to the person making the request as provided in section 103(3) of such act.
- (f) *Representation at hearing.* During a hearing, any party may appear in person or by agent or by attorney.
- (g) *Decision.* The zoning board of appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premises and to that end shall have all the powers of the zoning administrator, city commission and planning commission from whom the appeal is taken. The zoning board of appeals' decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the zoning board of appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the circuit court on questions of law and fact.

(Code 2009, § 48-122; Ord. No. 142, § 24.09, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

**State Law reference—** Appeals, MCL 125.3604.

Secs. 46-123—46-142. - Reserved.

#### DIVISION 4. - CHANGES AND AMENDMENTS

*Footnotes:*

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**State Law reference—** *Zoning authorization and initiation, MCL 125.3201 et seq.; zoning adoption and enforcement, MCL 125.3401 et seq.*

Sec. 46-143. - Changes and amendments.

Only the city commission may amend this chapter. Proposals for amendments or changes may be initiated by the city commission on its own motion, by the planning commission, or by petition of one or more owners of property seeking the proposed amendment.

(Code 2009, § 48-143; Ord. No. 142, § 25.01, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-144. - Procedures.

The procedure for making amendments to this chapter or in making map amendments shall be in accordance with the Michigan zoning enabling act (MCL 125.3101 et seq.).

(Code 2009, § 48-144; Ord. No. 142, § 25.02, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-145. - Notice of hearing.

- (a) An amendment to a zoning ordinance by the city is subject to a protest petition under section 403 of the Michigan zoning enabling act (MCL 125.3403).
- (b) An amendment for the purpose of conforming a provision of this chapter to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the city commission and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for under the above-cited act. The clerk shall give notice of hearings as required by Michigan zoning enabling act (MCL 125.3101 et seq.), and in addition in the following manner:
  - (1) By one publication in a newspaper of general circulation in the city to be printed not less than 15 days before the date of the hearing and by notifying by mail each public utility company and railroad company affected by the zoning amendment not less than 15 days before the public hearing. The notice is to contain the time, date, place and purpose of the hearing.
  - (2) By posting, if the amendment proposed consists of a rezoning the property involved at least 24 hours prior to the hearing, and notice to contain the time, date, place and purpose of the hearing.
  - (3) By mailing, certified mail, at least 20 days in advance of the hearing a notice of hearing to each electric, gas, pipeline and telephone company that chooses to register its name and mailing address with the planning commission for the purpose of receiving such notice.
  - (4) By mailing, certified mail, at least 20 days in advance of the hearing, a notice of hearing to each railroad operating within the city, in the case of textual changes, or within 300 feet of the area proposed to be rezoned, if the amendment proposed is in the nature of rezoning.

An affidavit of all publications and mailings shall be maintained by the city clerk.

(Code 2009, § 48-145; Ord. No. 142, § 25.03, 2-6-1990)

Sec. 46-146. - Information required.

The petitioner shall submit a detailed description of the petition to the city clerk. When the petition involves a change in the zoning map, the petitioner shall submit the following information:

- (1) A legal description of the property.
  - (2) A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- (3) The name and address of the petitioner.
- (4) The petitioner's interest in the property and, if the petitioner is not the owner, the name and address of the owner.
- (5) Date of filing with the city clerk.
- (6) Signatures of petitioners and owners certifying the accuracy of the required information.
- (7) The desired change and reasons for such change.

(Code 2009, § 48-146; Ord. No. 142, § 25.04, 2-6-1990)

Sec. 46-147. - Steps in making a change.

The following steps shall be completed when making a change to the zoning map:

- (1) Petitioner submits application and fee.
- (2) Clerk transmits application to planning commission, sets hearing date, and publishes notices of hearing.
- (3) Planning commission holds hearing, makes a decision, and transmits decision to the city commission as a recommendation to approve or not to approve the proposed amendment.
- (4) City commission either enacts or rejects proposed change as an ordinance amendment, and publishes the text of the change in the newspaper.

(Code 2009, § 48-147; Ord. No. 142, § 25.05, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-148. - Findings of facts required.

- (a) In reviewing any petition for a zoning amendment, the planning commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the city commission within 60 days of the filing date of the petition.
- (b) The facts to be considered by the planning commission shall include, but not be limited to, the following:
  - (1) Whether the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.
  - (2) The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition.
  - (3) The ability of the city or other government agencies to provide any services, facilities, and/or programs that might be required if the amendment petition were approved.
  - (4) Effect of approval of the amendment petition on the adopted developmental policies of the city and other government units.
  - (5) All findings of fact shall be made a part of the public records of the meetings of the planning commission and city commission. An amendment shall not be approved, unless these and other identified facts be affirmatively resolved in terms of the general health, safety, welfare, comfort and convenience of the citizens of the city, or of other civil divisions where applicable.

(Code 2009, § 48-148; Ord. No. 142, § 25.06, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Secs. 46-149—46-179. - Reserved.

### ARTICLE III. - DISTRICT REGULATIONS

#### DIVISION 1. - GENERALLY

Sec. 46-180. - Existing uses of lands, buildings and structures.

The provisions of this chapter shall not be retroactive. At the discretion of the owners, the lawful use of any dwelling, building or structure, and of any land or premises as existing and lawful at the time of enactment of the ordinance from which this chapter is derived may be continued even though such use does not conform with the provisions of this chapter, or in the case of an amendment, then at the time of the amendment.

(Code 2009, § 48-180; Ord. No. 142, § 3.01, 2-6-1990)

Sec. 46-181. - Scope.

Except as provided by section 46-627, all land and premises shall be used, and all buildings and structures shall be located, erected and used in conformity with the provisions of this chapter following the effective date of the ordinance from which this chapter is derived.

(Code 2009, § 48-181; Ord. No. 142, § 3.02, 2-6-1990)

Sec. 46-182. - Establishment of zoning districts.

The city is hereby divided into the following zoning districts as shown on the official zoning map, which together with all explanatory matter shown thereon, is hereby adopted by reference and declared to be a part of this chapter:

|  |   |
|--|---|
| Article III, division 2, of this chapter | RA Single-Family Residential District                   |
| Article III, division 3, of this chapter | R-1 Single-Family Residential District                  |
| Article III, division 4, of this chapter | R-2 Duplex-Family Residential District                  |
| Article III, division 5, of this chapter | R-2A Single-Family and Mobile Home Residential District |
| Article III, division 6, of this chapter | R-3 Multiple-Family Residential District                |
| Article III, division 7, of this chapter | R-4 Mobile Home Park Residential District               |
| Article III, division 8, of this chapter | PO Professional Office Service Commercial District      |



|   |                                       |
|---|---------------------------------------|
| Article III, division 9, of this chapter          | C-1 Local Commercial District         |
| Article III, division 10, of this chapter         | CBD Central Business District         |
| Article III, <u>division 11</u> , of this chapter | C-2 General Commercial District       |
| Article III, <u>division 12</u> , of this chapter | WF Waterfront District                |
| Article III, <u>division 13</u> , of this chapter | I Industrial District                 |
| Article III, <u>division 14</u> , of this chapter | CR Conservation Reserve District      |
| Article III, <u>division 15</u> , of this chapter | PUD Planned Unit Development District |
| Article III, <u>division 16</u> , of this chapter | LI Light Industrial District          |

(Code 2009, § 48-182; Ord. No. 142, § 3.03, 2-6-1990; Ord. No. 161A, 1-19-1999; Ord. No. 143F, 10-16-2012)

Sec. 46-183. - Provisions for official zoning map.

These districts, so established, are bounded and defined as shown on the map entitled Zoning Map of City of East Jordan, adopted by the city commission, and which with all notations, references and other information appearing thereon, is hereby declared to be a part of this chapter and of the same force and effect as if the districts shown thereon were fully set forth herein.

(Code 2009, § 48-183; Ord. No. 142, § 3.04, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-184. - Changes to official zoning map.

If, in accordance with the procedures of this chapter and of the Michigan zoning enabling act (MCL 125.3101 et seq.), a change is made in a zoning district boundary, such change shall be made by the city clerk with the assistance of the zoning administrator promptly after the ordinance authorizing such change shall have been adopted and published by the city commission. Other changes in the zoning map may only be made as authorized by this chapter and such changes, as approved, shall also be promptly made by the city clerk with the assistance of the zoning administrator.

(Code 2009, § 48-184; Ord. No. 142, § 3.05, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-185. - Authority of official zoning map.

Regardless of the existence of other copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the city clerk, shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the city.

(Code 2009, § 48-185; Ord. No. 142, § 3.06, 2-6-1990)

Sec. 46-186. - Interpretation of zoning districts.

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules for interpretation shall apply:

- (1) A boundary indicated as approximately following the centerline of a highway, street, alley, railroad or easement shall be construed as following such centerline.
- (2) A boundary indicated as approximately following a recorded lot line, a boundary of a parcel, section line, quarter section line, or other survey line shall be construed as following such line.
- (3) A boundary indicated as approximately following the corporate boundary line of the city shall be construed as following such line.
- (4) A boundary indicated as following a shoreline shall be construed as following the established or median shoreline.
- (5) A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline.
- (6) A boundary indicated as parallel to or an extension of a feature indicated in subsections (1) through (5) of this section shall be so construed.
- (7) A distance not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (8) All questions concerning the exact location of boundary lines of any zoning district not clearly shown on the official zoning map shall be determined by the zoning board of appeals consistent with the intent and purpose of this chapter.

(Code 2009, § 48-186; Ord. No. 142, § 3.07, 2-6-1990)

Sec. 46-187. - Application and interpretation of regulations.

- (a) The regulations established by this chapter within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each permitted or approved use of land or building, dwelling and structure throughout each district. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the zoning board of appeals shall have power in passing upon appeals to vary or modify any rules, regulations or provisions of this chapter so that the intent and purpose of this chapter shall be observed, public safety secured and substantial justice done, all in accordance with the provisions of article II, division 3 of this chapter and article VI of the Michigan zoning enabling act (MCL 125.3601 et seq.).
- (b) This chapter is intended to be specific as to its uses permitted and the application of its regulations. It is intended to limit the use of discretion wherever and whenever possible, except for minor discretions by the planning commission and city commission and interpretations and variances by the zoning board of appeals.

(Code 2009, § 48-187; Ord. No. 142, § 3.08, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-188. - Scope of regulations.

- (a) Except as may otherwise be provided in article III, division 15 of this chapter every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of any existing

building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of the ordinance from which this chapter is derived shall be subject to all regulations of this chapter which are applicable in the zoning district in which such use, building, or structure shall be located.

- (b) All buildings and structures, unless otherwise specified in this chapter, shall meet all the requirements of the construction code whenever applicable.
- (c) Uses are permitted by right only if specifically listed as principal permitted uses in each of the zoning districts. Accessory uses are permitted as listed or existing in the various zoning districts or if normal by proof of existence in the city or the immediately surrounding area to such listed or existing uses, and if such uses are clearly incidental to the permitted principal uses. Special uses are permitted as listed, if the required conditions are met. Only one principal use and its normal accessory uses shall be permitted on a single lot or parcel, except as otherwise provided in this chapter.
- (d) All uses, buildings, and structures shall conform to the area, placement, and height regulations of the zoning district in which located, unless otherwise provided in this chapter.
- (e) No part of a yard, or other open space, or off-street parking space or loading space required about or in connection with any use, building or structure, for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking lot or loading space similarly required for any other use, building or structure.
- (f) No yard or lot existing at the time of adoption of the ordinance from which this chapter is derived shall be reduced in dimensions or area less than the minimum requirements set forth herein. Yards or lots created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established herein.
- (g) No lot, outlot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with this chapter, the city's subdivision control ordinance and the land division act (MCL 560.101 et seq.).

(Code 2009, § 48-188; Ord. No. 142, § 3.09, 2-6-1990)

#### Sec. 46-189. - Conformance to other public laws, rules and regulations.

All uses of land, buildings or structures shall conform to all applicable local, county, state and federal laws, rules and regulations that have been promulgated and administered by the respective responsible public agency or official as well as the provisions of this chapter.

(Code 2009, § 48-189; Ord. No. 142, § 3.10, 2-6-1990)

#### Sec. 46-190. - Conflicting regulations.

Whenever there is a difference between minimum or maximum standards, dimensions, or other provisions in this chapter, or those contained in lawfully adopted county, state, federal or other governmental agency rules, regulations, ordinances or laws, the most liberal interpretation of the most restrictive or the one imposing the most desirable standard shall prevail.

(Code 2009, § 48-190; Ord. No. 142, § 3.11, 2-6-1990)

Sec. 46-191. - Zoning; not a vested right.

The fact of any portion of the written text or districting on the map of this chapter is a function of the lawful use of the police power and shall not be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities in this chapter, and are subject to possible future change, amendment or modification as may be necessary to the present and future protection of the public health, safety and welfare of the city and within each zoning district.

(Code 2009, § 48-191; Ord. No. 142, § 3.12, 2-6-1990)

Sec. 46-192. - Site plan review procedures.

All uses permitted under the provisions or consequences of this chapter, and applying for a zoning permit, shall follow the requirements of article II, division 2 of this chapter, except that all single-family and duplex homes located on a single lot or parcel shall only be required to submit a plot of survey, prepared in accordance with those relevant portions of article II, division 2 of this chapter, so as to be able to determine the location of all buildings and structures in the field on a lot or parcel and submitted with the application for a zoning permit.

(Code 2009, § 48-192; Ord. No. 142, § 3.13, 2-6-1990)

**State Law reference**— Submission and approval of site plan, MCL 125.3501.

Sec. 46-193. - Zoning permits in relation to building permits.

Prior to the issuance of any building permit in the city, it shall be necessary for any applicant for construction under the provisions of the construction code to first apply for and obtain a zoning permit from the zoning administrator in accordance with the provisions of this chapter.

(Code 2009, § 48-193; Ord. No. 142, § 3.14, 2-6-1990)

Sec. 46-194. - Permitted zoning district uses and other provisions.

Each zoning district and the uses it permits are designed to represent separate categories of compatible land uses. However, regulations controlling other articles in this chapter may also appropriately apply, including those provisions included in article II, division 2 of this chapter and in articles IV, VI, VII, and VIII of this chapter. Applicants for zoning permits should relate their requests to both the appropriate zoning district as to use and the articles mentioned in this section for applicability.

(Code 2009, § 48-194; Ord. No. 142, § 3.15, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-195. - Uses not specifically listed in the permitted or special use sections of the respective zoning districts.

It is the intent and purpose of this chapter to limit the permitted and special land uses and activities to those specifically included in the respective zoning districts. Any uses not listed shall be added only by the zoning amendment procedure as required in article II, division 4 of this chapter.

(Code 2009, § 48-195; Ord. No. 142, § 3.16, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-196. - Continued conformance with regulations and approved site plans.

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, signs and all other requirements for a building or use specified within this chapter and developments required and approved on-site plans shall be a continuing obligation of the owner of such building or property on which such building or use is located.

(Code 2009, § 48-196; Ord. No. 142, § 3.17, 2-6-1990)

Sec. 46-197. - Wetland development.

All wetland areas in the city as designated by the Michigan Department of Environmental Quality (DEQ) shall be required to meet the provisions of this chapter and the provisions of part 303 of the natural resources and environmental protection act (MCL 324.30301 et seq.) and any rules promulgated by the state.

(Code 2009, § 48-197; Ord. No. 142, § 3.18, 2-6-1990)

Sec. 46-198. - Project planning and plan information from other agencies and officials.

All city, county, school districts, state and federal agencies and officials are required to submit to the planning commission through the zoning administrator their planning programs and project plans relative to all building, structural and land improvements to be made within the city prior to the final approval of site acquisition or construction plans and specifications by the respective city, county, school district, state and federal agencies and officials in accordance with state law and the provisions of this chapter.

(Code 2009, § 48-198; Ord. No. 142, § 3.19, 2-6-1990)

Sec. 46-199. - Conformance of lots and parcels to the land division act.

All uses permitted in any district shall be located on lots or parcels of land subdivided in accordance with the provisions of the land division act (MCL 560.101 et seq.), the land division act and the subdivision regulations of the city adopted and in effect at the time.

(Code 2009, § 48-199; Ord. No. 142, § 3.20, 2-6-1990)

Sec. 46-200. - Lot-building relationship.

Every building erected, altered, or moved shall be located on a lot as defined herein, and there shall be no more than one principal building or use activity and its permitted normal accessory structures and activities located on each lot or parcel.

(Code 2009, § 48-200; Ord. No. 142, § 3.21, 2-6-1990)

Sec. 46-201. - Medical use of marijuana.

- (a) *Intent and purpose.* The purpose of this section is to implement land use regulations to address the medical use of marijuana as authorized by the enactment of the Michigan medical marijuana act (hereinafter referred to as the "MMMA") (MCL 333.26423 et seq.) and Mich. Admin. Code R. 333.101 et seq.
- (b) *Regulations for qualifying patients.* The medical use of marijuana by a qualifying patient in that qualifying patient's dwelling is hereby recognized as an accessory use to the principal residential use of the dwelling and

can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:

- (1) The qualifying patient must be issued and at all times must maintain a valid registry identification card by the state department of community health under the provisions of MMMA.
  - (2) All marijuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the qualifying patient.
  - (3) If a room with windows within the dwelling is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
  - (4) All activities of the qualifying patient shall be in strict accord with all state law and regulations.
- (c) *Regulations for primary caregivers.* The medical use of marijuana by a primary caregiver is hereby authorized as a home occupation by right in any zoning district, provided that all of the following regulations are met:
- (1) The primary caregiver must be issued and at all times must maintain a valid registry identification card by the state department of community health under the provisions of the MMMA, and all activities of the primary caregiver shall be in strict accord with all state law and regulations.
  - (2) The primary caregiver need not obtain a zoning permit under this section.
  - (3) All marijuana plants or products must be contained within the dwelling in an enclosed, locked facility that permits access only by the primary caregiver.
  - (4) If a room with windows within the dwelling is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
  - (5) No more than one primary caregiver shall be permitted to function as a home occupation servicing qualifying patients within a dwelling.
  - (6) No qualifying patients under the age of 18 shall be permitted at any time at a dwelling in which a primary caregiver is functioning as a home occupation, except in the presence of his parent or guardian and except when the qualifying patient resides with the primary caregiver at the dwelling.
  - (7) No marijuana for medical use shall be dispensed by the primary caregiver to qualifying patients at the dwelling in which a primary caregiver is functioning as a home occupation, except when the qualifying patient resides with the primary caregiver at the dwelling. Except as provided herein, the primary caregiver shall deliver all marijuana for the medical use of such qualifying patient, and such delivery shall take place on private property away from public view. Any such delivery vehicle shall be unmarked and not bear any emblem or sign that would indicate the nature of its cargo.
  - (8) No marijuana for medical use shall be consumed, smoked, or ingested by a qualifying patient by any method at a dwelling in which a primary caregiver is functioning as a home occupation, except when the qualifying patient resides with the primary caregiver at the dwelling.
  - (9) A dwelling in which a primary caregiver is functioning as a home occupation shall display indoors and in a manner legible and visible to his qualifying patients:
    - a. A notice that qualifying patients under the age of 18 are not allowed at a dwelling in which a primary caregiver is functioning as a home occupation, except in the presence of his parent or guardian and except when the qualifying patient resides with the primary caregiver at the dwelling; and

- b. A notice that no dispensing or consumption of marijuana for medical use shall occur at a dwelling in which a caregiver is functioning as a home occupation.
- (10) A dwelling in which a primary caregiver is functioning as a home occupation shall not have any outdoor signage that would indicate the nature of the primary caregiver services being conducted in the dwelling.
- (11) A dwelling in which a primary caregiver is functioning as a home occupation shall not be located within 300 feet of any of the following uses:
- a. Any church or place of worship and its accessory structures.
  - b. Any public or private school, having a curriculum including kindergarten through 12th grade and its accessory structures.
  - c. Any preschool, child care or day care facility and its accessory structures.
  - d. Any public facility, such as libraries, museums, parks, playgrounds, public beaches, community centers, and other public places where children may congregate.
- (12) The portion of a dwelling in which a primary caregiver is functioning as a home occupation, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring meeting the applicable requirements of the electrical code in effect in the city.
- (d) *Relationship to federal law.* Nothing within this section is intended to grant nor shall it be construed as granting immunity from federal law. Further, nothing in this section permits activities that are otherwise illegal under state or local law.

(Code 2009, § 48-201; Ord. No. 143D, 2-7-2012)

#### Sec. 46-202. - Waterfront development.

##### Limitation of funnel development:

- (1) Not more than one residential home, condominium unit, or apartment unit shall use or be permitted to use each 100 feet of lake or stream frontage as measured along the normal high water mark of the lake or stream.
- (2) This restriction is intended to limit the number of users of the lake or stream frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational uses of all waters and recreational lands within the city.
- (3) This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership or lease.

(Code 2009, § 48-202; Ord. No. 143R, 12-5-2016)

#### Secs. 46-203—46-227. - Reserved.

#### DIVISION 2. - RA SINGLE-FAMILY RESIDENTIAL DISTRICT

#### Sec. 46-228. - Purpose.

The purpose of the RA Single-Family Residential District is to provide for large lot single-family housing neighborhoods free from other uses, except those which are normally necessary or accessory to and compatible with, supportive of and convenient to the various types and compositions of families living within such residential land use areas. The size of lots and parcels should be planned to be of such area and width so that they can afford to be connected to healthful and sanitary water supply and wastewater disposal systems. The provisions of this division shall apply to the RA Single-Family Residential District.

(Code 2009, § 48-218)

Sec. 46-229. - Permitted principal uses.

Permitted principal uses are as follows:

- (1) Single-family dwellings of conventional or manufactured construction having at least one cross section width of at least 24 feet, and one portion of the ground floor shall have a dimension of at least 24 by 24 feet. All single-family dwellings are required to have perimeter foundations.
- (2) State-licensed residential facilities housing six or fewer persons.

(Code 2009, § 48-219; Res. No. 106/1993, 3-2-1993)

Sec. 46-230. - Permitted principal special uses with conditions.

The following special uses of land, buildings and structures are permitted subject to the provisions of article V of this chapter:

- (1) The following shall be permitted special uses:
  - a. Public buildings on at least two acres of land area.
  - b. Public recreational playgrounds on at least five acres of land area.
  - c. Nonprofit recreation areas on at least five acres of land area.
  - d. Religious institutions as regulated by supplemental regulations, section 46-744.
  - e. Educational institutions on at least ten acres of land area.
  - f. Golf courses and country clubs on at least 40 acres of land area per nine holes.
- (2) The permitted principal special uses in subsection (1) of this section are subject to the following requirements:
  - a. The proposed site for any of the uses permitted herein shall have at least one property line abutting on a major public street, and the site shall be so planned as to provide all access directly to said major street. Vehicular access to minor public streets shall not be permitted.
  - b. Street front, waterfront, side and rear yards shall be set back at least 50 feet, and shall be landscaped in trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except necessary entrance drives and those fences, walls, berms and vegetation used to screen the use from abutting residential lots and parcels.
  - c. Shall meet off-street parking requirements specified for each use in article VII of this chapter and all other applicable requirements of this chapter.

(Code 2009, § 48-220; Ord. No. 142F, 2-21-1995; Ord. No. 142G, § 14, 10-15-1996)



## Sec. 46-231. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Normal existing accessory uses to single-family housing and those additional normal waterfront accessory uses and activities, such as docks, decks, wharves, beaches, beach equipment and apparatus, boat houses, boat moorings, beach shelters, cabanas or small bathhouses and other existing or typical waterfront accessory uses, with the additional approval of the state department of environmental quality or other public agency when required.
- (2) Normal accessory uses to permitted and approved special uses and those additional normal, typical and existing types of waterfront accessory uses and activities specific to approved special uses, with the additional approval of the state department of environmental quality or other public agency when required.
- (3) Customary home occupations, as conditioned by section 46-718.
- (4) Each legally created lakefront lot shall be entitled to one seasonal dock. A minimum of 200 feet of frontage is required for a second dock.

(Code 2009, § 48-221; Ord. No. 143N, 12-5-2016)

## Sec. 46-232. - Permitted accessory uses with conditions.

Private outdoor swimming pools and other types of pools for use as a part of single-family dwellings in conformance with the provisions of section 46-718 are permitted accessory uses with conditions.

(Code 2009, § 48-222)

## Sec. 46-233. - Dimensional requirements.

Dimensional requirements are as follows:

- (1) *Lot area*. Minimum of 12,500 square feet per dwelling unit with public sewer and water accessible to each lot or parcel.
- (2) *Lot width*. Minimum of 100 feet at required building setback line.
- (3) *Lot coverage*. Maximum of 30 percent.
- (4) *Floor area*. The minimum first floor area of a one story dwelling 960 square feet, and for a two-story dwelling 700 square feet on the first floor, with a minimum total of 960 square feet for both stories. The total floor area of all accessory structures shall not exceed 60 percent of the floor area of the principal structure.
- (5) *Yard and setback requirements*.
  - a. *Front yard*. Minimum of 40 feet from the street right-of-way line and shoreline of any surface water features, except as otherwise required in this division for special uses, and unless a greater setback from the shoreline is required by the state department of environmental quality or other public agency, or a greater setback from the street right-of-way line as specified in the master plan for streets and highways, whichever is greater.
  - b. *Side yards*. Minimum of 15 feet for each side yard, except where a side yard abuts a street right-of-way line or a waterfront shoreline, the minimum shall be the same as for the front yard.
  - c. *Rear yard*. Minimum of 50 feet.

- (6) *Height limitations.* Maximum of 30 feet for residential structures; a maximum of 15 feet for all residential related accessory structures.

(Code 2009, § 48-223; Ord. No. 142X, 7-20-2004)

Secs. 46-234—46-259. - Reserved.

### DIVISION 3. - R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 46-260. - Purpose.

It is the purpose of the R-1 Single-Family Residential District to provide for medium sized lot residential traditional neighborhoods free from other uses, except those which are normally accessory to and compatible with, supportive of and convenient to the various types and compositions of families living within such residential land use areas. The size of lots and parcels should be planned to be of such area and width so that they can afford to be connected to healthful and sanitary water supply and wastewater disposal systems.

(Code 2009, § 48-240; Ord. No. 142, § 5.01, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996; Ord. No. 143W, 2-18-2020)

Sec. 46-261. - Permitted principal uses.

Permitted principal uses are as follows:

- (1) Dwellings of conventional or manufactured construction having at least one cross section width of at least 24 feet, and one portion of the ground floor shall have a dimension of at least 24 by 24 feet. All single-family dwellings are required to have perimeter foundations.
- (2) State-licensed residential facilities housing six or fewer persons.

(Code 2009, § 48-241; Ord. No. 142, § 5.02, 2-6-1990; Res. No. 106/1993, 3-2-1993; Ord. No. 143W, 2-18-2020)

Sec. 46-262. - Permitted principal special uses with conditions.

The following special uses of land, buildings and structures are permitted subject to the provisions of article V of this chapter:

- (1) The following shall be permitted special uses:
  - a. Duplex residential homes subject to provisions of section 48-680.
  - b. Bed and breakfast establishments subject to the provisions of section 48-717.
  - c. Public recreation playground areas on less than one acre of land area.
  - d. Religious institutions as regulated by supplemental regulations, section 48-677.
- (2) The permitted principal special uses in subsection (1) of this section are subject to the following requirements:
  - a. The proposed site for any of the uses permitted herein shall have at least one property line abutting a major public street, and the site shall be so planned as to provide all access directly to said major street. Vehicular access to minor public streets shall not be permitted.

- b. Street front, waterfront, side and rear yards shall be set back at least 30 feet, and shall be landscaped in trees and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structure in these yards, except necessary entrance drives and those fences, walls, berms and vegetation used to screen abutting residential lots and parcels.
- c. Shall meet off-street parking requirements specified for each use in article VII of this chapter and all other applicable requirements of this chapter.

(Code 2009, § 48-242; Ord. No. 142, § 5.03, 2-6-1990; Ord. No. 142F, 2-21-1995; Ord. No. 142G, § 13, 10-15-1996; Ord. No. 142U, 5-6-2003; Ord. No. 143W, 2-18-2020)

Sec. 46-263. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Normal existing accessory uses to single-family housing.
- (2) Normal accessory uses to permitted and approved special uses.
- (3) Customary home occupations, as conditioned by section 48-652.

(Code 2009, § 48-243; Ord. No. 142, § 5.04, 2-6-1990; Ord. No. 143P, 12-5-2016; Ord. No. 143W, 2-18-2020)

Sec. 46-264. - Permitted accessory uses with conditions.

Private outdoor swimming pools and other types of pools for use as a part of single-family dwellings in conformance with the provisions of section 48-651 are a permitted accessory use with conditions.

(Code 2009, § 48-244; Ord. No. 142, § 5.05, 2-6-1990; Ord. No. 143W, 2-18-2020)

Sec. 46-265. - Dimensional requirements.

Dimensional requirements are as follows:

- (1) *Lot area*. Minimum of 9,420 square feet per dwelling unit with public sewer and water accessible from each lot or parcel.
- (2) *Lot width*. Minimum of 60 feet at required setback line.
- (3) *Lot coverage*. Maximum of 40 percent.
- (4) *Floor area*. The minimum first floor area of a one story dwelling 960 square feet, and for a two-story dwelling 700 square feet and a minimum total of 960 square feet for both stories. The total floor area of all accessory structures shall not exceed 60 percent of the floor area of the principal structure.
- (5) *Yard and setback requirements*.
  - a. *Front yard*. Minimum of 15 feet from the street right-of-way line except as otherwise required in section 48-242(2)b for special uses, or unless a greater setback from a street right-of-way line is specified in the master plan for streets and highways, whichever is greater.
  - b. *Side yards*. Minimum of five feet for a side yard, with a total of 15 feet between both side yard setbacks except where a side yard abuts a street right-of-way line or a waterfront shoreline, the minimum shall be the same as for the front yard.
  - c. *Rear yard*. Minimum of 25 feet. Detached accessory structures minimum of 8 feet.

- (6) *Height limitations.* Maximum of 30 feet for residential structures; a maximum of 15 feet for all residential related structures.

(Code 2009, § 48-245; Ord. No. 142, § 5.06, 2-6-1990; Ord. No. 142X, 7-20-2004; Ord. No. 143W, 2-18-2020)

Secs. 46-266—46-293. - Reserved.

#### DIVISION 4. - RESERVED

*Footnotes:*

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**Editor's note—** Ord. No. 144D, adopted March 22, 2022, repealed Div. 4, §§ 46-294—46-300, which pertained to R-2 Duplex-Family Residential District and derived from Code 2009, §§ 48-264—48-270; Ord. No. 142, §§ 6.01—6.07, adopted Feb. 6, 1990; Ord. No. 142F, adopted Feb. 21, 1995; and Ord. No. 142G, § 13, adopted Oct. 15, 1996.

Secs. 46-294—46-318. - Reserved.

#### DIVISION 5. - R-2A SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 46-319. - Purpose.

The purpose of the R-2A Single-Family Residential District is to provide for small lot single-family conventional, manufactured or mobile home housing neighborhoods free from other uses, except those which are normally accessory and compatible, supportive and convenient to the residents living within such a district. The relatively small size of lots and parcels in this district would be planned to be of such area and width which will require each site to have direct connection to a public water supply and public sanitary sewer system. The provisions of this division apply to the R-2A Single-Family Residential District.

(Code 2009, § 48-289; Ord. No. 142, § 7.01, 2-6-1990)

Sec. 46-320. - Permitted principal uses.

Permitted principal uses are as follows:

- (1) Single-family dwellings of conventional, mobile home or manufactured construction having at least one cross section width of at least ten feet and one portion of the ground floor shall have a dimension of at least ten feet by 20 feet, and provided mobile homes are properly skirted in accordance with section 46-731.
- (2) State-licensed residential facilities housing six or fewer persons.

(Code 2009, § 48-290; Ord. No. 142, § 7.02, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-321. - Permitted principal special uses with conditions.

The following special uses of land, buildings and structures are permitted subject to the provisions of article V of this chapter:

- (1) The following shall be permitted special uses:

- a. Public buildings on at least two acres of land area.
  - b. Public recreational playgrounds on at least five acres of land area.
  - c. Nonprofit recreation areas on at least five acres of land area.
  - d. Religious institutions as regulated by supplemental regulations, section 46-744.
  - e. Educational institutions on at least five acres of land area.
  - f. Golf courses and country clubs on at least 40 acres per nine holes.
- (2) The permitted uses in subsection (1) of this section are subject to the following requirements:
- a. The proposed site for any of the uses permitted herein shall have at least one property line abutting a major public street, and the site shall be so planned as to provide all access directly to said major street. Vehicular access to minor public streets shall not be permitted.
  - b. Street front, waterfront, side and rear yards shall be set back at least 50 feet and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those fences, walls, berms and vegetation used to screen the use from abutting residential lots and parcels.
  - c. Shall meet all off-street parking requirements specified for each use in article VII of this chapter and other applicable requirements of this chapter.

(Code 2009, § 48-291; Ord. No. 142, § 7.03, 2-6-1990; Ord. No. 142F, 2-21-1995; Ord. No. 142G, § 13, 10-15-1996)

Sec. 46-322. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Normal existing accessory uses to single-family housing and those additional normal waterfront accessory uses and activities, such as docks, decks, wharves, beaches, beach equipment and apparatus, boathouses, boat moorings, beach shelters, cabanas or small bathhouses and other existing or typical waterfront accessory uses, with the additional approval of the state department of environmental quality or other public agency when required.
- (2) Normal accessory uses to permitted and approved special uses, and those additional normal, typical and existing types of waterfront accessory uses and activities specific to approved special uses, with the additional approval of the state department of environmental quality or other public agency when required.
- (3) Customary home occupations, as conditioned by section 46-718.

(Code 2009, § 48-292; Ord. No. 142, § 7.04, 2-6-1990)

Sec. 46-323. - Permitted accessory uses with conditions.

Private swimming pools for use as a part of single-family dwellings in conformance with the provisions of section 46-718 are a permitted accessory use with conditions.

(Code 2009, § 48-293; Ord. No. 142, § 7.05, 2-6-1990)

Sec. 46-324. - Dimensional regulations.

Dimensional regulations are as follows:

- (1) *Lot area.* Minimum of 7,500 square feet per dwelling unit with public sewer and water accessible to each lot or p
- (2) *Lot width.* Minimum of 60 feet at required building setback line.
- (3) *Lot coverage.* Maximum of 30 percent.
- (4) *Floor area.* The minimum first floor area of a one story dwelling 600 square feet, and for a two-story dwelling 500 square feet, and a minimum total of 600 square feet for both stories. The total floor area of all accessory structures shall not exceed 60 percent of the floor area of the principal structure.
- (5) *Yard and setback requirements.*
  - a. *Front yard.* Minimum of 25 feet from the street right-of-way line, except as otherwise required in section 46-321(2)b for special uses, or unless a greater setback from a street right-of-way line is specified in the master plan for streets and highways, whichever is greater.
  - b. *Side yards.* Minimum of ten feet for each side yard except where a side yard abuts a street right-of-way line, the minimum shall be the same as for the front yard.
  - c. *Rear yard.* Minimum of 25 feet.
- (6) *Height limitations.* Maximum of 30 feet for all residential structures; a maximum of 15 feet for all residential related accessory structures.

(Code 2009, § 48-294; Ord. No. 142, § 7.06, 2-6-1990)

Secs. 46-325—46-351. - Reserved.

#### DIVISION 6. - R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 46-352. - Purpose.

The purpose of the R-3 Multiple-Family Residential District is to provide for relatively small and less expensive type of housing, as well as a broader range of choice of housing types to people who desire to live in the city in condominium, owner or rental units, and their normal accessory uses which are compatible, supportive or convenient to the residents living within such a district.

(Code 2009, § 48-322; Ord. No. 142, § 8.01, 2-6-1990; Ord. No. 144B, 4-5-2022)

Sec. 46-353. - Permitted principal uses.

Permitted principal uses are as follows:

- (1) Multiple-family dwelling structures, including duplexes, triplexes, quadraplexes, row housing, garden apartments, townhouses, and other similar types of multifamily dwelling unit buildings.
- (2) Single-family residences provided that all dimensional requirements of the R-1 zoning district, (sections 46-261 and 46-265) are met.

(Code 2009, § 48-323; Ord. No. 142, § 8.02, 2-6-1990; Ord. No. 143A, 1-4-2011; Ord. No. 144B, 4-5-2022)

Sec. 46-354. - Permitted principal special uses with conditions.

The following special uses of land, buildings and structures are permitted subject to the provisions of article V of this chapter:

- (1) The following shall be permitted special uses:
  - a. Boarding, rooming, single room occupancy homes.
  - b. Religious institutions as regulated by supplemental regulations section 46-743.
  - c. State-licensed residential facilities (group homes) housing 12 or fewer persons. Section 46-738, [and] section 46-792 moved from permitted uses.
- (2) The permitted uses in this section are subject to the following requirements:
  - a. The proposed site for any of the uses permitted herein shall have at least one property line abutting a major public street, and the site shall be so planned as to provide all access directly to said major street. Vehicular access to minor public streets shall not be permitted.

(Code 2009, § 48-324; Ord. No. 142, § 8.03, 2-6-1990; Ord. No. 142F, 2-21-1995; Ord. No. 142G, §§ 8, 13, 10-15-1996; Ord. No. 144B, 4-5-2022)

Sec. 46-355. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Normal existing accessory uses and structures to multi-family housing.
- (2) Accessory dwelling units that are clearly incidental to the principle dwelling unit and the structures' exterior appear to be single family.
  - a. Exterior stairs shall not be allowed.
  - b. An accessory dwelling unit shall not exceed 800 square feet or exceed the size of the principle dwelling unit.
  - c. At least one owner of record shall occupy either principle or accessory dwelling unit.
  - d. The principle or accessory dwelling unit shall not be leased for less than 30 days at a time unless the owner has a current city short term rental license.
- (3) Short term rentals maintaining a city STR license.
- (4) Private swimming pools and other types of pools as a part of the multiple-family housing development for use in common by all residents in conformance with the provisions of section 46-717.
- (5) Solar and wind conversion systems, single accessory section 46-735 and section 46-736.
- (6) Nine or more units at least one common open space recreation area with facilities equal to at least ten percent of the total area of the lot or parcel shall be set aside and developed as a part of the multiple-family housing development for use in common by all residents.

(Code 2009, § 48-326; Ord. No. 142, § 8.05, 2-6-1990; Ord. No. 144B, 4-5-2022)

Sec. 46-357. - Dimensional requirements except as otherwise specified in this chapter.

Dimensional requirements (except as otherwise specified in this chapter) are as follows:

- (1) *Lot area*. A multiple-family residential structure shall occupy a lot or parcel comprising not less than 9,600

square feet, and meet the requirements of section 46-358.

- (2) *Lot width*. Minimum of 60 feet.
- (3) *Lot coverage*. Maximum of 50 percent.
- (4) *Number of dwelling units per gross acre*. Fifteen.
- (5) *Yard and setback requirements*.
  - a. *Front yard*. Minimum of 15 feet from the street right-of-way line or within the average setback of principle buildings on the same side of the street in the same block, but no closer than ten feet from the property line.
  - b. *Side yards*. Minimum distance six feet with an aggregate of 15 feet.
  - c. *Rear yard*. Minimum of 25 feet.
  - d. *Parking area*. Minimum of five feet except ten feet if adjacent to R-1 District.
- (6) *Height limitations*. Maximum of three stories or 35 feet, except that detached accessory structures shall not exceed 16 feet.
- (7) *Spacing between buildings*. Ten feet
- (8) *Parking*. Minimum parking space requirement of one per dwelling unit. Maximum of two per unit. No parking shall be allowed in the front yard. Properties with access to an alley shall not have vehicle access to the street.
- (8) *Floor area requirements*. Minimum standards for total floor area for each type of multiple-family dwelling unit shall be 250 square feet.
- (9) *Number of multiple-family dwelling units per building*. To promote the safety of residents of multiple-family residences, in terms of fire protection, no multiple-family residential structure shall contain more than eight dwelling units. More units per building must go through the special use application process, article V, section 46-775.

(Code 2009, § 48-327; Ord. No. 142, § 8.06, 2-6-1990; Ord. No. 144B, 4-5-2022)

Sec. 46-358. - Location and site development requirements.

Location and site development requirements are as follows:

- (1) All multiple-family dwelling units shall be connected to the public water supply system and public wastewater sanitary sewer system on a permanent basis.
- (2) Open spaces comprising at least 25 percent of the total gross area of the project shall be planned and built as common open space to be used, operated and maintained by the developer or a nonprofit association representing the property owners and financed by means of a monthly or annual assessment.
- (3) Ingress and egress of driveways shall be provided from an impervious hard surface paved street. Drives shall be located at least five feet from any building and shall have at least an 18-foot-wide, two-lane traveled surface and meet section 46-722.
- (4) Shall meet all off-street parking requirements specified for each use in article VII of this chapter and other applicable requirements of this chapter. Off-street parking shall be provided in accordance with article VII of this chapter with parking spaces located within 200 feet of an entrance to the building for which the parking is designated. Each dwelling unit shall be provided with at least one hard surfaced parking.



- (5) Shall meet all landscaping requirements specified for each use in article X of this chapter. When an R-3 multiple-residential lot or parcel abuts single family parcels other than those located in an R-3 Multiple-Family Residential five-foot wide buffer shall be provided within the R-3 lot or parcel area. The buffer area shall be bermed and lan with trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no other structures permitted in buffer areas, except required entrance drives and those walls, fences, berms or pl necessary to screen the R-3 use from abutting single-family residential used lots and parcels.
- (6) The outdoor storage of goods, materials, trash or garbage is not permitted, except as provided in section 46-719.

(Code 2009, § 48-328; Ord. No. 142, § 8.07, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996; Ord. No. 144B, 4-5-2022)

Secs. 46-359—46-389. - Reserved.

#### DIVISION 7. - R-4 MOBILE HOME RESIDENTIAL DISTRICT

*Footnotes:*

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**State Law reference**— *Mobile home commission act, MCL 125.2301 et seq.*

Sec. 46-390. - Purpose.

It is the intent of the R-4 Mobile Home Residential District to provide an area in the city where mobile home parks, subdivisions and individual lots and parcels upon which to locate mobile homes, can be located exclusively for the purpose of providing families who prefer this type of housing to conventionally built houses and further to provide for others seeking such housing to assemble in the same district. The provisions of this division apply to the R-4 Mobile Home Residential District.

(Code 2009, § 48-360; Ord. No. 142, § 9.01, 2-6-1990)

Sec. 46-391. - Permitted principal uses.

Permitted principal uses are as follows:

- (1) Single-family mobile homes on lots and parcels which meet the requirements of section 46-394 and provided all mobile homes are properly skirted in accordance with section 46-731.
- (2) Mobile home parks, provided they meet the requirements of the mobile home commission act (MCL 125.2301 et seq.), and section 46-731.

(Code 2009, § 48-361; Ord. No. 142, § 9.02, 2-6-1990)

Sec. 46-392. - Permitted principal special uses with conditions.

Permitted principal special uses with conditions are as follows:

- (1) The following special uses of land, buildings and structures are permitted subject to the provisions of article V of this chapter:
  - a. Public recreational playgrounds on at least five acres of land area.

- b. Nonprofit recreation areas on at least five acres of land area.
  - c. Swimming pools located on at least two acres of land area in conformance with section 46-718.
  - d. Religious institutions as regulated by supplemental regulations, section 46-744.
  - e. Educational and social institutions on at least ten acres of land area.
- (2) The permitted principal special uses in subsection (1) of this section are subject to the following conditions:
- a. The proposed site for any of the uses permitted herein shall have at least one property line abutting a major public street or highway, and the site shall be so planned as to provide all access directly to said major streets or highways. Vehicular access to minor public streets shall not be permitted.
  - b. Street front, waterfront, side and rear yards shall be set back at least 50 feet, and shall be landscaped in trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except necessary entrance drives and those walls used to screen the use from abutting residential lots and parcels.
  - c. Shall meet off-street parking requirements specified for each use in article VII of this chapter and all other applicable requirements of this chapter.

(Code 2009, § 48-362; Ord. No. 142, § 9.03, 2-6-1990; Ord. No. 142F, 2-21-1995; Ord. No. 142G, §§ 8, 13, 10-15-1996)

#### Sec. 46-393. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Normal existing accessory uses to single-family mobile home housing and existing agricultural uses.
- (2) Normal accessory uses to permitted and approved special uses.
- (3) Customary home occupations as conditioned by section 46-718.

(Code 2009, § 48-363; Ord. No. 142, § 9.04, 2-6-1990)

#### Sec. 46-394. - Dimensional regulations.

Dimensional regulations are as follows:

- (1) *Lot area*. Minimum of 20 acres for a mobile home park and a minimum of 7,500 square feet for each mobile home subdivision lot and each metes and bounds mobile home lot located outside of a mobile home park and each mobile home site in a mobile home park to be provided with connections to public sewer and water systems.
- (2) *Lot width*. Minimum of 60 feet at the required building setback line.
- (3) *Lot coverage*. Maximum of 30 percent.
- (4) *Floor area*. The minimum usable floor area of a mobile home shall be 480 square feet when located outside of a mobile home park. No minimum floor area requirements for mobile homes located in a state-licensed mobile home park are specified, except that which is required by the rules and regulations of the state mobile home park commission act.
- (5) *Yard and setback requirements*. Yard and setback requirements for mobile home parks shall be as required by the administrative rules adopted pursuant to the mobile home commission act (MCL 125.2301 et seq.). Other mobile homes shall be subject to the following:

- a. *Front yard.* Minimum of 25 feet from the road right-of-way line and shoreline of any surface water feature.
  - b. *Side yards.* Minimum of ten feet for each side yard, except where a side yard abuts a road right-of-way line, the minimum shall be 25 feet.
  - c. *Rear yard.* Minimum of 40 feet.
- (6) *Height limitations.* Maximum of 15 feet for a mobile home structure; a maximum of ten feet for all mobile home residentially related accessory structures.

(Code 2009, § 48-364; Ord. No. 142, § 9.05, 2-6-1990)

Secs. 46-395—46-416. - Reserved.

#### DIVISION 8. - PO PROFESSIONAL OFFICE DISTRICT

Sec. 46-417. - Purpose.

The PO Professional Office District is intended to provide the necessary professional, administrative, personal, technical and scientific offices and related services as the principal uses. Any sale of retail goods are intended to be only incidental to or normally accessory to such principal uses. Professional office districts may function as transition areas between industrial and commercial uses and residential uses. It is the further purpose of this district to retain the existing residential building character where it exists during and after their conversion from residential to office uses in order to continue to retain the overall historical and present city character. The provisions of this division apply to the PO Professional Office District.

(Code 2009, § 48-387; Ord. No. 142, § 10.01, 2-6-1990)

Sec. 46-418. - Permitted principal uses.

The following uses are permitted as long as they are conducted completely within a building or structure:

- (1) Offices for professionally, commercially, technically and scientifically skilled persons who provide a personal or commercial service.
- (2) Medical and dental clinics and laboratories serving local medical and dental clinics.
- (3) General office buildings in which no manufacturing, trading or selling of goods is conducted on-site, except as otherwise provided in this chapter, or are incidental to the principal office service.
- (4) Financial institutions.
- (5) Educational and training facilities.
- (6) Public, organizational and institutional offices and buildings.
- (7) Funeral homes.
- (8) Veterinary clinics and animal hospitals.
- (9) Senior housing.

(Code 2009, § 48-388; Ord. No. 142, § 10.02, 2-6-1990; Ord. No. 143E, 10-16-2012)

Sec. 46-419. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Normal accessory uses to permitted principal uses.
- (2) Incidental services provided for employees and visitors connected with the principal use, including child care, recreational and physical health facilities, swimming pools, conference, educational, library and meeting facilities, sales display facilities and maintenance, storage and repair facilities.

(Code 2009, § 48-389; Ord. No. 142, § 10.03, 2-6-1990)

Sec. 46-420. - Dimensional requirements except as otherwise specified in this chapter.

Dimensional requirements (except as otherwise specified in this chapter) are as follows:

- (1) *Lot area.* Adequate to accommodate all of the specific requirements for lot area coverage, off-street parking, all on-site uses, yards and setbacks, water supply and wastewater disposal and other requirements specified for the uses permitted in this district.
- (2) *Lot width.* Adequate to accommodate all buildings, structures, off-street parking and open-air use areas and yard and setback requirements specified for the permitted uses in this district.
- (3) *Lot coverage.* Maximum of 75 percent for all principal and accessory buildings and structures.
- (4) *Yard and setback requirements.*
  - a. *Front yard.* The existing setbacks of adjacent structures or a minimum of 35 feet from all street or highway right-of-way lines unless a greater setback is specified in the master plan for streets and highways for newly developing districts, whichever is greater.
  - b. *Side yards.* Minimum of ten feet on one side yard and a total for both side yards shall be 20 feet unless a greater setback is specified in the master plan for streets and highways, whichever is greater unless adjacent buildings are to be built on a common property line, in which case the common wall shall be built to firewall specifications of the state fire marshal.
  - c. *Rear yard.* Minimum of 35 feet.
- (5) *Height limitations.* Maximum of 40 feet.

(Code 2009, § 48-390; Ord. No. 142, § 10.04, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-421. - Location and site development requirements.

Location and site development requirements are as follows:

- (1) The site shall have at least one property line abutting a major street or highway arterial upon which it fronts and from which it has the most direct vehicular access by means of a frontage access road or connecting drive across adjacent properties, whichever exists, is possible or planned for the district.
- (2) Interior display of goods shall not be visible to the exterior for direct commercial retail purposes designed to attract customers. If the retail goods are normally displayed externally as open-air uses, they shall be permitted to display externally as approved on the final site plan.
- (3) The outdoor storage of goods, materials, trash or garbage is not permitted, except as provided in section 46-719.

(Code 2009, § 48-391; Ord. No. 142, § 10.05, 2-6-1990)

Sec. 46-422. - Special building and structural requirements.

Special building and structural requirements are as follows:

- (1) All existing buildings and structures shall not be removed unless it is the finding of the planning commission that the removal of any existing building or structure will not cause a major change in the overall character and scale of the present development in this district.
- (2) All existing buildings and structures to be remodeled shall not be changed to the extent that such remodeling will cause a major change in the overall character and scale of the present development in this district.
- (3) All new buildings and structures shall conform to the present overall character and scale of the present development in this district.
- (4) The guidelines and requirements for subsections (1) through (3) of this section are contained in section 46-732.

(Code 2009, § 48-392; Ord. No. 142, § 10.06, 2-6-1990)

Secs. 46-423—46-442. - Reserved.

DIVISION 9. - C-1 LOCAL COMMERCIAL DISTRICT

Sec. 46-443. - Purpose.

The C-1 Local Commercial District has the intent of providing areas wherein retail business and service uses can be located in order to satisfy the residential area. It is the further purpose of this district to encourage the concentration of local businesses in locations harmonious with residential areas, and prohibiting uses which might create traffic hazards, offensive noises, and late hour operations. The provisions of this division apply to the C-1 Local Commercial District.

(Code 2009, § 48-413; Ord. No. 142, § 11.01, 2-6-1990; Ord. No. 142K, § 2, 11-17-1998; Ord. No. 143F, 10-16-2012)

Sec. 46-444. - Permitted principal uses.

The following uses are permitted as long as the use is conducted completely within an enclosed building:

- (1) Office buildings for the use of any of the following occupations; executive; administrative; professional; accounting; writing; clerical; stenographic, drafting; and sales and similar establishments.
- (2) Medical and dental offices, including clinics and medical laboratories.
- (3) Banks, credit unions, savings and loan associations.
- (4) Publicly-owned buildings, including city offices, libraries, museums, service and utility installations.
- (5) Hotels, motels and other lodging facilities.
- (6) Photographic studios and supply stores.
- (7) Retail office supply stores.
- (8) Florists.
- (9) Personal service establishments, such as barbershops and beauty shops; watch, clothing and shoe repair, locksmith; and similar establishments.

- (10) Food services including grocery, meat market, bakery, restaurant, delicatessen and fruit market, and similar self units but not including any business of a drive-in or drive-through type.
- (11) Retail sales of drug and health care products, hardware, antiques, gifts, dry goods, notions, sporting goods, clothing, furniture, appliances, books and stationary, paint and wallpaper, souvenirs, toys, pets, secondhand goods, and other similar items.
- (12) Radio, television, and electrical appliance repair, and shops of plumbers, electricians, and other similar services and trades.
- (13) Laundromats and dry cleaning establishments.
- (14) Sit-down restaurants.

(Code 2009, § 48-414; Ord. No. 142, § 11.02, 2-6-1990; Ord. No. 142G, § 7, 10-15-1996; Ord. No. 142K, § 2, 11-17-1998)

Sec. 46-445. - Permitted principal special uses with conditions.

Permitted principal special uses with conditions are as follows:

- (1) Bed and breakfast establishments, subject to the additional provisions of section 46-791.
- (2) Drive-in retail and service establishments in accordance with the provisions of article V of this chapter for this use.
- (3) Automotive gasoline and service stations in accordance with the provisions of article V of this chapter for this use.
- (4) Tattoo parlors and/or body piercing establishments, subject to the additional provisions of section 46-796.
- (5) Veterinary offices and hospitals, including accessory boarding.
- (6) Funeral homes.
- (7) Private service clubs, social organizations, lodge halls, and religious institutions (as regulated by supplemental regulations, section 46-744).
- (8) Fast food restaurants.
- (9) New and used automobile sales subject to the conditions of section 46-795.
- (10) Variety stores.

(Code 2009, § 48-415; Ord. No. 142, § 11.03, 2-6-1990; Ord. No. 142K, § 2, 11-17-1998; Ord. No. 142M, 8-4-1999; Ord. No. 142U, 5-6-2003; Ord. No. 143H, 5-7-2014; Ord. No. 144E, § (2), 4-5-2022)

Sec. 46-446. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Normal accessory uses to all permitted principal uses.
- (2) Normal accessory uses to all permitted principal special uses.
- (3) Customary home occupations in existing single-family homes, as conditioned by section 46-718.

(Code 2009, § 48-416; Ord. No. 142, § 11.04, 2-6-1990; Ord. No. 142K, § 2, 11-17-1998)

Sec. 46-447. - Dimensional requirements, except as otherwise specified in this chapter.

Dimensional requirements (except as otherwise specified in this chapter) are as follows:

- (1) *Lot area.* Minimum of 5,000 square feet if connected to the public water supply system and a public wastewater sewer and treatment system.
- (2) *Lot width.* Minimum of 30 feet at the required building setback line.
- (3) *Lot coverage.* Maximum of 50 percent.
- (4) *Yard and setback requirements.*
  - a. *Front yard.* Minimum of 25 feet from all street and highway right-of-way lines or as established by the master plan for streets and highways, whichever is greater.
  - b. *Side yards.* Minimum of ten feet for each side yard, except if adjacent to a residential district the side yard shall be a minimum of 100 feet, and except where a side yard abuts a street right-of-way the minimum shall be 75 feet or as established by the master plan for streets and highway, whichever is greater.
  - c. *Rear yard.* Minimum of 15 feet, except when abutting a residential district it shall be a minimum of 100 feet.
- (5) *Height limitations.* Maximum of 35 feet, except that a detached accessory structure shall not exceed 15 feet.
- (6) *Location and on-site development requirements and conditions.*
  - a. Each lot or parcel shall have street frontage on one of the streets located in the C-1 district and shall have direct convenient pedestrian access from parking spaces provided for customers to the entrance of its principal building's customer service area.
  - b. The outdoor storage of goods, materials, trash and garbage is not permitted, except as provided in section 46-719.
  - c. All alterations and changes in existing buildings and structures and site developments and all replacement and new buildings and structures and site developments in this district shall meet the requirements of the guidelines contained in section 46-422 and section 46-732.
  - d. The second story of a C-1 use may be used for office purposes as included in division 8 of this article.

(Code 2009, § 48-417; Ord. No. 142, § 11.05, 2-6-1990; Ord. No. 142K, § 2, 11-17-1998)

Secs. 46-448—46-477. - Reserved.

#### DIVISION 10. - CBD CENTRAL BUSINESS DISTRICT

Sec. 46-478. - Purpose.

The CBD Central Business District has the intent of providing for a variety of office, business service, entertainment and retail uses which occupy prime retail frontage, by serving the comparison, convenience, and service needs of the market area which includes the city and surrounding townships. The regulations of the CBD district are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive-related services and nonretail uses which tend to break up such continuity. It is the further purpose

of this district to retain the present general character and scale of the variety of buildings, structures, and general landscape or site development features in order to continue to retain the overall historical and present city character. The provisions of this division apply to the CBD Central Business District.

(Code 2009, § 48-448; Ord. No. 142, § 11a.01, 2-6-1990; Ord. No. 142K, § 3, 11-17-1998)

Sec. 46-479. - Permitted principal uses.

The following uses are permitted as long as the use is conducted completely within an enclosed building:

- (1) All permitted principal uses in the C-1 district.
- (2) Establishments serving alcoholic liquors and/or providing entertainment.
- (3) Theaters.
- (4) Newspaper offices and printing plants.
- (5) Post offices, museums, and historical societies.
- (6) Private service clubs, social organizations, and lodge halls.
- (7) Hotels, motels, and other lodging facilities.
- (8) Funeral homes.
- (9) Multiple-family dwellings and/or apartment dwellings on the second floor and above.

(Code 2009, § 48-449; Ord. No. 142, § 11a.02, 2-6-1990; Ord. No. 142K, § 3, 11-17-1998; Ord. No. 142U, 5-6-2003; Ord. No. 143Z, 10-5-2021)

Sec. 46-480. - Permitted principal special uses with conditions.

The following special uses are permitted in accordance with the provisions of article V of this chapter:

- (1) Fast food restaurants.
- (2) Recreation and amusement services, including bowling alleys, roller and ice skating rinks and billiard halls in accordance with the provisions of article V of this chapter for these uses.
- (3) Reserved.
- (4) Outdoor cafe service, operated by a restaurant or other food establishment which sells food for immediate consumption, in accordance with the provisions of article V of this chapter, provided the following conditions are met:
  - a. Outdoor cafes may be permitted in a public right-of-way, within the boundaries of a parcel or lot.
  - b. An annual permit must be secured from the city for temporary use of the public right-of-way. However, no use of the right-of-way will be permitted during special events as designated by the city commission.
  - c. A minimum of four feet of public sidewalk along the curb and leading to the entrance of the establishment must be maintained free of tables, benches, waste receptacles, fire hydrants and other encumbrances. If the sidewalk is not wide enough to allow a four-foot-wide clearance for circulation, the outdoor cafe shall not be permitted on a public sidewalk.
  - d. Pedestrian circulation and access to building entrances shall not be impaired.
  - e. Additional signs shall not be permitted beyond those permitted for the existing food establishment.
  - f. The outdoor cafe must be kept clean, litter-free and with a well-kept appearance within and immediately



adjacent to the area of the tables and chairs. Additional outdoor waste receptacles may be required.

- g. Written procedures for cleaning as well as waste containment and removal responsibilities shall be included with all applications and approved by the planning commission prior to issuance of a permit.
- h. Tables, chairs, planters, waste receptacles and other elements of street furniture shall be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they shall complement building colors. When not in use, all tables, chairs, umbrellas and other furniture and fixtures must be stored inside the building or in an alternate location other than a public sidewalk.
- i. Outdoor cafes are permitted seasonally between April 1 and October 31.
- j. The hours of operation for the outdoor cafe or its operation shall not damage, stain or discolor any part of the sidewalk or public right-of-way.
- k. The outdoor cafe shall provide evidence of insurance coverage naming the city as an additional insured party in an amount acceptable to the city.

(5) Bed and breakfast establishments subject to the provisions of section 46-791.

(6) Tattoo parlors and/or body piercing establishments, subject to the additional provisions of section 46-796.

(Code 2009, § 48-450; Ord. No. 142, § 11a.03, 2-6-1990; Ord. No. 142K, § 3, 11-17-1998; Ord. No. 142U, 5-6-2003; Ord. No. 143Z, 10-5-2021)

Sec. 46-481. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Normal accessory uses to all permitted principal uses.
- (2) Normal accessory uses to all permitted principal special uses.

(Code 2009, § 48-451; Ord. No. 142, § 11a.04, 2-6-1990; Ord. No. 142K, § 3, 11-17-1998)

Sec. 46-482. - Dimensional requirements, except as otherwise specified in this chapter.

Dimensional requirements (except as otherwise specified in this chapter) are as follows:

- (1) *Lot area*. The minimum lot area shall be equal to the area of the smallest lot in the street block in which it is located as long as each lot or parcel is served by public water supply system and a public wastewater sewer and treatment system.
- (2) *Lot width*. The minimum lot width shall be equal to the width of the narrowest lot in the street block in which it is located.
- (3) *Lot coverage*. None.
- (4) *Yard and setback requirements*.
  - a. *Front yard*. The minimum front yard setback from the street right-of-way line shall be equal to the principal building on a lot or parcel in each block having the least existing setback.
  - b. *Side yards*. The minimum side yards for each lot or parcel shall be equal to the principal building lot or parcel in each block having the least combination of side yard depths on each side of the building, unless buildings on separate parcels are to have a common wall on their common property line, in which case no side yard shall be required.

- c. *Rear yard.* The minimum rear yard for each lot or parcel shall be equal to the principal building on a lot or parcel block having the least existing rear yard depth.
- (5) *Height limitations.* Maximum of 45 feet, except that a detached accessory structure shall not exceed 15 feet.
- (6) *Location and on-site development requirements and conditions.*
- a. Each lot or parcel shall have street frontage on one of the streets located in the CBD district and shall have direct convenient pedestrian access from parking spaces provided for customers to the entrance of its principal building's customer service area.
  - b. The outdoor storage of goods, materials, trash and garbage is not permitted, except as provided in section 46-719.
  - c. All alterations and changes in existing buildings and structures and site developments and all replacement and new buildings and structures and site developments in this district shall meet the requirements of the guidelines contained in section 46-422 and section 46-732.

(Code 2009, § 48-452; Ord. No. 142, § 11a.05, 2-6-1990; Ord. No. 142K, § 3, 11-17-1998)

Secs. 46-483—46-502. - Reserved.

#### DIVISION 11. - C-2 GENERAL COMMERCIAL DISTRICT

Sec. 46-503. - Purpose.

The purpose of the C-2 General Commercial District is to provide for those commercial uses that do not cater directly to small numbers of individual consumers of goods and services through small retail outlets, but rather provide goods and services on a warehouse, wholesale, bulk, mass or major scale which are offered to major and bulk purchasers and retail and service outlets that in turn provide goods and services on an individual item basis to individual consumers. It is also the intent of this district to provide for transportation and related service facility uses necessary to the transporting, distributing, transferring, handling and warehousing of bulk, goods and services. The provisions of this division apply to the C-2 General Commercial District.

(Code 2009, § 48-473; Ord. No. 142, § 12.01, 2-6-1990)

Sec. 46-504. - Permitted principal uses.

Permitted principal uses are as follows:

- (1) Facilities necessary to the operation of all existing methods of transportation, including truck terminals.
- (2) Warehousing and related bulk sales and handling facilities, equipment and support services.
- (3) Bulk handling of commercial and industrial services and related facilities, equipment and support services.
- (4) Contractor buildings, structures and equipment and materials; storage yards for building and other types of construction.
- (5) Building material supply establishments including lumber yards, mill working.
- (6) Bowling alleys, billiard halls, roller rinks.
- (7) Automobile and truck repair garages.

- (8) Automobile, truck and mobile home sales and service establishments.
- (9) Nursery sales establishments, indoor and outdoor.
- (10) Stone monument works.
- (11) Bulk storage of petroleum products, providing storage tanks are completely underground.
- (12) Kennels.
- (13) Motels.
- (14) Facilities for the elderly and teenagers.

(Code 2009, § 48-474; Ord. No. 142, § 12.02, 2-6-1990; Ord. No. 142G, § 7, 10-15-1996)

Sec. 46-505. - Permitted principal special uses.

Permitted principal special uses are as follows:

- (1) Adult entertainment businesses as conditioned by section 46-794.
- (2) Bed and breakfast establishments subject to the provisions of section 46-791.

(Code 2009, § 48-475; Ord. No. 142, § 12.03, 2-6-1990; Ord. No. 142G, § 9, 10-15-1996; Ord. No. 142U, 5-6-2003)

Sec. 46-506. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Accessory buildings and uses customarily incidental to the principal permitted uses named in section 46-505.
- (2) Signs in accordance with the relevant requirements specified in article VIII of this chapter.
- (3) Towers in accordance with the relevant requirements detailed in section 46-714.
- (4) Outdoor storage of goods or materials when directly related to adjoining businesses and when properly screened to a height of at least six feet by either:
  - a. An earth berm with permanent vegetation on its surface;
  - b. A solid fence;
  - c. A solid wall;
  - d. A planting of evergreen trees and shrubs which provides a solid screen; or
  - e. A combination of subsections (4)a and d of this section to a minimum height of six feet.

(Code 2009, § 48-476; Ord. No. 142, § 12.04, 2-6-1990; Ord. No. 142G, § 9, 10-15-1996)

Sec. 46-507. - Dimensional requirements.

Dimensional requirements are as follows:

- (1) *Lot area*. Minimum of 20,000 square feet if connected to public sanitary sewer and public wastewater treatment facilities.
- (2) *Lot width*. Minimum of 100 feet at the required building setback line.
- (3) *Lot coverage*. Maximum of 75 percent.
- (4) *Yard and setback requirements*.

- a. *Front yard.* Minimum of 50 feet from all street and highway right-of-way lines or as established by the master streets and highways, whichever is greater.
  - b. *Side yards.* Minimum of 25 feet for each side yard, except if adjacent to a residential district the side yard shall be a minimum of 100 feet, and except where a side yard abuts a street right-of-way the minimum shall be 75 feet or as established by the master plan for streets and highways, whichever is greater.
  - c. *Rear yard.* Minimum of 50 feet, except when abutting a residential district it shall be a minimum of 100 feet.
- (5) *Height limitations.* Maximum of 35 feet, except that a detached accessory structure shall not exceed 15 feet.
- (6) *Location and site development requirements.*
- a. The site shall have at least one property line abutting a major street or highway, as defined in the master plan for streets and highways, upon which it fronts and from which it has its most direct vehicular access by means of a frontage access street or driveway, as provided in section 46-722.
  - b. All vehicular ingress shall be from a deceleration lane to a street entrance providing direct access to a frontage access road or connecting driveway located parallel and adjacent to a major street or highway upon which it fronts and has its most direct vehicular driveway connection to parcels and uses adjacent to their side or rear lot lines so as to provide direct access between parcels.
  - c. All uses shall meet the requirements for off-street parking and loading and unloading as specified in article VII of this chapter.
  - d. If a parcel abuts a residential zoning district, an earth berm, or evergreen screen, or a combination of earth berm and evergreen vegetation which provides a solid screen at least six feet in height shall be constructed adjacent to the common property line and planted with permanent vegetation cover over the entire berm surface.
  - e. The outdoor storage of goods, materials, equipment, trash or garbage is not permitted, except in accordance with section 46-719.

(Code 2009, § 48-477; Ord. No. 142, § 12.05, 2-6-1990; Ord. No. 142G, § 9, 10-15-1996)

Secs. 46-508—46-537. - Reserved.

## DIVISION 12. - WF WATERFRONT DISTRICT

Sec. 46-538. - Purpose.

The WF Waterfront District recognizes the unique nature of waterfront property and the relationship of that property to the city as a whole. Land use within the waterfront district should enhance the economic, social and recreational opportunities for the residents of the city and for visitors. The scale of structures in density should be maintained to prevent the view being obscured and allow for pedestrian access throughout the district from the city, so that automotive, pedestrian and visual access to the waterfront can be made available to the public wherever possible. The permitted principal, special and accessory uses in this district should relate to the establishment of a waterfront atmosphere and character of development of buildings and landscapes. The provisions of this division apply to the WF Waterfront District.

(Code 2009, § 48-508; Ord. No. 142, § 13.01, 2-6-1990; Ord. No. 205, § 13.01, 5-6-2008)

## Sec. 46-539. - Permitted principal uses.

Permitted principal uses are as follows:

- (1) Antique shops.
- (2) Art merchandising studios and craft shops.
- (3) Bakeries.
- (4) Banks, credit unions, savings and loan associations.
- (5) Barbershops and beauty shops.
- (6) Bicycle stores.
- (7) Boat or yacht clubs and related facilities.
- (8) Candy/confectionery shops.
- (9) Clothing shops.
- (10) Condominium residential projects.
- (11) Delicatessens.
- (12) Drugstores.
- (13) Florists.
- (14) Gift and novelty shops.
- (15) Harbormaster and harbor management facilities.
- (16) Hotels.
- (17) Ice cream stores.
- (18) Interior decorator shops.
- (19) Jewelry stores.
- (20) Marinas and related facilities for recreational boating, including boat rentals, boat cruises, boat and sales equipment, boat maintenance and repair.
- (21) Motels.
- (22) Music stores.
- (23) Novelty and souvenir shops.
- (24) Optical goods stores.
- (25) Parks, beaches and water-related sports facilities.
- (26) Party stores.
- (27) Pedestrian walkways and promenades.
- (28) Photographic equipment, supply and studios.
- (29) Professional health care services on the second floor.
- (30) Public buildings.
- (31) Recreational fishing facilities, including private and charter fishing boats, fishing equipment and bait sales.
- (32) Restaurants.
- (33) Single-family residences, provided that all dimensional requirements of the R-1 zoning district, (sections 46-

261 and 46-265) are met.

(34) Video equipment sales, rentals and service stores.

(Code 2009, § 48-509; Ord. No. 142, § 13.02, 2-6-1990; Res. of 11-20-1990; Res. No. 106/1993, 3-2-1993; Ord. No. 205, § 13.02, 5-6-2008)

Sec. 46-540. - Prohibited principal and accessory uses.

Prohibited principal and accessory uses are as follows:

(1) Amusement parks, miniature golf courses and circus type facilities and activities.

(2) Commercial fishing including bulk handling, processing, storage and wholesale sales of fish and fish products.

(Code 2009, § 48-510; Ord. No. 142, § 13.03, 2-6-1990; Ord. No. 205, § 13.03, 5-6-2008)

Sec. 46-541. - Permitted principal special uses with conditions.

Permitted principal special uses with conditions are as follows:

(1) Offices and dwelling units are permitted.

(2) Motel rooms may be used as dwelling units for nine months in any 12-month period.

(3) Drive-in retail and service establishments in accordance with the provisions of article V of this chapter for this use.

(Code 2009, § 48-511; Ord. No. 142, § 13.04, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996; Ord. No. 205, § 13.04, 5-6-2008)

Sec. 46-542. - Permitted accessory uses.

Permitted accessory uses are as follows:

(1) Normal accessory uses to all permitted principal uses.

(2) Normal accessory uses to all permitted principal special uses.

(3) Each legally created lakefront lot shall be entitled to one seasonal dock. A minimum of 200 feet of frontage is required for a second dock.

(Code 2009, § 48-512; Ord. No. 142, § 13.05, 2-6-1990; Ord. No. 205, § 13.05, 5-6-2008; Ord. No. 144A, 12-7-2021)

Sec. 46-543. - Dimensional requirements, except as otherwise specified in this chapter.

Dimensional requirements (except as otherwise specified in this chapter) are as follows:

(1) *Lot area*. No minimum lot area required.

(2) *Lot width*. The minimum lot width at the building setback line shall be 40 feet.

(3) *Lot coverage*. Maximum of 75 percent.

(4) *Yard and setback requirements*.

a. *Street front yard*. The minimum required front yard setback from the street right-of-way line shall be 30 feet.

b. *Waterfront yard*. The minimum required waterfront yard setback from the established shoreline shall be 50 feet.

- c. *Side yards.* The minimum required side yards shall be ten feet on each side of the principal structure, except when adjacent to a residential lot, parcel or district 20 feet shall be required. No side yards shall be required when adjacent commercial uses are constructed on the property line and are attached by a common wall.
  - d. *Rear yard.* The minimum required rear yard shall be 25 feet, except when adjacent to a residential lot, parcel or district 40 feet shall be required.
- (5) *Height limitations.* Maximum of three stories or 35 feet, except that detached accessory structures shall not exceed 15 feet.
- (6) *Width and length limitations.* The purpose of limiting width and length of structures is to maintain a small community character and scale while still permitting reasonable development as well as preserving the view of Lake Charlevoix to the extent possible from inland areas, buildings and structures.
- a. *Width.* Maximum of 60 feet.
  - b. *Length.* Maximum of 100 feet.

(Code 2009, § 48-513; Ord. No. 142, § 13.06, 2-6-1990; Ord. No. 205, § 13.06, 5-6-2008)

Sec. 46-544. - Site development requirements.

Site development requirements are as follows:

- (1) The outdoor storage of goods, materials, trash and garbage is not permitted, except as provided in section 46-719.
- (2) Off-street parking requirements shall be in accordance with article VII of this chapter.

(Code 2009, § 48-514; Ord. No. 142, § 13.07, 2-6-1990; Ord. No. 205, § 13.07, 5-6-2008)

Secs. 46-545—46-566. - Reserved.

DIVISION 13. - I INDUSTRIAL DISTRICT

Sec. 46-567. - Purpose.

It is the intent of the I Industrial District to provide for the development of sites for industrial plants in which the manufacture of goods in the form of finished or semifinished products or the assembly, compounding, or treatment of product parts or ingredients in order to create finished or semifinished goods for sale to other industrial manufacturers, or to bulk or wholesale commercial purchasers. It is the further intent of this district to permit only those industrial manufacturing uses having use, performance or activity characteristics which emit a minimum amount of discernible noise, vibration, smoke, dust, dirt, glare, toxic materials, offensive odors, gases, electromagnetic radiation or any other physically adverse effect to the extent that they are abnormally discernible beyond the lot lines of the parcel or site upon which the industrial manufacturing activity is located. The provisions of this division apply to the I Industrial District.

(Code 2009, § 48-537; Ord. No. 142, § 14.01, 2-6-1990)

Sec. 46-568. - Permitted principal uses.

The following uses are permitted as long as they are conducted completely within a building, structure or an area enclosed and screened from external visibility beyond the lot lines of the parcel upon which the use is located, except as otherwise provided in this chapter:

- (1) Boat and marine equipment and supply manufacturers.
- (2) Dry bulk blending plants.
- (3) Electrical and electronic equipment manufacturers.
- (4) Fabricated metal products.
- (5) Food process plants.
- (6) Jobbing and machine shops.
- (7) Monument and cut stone manufacturers.
- (8) Plastic products forming and molding.
- (9) Printing and publishing.
- (10) Processing of machine parts.
- (11) Public service and utility facilities.
- (12) Research and development establishments.
- (13) Trade and industrial schools.
- (14) Wine distilleries.
- (15) Wood products manufacturing plants.

(Code 2009, § 48-538; Ord. No. 142, § 14.02, 2-6-1990)

Sec. 46-569. - Permitted principal special uses with conditions.

Permitted principal special uses with conditions are as follows:

- (1) Planned industrial parks in accordance with the provisions of article V of this chapter for the collective grouping of two or more of the principal uses permitted in this district.
- (2) Adult entertainment businesses as conditioned by section 46-794.

(Code 2009, § 48-539; Ord. No. 142, § 14.03, 2-6-1990; Ord. No. 142G, § 9, 10-15-1996)

Sec. 46-570. - Permitted accessory uses.

The following uses are permitted when they are an integral part of the building or structure or are included as a part of the site development upon which the principal use is located:

- (1) Banking.
- (2) Caretaker's quarters.
- (3) Education, library and training facilities.
- (4) Medical and health care facilities.
- (5) Normal accessory uses to all permitted principal uses.
- (6) Office facilities.



- (7) Recreation and physical fitness facilities.
- (8) Research and experimentation facilities.
- (9) Restaurants.
- (10) Sales display facilities and areas.
- (11) Truck and equipment service, maintenance, repair and storage facilities.
- (12) Warehouse and storage facilities.
- (13) Work clothing sales and service facilities.

(Code 2009, § 48-540; Ord. No. 142, § 14.04, 2-6-1990)

Sec. 46-571. - Dimensional requirements, except as otherwise specified in this chapter.

Dimensional requirements (except as otherwise specified in this chapter) are as follows:

- (1) *Lot area.* A minimum area of 40,000 square feet per principal use and connected to public sewer and public water systems.
- (2) *Lot width.* A minimum of 120 feet at building setback line and connected to public sewer and public water systems.
- (3) *Lot coverage.* Maximum of 75 percent.
- (4) *Yard and setback requirements.*
  - a. *Front yard.* Minimum of 75 feet from all street or highway right-of-way lines, waterfront shorelines, or as established by the master plan of streets and highways, whichever is greater.
  - b. *Side yards.* Minimum of ten feet for each side yard, except where a side yard abuts a road right-of-way line or a waterfront shoreline, the minimum shall be 75 feet or as established by the master plan for streets and highways, whichever is greater.
  - c. *Rear yard.* Minimum of 50 feet.
- (5) *Height limitations.* Maximum of 40 feet, except that a detached accessory structure shall not exceed the height of the principal structure.
- (6) *Location and site development requirements.*
  - a. The site shall have at least one property line abutting a major street or highway, as defined in the master plan for streets and highways, upon which it fronts and from which it has the most direct vehicular access by means of a frontage access street or drive, as provided in section 46-722.
  - b. All vehicular ingress and egress shall be from an acceleration and deceleration lane to a street entrance providing direct access to a frontage access street or drive located parallel and adjacent to a major street or highway upon which it fronts and has its most direct vehicular access, or each site as developed shall provide an off-public street driveway connection to parcels and uses adjacent to their side or rear lot lines so as to provide direct access between parcels.
  - c. All uses shall meet the requirements for off-street parking and loading and unloading as specified in article VII of this chapter.
  - d. If a parcel abuts a residential zoning district an earth berm, evergreen vegetation or a combination of earth berm and evergreen vegetation which provides a solid screen at least six feet high shall be constructed and planted with a permanent vegetative cover over the entire berm surface.

- e. The outdoor storage of goods, materials, equipment, trash or garbage is not permitted except in accordance 46-719.
- f. Barriers. All development for the permitted uses shall be physically separated from access streets or drives by a curb and a planting strip or other suitable barrier. Such barrier shall effectively prevent unchanneled vehicle ingress or egress, except by approved accessways or driveways.
- g. Water supply. Water supply shall be provided from a public water distribution system: except for the purposes of industrial processing whereas alternative on-site sources, such as water wells and lake water may be utilized. A zoning permit is required for process water supply.
- h. Sewage disposal. Permitted industrial uses shall be served by a public sewer service or an approved packaged waste-specific sanitary treatment facility, approved by the county health department. All packaged treatment plan facilities for specific wastes shall provide a minimum of secondary level treatment and shall meet all other applicable federal, state and local standards and regulations prior to entering the public sewer system.
- i. Toxic waste disposal. All toxic wastes shall be disposed of in accordance with all state or federal laws, rules and regulations governing the disposal of specific toxic substances.

(Code 2009, § 48-541; Ord. No. 142, § 14.05, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Secs. 46-572—46-590. - Reserved.

#### DIVISION 14. - CR CONSERVATION RESERVATION DISTRICT

Sec. 46-591. - Purpose.

The purpose of the CR Conservation Reservation District is to provide for the arrangement of land uses that are compatible with the conservation and preservation of large tracts of land presently having a most desirable natural environment that should not be disturbed, except minimally, or natural habitat for wildlife, native flora, natural water features including extensive wetlands and high water table soils, and other extensive land uses which retain the natural character of the area. Single-family homes on exceptionally large lots will be provided for if the spacing of such homes is great enough to adequately handle on-site septic tanks and wells. This area will remain unserved by public sewer and water systems. The provisions of this division apply to the CR Conservation Reservation District.

(Code 2009, § 48-561; Ord. No. 142, § 15.01, 2-6-1990)

Sec. 46-592. - Permitted principal uses.

Permitted principal uses are as follows:

- (1) Existing types of farming and related agricultural operations may continue and the same types of farming may be established in new locations within the district on at least 20 acres of contiguous land.
- (2) Nonfarm single-family dwellings, on at least ten acres of contiguous land which can accommodate on-site septic tanks and wells which meet the approval of the county health department.
- (3) Those uses permitted under the provisions of wetland protection, part 303 of the natural resources and environmental protection act (MCL 324.30301 et seq.); water resources conservation (those sections specific

to floodplains), part 31 of such act (MCL 324.3101 et seq.); and inland lakes and streams, part 301 of such act (MCL 324.30101 et seq.).

- (4) Public and private conservation areas, including necessary structures, to ensure the preservation of water, soil, forest, wildlife, minerals, and open space, which are located on an area of at least 20 contiguous acres of land.

(Code 2009, § 48-562; Ord. No. 142, § 15.02, 2-6-1990)

Sec. 46-593. - Permitted principal special uses with conditions.

The following special uses of land, buildings and structures are permitted, subject to the provisions of article V of this chapter:

- (1) Public and private areas for nature study, forest preserves, hunting and fishing reservations, game refuges, fishing, boating, and other water related activity sites, extensive passive recreation facilities related to the natural environment, organized camping and campgrounds which are located on an area of at least 20 contiguous acres of land.
- (2) Public and private areas to preserve natural open space, natural vistas, geological features, archeological sites and other significant natural and historical features and sites which are located on an area of at least 20 contiguous acres of land.
- (3) Public, private or pet cemeteries which are located on an area of at least 20 contiguous acres of land.
- (4) Public and private areas for golf courses, parks, playgrounds, resorts, recreation vehicle parks and swimming and court game clubs which are located on at least 20 contiguous acres of land.
- (5) Electronic receiving, transmitting and relay facilities located on an area of land which has its minimum area determined by having the minimum distance in all directions from the perimeter of the base of the tower to the nearest property line at least equal to the height of the tower. The tower shall be enclosed by an open-air fence of at least six feet in height.
- (6) Extraction of sand, gravel, rock and minerals which are located on at least 20 contiguous acres of land planned, operated and maintained in accordance with article V of this chapter and specifically section 46-787.

(Code 2009, § 48-563; Ord. No. 142, § 15.03, 2-6-1990)

Sec. 46-594. - Permitted accessory uses.

Permitted accessory uses are as follows:

- (1) Buildings and structures customarily incidental to the operation of a principal use permitted in this district.
- (2) Signs related to the permitted principal uses in this district, provided that all such signs shall conform to the requirements of article VIII of this chapter.
- (3) Home occupations and home businesses normal and appropriate to the skills of the occupants of the principal use located on a lot or parcel in this district as conditioned by section 46-718.
- (4) Private residential swimming pools as conditioned by section 46-718 located on the same lot or parcel with the principal residential structure.
- (5) Farm vehicle and implement repair and maintenance in conjunction with farming or other principal agricultural use located on the same parcel.

- (6) Herbicide, insecticide and fertilizer sales and application in conjunction with a farming or other principal agricultural use located on the same parcel.
- (7) Grain, feed, cold and other storage of agricultural products in conjunction with farming or other principal agricultural use located on the same parcel.
- (8) Sales of seed and other product sales in conjunction with farming or other principal agricultural use located on the same parcel.

(Code 2009, § 48-564; Ord. No. 142, § 15.04, 2-6-1990)

Sec. 46-595. - Permitted accessory uses with conditions.

Permitted accessory uses with conditions are as follows: Roadside stands. In the CR district each farm may have one roadside stand for the purpose of selling produce or other products principally raised or produced on that farm in the course of its permitted agricultural activity. The stand shall be located and constructed to meet the following requirements:

- (1) The structure shall not be more than one story in height.
- (2) The floor area shall not be more than 400 square feet.
- (3) The stand shall be located no closer than 40 feet from the nearest highway pavement or other travelled surface. In no case, shall the stand occupy any part of the right-of-way.

(Code 2009, § 48-565; Ord. No. 142, § 15.05, 2-6-1990)

Sec. 46-596. - Dimensional regulations.

Dimensional regulations are as follows:

- (1) *Lot area.* A permitted parcel shall have a minimum of 20 acres in area, except as otherwise may be provided in this chapter.
- (2) *Lot width.* Minimum of 600 feet at the required building setback line.
- (3) *Lot coverage.* Maximum of 20 percent.
- (4) *Floor area.* The minimum first floor area of a one-story dwelling 960 square feet, and for a two-story dwelling 700 square feet, and a minimum total of 960 square feet for both stories.
- (5) *Yard and setback requirements.*
  - a. *Front yard.* Minimum of 50 feet from the road right-of-way line, or as specified in the master plan for roads and highways, whichever is greater.
  - b. *Side yards.* Minimum of 50 feet for each side yard.
  - c. *Rear yard.* Minimum of 50 feet.
- (6) *Height limitations.* Maximum of 35 feet for all dwellings and a maximum of 25 feet for all buildings accessory to dwellings; maximum of 45 feet for all agricultural buildings, except for grain elevators, silos, and windmills which shall not exceed 120 feet in height.

(Code 2009, § 48-566; Ord. No. 142, § 15.06, 2-6-1990)

Secs. 46-597—46-625. - Reserved.

*Footnotes:*

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**State Law reference**— *Planned unit development, MCL 125.3503 et seq.*

## Sec. 46-626. - Purpose.

The intent of planned unit developments (PUDs) is to permit greater flexibility and consequently more creative design of various types of development than are possible under conventional zoning regulations. It is the intention of this division to allow flexible land use composition and design without sacrificing the basic principles of sound zoning practice. The basic zoning districts and their permitted uses as established in this chapter will form the land use base for designing a combination of uses permitted in each district in the form of clustering principal uses and activities at a higher density than would otherwise be possible under the respective district regulations on a preferred portion of a parcel while maintaining the overall density of development of the parcels consistent with the district regulations. Another option would be to combine the planning of land uses and activities from several districts as one project on the same clustering principle. The provisions of this division apply to PUD Planned Unit Development Districts.

(Code 2009, § 48-596; Ord. No. 142, § 16.01, 2-6-1990)

## Sec. 46-627. - Permitted and accessory uses.

In the PUD Planned Unit Development Districts, the following provisions, regulations and restrictions shall apply:

(1) *Principal permitted uses.*

- a. All principal permitted uses allowed in the RA, R-1, R-2A and R-3 residential districts on parcels of at least ten acres.
- b. All principal permitted uses allowed in the R-4 Multiple-Family Residential Districts, C-1 and C-2 Commercial Districts and I Industrial Districts on parcels of at least five acres.

(2) *Accessory uses.*

- a. Accessory buildings and uses customarily incidental to the permitted uses named in subsection (1) of this section.
- b. Signs. See article VIII of this chapter.

(3) *Special uses.* The following recreational activity facilities shall be special uses:

- a. Golf courses located on sites having at least 40 acres per nine holes.
- b. Nature preserves located on sites having at least five acres of land.
- c. Swimming pools located on sites having at least two acres of land.
- d. Tennis or racquet clubs located on sites having at least two acres of land.
- e. Utility structure and equipment necessary for the operation thereof (excluding outdoor storage).

(Code 2009, § 48-597; Ord. No. 142, § 16.02, 2-6-1990)

## Sec. 46-628. - General provisions.

- (a) *Continuing applicability of information on approved site plans.* The location of all uses and buildings, all uses and

mixtures thereof, all yards and transition strips, and all other information regarding uses of properties as shown on or as part of a site plan which is approved subsequent hereto, shall have the full force and permanence of this chapter as though such information were specifically set forth in this chapter. Such information shall be the continuing obligation of any subsequent interests in a PUD district or parts thereof and shall not be changed or altered except as approved through amendment or revision procedures as set forth in this division. The approved plan and any conditions attached thereto shall control all subsequent planning or development. A parcel of land that has been approved as a PUD district shall not thereafter be developed or used except in accordance with the approved site plan and plats approved subsequent thereto.

- (b) *Construction.* No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permit shall be issued therefor, on a lot width, or under petition for, a PUD district classification, until the requirements of this division have been met.
- (c) *Performance guarantees.* Will be required for all public and common improvements in developments and of all phased developments on a per phase basis. Cost levels to be used in setting bond amounts shall be based upon the findings regarding estimated cost as reported by the city administrator, public agency or PUD engineer.

(Code 2009, § 48-598; Ord. No. 142, § 16.03, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-629. - Preapplication conference.

- (a) An applicant for a PUD district may request a preapplication conference with the city planning commission and other officials prior to filing an application for developing a PUD district. The request shall be made to the zoning administrator who shall set a date for the conference and shall inform the planning commission members of the conference and invite their attendance. The zoning administrator shall also invite other officials who might have an interest in the proposed development, or who might assist in the review process.
- (b) The purpose of the conference shall be to inform the planning commission and other officials of the concept of the proposed development and to provide the applicant with information regarding land development policies, procedures, standards, and requirements of the city and other agencies. The applicant is encouraged to present schematic plans, site data and other information that will explain the proposed development.
- (c) Statements made in the conference shall not be legally binding commitments.

(Code 2009, § 48-599; Ord. No. 142, § 16.04, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-630. - Site plan requirements.

- (a) A site plan shall be submitted for approval for each phase of development. Preliminary site plans shall be submitted and reviewed in accordance with, and shall meet all provisions of article II, division 2 of this chapter.
- (b) The planning commission may require the applicant to provide housing and commercial market analyses, traffic studies, and other information necessary for the planning commission to properly and adequately analyze a PUD district. To that end, an impact assessment shall be prepared by the applicant and submitted to the planning commission concurrently with the site plan. This document shall be prepared in narrative form, with such accompanying charts, graphs, maps and/or tables as may prove necessary. Topics to be addressed shall include community impacts (i.e., additional traffic likely to be generated per 24-hour period, directional distribution of trips generated by the proposed development, additional police and fire service needs to be anticipated) and environmental impacts (i.e., soils to be found on the site, site topography, natural features of note that are located on the site and how each would be impacted by the proposed development).

(Code 2009, § 48-600; Ord. No. 142, § 16.05, 2-6-1990)

**State Law reference**— Submission and approval of site plan, MCL 125.3501.

Sec. 46-631. - Site plan; administrative review procedure.

- (a) An application for a PUD district shall be made by all fee and conditional sales agreement owner of record of the subject parcel. The applicant shall provide evidence of full ownership of all land in a PUD or execution of a binding or conditional sales agreement, prior to receiving a recommendation of approval of the application and site plan by the planning commission.
- (b) The application shall be filed with the office of the city clerk who shall transmit the application and the site plan to the planning commission and the zoning administrator. The application shall be filed at least two weeks prior to the planning commission meeting at which it is to be first considered.
- (c) The planning commission shall hold a public hearing on the application and site plan. Said hearing to be held within 31 days of the filing date or at the regular planning commission meeting following that is closest to that date.
- (d) At the public hearing the applicant shall present evidence regarding adherence to all pertinent standards and requirements. To this end evidence and expert opinion shall be submitted by the applicant in the form of maps, charts, reports, models and other materials, and/or in the form of testimony by experts who can clearly state the full nature and extent of the proposal. Materials shall be submitted in sufficient quantity for review by the planning commission and other city officials. Materials submitted shall include the required site plan and any complementary sources of information necessary to satisfy the requirements detailed in section 46-632.
- (e) The planning commission shall undertake a study of the application and site plan and shall submit a report thereon to the city commission within 60 days of the filing date. This report shall contain the planning commission's analysis of the application and site plan, findings regarding standards, suggested conditions of approval, if applicable, and its recommendations. Materials and information to be considered in this study and review process may include input from such agencies as the county health department, city streets, utilities and drain officials and other agencies required to review the PUD.
- (f) The city commission shall review the application and site plan and shall approve, approve with conditions, deny, or table for future consideration, the application and site plan. Changes in the application or site plan desired by the city commission shall be referred to the planning commission for review and recommendation prior to the city commission's action thereon. The city commission may attach conditions to its approval of a PUD proposal.
- (g) If the application and site plan are approved by the city commission, the applicant and all owner of record of all property included within the PUD shall sign a statement that the approved application and area plan shall be binding upon the applicant and owner of record or their assigned agent and upon their heirs, successors, and assigns, unless future changes mutually agreed to by any future city commission and future applicant and owner of record or the assigned agent or their heirs, successors and assigns.

(Code 2009, § 48-601; Ord. No. 142, § 16.06, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-632. - Supplementary development standards and regulations.

The following requirements expand upon and/or are in addition to the requirements detailed in article II, division 2, of this chapter. They shall, in all cases, be adhered to by developments in a PUD district.

(1) *District location and minimum size.*

- a. All development in this district shall be limited to tracts of land having an area of at least the minimum number of acres required for the respective types of PUD districts.
- b. All development in this district shall be restricted to sites having access to a hard surfaced street, accepted and maintained by the city.

(2) *External and internal circulation and access.*

- a. Access points to PUD developments shall be located no less than 540 feet apart when measured parallel to the adjoining street, and in no case shall any such point of ingress or egress be closer than 270 feet from either side lot line of the parcel.
- b. Each lot or principal building shall have internal vehicular access from a public street or private street approved as a part of the approved site plan.
- c. Each lot or principal building shall have pedestrian access from a public or private sidewalk approved as a part of the approved site plan.
- d. As property is developed as a PUD planned unit development district, a pathway system linking all principal residential, commercial and industrial units both with on-site amenities (e.g., recreation areas, shopping, places of employment) and (unless it is demonstrated to the planning commission that such a system would be inappropriate or unnecessary to the development) with adjoining parcels must be provided. The pathway system shall be designed so as to be appropriate to nonmotorized transport modes (e.g., bicycling, walking). The pathway shall be no less than four feet in width and it shall be constructed of materials (e.g., crushed limestone) suited to walking and to nonmotorized vehicular use.
- e. Standards of design and construction for public and private streets may be modified to adequately provide the service required. Right-of-way standards may also be modified, especially where the site plan provides for separation of pedestrian and vehicular traffic and adequate off-street parking facilities. Modifications of proposed public streets shall first be approved by the city commission.
- f. Public and private streets shall be designed and constructed according to established standards for public streets as established by the city commission except that such standards may be modified as provided in subsection (2)e of this section. If private streets are to be dedicated to a public agency in the future, the applicant shall first agree to bear the full expense of making the streets suitable for public acceptance.

(3) *Open space regulations.*

- a. A land, water or land/water area constituting not less than 25 percent of the total land area of a lot or parcel shall be designed as permanent open space. The required open space shall be set aside by the developer in the form of an irrevocable conveyance whereby the open space area must be developed according to the approved site plan and may never be changed to any other use, unless mutually agreed to by the owners/applicant and the city through submittal of an amended site plan showing suggested use changes. Further, this conveyance must provide that the open space is for the use and enjoyment of the residents, occupants and users of the district and such open space shall be considered as an integral component of the overall planned unit development. The developer shall provide for perpetual and mandatory maintenance of the open space through the use of deed restrictions which shall provide for organizational participation in said maintenance cost by each resident (be they residential, commercial or industrial) within the planned unit development.



- b. Buildings, parking lots, drives and similar improvements may be permitted in open space areas if related to the functions of the open space. Other buildings and improvements shall be prohibited therein.
- c. Open space areas shall be conveniently located in relation to dwelling and business units and the interrelated functions intended.
- d. Open space areas shall have minimum dimensions which are usable for the functions intended and which will be maintainable.
- e. The city commission may require upon recommendation of the planning commission, that unique natural amenities such as ravines, rock outcrops, wooded areas, tree or shrub specimens, unusual wildlife habitats, ponds, streams, and marshes be preserved as part of the open space system.

(4) *Landscaping and parking.*

- a. The parking and loading requirements set forth in article VII of this chapter shall apply except that the number of spaces required may be reduced if approved by the city commission, upon recommendation of the planning commission, (pursuant to the requirements detailed in article VII of this chapter) as part of the site plan. Such reduction shall be based upon specific findings.
- b. A landscaped buffer strip no less than 20 feet in width shall be required when a freestanding physical structure containing a commercial and/or office use is located adjacent to a residential use. The buffer strip shall be located between the two uses and shall be landscaped with trees, shrubs and ground covers at least six feet in height, by an earth berm at least four feet in height with its surface covered in its entirety with permanent vegetation, by a decorative wooden fence at least four feet in height, by a decorative wall at least four feet in height, or by a combination of earth berm and evergreen vegetation at least four feet in height. The buffer strip shall be approved by the planning commission.

(5) *Utilities.*

- a. Each principal building shall be connected to public water and public sanitary sewer lines when and where available.
- b. All development will be required to provide adequate fire protection system as determined and recommended by the city fire department and approved by the city commission. Maintenance of any and all approved systems shall be ensured by use of deed restrictions which shall provide for organizational participation in maintenance costs by each owner of the planned unit development served by such a system.
- c. Each site shall be provided with adequate storm drainage. Open drainage courses and stormwater retention ponds may be permitted if properly engineered.
- d. Electrical, telephone, and cable television lines shall be placed underground. Surface mounted equipment for underground wires shall be shown on the final site plan and shall be screened from view to the height necessary by evergreen vegetation, earth berm, decorative wall or fence or a combination of earth berm and evergreen vegetation.
- e. Standard sidewalks and/or a system of streetlights may be required of developments in the PUD district. Maintenance of either shall be ensured through implementation of a system of deed restrictions providing for organizational participation in maintenance costs by all owners of the development.

(6) *Site design, layout and density criteria.*

- a. All density requirements shall be completed on a total gross area basis, less water area, unless the water

area is completely enclosed on the parcel and the water area comprises no more than 20 percent of the total area of the parcel, and, if more than 20 percent, the total water area shall be deleted from computations.

- b. Existing natural water areas (i.e., streams, ponds, lakes and/or similar water bodies) may be included in density calculations up to 300 feet of their surface width as measured from the shoreline, or where such water areas are proposed for construction by the applicant, 50 percent of the total water area to be constructed may be included in density calculations, but in no case shall the included surface water area exceed 20 percent of the total land area of the PUD or any single or combination of phases of the PUD.
- c. Residential areas may contain several different types of dwelling units if it can be demonstrated to the satisfaction of the planning commission that the proposed combination by type will not interfere with the reasonable platting of any area to be platted or will not produce a conflict between and among land use relationships.
- d. All principal buildings and all accessory buildings or structures shall be located at least 100 feet from any exterior public roadway right-of-way line, private road and/or area to be platted.
- e. The outdoor storage of goods and materials shall be prohibited in the PUD planned unit development district except as provided in section 46-719.

(7) *Legal mechanisms to ensure facility and open space maintenance.*

- a. Legal instruments setting forth the manner of permanent maintenance of common area and facilities shall be submitted to the city attorney for review before the city commission approves a final site plan or final plat, if a subdivision is planned to be part of the PUD.
- b. Where a homeowners' association (HOA) or an association of commercial establishments (ACE) or association of industrial establishments (AIE) is to be used to maintain common area and facilities, the developer shall file a declaration of covenants and restrictions that will govern the HOA, ACE or AIE with the site plan. The provisions shall include, but shall not be limited to, the following:
  1. The HOA, ACE, or AIE shall be established before any building or structure in the PUD are sold or occupied.
  2. Membership in the HOA, ACE, or AIE shall be mandatory for each building unit buyer and for any successive buyer and shall be so specified in the covenants.
  3. Restrictions shall be permanent.
  4. The HOA, ACE, or AIE shall be made responsible for liability.
  5. Building unit owners shall pay their pro rata share of the costs and this requirement shall be specified in the covenants. Assessments levied by the HOA, ACE, or AIE may become a lien on the individual properties.

(8) *Project phasing.*

- a. If the proposed development is to be constructed in phases, a narrative description of that phased process that describes all work to be done in each phase should be submitted to the planning commission when the site plan is submitted.
- b. A phase shall not be dependent upon subsequent phases for safe and convenient vehicular and pedestrian access, adequate utility services, and open spaces and recreation facilities.

(Code 2009, § 48-602; Ord. No. 142, § 16.07, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

## Sec. 46-633. - Standards for review.

The planning commission shall determine and shall provide evidence in its report to the city commission to the effect that the application, site plan and supplementary informational materials submitted by the applicant meet the following standards:

- (1) The proposed development shall conform to the city master plan or any part thereof, or represents land use policy which, in the planning commission's opinion, is a logical and acceptable change in the adopted land use plan.
- (2) The proposed development shall conform to the intent and all regulations and standards of a PUD district and the zoning district in which it is to be located.
- (3) The proposed development shall be adequately served by public facilities and services such as highways, streets, sidewalks, streetlights, police and fire protection, drainage courses, water and sanitary sewer facilities, refuse disposal; or that the persons or agencies responsible for the proposed development shall be able to properly provide such facilities and services.
- (4) Common open space, other common properties and facilities, individual properties, and all other elements of a PUD are so planned that they will achieve a unified open space and recreation area system, with open space and all other elements in appropriate locations, suitably related to each other, the site and surrounding lands.
- (5) The applicant shall have made provisions to ensure that public and common areas and facilities will be or have been irrevocably committed for that purpose. Provisions shall have been made to provide for financing of the construction of improvements shown on the site plan for open space and other common areas and facilities, and that proper maintenance of such improvements is ensured.
- (6) Traffic to, from, and within the site will not be hazardous or inconvenient to the project or to the surrounding area. In applying this standard the planning commission shall consider, among other things, convenient routes for pedestrian traffic; relationship of the proposed project to main thoroughfares and street intersections; and the general character and intensity of the existing and potential development of the surrounding area.
- (7) The mix of housing unit types and densities, and the mix of residential and nonresidential uses shall be acceptable in terms of convenience, privacy, compatibility, and similar measures.
- (8) The planning commission shall determine, where applicable, that noise, odor, light, or other external effects which are connected with the proposed use, will not adversely affect adjacent and surrounding area lands and uses.
- (9) The proposed development shall create a minimum disturbance to natural features and land forms.
- (10) Streets shall follow topography, be properly spaced, and be located and aligned in accordance with the intended function of each street. The property shall have adequate access to public streets. The plans shall provide for logical extensions of public streets and shall provide suitable street connections to adjacent parcels, where applicable.
- (11) Pedestrian circulation shall be provided within the site and shall interconnect all use areas where applicable. The pedestrian system shall provide for a logical extension of pedestrian ways outside the site and to the edges of the PUD where applicable.

(Code 2009, § 48-603; Ord. No. 142, § 16.08, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-634. - Amendments to site plans.

Preliminary and final site plan may be amended in accordance with the process detailed in section 46-79.

(Code 2009, § 48-604; Ord. No. 142, § 16.09, 2-6-1990)

Sec. 46-635. - Subdivision plats.

The city commission shall have the authority to deny or table an application for tentative approval of a preliminary plat if, in its opinion and after a report thereon from the planning commission, such plat will result in premature development of the area involved, or will result in improper scheduling of various public improvements such as, but not limited to, roads, utilities and schools.

(Code 2009, § 48-605; Ord. No. 142, § 16.10, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

**State Law reference**— Land division act, MCL 560.101 et seq.

Sec. 46-636. - Extension of time limits.

Time limits set forth in article II, division 2 of this chapter may be extended upon showing a good cause, and by written agreement between the applicant and the planning commission. (See sections 46-75(e) and 46-76(d).)

(Code 2009, § 48-606; Ord. No. 142, § 16.11, 2-6-1990)

Sec. 46-637. - Performance guarantees.

Performance guarantees shall be provided in accordance with section 46-84.

(Code 2009, § 48-607; Ord. No. 142, § 16.12, 2-6-1990)

**State Law reference**— Performance guarantee, MCL 125.3505.

Sec. 46-638. - Violations.

Violations shall be dealt with in the manner detailed in section 46-39 and section 46-85.

(Code 2009, § 48-608; Ord. No. 142, § 16.13, 2-6-1990)

Secs. 46-639—46-664. - Reserved.

DIVISION 16. - LI LIGHT INDUSTRIAL DISTRICT

*Footnotes:*

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**Editor's note**— Ord. No. 161-B, adopted July 6, 2021, repealed the former Div. 16, §§ 46-665—46-671, and enacted a new Div. 16 as set out herein. The former Div. 16 pertained to similar subject matter and derived from Code 2009, §§ 48-611—48-617; and Ord. No. 161A, §§ 1—7, adopted Jan. 19, 1999.

## Sec. 46-665. - Purpose.

- (a) In those areas set aside by the City of East Jordan to provide for Air Industrial Park Development, located in South Arm Township and under the jurisdiction of the City of East Jordan pursuant to an Agreement under Public Act 425 of 1984, the following restrictions are specifically designed to promote and create a working environment that is safe, attractive and answers the needs of a light industrial complex and is an attribute to the community.
- (b) In order to achieve this goal, the following restrictions shall be required so that industrial activity can co-exist with the surrounding zoned districts without causing nuisance, hazard or visual blight.
- (c) These restrictions are imposed upon the property to ensure proper use and appropriate development and improvement of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to guard against the erection thereon of structures built of improper or unsuitable materials; to ensure adequate and reasonable development of said property; to encourage the erection of attractive improvements thereon, with appropriate locations thereof on building sites; to prevent haphazard and inharmonious improvements on building sites; to secure and maintain proper setbacks from streets; and in general to provide adequately for a high type quality of development on said property and for the orderly development and efficient maintenance thereof.

(Ord. No. 161-B, 7-6-2021)

## Sec. 46-666. - Intent.

The intent of the light industrial zone is to provide for wholesale and warehousing uses as well as the industrial uses that include fabrication, manufacturing, assembly or processing of materials that are in refined form and that do not in their transformation create smoke, gas, odor, dust, noise, vibration of earth, soot, or lighting to a degree that is offensive when measured at the property line of subject property.

(Ord. No. 161-B, 7-6-2021)

## Sec. 46-667. - Permitted principal uses.

The following uses are permitted as long as they are conducted completely within a building, structure or an area enclosed and screened from external visibility beyond the lot lines of the parcel upon which the use is located, except as otherwise provided in this division:

*Principal uses and structures.* In all areas zoned LI, light industrial district, no building or part of a building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principals permitted uses:

- (1) Light manufacturing, assembly, research, packaging, testing and repair of the following:
  - a. Life science products, including, but not limited to: bio-technology, biopharmaceutical, biomedical products, pharmaceuticals, medical instruments, appliances, and diagnostic equipment.
  - b. Material science products, including, but not limited to: plastics, polymers; laser technology, and robotics.
  - c. Information technology products, including, but not limited to: telecommunications, computer parts and equipment, and electronics.
  - d. Instrumentation products, including, but not limited to: scientific instruments, measuring, controlling, testing, and metering equipment; and optical instruments.

- e. Automotive parts and accessories.
  - f. Food products and beverage products, but not including rendering or refining of fats and oils.
  - g. Apparel including, but not limited to: clothing, jewelry, shoes and accessories.
  - h. Miscellaneous products made from wood, paper, ceramics, metal, glass, and stone.
  - i. Electrical components and products and electrical appliances.
- (2) Research and design centers and testing laboratories.
  - (3) Film production studios, indoor sound stages, and related activities.
  - (4) Printing, lithography, blueprinting, and similar uses.
  - (5) Tool, die, gauge, metal polishing, and machine shops.
  - (6) Contractors' establishments, such as the facilities of a building contractor, carpenter, roofing contractor, plumber, electrician, caterer, exterminator, decorator, or similar business or trade.
  - (7) Manufacture of light sheet metal products.
  - (8) Computer programming, software development and data processing and computer centers.
  - (9) Plastic injection molding.
  - (10) Warehousing and material distribution centers, transfer facilities, not including waste disposal transfer stations, and recycling centers provided they adhere to other statutes provided herein
  - (11) Vocational training schools, such as trade schools and training centers,
  - (12) Secondary retail and service uses, which are accessory to the principal permitted use. Such uses shall not be permitted in a separate building. Such secondary uses shall have at least one separate customer entrance or a service window in a lobby area.
  - (13) Private indoor recreation uses such as bowling establishments, gymnasiums, ice skating rinks, tennis clubs, roller skating rinks, court sports facilities, and similar recreation' uses. Arcades shall be permitted only where accessory to other private indoor recreation uses.
  - (14) Private outdoor recreation uses, such as archery ranges, baseball, football or soccer fields, bicycle motocross (BMX) tracks, court sports facilities, golf driving ranges, swimming pools, and similar outdoor recreation uses.
  - (15) Dance, gymnastics, martial arts schools, and similar types of studios.
  - (16) Canine training facility, pet day care facility and/or indoor pet boarding facility with no outdoor runs.
  - (17) Medical and dental laboratories.
  - (18) Automobile repair garages.
  - (19) Equipment storage, sale and rental yards. Temporary storage of recreation vehicles, subject to the following conditions:
    - a. No vehicles, equipment shall be stored within 40 feet of a public right-of-way.
    - b. The area adjacent to the right-of-way shall be screened with a minimum 48-inch high landscaped berm.
  - (20) Building material sales, including establishments which sell hardware, glass, paint, and lumber, and which may require outdoor retail or wholesale display or sales area.
  - (21) Wholesale establishments, such as plumbing and electrical supply establishments.
  - (22) Automobile rental including customary and incidental uses, subject to the provisions of section 46-795.
  - (23) Commercial kennels.

- (24) Radio, television and cellular telephone towers, subject to provisions of section 46-904(a).
- (25) Wholesale facility for sale of unprocessed agricultural products by farmers and producers.
- (26) Growing and processing of agricultural crops wholly contained within a permanent enclosed structure.
- (27) Airport-related businesses.
- (28) Uses and structures accessory to the above, subject to the provisions in section 46-704.
- (29) Essential services.
- (30) Packaging and/or parcel delivery services.
- (31) Nonhazardous material, bulk storage and related uses
- (32) Municipal waterworks.
- (33) Other uses similar to the above.

(Ord. No. 161-B, 7-6-2021)

Sec. 46-668. - Prohibited uses.

The following uses are strictly prohibited within the light industrial park:

- (1) Asphalt or tar manufacturing or refining.
- (2) Manufacture of gas, coke or coal tar products.
- (3) Slaughtering of animals for the reduction or recovering of products from dead animals or animal offal or garbage.
- (4) Petroleum refining, chemical production and/or processing industries or similar factories or uses.
- (5) Auto wrecking, salvage yards or junk yards.
- (6) Central mixing plant for asphalt, mortar, plaster or concrete except as may be required in connection with paving of roads or other construction within the development.
- (7) Heavy drop forge stamping plant or ferrous or non-ferrous foundry.
- (8) Saw mills.
- (9) Storage buildings, of any size and type, are prohibited as a principal use of a lot.

(Ord. No. 161-B, 7-6-2021)

Sec. 46-669. - Site plan review.

All uses permitted under the provisions of this zoning ordinance and applying for a zoning permit, shall follow the requirements of article 2, division II, "Site Plan Review."

(Ord. No. 161-B, 7-6-2021)

Sec. 46-670. - Development standards and regulations.

- (a) *Outside storage*. Outdoor storage of materials, supplies, and/or finished or semi-finished products may be permitted, subject to the following conditions:
  - (1) Such storage shall be screened with fencing in accordance with Section 46-715. Where visible from any public or private road, the screen and access gates shall be opaque and be composed of a material compatible with

- the design and materials of the primary building or evergreen landscaping.
- (2) No materials shall be stored above the height of the screening.
  - (3) Proper access to all parts of the storage areas shall be provided for fire and emergency services.
  - (4) Any materials, supplies, or products must be located behind the front building line and meet all side and rear setback requirements of the district.
  - (5) In no case shall any materials, supplies and/or products be stored on property fronting onto M-32.
  - (6) Vehicles may be stored in conjunction with special land use approval for new and used automobile sales, subject to the provisions of section 46-795.
  - (7) Use of trailers and/or shipping containers for storage is prohibited.
- (b) *Off-street parking, loading and unloading.* All development in the LI District will meet article VII, Off Street Parking, Loading and Unloading, including:
- (1) One parking space shall be provided for each employee, customer and/or guest during the period of maximum use.
  - (2) All roadways, driveways and parking areas shall consist of hard surfaced concrete, blacktop or equivalent to meet the structural requirements of the approved usage.
  - (3) Loading and unloading areas shall be located in the rear or side yard.
  - (4) Loading and unloading areas shall not be located where they will interfere with parking or obstruct ingress and egress.
- (c) *Landscaping.*
- (1) A landscape plan shall be submitted to the planning commission for approval. This landscape plan shall be part of, and accompany the site plan.
  - (2) A greenbelt at least ten feet in width shall be provided around the entire perimeter of each developed parcel except where ingress and egress drives are located. Green belt is defined to be a maintained landscaped area that may include trees and/or shrubbery.
  - (3) The off-street parking areas and driveway accesses shall be screened from view of any adjoining residential property. Such screening shall consist of earth berm, permanent walls or evergreen landscaping subject to approval of the planning commission.
  - (4) All landscaping and screening shall be maintained in an attractive, litter-free, safe and healthy condition. Maintenance of all landscaping shall be of sufficient frequency to prevent overgrowth and deterioration from the original condition.
- (d) *Sign regulations.* All signs shall adhere to the regulations set forth in article VIII, Signs.
- (e) *Lighting requirements.* All lighting shall adhere to the regulations set forth in section 46-720. All lighting used to illuminate buildings, signs and/or off-street parking areas shall be shielded as to prevent direct light rays from the source of light from being directly visible from adjoining property and meet dark sky requirements.
- (f) *Public road access.* Any use developed or proposed within this district shall have direct access to a dedicated public road.
- (g) *Utilities.* To the extent possible, all utilities serving the business structures shall be buried underground.
- (h) *Trash receptacles.* All trash receptacles shall adhere to the regulations set forth in section 46-719. Trash receptacles shall be covered and enclosed on three sides by structurally sound, secure concrete or metal walls



that conform to or are consistent with construction and design of the building to be erected. The walls shall be one foot higher than the receptacle and shall be located in the side or rear yard. The fourth side of the enclosed trash receptacle area shall be equipped with an opaque lockable gate that is the same height as the walls.

- (i) *General.* All activities and uses within this district shall conform to the following:
- (1) *Smoke.* A person or industry shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminates for a period or periods aggregating more than three minutes in any one hour which is:
    - a. As dark or darker in shade as that designated as No. ½ on the Ringlemann Chart, as published by the United States Bureau of Mines, or
    - b. Of such density as to obscure an observer's view to a degree equal to or greater than the level of smoke described in subsection a. of this section.
    - c. At no time may smoke emissions be darker than Ringlemann No. 1
  - (2) *Open fires.* A person or industry shall not burn any combustible refuse in any open outdoor fire within the district.
  - (3) *Noxious gases.* No noxious or malodorous gases shall be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard on any adjoining lot or property, or which could be detrimental to human, plant or animal life.
  - (4) *Air contaminants.* A person or industry shall not discharge from any source whatsoever such quantities of air contaminants or other material, including fly-ash, dust, vapor or other air pollutants, which could cause injury or harm to health, animals, vegetation or other property, or which can cause excessive soiling. Dust, dirt, smoke or fly-ash shall not be in excess of 0.3 grams per cubic foot of flue gas at stack temperature of 500 degrees Fahrenheit and not to exceed 50 percent excess air.
  - (5) *Glare and heat.* Any operation or activity shall be so conducted that direct and indirect illumination from the source of light shall not cause illumination in excess of 0.5 of one foot candle when measured at any adjoining residence or business district boundary line. Flickering or intense source of light shall be so controlled as not to cause a nuisance across any lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.
  - (6) *Noise.* The measurable noise emanating from the premises and as measured at the street or property line, may not exceed 60 decibels as measured on the "C" scale of a sound level meter constructed and calibrated in conformance to the requirements of the American Standards Association. Objectionable noises, due to intermittence, beat frequency or shrillness, shall be muffled so as not to become a nuisance to adjacent uses. Sirens and related apparatus used solely for safety and other public purposes are exempt from this standard.
  - (7) *Vibration.* Vibrations from industrial operations and vehicular traffic in this zone must be controlled to the extent that they cannot be felt past any property line.
  - (8) *Radio transmission.* For electronic equipment required in an industrial operation, the equipment shall be so shielded that its operation will not interfere with radio, television or other electronic equipment.
  - (9) *Storage of flammable material.* Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire-suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

- (10) *Radioactive materials.* No activity shall emit dangerous radioactivity at any point, or unreasonable electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- (11) *Water pollution.* Pollution of water shall be subject to such requirements and regulations as are established by the Michigan State Department of Public Health, the Michigan Water Resources Commission, the District Health Department, the U.S. Environmental Protection Agency, city sewage ordinance or any other legal authority. Such requirements and regulations shall apply in all cases except when they are less stringent than the following standards in which case the following standards shall apply:
- a. No waste shall be discharged in the public sewer system which is dangerous to the public health and safety.
  - b. Acidity or alkalinity shall be neutralized to a Ph of 7.0 as a daily average on a volumetric basis, with a maximum temporary variation of Ph 5.0 to 10.0.
  - c. Wastes shall not contain cyanides and halogens and shall contain not more than 10 p.p.m. of the following gases; hydrogen sulfite, sulphur dioxide and nitrous oxide.
  - d. Wastes shall not contain any insoluble substance in excess of 10,000 p.p.m. or exceeding a daily average of 500 p.p.m. or fail to pass a No. 8 Standard Sieve or have a dimension greater than one-half inch.
  - e. Wastes shall not have chlorine demand greater than 15 p.p.m.
  - f. Wastes shall not contain phenols in excess of .005 p.p.m.
  - g. Wastes shall not contain any grease or oil or any oil substance in excess of 100 p.p.m. or exceed a daily average of 25 p.p.m.

(Ord. No. 161-B, 7-6-2021)

Sec. 46-671. - Building construction.

- (a) Individuals or organizations shall, within 12 months from the date of purchase, commence construction on any unimproved property conveyed and shall have the same ready for occupancy for a permitted use herein within 24 months from the date of said purchase. Failure to comply would result in property reverting to city control, unless this provision is waived in writing.
- (b) Any land sold for expansion will be developed within five years or will revert back to the city control unless an application for extension is filed to the city manager 60 days before the five-year purchase anniversary. The city commission will review the extension application deciding on the likely hood of future development by the applicant. No light industrial land can be sold by private owners to other private owners without the city's permission. Industrial park land cannot be bought for speculation. The city has right of first refusal on all private land sales.
- (c) All development with the area shall be subject to airport flight clearance easements.
- (d) All buildings shall be constructed of those approved materials suitable for the proposed use and compatible with adjacent areas. All sides of any building facing upon a public street must be of a finished material. Finished material is defined as face brick, glass, ornamental stone or other decorative materials such as wood or metal with special treatment. In the event of a dispute as to whether or not a particular material qualifies as "finish material," the decision of the planning commission shall be final. All exposed concrete block or metal must be painted or varnished within 60 days from the date of occupancy except those materials not normally painted or those materials which have been pre-finished. All buildings shall be constructed in accordance with applicable

codes and ordinances of local governmental bodies. No used material shall be incorporated within any building without the express written permission of the planning commission. No structure, covering, garage, barn or other outbuilding of a temporary nature shall be situated, erected or maintained on any parcel of the subject property, but this shall not apply to construction buildings or storage facilities used in the course of construction of any permanent building.

(Ord. No. 161-B, 7-6-2021)

Sec. 46-672. - Area and bulk requirements.

- |    |  |          |
|----|--|----------|
| A. | Total minimum area for planned air/industrial park | 40 acres |
| B. | Front yard setback                                 | 50 feet  |
| C. | Rear yard setback                                  | 25 feet  |

Except where abutting a residential zone. Areas abutting a residential zone shall have a minimum rear yard setback of 50 feet.

- |    |                   |         |
|----|-------------------|---------|
| D. | Side yard setback | 25 feet |
|----|-------------------|---------|

Except where abutting a residential zone. Areas abutting a residential zone shall have a minimum side yard setback of 50 feet.

- |    |                                       |                        |
|----|---------------------------------------|------------------------|
| E. | Minimum lot area                      | Not less than one acre |
| F. | Maximum lot coverage                  | 35% (a)                |
| G. | Maximum height of all structures      | 30 feet (b)            |
| H. | Minimum clear space around structures | 25 feet                |

(a) Inclusive of parking and loading areas.

(b) No structure shall hereafter be erected or altered exceeding a height of 30 feet unless approved by the planning commission as within the fire-fighting capabilities of the city, upon written application of the owner of the premises.

(Ord. No. 161-B, 7-6-2021)

Secs. 46-673—46-700. - Reserved.

## ARTICLE IV. - SUPPLEMENTAL REGULATIONS

## Sec. 46-701. - Purpose.

The intent of this article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations or standards in addition to the requirements of the zoning district in which they are permitted to be located.

(Code 2009, § 48-635; Ord. No. 142, § 19.01, 2-6-1990)

## Sec. 46-702. - Area limitations.

In conforming to land and yard requirements, no area shall be counted as accessory to more than one dwelling or main building.

(Code 2009, § 48-636; Ord. No. 142, § 19.02, 2-6-1990)

## Sec. 46-703. - Dwelling lots or sites.

Every dwelling, cottage, cabin, occupied mobile home, erected outside of a mobile park shall be located on a lot or site, and no more than one such dwelling shall be erected on such lot or site, except as otherwise provided in this chapter.

(Code 2009, § 48-637; Ord. No. 142, § 19.03, 2-6-1990)

## Sec. 46-704. - Accessory building provisions.

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

- (1) 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 the main building.
- (2) Accessory buildings shall not be erected in any required yard, except a rear yard, but may be located in any nonrequired portion of any yard, except that they may not be located in front of any portion of the principal structure.
- (3) An accessory building not exceeding one story or 20 feet in height may occupy not more than 25 percent of a required rear yard, plus 40 percent of any nonrequired rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.
- (4) No detached accessory building shall be located closer than ten feet to any main building nor shall it be located closer than the required yard depth to any side yard or 15 feet from a rear lot line. In those instances where the rear lot line is in common with an alley right-of-way the accessory building shall not be closer than 20 feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement or right-of-way.
- (5) When an accessory building is located on a corner lot, the side lot line which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot in the rear of such corner lot. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, said building shall not project

beyond the side yard line of the lot in the rear of such corner lot. All principal and accessory buildings shall be required to be setback the distance for front yard setbacks specified in the districts in which they are located from each street upon which they front or abut.

(Code 2009, § 48-638; Ord. No. 142, § 19.04, 2-6-1990)

Sec. 46-705. - Use of yard space.

No required yard surrounding a dwelling, building or structure utilized for dwelling purposes, shall be used, occupied or obstructed by accessory buildings or structures, either permanently or temporarily; provided, however, that a side or rear yard may be used for the parking of not more than five passenger automobiles in active service when parked on a designated paved parking area for each vehicle, but not for the location, parking, disposition, storage, deposit, or dismantling in whole or in part of junked vehicles, machinery, secondhand building materials, or other discarded, disused or rubbish-like materials or structures.

(Code 2009, § 48-639; Ord. No. 142, § 19.05, 2-6-1990)

Sec. 46-706. - Accessory building as dwelling.

No building or structure on the same lot with a principal building shall be used for dwelling purposes, except as specifically permitted in this chapter.

(Code 2009, § 48-640; Ord. No. 142, § 19.06, 2-6-1990)

Sec. 46-707. - Basement as dwelling.

No basement structure shall be used for human occupancy unless a completed story is situated immediately above the basement structure and is used as a dwelling, except underground homes designed and built in accordance with the construction code in effect in the city.

(Code 2009, § 48-641; Ord. No. 142, § 19.07, 2-6-1990)

Sec. 46-708. - Damaged buildings and structures.

Any building that has been partially destroyed by fire or is in such a state of disrepair as to be uninhabitable and/or a hazard to the public health and safety shall either be entirely removed or repaired within six months from the date of the occurrence of the damage.

(Code 2009, § 48-642; Ord. No. 142, § 19.08, 2-6-1990)

Sec. 46-709. - Required water supply and wastewater disposal facilities.

Water supply and wastewater disposal facilities shall meet the requirements established by the city, county, and those of the state department of environmental quality.

(Code 2009, § 48-643; Ord. No. 142, § 19.09, 2-6-1990)

Sec. 46-710. - Access to a public street or highway.

Any lot of record created prior to the effective date of the ordinance from which this chapter is derived without any frontage on a public street right-of-way shall not be occupied, except where access to a public street right-of-way is provided by a public or private easement or other right-of-way no less than 30 feet in width, and which meets the city street construction requirements.

(Code 2009, § 48-644; Ord. No. 142, § 19.10, 2-6-1990; Ord. No. 142G, § 2, 10-15-1996)

Sec. 46-711. - Frontage on public or private street or highway.

In any zoning district, every use, building or structure established after the effective date of the ordinance from which this chapter is derived shall be on a lot or parcel that fronts upon a public or private street right-of-way that meets all of the requirements for street construction as specified by the city.

(Code 2009, § 48-645; Ord. No. 142, § 19.11, 2-6-1990)

Sec. 46-712. - Visibility at intersections.

No fence, wall, hedge, screen, sign, structure, vegetation, planting, snow pile or other obstruction shall be higher than three feet above grade on any corner lot or parcel in any zoning district requiring front and side yards within the triangular area formed by the intersecting street right-of-way lines and a straight line joining the two street lines at points which are 30 feet distant from the point of intersection, measured along the street right-of-way lines.

(Code 2009, § 48-646; Ord. No. 142, § 19.12, 2-6-1990)

Sec. 46-713. - Street closures.

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all areas included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

(Code 2009, § 48-647; Ord. No. 142, § 19.13, 2-6-1990)

Sec. 46-714. - Height regulations.

The height requirements established by this chapter shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this chapter: towers, spires, belfries, penthouses and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, bulkheads, utility poles, power lines, radio, television and other communication broadcasting and receiving antennas not directly linked to residential structures, silos, wind-driven electricity generators, parapets and other necessary mechanical appurtenances; provided, their location shall conform where applicable to the requirements of the Federal Communications Commission, the state aeronautics commission, other public authorities having jurisdiction and any regulations established by authorized state agencies and the provisions of the airport zoning act (MCL 259.431 et seq.).

(Code 2009, § 48-648; Ord. No. 142, § 19.14, 2-6-1990)

Sec. 46-715. - Fences, walls and screens.

(a) The erection, construction or alteration of any fence or other type of protective barrier shall be approved

through permit by the zoning administrator as to their conforming to the requirements of the zoning districts wherein they are required.

- (b) Any existing fence not in conformance with this chapter shall not be altered or modified, except to make it more conforming.
- (c) Fences, which are not specifically required otherwise under the regulations for the individual zoning districts, shall conform to the following requirements:
  - (1) Fences shall hereafter be erected along the line dividing lots or parcels of land or located within any required yard as provided in subsection (d) of this section.
  - (2) Barbed wire, spikes, nails or any other sharp point or instrument of any kind on top or on the sides of any fence, electric current or charge in said fences is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings and elsewhere or whenever deemed necessary in the interests of public safety.
  - (3) In "I" industrial districts, no fence shall exceed 12 feet in height in side and rear yards. No fence shall exceed four feet in a front yard.
- (d) Within the limits of a front yard space of a lot, no fence, wall (other than necessary retaining wall), hedges, or other screening structure shall be higher than four feet. No such fence or wall located within a rear or side yard shall exceed six feet in height, except as required in section 46-712.

(Code 2009, § 48-649; Ord. No. 142, § 19.15, 2-6-1990; Ord. No. 142G, §§ 11, 12, 10-15-1996)

#### Sec. 46-716. - Essential services.

- (a) This shall include the erection, construction, alteration or maintenance by public utilities, municipal departments, or other governmental agencies of underground or overhead gas, electrical communication, steam, or water transmission or distribution systems or collection, supply or disposal systems; including electric power stations, relay stations, gas regulator stations, pumping stations, poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police or other call boxes, traffic signals, hydrants and other similar facilities, equipment and accessories in connection therewith reasonably necessary for furnishing adequate service by such utilities or agencies, or for the public health or safety or general welfare; but not including offices and buildings or yards used for bulk storage, fabrication, or manufacture of materials used by such utilities or municipal departments or other governmental agencies. No such building constructed as a part of an essential service, shall be used for human occupancy.
- (b) The surface of land used for pipeline rights-of-way shall be restored and maintained as near as possible to its original conditions prior to the construction of the pipeline.
- (c) Essential service in all districts shall meet the requirements of the district in which they are located for all buildings, structures and areas used for offices, power generators, power transformers, storage, fabrication or manufacture of materials necessary to the provision of essential services.

(Code 2009, § 48-650; Ord. No. 142, § 19.16, 2-6-1990)

#### Sec. 46-717. - Pools, including swimming pools, hot tubs, Jacuzzis, whirlpools, other pools, and ponds.

Private pools of 18 inches or more in depth shall be permitted as an accessory use within the rear and side yards only, provided they meet the following requirements:

- (1) There shall be a distance of not less than 20 feet between the adjoining property line and outside of the pool wall.
- (2) There shall be a distance of not less than six feet between the outside pool wall and any building located on the same lot.
- (3) No pool shall be located less than 50 feet from any front lot line.
- (4) If electrical service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation of wires before a permit shall be issued for the construction of a swimming pool.
- (5) No pool shall be located in an easement.
- (6) For the protection of the public, all yards containing pools, except hot tubs which have self-locking covers, shall be completely enclosed by a fence not less than four feet in height. The gate shall be of a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods; provided, however, that if the entire premises of the residence is enclosed, then this provision may be waived by the zoning administrator upon inspection and approval.

(Code 2009, § 48-651; Ord. No. 142, § 19.17, 2-6-1990)

Sec. 46-718. - Home occupations.

- (a) Home occupations shall be permitted in all detached single-family residential dwellings and include such customary home occupations as: hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate and insurance sales, professional office, woodworking, arts and crafts, pottery making, antique collection and sales, and other similar occupations and other home occupations involving the production of goods and services legally operating in detached single-family homes at the time of adoption of the ordinance from which this chapter is derived.
- (b) The nonresidential use shall be only incidental to the primary residential use.
- (c) The occupation shall utilize no more than 25 percent of the ground floor or basement floor area of the principal structure or an equal area in an accessory structure.
- (d) Only normal domestic or household equipment and equipment characteristic of small workshops, businesses and professional offices shall be used to accommodate the home occupation.
- (e) The home occupation shall involve no employees other than members of the immediate family.
- (f) All activities shall be carried on indoors. No outdoor activities or storage shall be permitted unless it is completely screened in accordance with the provisions of this chapter.
- (g) No alterations, additions, or changes to a principal structure which will change the residential character of the dwelling structure shall be permitted in order to accommodate or facilitate a home occupation.
- (h) There shall be no external evidence of such occupations, except a small announcement sign not to exceed two square feet in area and attached to the front wall of the principal structure.
- (i) The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this chapter; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of home occupations.
- (j) Daily time for the operation of a home occupation, which has any of the attributes of a nuisance, shall be between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday of each week, except holidays.



(Code 2009, § 48-652; Ord. No. 142, § 19.18, 2-6-1990)

**State Law reference**— Single-family residence, instruction in craft or fine art as home occupation, MCL 125.3204.

Sec. 46-719. - Year-round solid waste trash container areas.

Truck-lifted or transported year-round trash container areas: all such trash container areas shall be enclosed by a six-foot-high wooden or masonry wall to prevent the unsightly deposit or collection of solid waste and prevent children and pets from having access to these areas, but not within the required yard areas.

(Code 2009, § 48-653; Ord. No. 142, § 19.19, 2-6-1990)

Sec. 46-720. - Exterior lighting.

All sources of lighting for parking areas or for the external illumination of buildings or grounds or for the illumination of signs, shall be directed away from and shall be shielded from adjacent residential districts, and shall also be so arranged as to not affect driver visibility adversely on adjacent public streets and highways. Lighting of parking areas is required when the number of parking spaces is more than five.

(Code 2009, § 48-654; Ord. No. 142, § 19.20, 2-6-1990)

Sec. 46-721. - Driveway entrances and gates.

In driveway entrances or gateway structures, including, but not limited to, walls, columns and gates marking driveway entrances to private or public uses may be permitted; and may be located in a required yard, except as provided in [section 46-712](#), provided that such entranceway structures shall comply with all codes and ordinances of the city and state department of highways and shall be approved by the zoning administrator.

(Code 2009, § 48-655; Ord. No. 142, § 19.21, 2-6-1990)

Sec. 46-722. - Frontage access streets or drives.

Ingress and egress from frontage access or service streets for all uses permitted in I districts fronting on major, intercommunity and local arterials, as defined and designated in the city master plan for streets and highways, in order to promote efficient use of thoroughfares and to decrease hazardous traffic conditions, the following regulations shall apply to the use of all land fronting upon these major thoroughfares, except for existing uses located upon existing lots and parcels of record and single lots and parcels described by metes and bounds on file with the county register of deeds:

- (1) Connecting service streets or drives shall be required between parking areas on adjacent land uses.
- (2) Owners of all property shall submit to the city a properly executed and witnessed license agreement which gives the city the authority to open and close service streets and drives whenever necessary in order to guarantee to the satisfaction of the city a safe and efficient movement of traffic. The said license shall be recorded in the office of the county register of deeds. Acceptance of the said license shall, in no way, obligate the city but it shall obligate the applicant, to build, repair, maintain or clear the said service streets or parking areas and no public funds may be spent by the city to build, repair, maintain, or close the said service streets, drives, and/or parking areas, and otherwise facilitate the safe and efficient movement of traffic thereon.
- (3) No less than two driveways at least 20 feet in width shall be available to such coordinated parking areas and

service street systems, provided that said drives shall be at least 300 feet apart and have appropriate designated acceleration and deceleration lanes; provided further, this requirement may be waived by the planning commission where the needs of a particular use do not require it and when traffic hazards will not be increased by such a waiver.

- (4) All requirements shall apply only to the full width of the developed portion of a lot or parcel or when developed adjacent to an existing use. The purpose of this subsection is to minimize the length of service streets or drives in relation to the actual developed area of a lot or parcel and the number of parking spaces, and to promote their construction as they are needed.
- (5) Parking lots, drives and service streets shall at least be hard surfaced with asphalt or Portland cement concrete and maintained by the owners/occupants fronting upon them in a usable condition for the access of vehicles. Drives and service streets shall be at least 20 feet in width.
- (6) Parking area layout shall follow standards prescribed in section 46-851.

(Code 2009, § 48-656; Ord. No. 142, § 19.22, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-723. - Parking or storage of recreation vehicles, trucks, travel trailers and boats on residential lots and parcels.

Storage of not more than two nonresidential type recreational vehicles, including boats, shall be permitted, provided that such units shall be parked completely in an enclosed structure or within the side or rear yards, except they may not be parked in the required setbacks.

(Code 2009, § 48-657; Ord. No. 142, § 19.23, 2-6-1990)

Sec. 46-724. - Temporary transient uses.

Temporary transient use of an existing land site, building or structure may be permitted in any district upon approval of a site plan review by the planning commission, and upon finding that the location of such an activity will not adversely affect public health, safety, and general welfare in the district in which it is to be temporarily located. All temporary transient uses, if approved by the planning commission, shall have a reasonable time limit placed upon their use based upon the normal periods of time such uses need to exist for an expressed number of days authorized by the planning commission. Temporary transient uses may be granted a permit on the basis of compliance with the criteria stated in section 46-784.

(Code 2009, § 48-658; Ord. No. 142, § 19.24, 2-6-1990)

Sec. 46-725. - Use of recreation vehicles as temporary dwellings by visitors.

Travel trailers, motor homes and recreation vehicles shall be permitted when parked by visitors in a side or rear yard of a permitting dwelling owner or lessee without charge, upon application by the owner or the issuance of a temporary permit by the zoning administrator. Application shall be made within seven days after the date of arrival. The property owner or lessee shall present a written agreement to furnish the occupants of the travel trailer, motor home or recreation vehicle with sanitary facilities approved by the zoning administrator. A temporary permit may only be issued to one travel trailer, motor home or recreation vehicle at a time in any one location and shall be valid for a maximum period of 30 days in any one calendar year. Extensions of time shall not be permitted and the travel trailer, motor home or recreation vehicle shall be removed from the property on or before the 30th day of the permit period.

(Code 2009, § 48-659; Ord. No. 142, § 19.26, 2-6-1990)

Sec. 46-726. - Building grades.

The finished surface of the ground areas outside the walls of any building constructed or altered shall be so designed that surface waters shall flow away from the building walls in such a direction and collection that inconvenience or damage to adjacent properties shall not occur.

(Code 2009, § 48-660; Ord. No. 142, § 19.27, 2-6-1990)

Sec. 46-727. - Moving buildings.

Buildings may not be relocated within or moved into the city unless the building design and construction are compatible with the general architectural character of other structures located in the immediate area of the proposed site. Approval shall be required from the planning commission prior to the moving of such buildings.

(Code 2009, § 48-661; Ord. No. 142, § 19.28, 2-6-1990)

Sec. 46-728. - Television satellite dish antennas.

Television satellite dish antennas shall be subject to the following requirements when being installed or constructed. All zoning districts shall apply.

- (1) Satellite dishes shall be considered an accessory structure and must comply with all yard and height requirements in this chapter.
- (2) No satellite dish that exceeds 24 inches in diameter shall be constructed or installed on any roof area.
- (3) No satellite dish antenna including any platform or structure upon which the antenna is mounted shall exceed 12 feet in height.
- (4) The satellite dish antenna shall be permanently attached to a foundation.
- (5) No part of the satellite dish antenna shall exhibit any name, message, symbol, graphic representation, or other writing on it.
- (6) A zoning permit must be obtained from the zoning administrator before any satellite dish antenna is constructed or installed.

(Code 2009, § 48-662; Ord. No. 142, § 19.29, 2-6-1990)

Sec. 46-729. - Use of financial guarantees when necessary to temporarily delay meeting construction requirements.

If in the judgment of the planning commission, during the course of site plan review procedures, it appears prudent to permit the delay of constructing certain provisions as required in this chapter, the planning commission may grant such a delay to a specific future date provided that the applicant/owner submits a satisfactory financial guarantee to the city administrator. The financial guarantee shall remain in effect prior to or coincident with the issuance of the zoning permit and shall remain in effect until the requirements so delayed are fully completed and approved by the zoning administrator.

(Code 2009, § 48-663; Ord. No. 142, § 19.30, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-730. - Conventional dwelling unit requirements.

All dwelling units in order to locate in all single-family zoning districts, except in mobile home parks licensed by the state and the R-2A zoning district, shall meet the following requirements: Single-family dwellings of conventional or manufactured construction having at least one cross section width of at least 24 feet, and one portion of the ground floor shall have a dimension of at least 24 feet by 24 feet. All single-family dwellings are required to have perimeter foundations. (Code 2009, § 48-664; Ord. No. 142, § 19.31, 2-6-1990; Res. No. 106/1993, 3-2-1993)

Sec. 46-731. - Mobile home parks.

All mobile home parks shall comply with the requirements of Public Act No. 243 of 1959 (MCL 125.1035 et seq.), the trailer coach park act, and the mobile home commission act (MCL 125.2301 et seq.), the rules adopted pursuant to those acts, and the following additional regulations. Minimum site size for a mobile home park shall be 20 acres.

- (1) *Location and access.* Mobile home parks shall have frontage and direct access from a hard surfaced paved street.
- (2) *Skirting.* Skirting of mobile homes in mobile home parks is regulated by the state administrative regulations. Mobile homes outside of mobile home parks shall be skirted as follows:
  - a. The skirting shall be of no less than 26 gauge metal and connected with a ratproof wall or slab, so constructed and attached to the mobile home as to make it impossible for the entrance of rodents, flies, bugs, or other insects. One access door in the skirting shall be permitted and a screen vent shall be installed along such skirting at intervals of 20 feet so as to provide adequate cross-ventilation.
  - b. Each mobile home shall be jacked up in a uniform manner.
  - c. Each mobile home must be skirted within 90 days after establishment in a mobile home park.
- (3) *Fences.* If fences are constructed on each mobile home site, they shall be uniform in design and character for all mobile home lots. Such fences shall not exceed 30 inches in height and shall be constructed in such a manner as to permit access to all sides of each mobile home for firefighting purposes.
- (4) *Landscaping.*
  - a. All mobile home park boundary line areas shall be maintained in a clean and presentable condition at all times. A grass lawn or other suitable ground cover shall be maintained as yard surfacing on each mobile home lot, except for those portions of the lot covered by the mobile home, structural additions, sheds, walks, concrete pads or planting beds.
  - b. The retention of existing desirable trees on a site is encouraged.
- (5) *Outdoor storage.* No outdoor storage shall be permitted, except in outdoor sheds or cabinets for the storage of tools or equipment and shall be limited to one well-maintained structure, located at the rear of the mobile home lot, and not exceeding 80 square feet in floor area or seven feet in height. To the maximum extent possible, these facilities shall be uniform in design, location, and color throughout the mobile home park, and in character with the designs of the mobile homes located on each lot in the park.
- (6) *Trash disposal.* Adequate facilities for the storage and disposal of trash, garbage and other waste materials shall be provided at conveniently located points within 150 feet of any given mobile home lot. All containers shall be situated on stands and shall be flytight, watertight, rodentproof, and shall be sufficient in number and capacity to properly store all the accumulated refuse. All containers shall be enclosed in accordance with section 46-719.

- (7) *Television antenna.* One or more master antenna facilities shall be installed with underground service connections to a mobile home lot.
- (8) *Roadway and yard lights.* Roadway and yard lights shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians and effectively diverting unnecessary illumination from the dwelling portions of each mobile home lot.
- (9) *Central building.* Central buildings for other than administrative or laundry facility usage are permitted. These may be used for indoor recreation, assembly halls, and for storm shelters. Such buildings should be conveniently located on the park site, may be combined structurally with the administrative and laundry facilities, and may include swimming pools or other clubhouse facilities in connection with on-site recreation facilities.
- (10) *Permit requirement.* It shall be unlawful for any person or corporation to construct, alter or extend any mobile home park unless they first obtain valid licenses and permits from the director of the state department of energy, labor and economic growth and the city in the name of said person or corporation. The application for permit shall be accompanied by a site plan submitted in accordance with article II, division 2 of this chapter and showing:
- a. Area and dimensions of the tract of land.
  - b. Number, location, and size of mobile home lots and common open space.
  - c. Expected maximum size and type of mobile homes to be situated on each lot.
  - d. Location and width of roadways, walkways and parking areas.
  - e. Location and usage of service buildings.
  - f. Location of utilities and service facilities.
- (11) *License and certificate requirements.* It shall be unlawful for any person or corporation to conduct or operate a mobile home park in the city without a currently valid license issued by the director of the state department of energy, labor and economic growth and a certificate of occupancy and an annual permit from the city zoning administrator.
- (12) *Periodic inspection.* The zoning administrator is hereby granted the power and authority at least on an annual basis to enter upon the premises of a mobile home park at any time for the purpose of determining compliance to the provisions of this chapter and/or enforcing any provision of this chapter or any other city ordinance applicable to the construction and operation of a mobile home park.

(Code 2009, § 48-665; Ord. No. 142, § 17.09, 2-6-1990)

Sec. 46-732. - Special building and structural character requirements.

- (a) *Purpose.* The purpose of the following requirements is to retain and preserve the present city character in terms of the present small scale city character of its present buildings and structures in terms of their character, height, bulk, occupancy, spacing, setbacks and open space use, landscaping and treatment as expressed in the city's present lot and parcel site developments and the buildings and structures located upon them.
- (b) *General requirements.*
- (1) C-1 Local Commercial District and the PO Professional Office District shall be divided into separate blocks of contiguous lots or parcels which are not divided by a street. The existing character of development of each block shall be used as the basis for applying the requirements listed in subsection (c) of this section.

- (2) All residential districts located in and around the C-1 zoning district in the older portion of the city shall be divided into street blocks which shall include both sides of a street block opposite and facing each other and contained between street corners located at each end of such blocks. When intersecting streets are offset or only intersect on one side of a street, a street block shall be determined by extending the centerline of an intersecting T-street intersection across the street and through the nonstreet side of the block. All residential exterior remodeling on new buildings and structures must meet the requirements of subsection (c) of this section.
  - (3) All public and semipublic buildings shall meet the requirements in subsection (c) of this section.
  - (4) The existing residential buildings and structures in the PO zoning district, where it is presently residential in character, shall retain all principal buildings and structures in their existing present residential character whether continued as residences or converted to office uses.
- (c) *Specific building and structural requirement.* Within any of the blocks, street blocks and lots and parcels described in subsection (b) of this section all buildings and structures shall be guided by the following requirements: No proposed building or structure shall exceed any of the following dimensions of existing buildings and structures in the block or street block, excluding public and semipublic buildings and structures:
- (1) Height.
  - (2) Bulk or volume as measured in cubic feet.
  - (3) Front elevation width.
  - (4) Depth from front to rear.
  - (5) Floor area as measured in square feet on the first floor.
- (d) *Specific lot and parcel development requirements.* Within any of the blocks, street blocks and lots and parcels defined in subsection (b) of this section, all buildings and structures shall be guided by the following requirements: No proposed building or structure shall exceed any of the following site development dimensions of lots and parcels having existing buildings and structures located upon them:
- (1) Land occupancy or lot or parcel coverage as measured by the percentage of lot or parcel coverage by buildings and structures located in the same block.
  - (2) New or additions to buildings and structures shall not exceed the maximum or minimum range of spacing between existing buildings and structures located in the same block.
  - (3) New or additions to buildings or structures shall not exceed the maximum or minimum range of setbacks, side yards and rear yards or existing buildings and structures from the street right-of-way line of the street upon which they front and located in the same block.
  - (4) Use of open space on lots and parcels shall fall within the range of the uses of open space made by existing buildings and structures located in the same block.
  - (5) Landscape treatment of lots and parcels shall be comparable in character to that developed upon existing lots and parcels having buildings and structures located upon them in terms of vegetation, walks, driveways, parking areas, fencing and other existing landscape features, and located in the same block.

(Code 2009, § 48-666; Ord. No. 142, § 19.32, 2-6-1990; Ord. No. 143F, 10-16-2012)

Sec. 46-733. - Temporary buildings.

Temporary buildings are permitted in any zoning district, provided they are not used as a dwelling, for the purpose of providing for their use incidental to construction work. Such buildings shall be removed from the site upon completion or abandonment of construction work or within one year from date of issuance of a zoning permit, whichever is the lesser period of time.

(Code 2009, § 48-667; Ord. No. 142, § 19.33, 2-6-1990)

Sec. 46-734. - Single-family earth homes.

Single-family earth homes are permitted in the RA district, as long as they meet all of the requirements of the district in which they are located and the bottom edge of the earth berms surrounding the building or structure meet the height and yard setback requirements for all yards.

(Code 2009, § 48-668; Ord. No. 142, § 19.35, 2-6-1990)

Sec. 46-735. - Solar buildings.

Solar buildings are permitted in all districts as long as the glare from exterior reflective solar panels is deflected so as not to cause glare to be transmitted to adjacent properties below the maximum height established for each district.

(Code 2009, § 48-669; Ord. No. 142, § 19.36, 2-6-1990)

Sec. 46-736. - Windmills.

Windmills are permitted in all districts as long as the height of the windmill does not exceed the setback distance of the point of the base of the windmill from nearest property line.

(Code 2009, § 48-670; Ord. No. 142, § 19.37, 2-6-1990)

Sec. 46-737. - Household pets.

Small domesticated household pets, such as dogs, cats and birds are limited to the maximum number existing in dwelling units in the city which is generally no more than two; however, if more than two are desired, as long as all other county, state and federal laws are complied with, and an additional area of land equal to one-sixth acre per animal is provided, additional domesticated household pets will be permitted up to a maximum of four. Dogs and cats under six months of age shall not be counted to allow for litters.

(Code 2009, § 48-671; Ord. No. 142, § 19.38, 2-6-1990)

Sec. 46-738. - State-licensed residential facility.

A state-licensed residential home facility, as defined in section 102 of the Michigan zoning enabling act (MCL 125.3102), shall be permitted in any single-family residential structure located in any zoning district for six or fewer persons.

(Code 2009, § 48-672; Ord. No. 142, § 19.39, 2-6-1990)

Sec. 46-739. - Ratio of lot width to depth.

All lots and parcels created subsequent to the adoption of the ordinance from which this chapter is derived shall have a ratio which shall not exceed a depth of three times the width.

(Code 2009, § 48-673; Ord. No. 142, § 19.40, 2-6-1990)

Sec. 46-740. - Noncommercial domestic animals.

Large, medium and small size domestic animals which are used for pet, contest, riding, fairs, educational or other special purpose as individual animal specimens are permitted at the following rates:

- (1) Large size animals such as equines on a lot having at least three acres for the first large animal and one acre for each additional large animal.
- (2) Medium size animals, such as sheep, on a lot having at least one acre for the first medium animal and one-half acre for each additional medium animal.
- (3) Small size animals (rabbits, mink, except house pets, including dogs, house cats and guinea pigs, gerbils and caged birds) on a lot having at least one-quarter acre for the first animal and additional small animals at the rate of 20 per acre.
- (4) Poultry and uncaged birds on a lot having at least one-quarter acre for the first bird and additional birds at the rate of 20 per acre.

(Code 2009, § 48-674; Ord. No. 142, § 19.41, 2-6-1990)

Sec. 46-741. - Canopies on building fronts.

Canopies are permitted on the fronts of all commercial, institutional, organizational, office, service, public, semipublic and industrial buildings, providing they meet the requirements of the construction code in force in the city. Any portion of the canopy which has the name of the activity being conducted on the premises or any other message in words, logos, art forms or any other graphic presentations shall be considered to be a sign, and shall be regulated by the provisions of article VIII of this chapter. All messages and graphics on such signs shall relate only to the name of the activity and activities being conducted in the same premises. If a canopy is to extend over a public sidewalk or any other public right-of-way or easement the lowest portion of the canopy shall be at least eight feet above the grade of the sidewalk, right-of-way or easement at all points. If there is a potential for adjacent and/or attached buildings in any one block to erect canopies, the height above the existing ground grade for each and all of them shall be eight feet at the lowest edge of the canopy and the top edge of the canopies where the top edge of the canopies adjoin, the canopies shall meet at the same height.

(Code 2009, § 48-675; Ord. No. 142, § 19.42, 2-6-1990)

Sec. 46-742. - Yard sales.

See [chapter 34](#), article II for provisions pertaining to garage sales.

(Code 2009, § 48-676; Ord. No. 142, § 19.43, 2-6-1990)

Sec. 46-743. - Churches.

Churches must comply with the following:



- (1) The minimum area of the lot shall be two acres for the first 100 seats or seating capacity of the main auditorium which religious services are held for the congregation, plus an additional one acre for each 50 additional seats or capacity of the main auditorium or room.
- (2) All churches must have frontage upon a main street and have its principal access from the street.
- (3) Setbacks. Setbacks shall be as follows:
  - a. *Front yard.* Minimum of 50 feet from main street right-of-way line, and no parking permitted in front yard.
  - b. *Side yards.* Minimum of 80 feet on side yard where parking is to be located and a minimum of 35 feet on the opposite side if no parking is to be provided on that side.
  - c. *Rear yard.* Minimum of 80 feet, if parking is to be located in the rear yard and a minimum of 50 feet if no parking is to be provided in the rear yard.
  - d. *Parking areas.* Parking areas shall be located at least ten feet from all buildings and shall be located at least the minimum yard requirement in each zoning district from the property line.
- (4) Other requirements. Churches shall meet all of the other requirements prescribed in this chapter and as required for off-street parking, signs and site improvements. Procedures required in article V of this chapter and article II, division 2 of this chapter must be followed.

(Code 2009, § 48-677; Ord. No. 142, § 19.44, 2-6-1990; Ord. No. 142F, 2-21-1995)

#### Sec. 46-744. - Underground utilities.

In order to enhance public safety, reduce interruption of service and improve the visual appearance of the city, all local distribution lines for telephone, electric, television and other similar services distributed by wire or cable shall be placed underground entirely within or in conduction with a site which requires site plan review. Main supply and perimeter feed distribution lines which serve areas outside the site to be developed and surface facilities related to underground service are excepted from this requirement. Such wires, conduits or cable shall be placed within private easements provided to such service companies by the proprietor or within dedicated public rights-of-ways. All such facilities placed in dedicated public rights-of-way shall be planned so as not to conflict with other underground utilities.

(Code 2009, § 48-678; Ord. No. 142, § 19.45, 2-6-1990; Ord. No. 142M, 8-4-1999)

#### Sec. 46-745. - Chickens.

- (a) Maximum of 12 hens per parcel; roosters prohibited.
- (b) Slaughtering prohibited within public view.
- (c) Chickens shall be provided, and remain within, a fully enclosed shelter with an optional covered fenced enclosure in the rear yard.
- (d) Enclosures shall be located at least 25 feet from any dwelling on a neighboring parcel.
- (e) No chicken shall be kept on parcels with more than one dwelling.
- (f) All feed and other items associated with the keeping of chickens are to be stored as to not attract rodents.
- (g) Hens and their enclosures must be kept in a neat, clean, and sanitary condition from offensive odors, excessive noise, or other condition that would constitute a nuisance.
- (h) Chickens will only be allowed in the following zoning districts R-1, R-2A, RA and R-3.

(Code 2009, § 48-679; Ord. No. 143S, 5-2-2017)

## Sec. 48-746. - Duplex dwellings.

- (a) *Purpose.* The purpose of the duplex home is to provide for relatively small and less expensive type of housing, as well as a broader range of choice of housing types to people who desire to live in the city in small condominium, owner or rental units, and their normal accessory uses which are compatible, supportive or convenient to the residents living within such a district.
- (b) *General requirements.*
- (1) *Lot area.* Each set of duplex dwelling units in a duplex dwelling unit shall occupy a lot or parcel comprising not less than 9,000 square feet, except for existing duplexes on lots of record existing prior to the adoption of the ordinance shall be permitted to have one duplex located upon them.
  - (2) *Lot width.* Minimum of 60 feet, except lots of record existing prior to the adoption of the ordinance from which this section is derived.
  - (3) *Lot coverage.* Maximum of 40 percent.
  - (4) *Number of dwelling units per gross acre.* Six dwelling units.
  - (5) *Yard and setback requirements.*
    - a. *Front yard.* Minimum of 15 feet from the street right-of-way line unless a greater setback is specified in the master plan for streets and highways, whichever is greater.
    - b. *Side yards.* Minimum shall be 10 feet unless a greater setback is specified in the master plan for streets and highways, whichever is greater.
    - c. *Rear yard.* Minimum of 25 feet.
  - (6) *Height limitations.* Maximum of two stories or 30 feet, except that detached accessory structures shall not exceed 15 feet.
  - (7) *Spacing between buildings.* Spacing between buildings shall be at least the height of the highest of the adjacent buildings with a minimum of 20 feet.
  - (8) *Floor area requirements.* Minimum standards for total floor area for each type of duplex family dwelling unit shall be as follows:
    - a. Efficiency: 450 square feet.
    - b. One bedroom: 600 square feet.
    - c. Two bedrooms: 750 square feet.
    - d. Three bedrooms: 960 square feet.
    - e. Each additional bedroom: 100 square feet.
  - (9) *Number of duplex dwelling units per building.* No duplex-family residential structure shall contain more than two dwelling units.
  - (10) All duplex-family dwelling units shall be connected to the available public water supply system and wastewater sanitary sewer system on a permanent basis.
  - (11) Ingress and egress of driveways shall be provided from an impervious hard surface paved street. Drives and parking shall be located at least ten feet from any building and shall have at least a 12-foot-wide, paved surface for automobiles.
  - (12) Off-street parking shall be provided with each dwelling unit having two spaces. Efficiency units may have one

parking space.

- (13) Duplex construction should have roofed front and/or side porches with paved walks to the main entrance. Only one entrance door is allowed on any one side of the structure. A minimum of 25 percent of the structure on any street side will be windows. Parking and garage access should be from an alley and be located behind the main structure.

(Ord. No. 143X, 10-19-2021)

Secs. 46-747—46-773. - Reserved.

## ARTICLE V. - SPECIAL USES

### *Footnotes:*

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**State Law reference**— *Special land uses, MCL 125.3502 et seq.*

Sec. 46-774. - Purpose.

The formulation and enactment of this chapter is based upon the division of the city into zoning districts, each of which include permitted uses which are mutually compatible. In addition to such permitted uses in districts, however, it is recognized that there are certain specific or unique uses which may be necessary or desirable to allow in definable locations in certain districts; but, which on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the permitted uses in a district. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as an unrestricted permitted use.

(Code 2009, § 48-700; Ord. No. 142, § 17.01, 2-6-1990)

Sec. 46-775. - Authority to grant permits.

The planning commission shall have the authority to grant special use permits, subject to such conditions of design and operations, safeguards and time limitations as it may determine for all special uses conditionally allowed in the various district provisions of this chapter and in accordance with article II, division 2, of this chapter.

(Code 2009, § 48-701; Ord. No. 142, § 17.02, 2-6-1990)

Sec. 46-776. - Application and fees.

Application for any special use permit allowed under the provisions of this chapter shall be made to the zoning administrator by filling in the official special use permit application form, submitting required data, exhibits and information; and depositing the necessary fee in accordance with the city schedule of fees on file with the zoning administrator. No fee shall be required of any governmental body or agency.

(Code 2009, § 48-702; Ord. No. 142, § 17.03, 2-6-1990)

Sec. 46-777. - Data, exhibits and information required in applications.

An application for any special use shall contain:

- (1) The applicant's name and address in full;
- (2) A notarized statement that the applicant is the owner involved;
- (3) The address of the property involved;
- (4) An accurate survey and site plan of said property showing the existing and proposed location of all buildings and structures thereon, and types thereof, and their uses; and
- (5) A statement and supporting data, exhibits, information and evidence regarding the required findings set forth in this chapter, including all applicable requirements of article II, division 2 of this chapter.

(Code 2009, § 48-703; Ord. No. 142, § 17.04, 2-6-1990)

Sec. 46-778. - Public hearing.

The city planning commission shall hold a public hearing, or hearings, upon any application for a special use, notice of which shall be given as required by section 103 of the Michigan zoning enabling act (MCL 125.3103).

(Code 2009, § 48-704; Ord. No. 142, § 17.05, 2-6-1990; Ord. No. 142G, § 5, 10-15-1996)

**State Law reference**— Notice of hearing, MCL 125.3103, 125.3502.

Sec. 46-779. - Required standards and findings for making determinations.

The planning commission shall review the particular circumstances and facts of each proposed special use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing that such a special use on the proposed site, lot, or parcel and makes its decision accordingly:

- (1) Will be harmonious with and in accordance with the general objectives, intent and purposes of this chapter.
- (2) Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- (3) Will be required to be served by public sanitary sewer and water supply systems and served adequately by other essential public facilities and services; such as, highways, streets and drives, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed special use shall be able to provide adequately all such services.
- (4) Will not be hazardous or disturbing to existing or future neighboring uses.
- (5) Will not create excessive additional requirements at public cost for public facilities, utilities and services.
- (6) Shall meet all of the applicable requirements of the zoning district in which a special use is to be located including those specific to each special use.

(Code 2009, § 48-705; Ord. No. 142, § 17.06, 2-6-1990)

Sec. 46-780. - Site plan review.

If a site plan is disapproved, the applicant is required to wait one year before resubmittal of the same or similar site plan for review and approval consideration by the planning commission on the same or approximately the same parcel of land. The applicant has the right to request the review of a disapproved site plan on matters of interpretation of the provisions of

this chapter, but not of land, building or structural use to the zoning board of appeals.

(Code 2009, § 48-706; Ord. No. 142, § 17.07, 2-6-1990)

**State Law reference**— Submission and approval of site plan, MCL 125.3501.

Sec. 46-781. - Junkyards.

Junkyards may be established and maintained in accordance with all applicable state statutes, and are only permitted in the "I" districts, and shall be located only in sites which are completely screened from adjacent properties and public view.

(Code 2009, § 48-707; Ord. No. 142, § 17.08, 2-6-1990)

**State Law reference**— Licensing of secondhand and junk dealers, MCL 445.401 et seq.; junkyards near highways, MCL 252.201 et seq.

Sec. 46-782. - Temporary mobile homes located outside of a mobile home park, including trailers, motor homes and recreation vehicles.

From and after the effective date of the ordinance from which this chapter is derived, it shall be unlawful for any person to move a mobile home, travel trailer, motor home or recreation vehicle on to any lot, parcel or tract of land in the city for any purpose, except as provided and permitted hereinafter in this section, or as specifically permitted elsewhere in this chapter.

- (1) Mobile homes, travel trailers, motor homes or recreation vehicles shall be permitted for construction contractor purposes when located on a construction-site approved by the planning commission. The applicant must furnish all pertinent data, including description of land to be used, number of mobile home, travel trailer, motor home or recreation vehicle units involved, and the expected length of construction time. The zoning administrator must verify that the location of units will be a reasonable distance from any public highway and/or boundary of adjoining property, and adequate fresh water supply and sanitary facilities are available on site. A temporary permit shall be issued covering the period of the specific construction job, not to exceed one year; subject to an extension approved by the planning commission for good cause which shall not exceed one year.
- (2) For parking or storage of mobile homes and recreation vehicles in RA, R-1, R-2A and R-3 residential zoning districts refer to section 46-723.
- (3) For temporary occupancy of visitor-owned mobile homes and recreation vehicles refer to section 46-725.
- (4) Use of mobile homes as an accessory use for reasons of health and infirmity as provided in section 46-789.

(Code 2009, § 48-708; Ord. No. 142, § 17.10, 2-6-1990)

Sec. 46-783. - Valid nonconforming use of mobile homes, travel trailers, motor homes or recreation vehicles.

The use of any mobile home, travel trailer, motor home or recreation vehicle placed on a lot, parcel or tract of land in the city prior to the effective date of the ordinance from which this chapter is derived, which use is not prohibited by this chapter, shall be valid nonconforming use that may be continued, subject to the provisions pertaining to nonconforming uses contained in article VI of this chapter.

(Code 2009, § 48-709; Ord. No. 142, § 17.11, 2-6-1990)

## Sec. 46-784. - Temporary transient uses.

The following provisions shall apply in addition to all applicable regulations in the district in which they are to be located:

- (1) Temporary transient uses shall include all uses, such as, circuses, carnivals, meetings and assemblies of people in tents or other temporary structures, dispensing and/or selling of goods or offerings of services from vehicles or other temporarily parked structures.
- (2) All fenced-in areas shall be set back at least 100 feet from any front street or property line.
- (3) Side and rear yards shall be at least 100 feet in depth from all adjacent lots or parcels.
- (4) All traffic ingress or egress shall be on public streets and all local traffic movements shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements onto or off from public streets. All points of entrance or exit for motor vehicles shall be located no closer than 200 feet from the intersection of any two streets or highways.
- (5) Temporary transient amusement uses are not permitted in any RA, R-1, R-2, R-3 or R-4 residential district.

(Code 2009, § 48-710; Ord. No. 142, § 17.12, 2-6-1990)

## Sec. 46-785. - Gasoline service stations.

All gasoline service stations or filling stations shall conform to the following regulations in addition to all applicable regulations in effect in the district in which they are to be located:

- (1) *Frontage and area.* Every gasoline service station shall have a minimum frontage of 200 feet and a minimum area of 30,000 square feet.
- (2) *Setbacks.* Every structure, including gasoline pumps and other equipment, erected or installed for use as a gasoline service station shall have a minimum setback from the street right-of-way as required by the regulations in the zone in which they are to be located.
- (3) *Construction standards.* All vehicle service areas shall be constructed to conform to the following standards:
  - a. Suitable separation shall be made between the pedestrian sidewalk and vehicular parking or moving area with the use of appropriate bumper, wheel guards or traffic islands.
  - b. The entire area used for vehicles service shall be paved with a hard surface, except for such unpaved area as is landscaped and protected from vehicle use by a low barrier.
  - c. Hydraulic hoist, lubricating, greasing, washing, and repair equipment shall be entirely within a building. Tire and battery service and minor automobile repair, excluding automobile body repair and painting, are permitted if conducted entirely within a building.
  - d. The maximum widths of all driveways at the public sidewalk crossing or street line shall be no more than 24 feet.
  - e. Minimum angle or driveway intersection with the roadway from the curblines to lot line shall be no less than 60 degrees.
  - f. The minimum distance of any driveway from any property line shall be at least 20 feet.
  - g. The minimum distance between roadway curb cuts for driveway access shall be no less than 100 feet.
- (4) *Lighting.* All lighting shall be installed in a manner so that no light source is visible beyond all property lines.
- (5) *Permitted districts.* Gasoline service stations are only permitted in C-1 and C-2 zoning districts.

(Code 2009, § 48-711; Ord. No. 142, § 17.13, 2-6-1990)

Sec. 46-786. - Sanitary landfills.

Sanitary landfills shall only be located in the city, only if planned to be located in accordance with the county plan prepared in conformance with part 115 of the natural resources and environmental protection act (MCL 324.11501 et seq.) on solid waste management or under the jurisdiction of the state in conformance with part 111 of such act (MCL 324.11101 et seq.), on hazardous waste, and with direct access only permitted from an impervious hard surface paved all-weather year-round streets and highways.

(Code 2009, § 48-712; Ord. No. 142, § 17.14, 2-6-1990)

Sec. 46-787. - Extraction of natural resources.

- (a) *Permitted uses.* The following special uses shall be permitted only in the CR, C-2 and I zoning districts and when applicable, in conformance with part 635 of the natural resources and environmental protection act (MCL 324.63501 et seq.), on surface and underground mine reclamation:
- (1) The excavation or mining of sand and gravel. The incidental excavation of sand and gravel for on-site use only are excluded from the regulations of this section except for the setback and yard requirements specified in the district in which the special use is located.
  - (2) The processing, storage, loading, and transportation of sand and gravel, incidental to its marketing.
  - (3) The mining of clay.
  - (4) The extraction of peat or marl.
  - (5) The quarrying of stone.
  - (6) The mining of coal.
  - (7) The extraction of water or other subterranean liquids.
- (b) *Permitted accessory uses.* Any use customarily incidental to the permitted principal special use.
- (c) *Extractive mining area, bulk and equipment location requirements, as applicable.*
- (1) *Limits of excavation.* Sufficient setbacks shall be provided from all property lines and public highways, to ensure adequate, lateral support. Minimum allowable setback shall be 50 feet from any property line and 75 feet from any public highway or street.
  - (2) *Placement of processing plants.* The permanent processing plant and its accessory structures shall not be closer than 250 feet from any property line or public highway or street.
  - (3) *Elevation of plant site.* Wherever practicable, the permanent processing plant shall be located within the excavation area, at a point lower than the general level of the surrounding terrain, in order to reduce the visual impact of the plant structure and noise emanating from it.
  - (4) *Management of storage piles and overburden.* Storage piles of processed material and overburden stripped from mining areas shall not be located closer than 50 feet from any property line, or 100 feet from any public highway or street.
  - (5) *Minimum site area.* Minimum site area for natural resource extraction sites under this chapter shall be 20 acres.
- (d) *General requirements.* Natural resource extraction operations shall be carried out under the conditions of a

mining permit, issued and maintained under the following requirements:

- (1) Before commencement of mining operations, the operating company shall file an operational plan with the city planning commission, which plan and any necessary subsequent revisions shall be approved by the planning commission, setting forth the area or areas to be mined, the location of permanent structures, the points of access upon public street and highways, and the street or highway routes to be followed in the transportation of finished materials. This plan, and any approved necessary subsequent revisions, shall be filed with the zoning administrator by the planning commission.
  - (2) The operational plan, which shall be submitted to and approved by the planning commission, shall include a determination of the net operational areas, i.e., the area stripped of overburden, the area being mined, the area used for structures and storage piles, and worked out areas which have not been reclaimed. Performance bonds, hereinafter considered in relation to the reclamation of the area, shall be calculated on the basis of the net excavation and operational area as measured in acres.
  - (3) Upon commencement of mining operations, perimeter controls shall be established for the mining area:
    - a. The mining area shall be enclosed within a five-foot-high continuous wall or fence or by an evergreen screen planting or hedge fence of similar capability.
    - b. The property shall be posted against trespass, with conventional signs placed not more than 100 feet apart around the perimeter of the parcel.
  - (4) Sight barriers shall be provided along all boundaries adjacent to streets which lack natural vegetative or terrain conditions which provide effective screening of mining operations. Sight barriers shall consist of one or more of the following:
    - a. Earth berms, which shall be constructed to a height of six feet above the mean elevation of the centerline of the public highway adjacent to the mining property, or six feet above the general level of terrain along property lines. These berms shall have slopes not in excess of one foot vertical to four feet horizontal, and shall be planted and maintained permanently with grass, trees and shrubs.
    - b. Screen plantings of evergreen trees and shrubs, at least six feet in height, in rows parallel to the boundary of the property, with the spacing of rows and the spacing of the trees and shrubs within rows which shall be sufficient to provide effective screening.
    - c. Masonry walls or solid fences which shall be constructed to a height of six feet.
  - (5) Noise and vibration shall be minimized in their effect on adjacent properties by the proper use of berms, walls, fences and screen plantings. In addition, all equipment used for the production of sand and gravel shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.
  - (6) Air pollution in the form of dust and dirt shall be kept at a minimum. All equipment used for production of sand and gravel shall be operated in such a manner as to minimize, insofar as is practicable, dust conditions which are injurious or substantially annoying to persons living in the vicinity. Interior streets serving the mining operation shall be paved, treated, or watered, insofar as is practicable, to minimize dust conditions.
  - (7) No mining of sand or gravel shall take place within the specified distance from the margin of any stream or waterway as established by the state department of environmental quality.
- (e) *Reclamation of mined areas.*
- (1) All natural resource extraction areas shall be reclaimed and rehabilitated as soon as may be practicable after



each mining phase has been completed in accordance with the plan approved by the planning commission. Wherever the operational plan shall permit, reclamation shall be accomplished concurrently with phased mining operations, i.e., a mined-out phase section of the area may be undergoing rehabilitation while a second phase may be undergoing active mining, and a third phase area may be being stripped of overburden. Substantial completion of reclamation shall be effected for one phase of the three permitted to be opened at any one time for extraction purposes prior to proceeding with the next approved phase. After all extraction operations are completed, the final phases of extraction shall be reclaimed in accordance with the approved final reclamation plan within one year after all extraction has been completed.

- (2) Before commencement of mining operations, the operating company shall submit a generalized reclamation plan to the planning commission, setting forth the intended disposition of all land and water areas, the proposed configuration of the terrain as shown on a topographic map, a plan of any proposed streets or other improvements to be made upon the property, and a general statement of the intended final utilization of the mined property. This plan, and any subsequent revisions, shall be approved by the planning commission before any zoning permit is issued by the zoning administrator.
- (3) Rehabilitation and reclamation of natural resource extraction areas shall be in accordance with the following standards:
  - a. All excavation shall have either a water depth of not less than ten feet below the average summer level of water in the excavation, or shall be graded or backfilled with nonnoxious, nonflammable and noncombustible solids in accordance with the approved reclamation plan in order to ensure:
    1. That the excavated area shall not collect and retain stagnant water; or
    2. That the surface of such area which is not permanently submerged is graded or backfilled as necessary to produce gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
  - b. The finished grade of all slopes resulting from excavations shall not be steeper than one foot vertical to three feet horizontal.
  - c. Topsoil of a quality equal to that occurring naturally in the surrounding area shall be replaced on all excavated areas not covered by water, except those areas where streets, beaches, or other planned improvements are planned. Top soil shall be applied to a depth of at least six inches.
  - d. Vegetation shall be restored by the appropriate planting of grass, trees and shrubs, in order to establish a permanent vegetative cover on the land surface, and to minimize erosion.
  - e. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time, not to exceed 12 months thereafter, shall remove all plant structures, buildings, stockpiles, and equipment.
- (4) The operating company shall post a minimum financial guarantee in the amount of \$5,000.00 for the first five net operational acres. The financial guarantee shall be increased on the yearly anniversary date of the mining permit at the rate of \$1,000.00 per each additional operational acre which exceeds the first five net operational acres. The guarantee shall be provided in one of the following forms: cash, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city commission. Upon rehabilitation of mined acreage, and reduction of net operational area, the bond or security shall be released in accordance with the amount of security required per acre.

(f) *Administration of mining districts.*

- (1) The following procedures shall be followed before establishing a mining operation:
  - a. The operating company shall file an operational plan, in accordance with the requirements of this section. This plan may be in the form of a written statement and maps, and shall carry evidence of review and approval, if required, by any city or state agency of competent jurisdiction, in addition to the required approval of the planning commission. On the basis of this plan, the operating company shall file a statement of net area to be excavated as measured in acres.
  - b. The operating company shall file a reclamation and rehabilitation plan, subject to the requirements of subsection (e)(2) of this section and shall provide a financial guarantee in accordance with the requirements of subsection e)(4) of this section.
  - c. The planning commission shall review the operations and reclamation plans and accept or reject the plan. Upon acceptance of the plan, the city shall receive the financial guarantee of reclamation in accordance with subsection (e)(4) of this section.
- (2) Before commencement of mining operations, a mining permit shall be issued by the zoning administrator upon payment of an annual fee in accordance with the established city fee schedule. This fee shall defray any city administrative expenses rising out of the mining operation.
- (3) Inspections and conformance.
  - a. Inspections shall be made of the mining site, not less often than twice in each calendar year by the zoning administrator in order to ensure conformance with the requirements of the approved plans for the special use.
  - b. Any violations shall be reported in writing to the city administrator. The report shall be forwarded with a request for compliance, to the operating company by the zoning administrator.
  - c. Failure on the part of the operating company to correct a reported violation within 30 days after such request is made by the zoning administrator shall be reason for revocation of the zoning permit for the mining use. Additional time for correction of the cited violation may be allowed upon submission to the zoning administrator of proof of good and sufficient cause by the operating company, otherwise the operating company shall be declared to be in violation of this chapter and subject to the penalties of both the chapter and the special use requirements approved for the natural resource extraction operation.
- (g) *Special requirements; waiver of excavation limits.* The city zoning board of appeals may approve a reduction of the setback limits required for excavations in subsection (c)(1) of this section under the following conditions:
  - (1) The operating company shall have provided the zoning board of appeals with acceptable proofs that lateral support shall not be endangered.
  - (2) Adjacent property owner or owners shall have given written consent to the waiver of limits for excavation.
  - (3) All other requirements of this chapter have been met and maintained at the time of applying for and receiving approval of any waiver.

(Code 2009, § 48-713; Ord. No. 142, § 17.15, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-788. - Housing of the elderly in detached single-family homes.

Housing of the elderly, aged 55 or older, at two per bedroom, up to a maximum of six, per detached single-family dwelling is permitted, provided that the bedrooms so used shall be in excess of the bedroom needs of the family occupying the detached single-family home. The family needs shall be computed at two family members per bedroom. Further, each

two bedrooms designated for the elderly shall be provided with a full bathroom for sanitary and bathing purposes which shall be located within ten feet of the most accessible door of the respective bedroom it is designated to serve.

(Code 2009, § 48-714; Ord. No. 142, § 17.16, 2-6-1990)

Sec. 46-789. - Use of mobile homes as an accessory use for the sick and infirm.

The use of one mobile home as a temporary dwelling for the sick and infirm shall be permitted on a single-family lot or parcel in any zoning district providing the following conditions are met:

- (1) The lot or parcel has a principal single-family dwelling located upon it.
- (2) The lot or parcel is a legal lot of record.
- (3) The occupancy of the lot shall not exceed the maximum lot coverage permitted in the zoning district in which it is to be located.
- (4) The occupants have a direct family relationship to those persons occupying the principal dwelling.
- (5) The persons seeking the use of and occupancy of the mobile home have a need as determined by their acquisition and presentation to the zoning administrator of a physician's certificate prescribing the need for such housing during the period of illness or infirmity.
- (6) Mobile homes shall have a minimum width of ten feet and a minimum floor area, as measured inside and the perimeter of the exterior walls, of 400 square feet.
- (7) Mobile homes used for this purpose shall have immediate and unlimited access to all facilities located in the principal dwelling for the maintenance of proper health and sanitation, including potable water and sanitary disposal facilities for solid and liquid wastes.
- (8) All such accessory mobile homes shall be located within the setback requirements for the side and rear yards. No front yard shall be used for the location of a mobile home for this purpose.
- (9) Zoning permits shall be issued by the zoning administrator for this purpose and thereafter reviewed annually for continued need and compliance.
- (10) Zoning permits issued for such use shall terminate at such time that any one or combination of the above conditions cease to be met, in which case the mobile home shall be removed.
- (11) Prior to the issuance of a zoning permit the applicant shall submit to the zoning administrator a performance guarantee in the amount as currently established or as hereafter adopted by resolution of the city commission from time to time in the form approved by the city commission.
- (12) Mobile homes are to be skirted in accordance to section 46-731.

(Code 2009, § 48-715; Ord. No. 142, § 17.17, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-790. - Roadside stands.

Roadside stands are only permitted in the frontage of farms located within the city and shall be for the purpose of selling produce or other products grown on the farm and produced by the family occupying the farm. The roadside stand shall be located and constructed to meet the following requirements:

- (1) The roadside stand shall not exceed 15 feet in height.
- (2) The floor area of the stand shall not exceed 400 square feet.

- (3) The stand shall be located no closer than 40 feet from the nearest edge of the street pavement or other travelway. In no case shall the stand occupy any part of the street right-of-way or easement.

(Code 2009, § 48-716; Ord. No. 142, § 17.18, 2-6-1990)

Sec. 46-791. - Bed and breakfast facility.

- (a) While this section is established to enable single-family dwelling units to be used as bed and breakfast facilities, it is the intent of this chapter to preserve the character of the district in which the operation is located. A bed and breakfast facility is a subordinate use to a single-family dwelling unit and is subject to the standards of sections 46-774 through 46-780 as well as this section.
- (b) Bed and breakfast facilities may be permitted providing that these establishments will blend with the unique character of the town and offer accommodations that are both inconspicuous and a logical alternative to traditional accommodations.
- (c) Bed and breakfast facilities shall only be carried on in owner occupied and owner managed residential structures under the following conditions:
- (1) A maximum number of four bedrooms may be available for guest use for compensation.
  - (2) Not more than eight guests shall be accommodated at any time.
  - (3) The maximum stay for any guest shall be 14 consecutive days per each separate reservation.
  - (4) At least one off-street parking space shall be available for each bedroom available for bed and breakfast usage, plus two parking spaces for the owner. A minimum area of 200 square feet, measured by a minimum width of ten feet and a minimum depth of 20 feet, shall be provided for each vehicle parking space, exclusive of aisles and access. The parking area shall be landscaped and screened.
  - (5) The structure must maintain the appearance of a single-family residence, except for one sign, not to exceed four square feet in area and attached flat against the principal building wall, to indicate that the structure is being utilized as a bed and breakfast. The sign shall be in conformance with the requirements of this chapter and shall be appropriate to a residential area.
  - (6) The applicant shall submit a floor plan of the entire structure showing the present use and the proposed use of each room in the structure. City approval of the floor plan is required prior to issuance of a land use permit. The floor plan shall also be subject to approval by the fire marshal.
  - (7) The operation shall not require alteration of, or construction to, the structure not customarily found in residential dwellings.
  - (8) Every bed and breakfast facility shall maintain a register of guests. Such register shall be made available to the administrator upon request.
  - (9) Every bed and breakfast facility may be subject to annual inspections by the administrator and may be terminated by order of the administrator whenever the same fails to comply with this chapter.
  - (10) Guests shall have access to lavatory and bathing facilities meeting public health standards.
  - (11) Meals may be served only to overnight guests, and in accordance with public health regulations regarding bed and breakfast facilities, unless the bed and breakfast owner applies for and receives an additional special use permit for serving gourmet dinners to nonovernight guests.
  - (12) The bed and breakfast facility shall produce no excessive noise, traffic, glare or other nuisance that would be detrimental to the character of the neighborhood.

- (13) In the event the planning commission determines that noise generation may be disturbing to neighbors, or that location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the planning commission may require that fencing and/or a planting buffer be constructed and maintained.
  - (14) No more than 50 percent of the parcel shall be covered by structures and parking areas.
  - (15) The applicant shall submit one site plan of the parcel showing all structures, parking areas, landscaping, and setbacks. A separate site plan showing the bed and breakfast's relationship to the surrounding parcels and structures shall also be submitted.
  - (16) All refuse and garbage collection areas shall be screened and located in a designated area.
  - (17) Use of snowmobiles, all-terrain vehicles or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment, shall be prohibited.
- (d) The planning commission may impose additional conditions pursuant to article V of this chapter. Reasonable conditions may be required by the planning commission with the approval of special uses. Such conditions may include conditions necessary to:
- (1) Ensure that public services, such as police, fire, ambulance and similar services are capable of accommodating increased service or facility loads caused by the land use or activity;
  - (2) Protect the natural environment and conserve natural resources and energy;
  - (3) Ensure the special use is compatible with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall:
    - a. Be designed to protect natural resources, the health, safety, welfare and social and economic well-being of those who will use the land use or activity under consideration as well as those residents and landowners immediately adjacent to the proposed land use, and the community as a whole.
    - b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.
    - c. Be necessary to meet the intent and purpose of the city land use plan and this chapter, and to ensure compliance with the standards contained in the chapter.

(Code 2009, § 48-717; Ord. No. 142, § 17.19, 2-6-1990; Ord. No. 142U, 5-6-2003; Ord. No. 142V, 7-1-2003)

Sec. 46-792. - Group child care homes in residential zoned districts.

Group child care homes are permitted as special uses in all residential zoned districts providing the following conditions are met:

- (1) The group child care home is licensed by the state.
- (2) The applicant can provide adequate information and evidence that the special use will be operated, maintained and managed so as to be harmonious with the surrounding neighborhood.

(Code 2009, § 48-718; Ord. No. 142, § 17.20, 2-6-1990; Ord. No. 142G, §§ 9, 14, 10-15-1996)

Sec. 46-793. - Child day care centers.

Child day care centers are allowed as special uses in the nonresidential zoned districts providing the following conditions are met:

- (1) The child day care center is licensed by the state.

- (2) The proposed site for any child day care center shall have at least one property line abutting a major public street, and the site shall be so planned as to provide all access directly to said major streets. Vehicular access to minor public streets shall not be permitted.
- (3) Street front, waterfront, side and rear yards shall be set back at least 50 feet, and shall be landscaped in trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except necessary entrance drives and those fences, walls, berms and vegetation used to screen the use from abutting lots and parcels.
- (4) Shall meet off-street parking requirements specified in article VII of this chapter.

(Code 2009, § 48-719; Ord. No. 142, § 17.21, 2-6-1990; Ord. No. 142G, § 14, 10-15-1996)

Sec. 46-794. - Adult only businesses.

- (a) *Purpose.* Because certain forms of expression relating to sexual materials have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of regulatory standards which can be used for approving or disapproving this type of special use.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Adult bookstore* means an establishment having as its principal activity the sale and/or rental of books, magazines, video tapes, films, recordings, and other periodicals which are depicting, describing or relating to specified sexual activities, specific anatomical areas or any other sexually explicit matter, as herein defined, or an establishment with a segment or section devoted to the sale of or display of such material.

*Adult entertainment business* means one or a combination of more than one of the following types of businesses; adult bookstore, adult motion picture theater, adult personal service business, adult novelty business, adult nightclub, cabaret, bathing establishment.

*Adult motion picture theater* means an enclosed building used as its principal activity for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specific anatomical areas or any other sexually explicit matter, as herein defined, for observation by patrons therein.

*Adult nightclub* means a business with the principal activity of providing entertainment by nude or partially nude performers.

*Adult novelty business* means a business which has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.

*Adult personal service business* means a business having as a principal activity a person, while nude or partially nude, providing personal services for another person on an individual basis in a closed room. It includes, but is not limited to, the following activities and services; massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. The term "adult personal service business" does not include activities performed by persons pursuant to and in accordance with licenses issued to such persons by the state.

*Bathing establishments* means any place of business which, in exchange for a fee, provides as its principal function, bathing facilities, sauna baths, steam rooms or Turkish baths.

*Cabaret* means a business establishment which features or offers as a portion of its business the services of models, masseurs, masseuse, employees, etc., who are nude, seminude, or topless when performing their services.

*Partially (semi) nude* means having any or all of the following bodily parts exposed: buttocks, male or female genitals, pubic area or female breasts.

*Principal activity* means a use accounting for more than 20 percent of a businesses' stock in trade, display space, floor space, live entertainment time or movie display time per year.

*Sexually explicit matter* means all matter defined as being sexually explicit under the provisions of Public Act No. 33 of 1978 (MCL 722.671 et seq.), which definitions are hereby adopted and included herein by reference.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means:

- (1) Human genitals in a state of sexual stimulation or arousal.
  - (2) Acts of human masturbation, sexual intercourse or sodomy.
  - (3) Fondling or other erotic touching of genitals, pubic region, buttocks or female breast.
- (c) *Site location principles.* The following principles shall be utilized to evaluate the proposed location of any adult only business. These principles shall be applied by the planning commission as general guidelines to help assess the impact of such a use upon the district in which it is proposed.
- (1) No adult only business shall be located within 500 feet, measured from the property line, of a church, school, public park or playground, noncommercial public assembly facility, public office building, day care center, arcade, or any other adult only business, nor within 300 feet of any residential zoned district, waterfront zoned district, professional office zoned district, local commercial zoned district (C-1) or planned unit development district.
  - (2) Any adult only business shall be located in a general commercial district (C-2) or industrial zoned district.
- (d) *Site development requirements.*
- (1) The site layout, setbacks, structures, function and over all appearance of any such business shall be compatible with adjacent uses and structures.
  - (2) Windows, displays, signs and decorative or structural elements of buildings shall not include or convey examples of a sexual nature, and are limited to one sign. All such displays and signs shall be in conformance with article VIII of this chapter and shall be approved by the planning commission prior to their use. Any alterations in the above media shall and must be reviewed and approved by the planning commission.
  - (3) All building entries, windows and other such openings shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semipublic area; and wherever else it is requested by the planning commission.
  - (4) No loudspeakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that the sound can be discerned by the public from public or semipublic areas.
  - (5) The adult only business shall clearly post at the entrance to the business, or that portion of the business

utilized for adult only purposes, that minors are excluded.

(e) *Use regulations.*

- (1) No person shall reside in or permit a person to reside in the premises of an adult only business.
- (2) No person shall operate an adult only business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the prices for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
- (3) The owners, operators or persons in charge of an adult only business shall not allow entrance into such building or any portions of a building used for such use, to any minors, as defined by Public Act No. 79 of 1971 (MCL 722.51 et seq.).
- (4) No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by Public Act No. 343 of 1984 (MCL 752.361 et seq.).
- (5) No person shall operate an adult personal service business without obtaining a current code compliance license. Such license shall be issued by the zoning administrator or the administrator's designee following an inspection to determine compliance with the relevant ordinances of the city. Such license shall be subject to all regulations of federal, state and local governments.
- (6) No person shall become the lessee or sublessee of any property for the purpose of using said property for an adult entertainment business without the express written permission of the owner of the property for such use.

(Code 2009, § 48-720; Ord. No. 142, § 17.22, 2-6-1990; Ord. No. 142G, § 9, 10-15-1996; Ord. No. 142U, 5-6-2003; Ord. No. 143F, 10-16-2012)

Sec. 46-795. - New and used automobile sales.

Outdoor sales for new and used automobiles shall be subject to the following provisions:

- (1) There shall be no strings of flags, pennants or bare light bulbs permitted.
- (2) No vehicles or merchandise for sale shall be displayed within any required front yard setback.
- (3) There shall be no broadcast of continuous music or announcements over any loudspeaker or public address system.

(Code 2009, § 48-721; Ord. No. 142, § 17.23, 2-6-1990; Ord. No. 142M, 8-4-1999)

Sec. 46-796. - Tattoo parlors and/or body piercing establishments.

Tattoo parlors and/or body piercing establishments may be permitted only as a special use in the C-1 Local Commercial District and CBD Central Business District providing the following conditions are met:

- (1) The operation shall be in conformance with all applicable state and federal statutes.
- (2) Such business shall be permitted to operate only between the hours of 8:00 a.m. and 9:00 p.m.
- (3) The area within the building used for body piercing or tattooing shall be situated or configured so that the activity is not visible from outside the building and the area used for body piercing or tattooing shall be physically separated from other areas of the building.
- (4) The site layout, setbacks, structures, function and over all appearance of any such business shall be



compatible with uses and structures in the vicinity.

- (5) There shall be no strings of flags, pennants or bare light bulbs visible from public or semipublic areas.
- (6) There shall be no loudspeakers, public address system or equipment used that projects sound outside of the business so that the sound can be discerned by the public from public or semipublic areas.
- (7) No displays shall be within any required front yard setback.
- (8) Property used for such business shall not abut a residential zone.
- (9) The applicant shall provide adequate information and evidence that the special use will be operated, maintained and managed so as to be harmonious with the surrounding neighborhood.

(Code 2009, § 48-722; Ord. No. 142, § 17.24, 2-6-1990; Ord. No. 142U, 5-6-2003; Ord. No. 143F, 10-16-2012)

Sec. 46-797. - Home-based business.

- (a) A home-based business may be permitted as a special use on lots of over four acres in the RA and R-1 Single-Family Residential Zoning Districts provided that it will blend with the unique character of the city and the following conditions are met.
- (b) All zoning applications for special use approval of home-based businesses shall include the following information:
  - (1) A written description of the nature of the business.
  - (2) Number and type of vehicles involved.
  - (3) Hours of operation.
  - (4) Location of off-street parking for patrons and persons engaged in business.
  - (5) Number of employees and the names of the occupants or family member conducting business at the location.
  - (6) Amount and type of waste products or effluent discharges (if any).
  - (7) Noise level and types involved.
  - (8) Any other potentially identifiable adverse effects, including any conditions resulting from the services and/or products being created which generate noise, noxious odors, unsanitary or unsightly conditions, excessive traffic, fire hazards, and the like, involved in or resulting from such occupation.
- (c) One the zoning administrator receives a complete application, that official will forward a copy of the complete site plan to the planning commission for consideration.
- (d) Any approved home-based business shall be subject to inspection by the zoning administrator with reasonable notice to the proprietor of the business.
- (e) Home businesses shall only be approved on the basis of individual merit and will adhere to the use and any special conditions stated on the permit.
- (f) The business shall be in compliance with the general standards of section 46-779 and the following specific standards:
  - (1) Any structural additions to the home for purposes of operating said business shall be of an architectural style that is comparable with the architectural style of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the business is discontinued.
  - (2) No more than 25 percent of the floor area of the dwelling shall be devoted to such home-based business.

- (3) The proprietor of the home-based business shall live on the premises and shall remain so during the entire life of the business. In the RA district, only occupants or family members living on the premises may work in the business. In the RA district, up to two persons not residing on the premises may work in the business.
- (4) All activities shall be conducted within the dwelling or accessory building and there shall be no outside storage or display of materials, goods, or services in connection with the home-based business.
- (5) If an accessory building is to be used, it must be identified on the special use permit. A site plan layout is required and shall depict the accessory building to be sited, designed, and located on the property in such a manner as to avoid the appearance of a retail store or industrial building.
- (6) Any accessory building space for home-based business shall not exceed a total floor area of 800 square feet.
- (7) The accessory building shall meet all setback requirements of the district in which it is located.
- (8) The planning commission may set other conditions on the special use permit, including hours of operation, as authorized by article V of this chapter.
- (g) Signage indicating the type of home-based business or advertising for the home-based business shall be limited to one nonilluminated sign not to exceed four square feet in area and attached to the front wall of the structure where the home-based business takes place.

(Code 2009, § 48-723; Ord. No. 142, § 17.25, 2-6-1990; Ord. No. 142U, 5-6-2003; Ord. No. 144C, 1-18-2022)

Sec. 46-798. - Regulations for variety stores and small box stores.

- (a) Variety/small box stores are prohibited unless the proposed use is located more than one mile from another variety/small box store.
- (b) If located at least one mile from another variety/small box store, use is permitted by special use permit only.
- (c) A nonconforming variety store in existence on August 1, 2021, may relocate on the same parcel or within the same shopping center that it currently exists without obtaining a SUP provided the nonconforming variety store has not been terminated as provided in section 46-821, discontinuance or abandonment, of the zoning ordinance and the use complies with all other applicable regulations.
- (d) When reviewing a request for a special use permit (SUP) for a variety/small box store use, the city shall consider:
  - (1) Whether the variety/small box store will likely have a detrimental impact on the development of grocery stores and other businesses that sell fresh and healthy food items in the area to be served by the proposed use.
  - (2) The availability of healthy food options in the area of the proposed use, including the proximity of full-service grocery stores within one-half mile of the proposed use, and effect of the use on the retail food environment.
  - (3) A SUP approved under this section must stipulate that a minimum of 15 percent of the floor area of the variety/small box store must be dedicated to fresh produce, meat, and dairy products.

(Ord. No. 144E, § (3), 4-5-2022)

Secs. 46-799—46-817. - Reserved.

ARTICLE VI. - NONCONFORMING LAND, BUILDING AND STRUCTURAL USES

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**State Law reference**— *Nonconforming uses or structures, MCL 125.3208.*

## Sec. 46-818. - Purpose.

It is the intent of this chapter to permit the continuance of a lawful use of any building or land existing at the effective date of the ordinance from which this chapter is derived, although such use of land or structure may not conform with the provisions of this chapter. Further, it is the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same districts. The continuance of all nonconforming uses and structures within the city shall be subject to the conditions and requirements set forth in this article.

(Code 2009, § 48-745; Ord. No. 142, § 18.01, 2-6-1990)

## Sec. 46-819. - Continuation of nonconforming uses and structures.

- (a) *Structural changes.* The building that is nonconforming shall not be structurally changed, or enlarged unless the resultant changed, altered, or enlarged building conforms to the provisions of this chapter for the district in which it is located except as provided in this section.
- (b) *Repairs.* Any lawful nonconforming building may be repaired, reinforced, or reconstructed during its life to correct deterioration, obsolescence, depreciation, and wear, provided that such repair does not exceed an aggregate cost of 60 percent of the state equalized value of the building unless the subject building is changed by such repair to a conforming building or structure.
- (c) *Alterations and improvements.* Nothing in this chapter shall prohibit the alterations, improvement or modernizing of a lawful nonconforming building, provided that such alteration does not increase any dimensional nonconformity and provided that such improvements do not exceed an aggregate cost of 80 percent of the state equalized value of the building unless the subject building is changed by such improvement to a conforming structure. The zoning board of appeals may grant a variance for an alteration, improvement or modernization of a structure that increase the nonconformity of the structure only if the requirements of section 46-120 are met.
- (d) *Prior construction approval.* Nothing in this chapter shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived, provided that construction is commenced within 90 days after the date of issuance of the permit, that construction is carried on diligently and without interruption for a continuous period in excess of 30 days; and that the entire building shall have been completed according to the plans filed with the permit application within two years after the issuance of the zoning permit.

(Code 2009, § 48-746; Ord. No. 142, § 18.02, 2-6-1990; Ord. No. 142U, 5-6-2003)

## Sec. 46-820. - Restoration of damage.

Any lawful nonconforming use damaged by fire, explosion, or an act of God, or by other causes may be restored, rebuilt, or repaired, provided that the structure housing the nonconforming use has not been more than 50 percent destroyed as measured by the usable cubic space previously existing in said structure.

(Code 2009, § 48-747; Ord. No. 142, § 18.03, 2-6-1990)

Sec. 46-821. - Discontinuance or abandonment.

Whenever a nonconforming use has been discontinued for one year, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of this chapter.

(Code 2009, § 48-748; Ord. No. 142, § 18.04, 2-6-1990)

Sec. 46-822. - Reversion to a nonconforming use.

If a nonconforming use is changed to a use permitted in the district in which it is located, it shall not revert or be changed back to a nonconforming use.

(Code 2009, § 48-749; Ord. No. 142, § 18.05, 2-6-1990)

Sec. 46-823. - Displacement of a conforming use.

No nonconforming use shall be extended to displace a conforming use.

(Code 2009, § 48-750; Ord. No. 142, § 18.06, 2-6-1990)

Sec. 46-824. - Change to another lesser nonconforming use.

The city zoning board of appeals may authorize a change from one nonconforming use to another nonconforming use, provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which it is replacing.

(Code 2009, § 48-751; Ord. No. 142, § 18.07, 2-6-1990)

Sec. 46-825. - Illegal nonconforming uses.

Those nonconforming uses which are created after the effective date of the ordinance from which this chapter is derived shall be declared illegal nonconforming uses and shall be discontinued following the effective date of the ordinance from which this chapter is derived. Uses which were illegal under a prior ordinance and which do not conform to this chapter shall continue to be illegal.

(Code 2009, § 48-752; Ord. No. 142, § 18.08, 2-6-1990)

Sec. 46-826. - Changes in zoning district.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district or another classification, the foregoing provisions shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

(Code 2009, § 48-753; Ord. No. 142, § 18.09, 2-6-1990)

Sec. 46-827. - Elimination of nonconforming uses.

The city commission may acquire properties on which nonconforming buildings or uses are located, by condemnation or other means, and may remove such uses or structures. The resultant property may be leased or sold for a conforming use or may be used by the city for a public purpose. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

(Code 2009, § 48-754; Ord. No. 142, § 18.10, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-828. - Nonconforming lots and parcels.

- (a) Notwithstanding limitations imposed by other provisions of this chapter, any permitted use in a district and its customary accessory uses may be erected on any lot which was a lot of record prior to the effective date of adoption or amendment to the ordinance from which this chapter is derived. This provision shall apply even though such lot fails to meet any of the dimensional requirements for the district in which such lot is located. Variances may be granted for required setbacks and yard sizes, provided that adequate potable water and proper sewage disposal facilities are provided. The zoning board of appeals in granting the variance must ensure that the spirit of this chapter is observed, public safety secured and substantial justice is done.
- (b) If two or more lots, combination of lots, or portions of lots are contiguous and have continuous frontage in single ownership, are of record at the time of passage or amendment of the ordinance from which this chapter is derived, 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 article, and no portion of said lots or parcels shall be used or occupied by a principal use 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 with width or area below the requirements stated in this chapter.

(Code 2009, § 48-755; Ord. No. 142, § 18.11, 2-6-1990; Ord. No. 142U, 5-6-2003)

Secs. 46-829—46-849. - Reserved.

## ARTICLE VII. - OFF-STREET PARKING, LOADING AND UNLOADING

Sec. 46-850. - Purpose.

It is the purpose of this article to improve and maintain the safety of the streets and highways in the city by requiring off-street parking, loading and unloading spaces for all uses permitted by this chapter in order to provide for the proper function and safety in the use of streets and highways as trafficways which are intended to be limited to moving automotive vehicles.

(Code 2009, § 48-779; Ord. No. 142, § 20.01, 2-6-1990)

Sec. 46-851. - Off-street parking requirements.

In all districts there shall be provided at the time any building or structure is erected, or uses established, enlarged or increased in capacity, off-street parking spaces for automotive and motorized vehicles with the requirements specified as follows:

- (1) Plans and specifications showing required off-street parking places shall be submitted to the zoning administrative review at the time of application for a zoning permit. Required off-street parking facilities shall be located on the lot as the principal building or on a lot within 300 feet thereof, except that this distance shall not exceed 150 feet for single-family and two-family dwellings.
- (2) Outdoor parking of motor vehicles, in all residential districts shall be limited to passenger vehicles, two nonresidential type recreational vehicle per dwelling unit, and not more than one commercial vehicle of the light delivery type, not to exceed one ton single front and single rear axle, shall be permitted per dwelling unit. The outdoor parking of any other type of commercial vehicle, or bus, except for those parked on school or church property, is prohibited in all residential districts, except with prior review and approval of the planning commission. Parking space requirements for all types of vehicles may be provided either in garages, covered or outdoor parking areas conforming with the provisions of this chapter.
- (3) Each off-street parking space for automobiles shall not be less than 160 square feet in area, exclusive of access drives or parking space access aisle, and shall be of usable shape and condition. There shall be provided a minimum access drive of ten feet in width, and where a turning radius is necessary it will be of such an arc as to reasonably allow an unobstructed flow of vehicles. Parking space access aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of a parking space. The minimum width of such aisles shall be:
  - a. For 90-degree or perpendicular parking, the aisle shall not be less than 20 feet in width.
  - b. For 60-degree parking, the aisle shall not be less than 18 feet in width.
  - c. For 45-degree parking, the aisle shall not be less than 13 feet in width.
- (4) Required off-street parking facilities for churches located in nonresidential districts may be reduced by an equivalent number of off-street parking spaces located within 300 feet, if they are directly accessible and usable, as off-street parking spaces. Off-street parking facilities for trucks at restaurants, service stations and other similar and related uses shall be of sufficient size to adequately serve trucks and not interfere with other vehicles that use the same facilities. Such truck spaces shall not be less than ten feet in width and 80 feet in length.
- (5) Every parcel of land hereafter used as a public or private off-street parking area shall be developed and maintained in accordance with the following requirements:
  - a. All off-street parking spaces shall not be closer than ten feet to any property line.
  - b. All off-street parking areas shall be drained so as to prevent any increase in drainage to abutting properties and shall be constructed of hard surfaced paving materials.
  - c. Any lighting fixtures used to illuminate any off-street parking area shall be so installed as to divert the light away from any adjoining premises and public streets, and no source of light shall be observable beyond the lot lines of the property upon which it is located.
  - d. Any off-street parking area providing space for five or more vehicles shall be located at least 20 feet from the street and be effectively screened on any side which adjoins or faces property adjoining a residential lot or institution by a berm, wall, fence, or compact evergreen planting not less than four feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
  - e. All off-street parking areas, except in the CBD district, that make it necessary for vehicles to back out directly onto a public street are prohibited, except for single-family and duplex residential driveways.
  - f. Combined parking facilities are allowed when two or more uses occur on one property or when a building

on one property contains two or more uses, provided that the permanent allocation of the required number of parking spaces shall be the sum of the requirements for all the uses computed in accordance with this chapter. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except churches.

- (6) For the purpose of determining off-street parking requirements, the following units of measurement shall apply:
- a. *Floor area.* In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the total floor area, except that such floor area need not include any area used for incidental service, storage installations of mechanical equipment, penthouses, housing ventilators and heating systems, and similar uses.
  - b. *Places of assembly.* In stadiums, sport arenas, churches and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities; each 18 inches of such seating facilities shall be counted as one seat. In cases where a place of assembly has open assembly area, requirements shall be on the basis of one seat being equal to three square feet.

(Code 2009, § 48-780; Ord. No. 142, § 20.02, 2-6-1990)

#### Sec. 46-852. - Use of parking areas.

No commercial repair work, servicing or selling of any kind shall be conducted on any required parking area except that which is specifically permitted by this chapter. No items such as plastic animals, steamers, cloth signs, children's play areas, mechanical entertainment devices, or any other similar device shall be permitted in the parking area or outside a building.

(Code 2009, § 48-781; Ord. No. 142, § 20.03, 2-6-1990)

#### Sec. 46-853. - Off-street parking space requirements.

The minimum required off-street parking spaces are set forth as follows:

| <i>Use</i>  | <i>Parking Space Requirements</i>  |
|---|--|
| Automobile or machinery sales and service garages   | 1 space for each 200 square feet of showroom floor area, plus 2 spaces for each service bay, plus 1 space for each employee working during maximum employment hours. |
| Banks, businesses and professional offices  | 2 spaces for each 200 square feet of floor area, plus 1 space for each employee during maximum employment hours.   |
| Barbershops and beauty parlors  | 2 spaces for each chair, plus 1 space for each employee working during maximum employment hours.   |
| Tourist, boardinghouses, lodginghouses and bed and breakfast homes                                      | 1 space for each bed.  |
| Bowling alleys and commercial recreation facilities   | 5 spaces for each alley, plus 1 space for each employee working during maximum employment hours.   |
| Churches, auditoriums, stadiums, sports arenas, theaters, dancehalls, assembly halls other than schools | 1 space for each 3 seats, or for each 3 persons permitted in such buildings or as required by the state fire marshal.  |
| Clinics   | 4 spaces for each doctor, plus 1 space for each employee working during maximum employment hours.  |

|   |   |
|---|---|
| Convalescent homes or nursing homes, orphanages or similar uses                     | 1 space for each 2 beds, plus 1 space for each employee, including nurses, working during maximum employment hours.   |
| Drive-in banks, cleaners and similar businesses                                     | 5 spaces, plus 1 space for each employee working during maximum employment hours.   |
| Drive-in eating establishments without inside seating.                              | 10 spaces, plus 1 space for each 20 square feet of floor area and 1 space for each employee working during maximum employment hours.  |
| Dwellings (single- and two-family duplexes)   | 2 spaces for each family dwelling unit.   |
| Dwelling (multiple-family) and mobile home parks                                    | 1½ spaces per dwelling unit, except for duplexes, plus 1 additional space for each 4 dwelling units and 1 space for each employee working during maximum employment hours.  |
| Funeral homes and mortuaries  | 4 spaces for each slumber room or 1 space for each 50 square feet of gross floor area, whichever is greater, plus 1 space for each fleet vehicle and 1 space for each employee working during maximum employment hours. |
| Furniture, appliance stores, household equipment and furniture repair shops         | 1 space for each 400 square feet of floor area, plus 1 space for each employee working during maximum employment hours.   |
| Gasoline filling stations and service stations, commercial garages                  | 1 space for each repair and service stall, plus 1 space for each employee working during maximum employment hours.  |
| Office buildings  | 1 space for each 400 square feet of gross floor area, plus 1 space for each employee working during maximum employment hours.   |
| Hospitals   | 1 space for each bed, plus 1 space for each employee working during maximum employment hours.   |
| Hotels and motels   | 1 space for each living unit, plus 1 space for each employee working during maximum employment hours.   |
| Libraries, museums, post offices  | 1 space for each 800 square feet of floor area, plus 1 space for each employee working during maximum employment hours.   |
| Manufacturing, fabricating, processing and bottling plants                          | 1 space for each employee working during maximum employment hours.  |
| Marinas and waterfront developments   | 1 space per boat slip or 1 space per 150 square feet of floor area in buildings and structures.   |
| Restaurants, beer parlors, taverns, cocktail lounges, night clubs and private clubs | 1 space for each 4 customer seats, plus 1 space for each employee working during maximum employment hours.  |
| Retail stores   | 1 space for each 150 square feet of floor area, plus 1 space for each employee working during maximum employment hours.   |
| Roadside stands   | 5 spaces, plus 1 space for each 25 square feet of floor area.   |
| Schools; private or public elementary and junior high schools                       | 1 space for each employee working during the maximum employment hours in the building and on the grounds, plus 1 space for each 30 students of maximum enrollment capacity.   |
| Senior high schools and institutions of higher learning, private or public          | 1 space for each employee plus 1 space for each 5 students, plus the parking requirements for an auditorium, a gymnasium and an athletic field if they are included.  |
| Self-service laundry or dry cleaning stores   | 1 space for each 2 washing and dry cleaning machines plus 1 space for each employee working during maximum employment hours.  |
| Supermarkets, self-service food and discount stores                                 | 2 spaces for each 200 square feet of floor area, plus 1 space for each employee working during maximum employment hours.  |



|   |   |
|---|---|
| Wholesale establishments and warehouses | 1 space for each 400 square feet of floor area, plus 1 space for each employee working during maximum hours.  |
| Child day care centers                  | Total number of parking spaces shall be equal to at least 50 percent of the maximum planned student capacity. If a use is not specifically listed, the parking requirements of a similar or related use shall apply as determined by the zoning board of appeals. |

(Code 2009, § 48-782; Ord. No. 142, § 20.04, 2-6-1990; Ord. No. 142G, § 13, 10-15-1996)

Sec. 46-854. - Off-street loading and unloading requirements.

In connection with every use, in the C-1, C-2 and I zoning districts there shall be provided on the same lot with such buildings, off-street loading and unloading spaces for permitted or special uses which customarily receive or distribute material or merchandise or provide services by vehicle as follows:

- (1) Plans and specifications showing required loading and unloading spaces, including the means of ingress and egress and interior circulation, shall be submitted to the zoning administrator for review at the time of application for a zoning permit for the establishment or enlargement of a use of land, building or structure.
- (2) Each off-street loading-unloading space shall not be less than ten feet in width, 80 feet in length, and, if a roofed space, be not less than 15 feet in height.
- (3) A loading-unloading space may occupy all or any part of any required side or rear yard, except the side yard adjacent to a public street in the case of a corner lot. No part of a required front yard may be occupied by a loading space.
- (4) A loading-unloading space shall not be located closer than 50 feet to any residential lot or parcel unless wholly within a completely enclosed building, or unless enclosed on all sides by a berm, wall, fence, or compact planting not less than six feet in height.
- (5) When two or more uses are located on a lot or parcel, the total requirements for off-street loading-unloading facilities shall be the sum of all the uses computed separately.
- (6) All off-street loading-unloading facilities that make it necessary to back out directly into a public street shall be prohibited.
- (7) Off-street loading spaces and access drives shall be hard surface paved, drained, lighted and shall have appropriate bumper or wheel guards where needed.
- (8) All lights used for illumination shall be so arranged as to reflect the light away from the adjoining premises and streets, and no light source shall be visible beyond the property lines of a lot or parcel upon which they are located.
- (9) Off-street loading-unloading requirements for motels, hospitals, funeral homes and mortuaries, public assembly structures, offices, retail, wholesale, industrial or other uses similarly involving the receipt or distribution by trucks, having over 5,000 square feet of gross floor area, shall be provided with at least one off-street loading-unloading space, and for every additional 20,000 square feet of gross floor space or fraction thereof shall provide one additional loading-unloading space.
- (10) If a use is not specifically listed, the requirements of a similar or related use shall apply, as determined by the zoning board of appeals.

(Code 2009, § 48-783; Ord. No. 142, § 20.05, 2-6-1990)

Secs. 46-855—46-871. - Reserved.

## ARTICLE VIII. - SIGNS

### *Footnotes:*

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**State Law reference—** *Highway advertising act, MCL 252.301 et seq.*

Sec. 46-872. - Purpose.

- (a) The purpose of this article is to regulate on-site signs and outdoor advertising so as to protect the health, safety and general welfare, to protect property values, and to protect the character of the various neighborhoods and the city generally.
- (b) The principal features are the restriction of advertising to the use of the premises on which the sign is located and the restrictions of the total sign area permissible per site. Any sign placed on land or on a building for the purpose of identification or for advertising a use conducted on the premises shall be deemed an accessory use. It is intended that the display of signs will be appropriate to the land, building, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification or advertisement. With respect to signs advertising business uses, it is specifically intended, among other things, to avoid excessive competition and clutter among sign displays. Outdoor advertising signs (billboards), which advertise products or businesses not connected with the site or building on which they are located, are deemed to constitute a principal use of a lot.

(Code 2009, § 48-805; Ord. No. 142, § 21.01, 2-6-1990)

Sec. 46-873. - Definitions.

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

*Abandoned sign* means a sign which no longer advertises or identifies a business, lessor, owner, or activity conducted upon or product available on the premises where such sign is displayed.

*Billboard.* See *Outdoor advertising sign*.

*Business district or shopping center* means a group of two or more stores, offices, research or manufacturing facilities which collectively have a name different than the name of any of the individual establishments and which have common off-street parking and entrance facilities.

*Canopy or marquee sign* means any sign attached to or constructed within or on a canopy or marquee.

*District* means zoning district as established by this chapter.

*Freestanding sign* means a sign supported by a structure independent of any other structure.

*Height of sign* means the vertical distance to the top edge of the copy area or structure, whichever is higher, as measured from the adjacent street grade.

*Identification sign* means a sign which carries only the name of the firm, the major enterprise, of the principal product or service offered for sale on the premises or a combination of these things only to identify location of said premises and not to advertise. Such signs shall be located only on the premises on which the firm or major enterprise is situated, or on which the principal product is offered for sale.

*Off-site sign (off-premises sign)* means a sign other than an on-site sign.

*On-site sign (on-premises sign)* means a sign on which advertiser identifies only goods, services, facilities, events, or attractions on the premises where located.

*Outdoor advertising sign.* See section 46-8.

*Portable sign* means any sign not permanently attached to the ground or a building.

*Sign.* See section 46-8.

*Temporary sign* means a sign that is intended to be displayed for a limited period of time.

*Wall sign* means a sign attached to or erected against the wall of a building with the face in a plane parallel to the plane of the building wall.

*Window sign* means a sign installed on or in a window for purposes of viewing from outside the premises. This term does not include merchandise located in a window.

(Code 2009, § 48-806; Ord. No. 142, § 21.02, 2-6-1990)

#### Sec. 46-874. - General sign regulations.

The following regulations shall apply to all signs in the city:

- (1) *Illuminated signs.*
  - a. In CR, RA, R-1, R-2, R-2A, R-3, R-4, PO and WF zoning districts, only indirectly illuminated signs shall be allowed, provided such sign is so shielded as to prevent direct light rays from the source of light being visible from the public right-of-way or any adjacent residential property.
  - b. In C-1, C-2 and I districts indirectly or internally illuminated signs are permitted providing such signs are so shielded as to prevent direct light rays from the source of light from being visible from the public right-of-way or any adjacent residential property.
  - c. In the CBD district, internally illuminated signs shall not be permitted.
- (2) *Measurement of sign area.* The area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing copy or display materials shall not be included in computation of sign area. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign.
- (3) *Height of signs.* No freestanding sign shall exceed the height of the principal structure or not more than 15 feet, whichever is greater.
- (4) *Setback requirements for signs.* Except where specified otherwise in this chapter, all signs shall be set back a

minimum of one-half the front yard requirements as measured from the street right-of-way line.

(Code 2009, § 48-807; Ord. No. 142, § 21.03, 2-6-1990; Ord. No. 142L, 6-15-1999)

Sec. 46-875. - Signs permitted in all districts.

Subject to the other conditions of this chapter, the following signs shall be permitted anywhere within the city:

- (1) Off-premises signs which bear names, information and emblems of service clubs, places of worship, civic organizations, and quasi-public uses shall be permitted on private property with permission of the planning commission. Each sign shall be no more than nine square feet in area, shall not exceed a height of eight feet, and shall be set back a minimum of ten feet from the street right-of-way line.
- (2) Signs which direct traffic movement onto or within a property and which do not contain any advertising copy or logo, and which do not exceed nine square feet in area for each sign. Horizontal directional signs, on and flush with paved areas may exceed nine square feet. A directional sign shall be located on the lot or parcel behind the street right-of-way line.
- (3) One church announcement bulletin shall be permitted on any site which contains a church regardless of the district in which located, provided said bulletin does not exceed 25 square feet in area and a height of six feet, and is set back a minimum of ten feet from the street right-of-way line.
- (4) The city may permit tourist-oriented directional signs as defined by section 1 of Public Act No. 299 of 1996 (MCL 247.401) within its jurisdictional boundaries as provided by and pursuant to section 3(7) of Public Act No. 299 of 1996 (MCL 247.403(7)).
  - a. An operator of a tourist-oriented activity who wishes to participate in a directional sign program under Public Act No. 299 of 1996 (MCL 247.401 et seq.), and is applying for a sign that would reside within the boundaries of the city in accordance with the provisions of section 2 of Public Act No. 299 of 1996 (MCL 247.402) shall submit the application for review by the city commission or its designee.
  - b. The city commission or its designee may approve or reject the placement of any tourist-oriented directional sign within its jurisdictional boundaries under the provisions of this chapter.
  - c. The city commission may appoint a designee by resolution to approve or reject the placement of any tourist-oriented directional sign within its jurisdictional boundaries under the provisions of this chapter.
  - d. Any person violating any of the provisions of this chapter, or who installs or causes to be installed a tourist-oriented directional sign without the approval of both the state department of transportation and the city commission, shall be guilty of a municipal civil infraction, punishable by a civil fine of not more than \$100.00, plus costs, and if applicable, damages and expenses as provided by law. A municipal civil infraction action brought for any violation of this chapter shall follow the procedures set forth in Public Act No. 12 of 1994 (MCL 600.8701 et seq.), and a defendant charged with a municipal civil infraction violation shall have all of the rights, duties, responsibilities and obligations set forth therein.

(Code 2009, § 48-808; Ord. No. 142, § 21.04, 2-6-1990; Ord. No. 197, 7-5-2005)

Sec. 46-876. - Prohibited signs.

- (a) *Miscellaneous signs and posters.* Tacking, pasting, or otherwise affixing of signs or posters visible from a public way except "no trespassing," "no hunting," "beware of animal" warning or danger signs, and other legal postings as required by law, located on the walls of buildings, barns, sheds, on trees, poles, posts, or fences is prohibited

and shall be removed.

- (b) *Banners.* Pennants, banners, searchlights, twirling signs, sandwich board signs, sidewalk or curb signs, balloons, or other gas-filled figures are prohibited except as provided in section 46-880.
- (c) *Swinging signs.* Signs which swing or otherwise noticeably move as a result of wind pressure because of the manner of suspension or attachment are prohibited.
- (d) *Moving signs.* Except as otherwise provided in this article, no sign or any portion thereof which moves or assumes any motion constituting a nonstationary or nonfixed condition shall be permitted.
- (e) *Abandoned signs.* Signs that advertise an activity, business, product or service no longer conducted or available on the premises on which the sign is located shall be prohibited and removed.
- (f) *Unclassified signs.* The following signs are prohibited:
  - (1) Signs which imitate an official traffic sign or signal which contains the words "stop," "slow," "caution," "danger," "warning," or similar words, except as otherwise provided in this article.
  - (2) Signs which are of a size, location, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal or which obstructs the view in any direction at a street intersection.
  - (3) Signs which contain statements, words or pictures of an obscene, pornographic or immoral character.
- (g) *Protruding or suspended signs.* Signs shall not be permitted which extend at any angle by a suspension from any building wall, except in the CBD district, according to the requirements of section 46-879.
- (h) *Outdoor advertising or billboard signs.* Outdoor advertising or billboard signs shall not be permitted.

(Code 2009, § 48-809; Ord. No. 142, § 21.05, 2-6-1990; Ord. No. 142L, 6-15-1999)

Sec. 46-877. - Permitted signs in CR, RA, R-1, R-2, R-2A, R-3, R-4, PO and WF districts.

- (a) This section applies to the CR, RA, R-1, R-2, R-2A, R-3, R-4, PO and WF districts. One identification sign shall be permitted for each public street frontage, for a subdivision, multiple-family building development, mobile home park and each PO business. Each sign shall not exceed 25 square feet in area. One additional sign advertising "For Rent" or "Vacancy" may be placed on each public street frontage of a rental residential development provided that such sign shall not exceed nine square feet in area and is incorporated into the identification sign. Each sign shall be located behind the right-of-way line of any public street.
- (b) One identification sign shall be permitted for each public street frontage for a vehicle entrance for a school, church, public building, or other authorized use or lawful nonconforming use, except home occupations. Each sign shall not exceed 25 square feet in area eight feet in height.

(Code 2009, § 48-810; Ord. No. 142, § 21.06, 2-6-1990)

Sec. 46-878. - Permitted signs in C-1, C-2 and I districts.

This section applies to the C-1, C-2 and I districts. On-site canopy or marquee signs, wall signs, and freestanding signs are allowed, subject to the following:

- (1) Signs permitted for single buildings on developed lots or group of lots developed as one lot, not in a shopping center, not subject to subsection (2) of this section, are subject to the following:
  - a. Each developed lot or parcel shall be permitted at least 80 square feet of sign area for all exterior on-site

signs. The area of exterior on-site signs permitted for each lot or parcel shall be determined as two square feet of sign area for each one linear foot of building length which faces on a public street. The maximum area for all exterior on-site signs for each developed lot or parcel shall be 200 square feet. No freestanding identification sign shall exceed 100 square feet in area. No exterior wall sign for businesses without ground floor frontage shall exceed 24 square feet in area.

- b. Each developed lot or parcel shall be permitted two exterior on-site signs. For every developed lot or parcel which is located at the intersection of two collector or arterial streets or highways as classified in the master plan three exterior on-site signs shall be permitted. Only one freestanding identification sign shall be permitted on any single fronting street. All businesses without ground floor frontage shall be permitted one combined exterior wall sign, in addition to the number of signs allocated to the developed lot or parcel. The total area of all exterior signs shall not exceed the total sign area permitted in subsection (1)a of this section.
  - c. Each sign shall pertain exclusively to the name and type of business carried on within the building.
  - d. All signs shall not exceed 20 percent of the wall space upon which the sign is located.
- (2) Signs permitted for a shopping center or other integrated group of stores; commercial buildings, office buildings or industrial buildings not subject to subsection (1) of this section are subject to the following:
- a. Each shopping center or commercial district shall be permitted one freestanding identification sign for each collector or arterial street or highway, as classified in the "master plan" that it faces. Each sign shall state only the name of the shopping center and major tenants located therein. The sign area shall be determined as one square foot for each one linear foot of building which faces one public street. The maximum area for each freestanding sign shall be 200 square feet. Tenants of shopping center shall not permit individual freestanding identification signs.
  - b. Each business in a shopping or commercial district with ground floor frontage shall be permitted one exterior wall sign. The area for such an exterior wall sign shall be computed as one square foot for each one linear foot of building frontage occupied by the business. All businesses without ground floor frontage shall be permitted one combined exterior wall sign not more than 25 square feet in area. Each sign shall pertain exclusively to the name and type of business carried on within the building.
- (3) Window signs shall be permitted and shall not be included in total sign area computation if said signs do not occupy more than 25 percent of the total window area of the floor level on which displayed or exceeds a total of 200 square feet for any one building. If window signs occupy more than 25 percent of said window area or exceed a total of 200 square feet for any one building, they shall be treated as exterior signs and shall conform to subsections (1)a and (2)b of this section.
- (4) A time and temperature sign shall be permitted in addition to the above conditions, provided that ownership identification or advertising copy does not exceed ten percent of the total sign area and further provided that the total area of the sign does not exceed 30 square feet.
- (5) In addition to the provisions of subsections (1) and (2) of this section, an automobile service station may have one additional sign for each public street or highway frontage for a vehicle entrance, for the purpose of advertising gasoline prices and other services provided on the premises. Said sign shall be mounted on a freestanding structure or on the structure of another permitted sign, provided that clear views of street traffic by motorists or pedestrians are not obstructed in any way. Said sign shall not exceed 12 square feet in area and shall not advertise the brand name of gasoline or other materials sold on the premises.

(Code 2009, § 48-811; Ord. No. 142, § 21.07, 2-6-1990)

Sec. 46-879. - Permitted signs in the CBD district.

Signs within the CBD district shall be subject to the following:

- (1) Each developed lot or parcel shall be permitted 64 square feet of freestanding sign area, not to exceed 32 square feet per side.
- (2) Each developed lot or parcel shall be permitted up to 100 square feet of wall sign area. The area of wall signs permitted for each lot or parcel shall be determined as two square feet of sign area for each one linear foot of building length which faces on a public street.
- (3) Window signs shall be permitted and shall not be included in the total sign area computation if said signs do not occupy more than 25 percent of the total window area on each floor level.
- (4) Each developed lot or parcel shall be permitted one protruding or suspended sign. The surface area of a protruding or suspended sign shall not exceed 20 square feet on each side or a total of 40 square feet. The total square feet of signage (both sides) shall be subtracted from the total allowable wall signage. The bottom of the protruding or suspended sign shall be a minimum of ten feet above the surface of the sidewalk or ground areas, or otherwise be located so as not to interfere with pedestrian traffic.
- (5) Only those businesses with direct pedestrian access from the public right-of-way shall be permitted to have a portable sign. A sign may be located on the sidewalk in the public right-of-way either in front of or adjacent to the business it is intended to advertise. A portable sign shall not exceed nine square feet per side or a total of 18 square feet. The height shall not exceed 4½ feet. If the portable sign is located on the public sidewalk, a minimum of five feet of unobstructed pedestrian access shall be maintained. Sufficient room shall also be provided to allow car doors to open. Flashing portable signs are prohibited.

(Code 2009, § 48-812; Ord. No. 142, § 21.07.01, 2-6-1990; Ord. No. 142L, 6-15-1999)

Sec. 46-880. - Temporary signs.

On-site temporary exterior signs may be erected in accordance with the regulations of this article.

- (1) In all districts, one sign for each public street frontage advertising a recorded subdivision or development shall be permitted. Each sign not to exceed 25 square feet in area. Each sign shall be removed within one year after the sale of 70 percent of all lots or units within said subdivision or development.
- (2) In MFR districts, one sign on each public street frontage of a new multiple-family development advertising the new dwelling units for rent or sale, not to exceed 25 square feet in area shall be permitted. Each sign shall be removed within 60 days of the initial rental or sale of 70 percent of the dwelling units within the development.
- (3) One identification sign shall be permitted for all building contractors, one for all professional design firms and one for all lending institutions on sites under construction, each sign not to exceed nine square feet in area, with not more than a total of three such signs permitted on one site. If all building contractors, professional design firms and lending institutions combine together in one identification sign, such sign shall not exceed 25 square feet in area with not more than one sign permitted on one site. Signs shall have a

maximum height of ten feet and shall be confined to the site of the construction, construction shed or construction trailer and shall be removed within 14 days after final inspection of the development by the zoning administrator.

- (4) Temporary real estate direction signs, not exceeding three square feet in area and four in number, showing a directional arrow and placed back of the street right-of-way line, shall be permitted on approach routes to an open house. Signs shall not exceed three feet in height.
- (5) Temporary signs announcing any annual or semiannual public, charitable, educational or religious event or function, located entirely within the premises on which the event or function is to occur, shall be permitted. Maximum sign area shall not exceed 25 square feet. Signs shall be allowed no more than 21 days prior to the event or function. If building mounted, signs shall be flat wall signs and shall not exceed six feet in height. Signs shall be set back in accordance with section 46-874.
- (6) In CBD, CR, RA, R-1, R-2A, R-3, R-4, PO and WF districts, one temporary real estate "For Sale," "For Rent" or "For Lease" sign, located on the property and not exceeding nine square feet in area shall be permitted. In the C-1 and I districts, one sign of this type shall be permitted, provided it does not exceed 25 square feet in area and is set back in accordance with section 46-874. If the lot or parcel has multiple street frontage, one additional sign not exceeding nine square feet in area in the CR, RA, R-1, R-2A, R-3, R-4, PO and WF district and 25 square feet in area in the C-1, C-2 and I districts is permitted. Under no circumstances shall more than two such signs be permitted on a lot or parcel. Such signs shall be removed within seven days following the sale, rent or lease. In no case, shall a sign list the sale, rent or lease of a building which is not located on the property on which the sign is located.
- (7) Banners, pennants, searchlights, balloons, or other gas-filled figures are permitted in C-1, C-2 and I districts for a period not to exceed 30 consecutive days. Such signs and objects shall not obstruct pedestrian or vehicular view.

(Code 2009, § 48-813; Ord. No. 142, § 21.08, 2-6-1990; Ord. No. 142L, 6-15-1999)

#### Sec. 46-881. - Exempted signs.

The following types of signs are exempted from all provisions of this chapter, except for construction and safety regulations and the following standards:

- (1) Signs of a noncommercial nature and in the public interest, erected by, or on the order of a public officer, in the performance of a public duty, such as directional signs, regulatory signs, warning signs, and informational signs.
- (2) Political campaign signs announcing candidates seeking public political office and other data pertinent thereto, except as prohibited in section 46-876, providing that these signs shall be removed within seven days after the date of the election for which they were posted, and shall not exceed nine square feet in area.
- (3) Names of brands, manufacturer's labels and logos, date of erection, monument citations, commemorative tablets, and the like, when carved into stone, concrete, metal or similar material or made of other permanent type construction and made an integral part of the structure.

(Code 2009, § 48-814; Ord. No. 142, § 21.09, 2-6-1990)

#### Sec. 46-882. - Nonconforming signs.



Nonconforming signs shall not be reestablished after the activity, business, or usage to which it relates has been discontinued for 90 days or longer as determined by the zoning administrator.

(Code 2009, § 48-815; Ord. No. 142, § 21.10, 2-6-1990)

Sec. 46-883. - Permits and fees.

- (a) Application for a permit to erect or replace a sign shall be made by the owner of the property, or his authorized agent, to the zoning administrator, by submitting the required forms, fees, exhibits and information. Fees for sign permits for all signs erected pursuant to sections 46-877, 46-878 and 46-881 shall be established by resolution of the city commission.
- (b) An application for a sign permit shall contain the following information:
  - (1) The owner's and applicant's name and address in full.
  - (2) If the applicant is other than the property owner, the signature of the property owner concurring in a submittal of said application is required.
  - (3) The address of the property.
  - (4) An accurate scale drawing at one inch equals 50 feet of the property showing location of all buildings and structures and their uses, and location of the proposed sign.
  - (5) A complete description and scale drawings of the sign, including all dimensions and the area in square feet.
- (c) All proposed sign locations or relocations shall be inspected on the site by the zoning administrator for conformance to this chapter prior to placement on the site foundations and shall be inspected by the zoning administrator on the site prior to pouring of the concrete for the sign support structure.
- (d) A zoning permit for a sign shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit. Said permit may be extended for a period of 30 days upon request by the applicant and approval of the planning commission.
- (e) Painting, repainting, cleaning and other normal maintenance and repair of a sign structure, unless a structural or size change is made, shall not require a sign permit.

(Code 2009, § 48-816; Ord. No. 142, § 21.11, 2-6-1990; Ord. No. 142G, § 8, 10-15-1996)

Sec. 46-884. - Removal of signs.

Signs erected or maintained in violation of this chapter shall be removed within 15 days of notification of violation by the zoning administrator.

(Code 2009, § 48-817; Ord. No. 142, § 21.12, 2-6-1990)

Secs. 46-885—46-901. - Reserved.

ARTICLE IX. - WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

Sec. 46-902. - Purpose.

- (a) The purpose of this article is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this article are to:
- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
  - (2) Encourage the location of towers in nonresidential areas;
  - (3) Minimize the total number of towers throughout the community;
  - (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
  - (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
  - (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;
  - (7) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;
  - (8) Consider the public health and safety of communication towers; and
  - (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- (b) In furtherance of these goals, the city shall give due consideration to the city's master plan, zoning map, existing land uses and environmentally sensitive areas in approving sites for the location of towers and antennas.

(Code 2009, § 48-843; Ord. No. 142, § 26.01, 2-6-1990; Ord. No. 160, § 1, 1-20-1998)

#### Sec. 46-903. - Definitions.

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

*Alternative tower structure* means manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

*Antenna* means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

*Backhaul network* means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers, or the public switched telephone network.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Height* means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

*Preexisting towers and preexisting antennas* means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the ordinance from which this article is derived, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term "tower" includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term "tower" includes the structure and any support thereto.

(Code 2009, § 48-844; Ord. No. 142, § 26.02, 2-6-1990; Ord. No. 160, § 2, 1-20-1998)

Sec. 46-904. - Applicability.

- (a) *New towers and antennas.* All new towers or antennas in the city shall be subject to these regulations, except as provided in subsections (b) through (d) of this section, inclusive.
- (b) *Amateur radio station operators/receive only antennas.* This article shall not govern any tower or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.
- (c) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this article, other than the requirements of sections 46-905(f) and (g).
- (d) *AM array.* For purposes of implementing this article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(Code 2009, § 48-845; Ord. No. 142, § 26.03, 2-6-1990; Ord. No. 160, § 3, 1-20-1998)

Sec. 46-905. - General requirements.

- (a) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (b) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot-coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (c) *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the zoning administrator an inventory of its existing towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the city or within one mile of the border thereof, including specific information about the location, height and design of each tower. The zoning administrator may share such information with other applicants applying for administrative approvals or special use permits under this article or other organizations seeking to locate antennas within the jurisdiction of the city; provided, however, that the zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (d) *Aesthetics.* Towers and antennas shall meet the following requirements:
  - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials,

colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (e) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (f) *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (g) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (h) *Measurement.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the city, irrespective of municipal and county jurisdictional boundaries.
- (i) *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this article and shall not be regulated or permitted as essential services, public utilities or private utilities.
- (j) *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the city have been obtained and shall file a copy of all required franchises with the zoning administrator.
- (k) *Public notice.* For purposes of this article, any special use request, variance request or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in section 46-908(b)(5)b, table 2, in addition to any notice otherwise required by this chapter.
- (l) *Signs.* No signs shall be allowed on an antenna or tower.
- (m) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of section 46-909.
- (n) *Multiple antenna/tower plan.* The city encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall

be given priority in the review process.

(Code 2009, § 48-846; Ord. No. 142, § 26.04, 2-6-1990; Ord. No. 160, § 4, 1-20-1998)

Sec. 46-906. - Permitted uses.

- (a) *General.* The uses listed in this section are deemed to be permitted uses and shall not require administrative approval or a special use permit.
- (b) *Permitted uses.* The following uses are specifically permitted: antennas or towers located on property owned, leased or otherwise controlled by the city, provided a license or lease authorizing such antenna or tower has been approved by the city.

(Code 2009, § 48-847; Ord. No. 142, § 26.05, 2-6-1990; Ord. No. 160, § 5, 1-20-1998)

Sec. 46-907. - Administratively approved uses.

- (a) *General.* The following provisions shall govern the issuance of administrative approvals for towers and antennas:
  - (1) The zoning administrator may administratively approve the uses listed in this section.
  - (2) Each applicant for administrative approval shall apply to the zoning administrator providing the information set forth in section 46-908(b)(1) and (b)(3) and a nonrefundable fee as established by resolution of the city commission to reimburse the city for the costs of reviewing the application.
  - (3) The zoning administrator shall review the application for administrative approval and determine if the proposed use complies with sections 46-905 and 46-908(b)(4) and (b)(5).
  - (4) The zoning administrator shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the zoning administrator fails to respond to the applicant within said 60 days, then the application shall be deemed to be approved.
  - (5) In connection with any such administrative approval, the zoning administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in section 46-908(b)(4) or separation distances between towers in section 46-908(b)(5) by up to 50 percent.
  - (6) In connection with any such administrative approval, the zoning administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
  - (7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to section 46-908 prior to filing any appeal that may be available under this chapter.

- (b) *List of administratively approved uses.* The following uses may be approved by the zoning administrator after conducting an administrative review:

- (1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zoning district.
- (2) Locating antennas on existing structures or towers consistent with the terms of subsections (b)(2)a and b of this section as follows:
  - a. *Antennas on existing structures.* Any antenna which is not attached to a tower may be approved by the zoning administrator as an accessory use to any commercial, industrial, professional, institutional or multifamily structure of eight or more dwelling units, provided:

1. The antenna does not extend more than 30 feet above the highest point of the structure;
  2. The antenna complies with all applicable FCC and FAA regulations; and
  3. The antenna complies with all applicable building codes.
- b. *Antennas on existing towers.* An antenna which is attached to an existing tower may be approved by the zoning administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
1. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the zoning administrator allows reconstruction as a monopole.
  2. Height.
    - (i) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.
    - (ii) The height change referred to in subsection (b)(2)b.2(i) of this section may only occur one time per communication tower.
    - (iii) The additional height referred to in subsection (b)(2)b.2(i) of this section shall not require an additional distance separation as set forth in section 46-908. The tower's premodification height shall be used to calculate such distance separations.
  3. On-site location.
    - (i) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on site within 50 feet of its existing location.
    - (ii) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
    - (iii) A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to section 46-908(b)(5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of section 46-908(b)(5).
    - (iv) The on-site relocation of a tower which comes within the separation distances to residential units or residentially-zoned lands as established in section 46-908(b)(5) shall only be permitted when approved by the zoning administrator.
- (3) New towers in nonresidential zoning districts. Locating any new tower in a nonresidential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the zoning administrator concludes the tower is in conformity with the goals set forth in section 46-902 and the requirements of section 46-905; the tower meets the setback requirements in section 46-908(b)(4) and separation distances in section 46-908(b)(5); and the tower meets the following height and usage criteria:
- a. For a single user, up to 90 feet in height;
  - b. For two users, up to 120 feet in height; and
  - c. For three or more users, up to 150 feet in height.
- (4) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in

the judgment of the zoning administrator is in conformity with the goals set forth in section 46-902.

- (5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(Code 2009, § 48-848; Ord. No. 142, § 26.06, 2-6-1990; Ord. No. 160, § 6, 1-20-1998)

Sec. 46-908. - Special use permits.

(a) *General.* The following provisions shall govern the issuance of special use permits for towers or antennas by the planning commission:

- (1) If the tower or antenna is not a permitted use under section 46-906 or permitted to be approved administratively pursuant to section 46-907, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- (2) Applications for special use permits under this section shall be subject to the procedures and requirements of article V of this chapter, except as modified in this section.
- (3) In granting a special use permit, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.
- (5) An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the city commission to reimburse the city for the costs of reviewing the application.

(b) *Towers.*

- (1) *Information required.* In addition to any information required for applications for special use permits pursuant to article V of this chapter, applicants for a special use permit for a tower shall submit the following information:
  - a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in section 46-908(b)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the zoning administrator to be necessary to assess compliance with this article.
  - b. Legal description of the parent tract and leased parcel (if applicable).
  - c. The setback distance between the proposed tower and the nearest residential unit, platted residentially-zoned properties and unplatted residentially zoned properties.
  - d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to section 46-905(c) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower and the owner/operator of the existing tower, if known.
  - e. A landscape plan showing specific landscape materials.

- f. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
  - g. A description of compliance with section 46-905(c) through (g), (j), (l) and (m), and section 46-908(b)(4) and (5) and all applicable federal, state or local laws.
  - h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  - i. Identification of the entities providing the backhaul network for the tower described in the application and other cellular sites owned or operated by the applicant in the municipality.
  - j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - k. A description of the feasible location of future towers or antennas within the city based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (2) *Factors considered in granting special use permits for towers.* In addition to any standards for consideration of special use permit applications pursuant to article V of this chapter, the planning commission shall consider the following factors in determining whether to issue a special use permit, although the planning commission may waive or reduce the burden on the applicant of one or more of these criteria if the planning commission concludes that the goals of this article are better served thereby:
- a. Height of the proposed tower;
  - b. Proximity of the tower to residential structures and residential district boundaries;
  - c. Nature of uses on adjacent and nearby properties;
  - d. Surrounding topography;
  - e. Surrounding tree coverage and foliage;
  - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - g. Proposed ingress and egress; and
  - h. Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures, as discussed in subsection (b)(3) of this section.
- (3) *Availability of suitable existing towers, other structures or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the planning commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.



- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existir structures, or the antenna on the existing towers or structures would cause interference with the applicant's antenna.
  - e. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (4) *Setbacks.* The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the planning commission may reduce the standard setback requirements if the goals of this article would be better served thereby:
- a. Towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line.
  - b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) *Separation.* The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the planning commission may reduce the standard separation requirements if the goals of this article would be better served thereby:
- a. *Separation from off-site uses/designated areas.*
    - 1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in table 1, except as otherwise provided in table 1.
    - 2. Separation requirements for towers shall comply with the minimum standards established in table 1.

| Table 1  |  |
|--|--|
| <i>Off-Site Use/Designated Area</i>  | <i>Separation Distance</i>   |
| Single-family or duplex residential units <sup>1</sup>   | 200 feet or 300 percent height of tower, whichever is greater              |
| Vacant single-family or duplex residentially-zoned land which is either platted or has preliminary subdivision plan approval which is not expired  | 200 feet or 300 percent height of tower, <sup>2</sup> whichever is greater |
| Vacant unplatted residentially-zoned lands <sup>3</sup>  | 100 feet or 100 percent height of tower, whichever is greater              |
| Existing multifamily residential units greater than duplex units   | 100 feet or 100 percent height of tower, whichever is greater              |
| Nonresidentially-zoned lands or nonresidential uses  | None; only setbacks apply  |
| <sup>1</sup> Includes modular homes and mobile homes used for living purposes.   |  |
| <sup>2</sup> Separation measured from base of tower to closest building setback line.  |  |
| <sup>3</sup> Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residentially-zoned land greater than duplex. |  |

b. *Separation distances between towers.*

1. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.
2. The separation distances (listed in linear feet) shall be as shown in table 2.

| Table 2                               |                |              |  |   |
|---------------------------------------|----------------|--------------|--|---|
| <i>Existing Towers; Types</i>         |                |              |  |   |
|                                       | <i>Lattice</i> | <i>Guyed</i> | <i>Monopole 75 Feet in Height or Greater</i> | <i>Monopole Less Than 75 Feet in Height</i> |
| Lattice                               | 5,000          | 5,000        | 1,500  | 750   |
| Guyed                                 | 5,000          | 5,000        | 1,500  | 750   |
| Monopole 75 feet in height or greater | 1,500          | 1,500        | 1,500  | 750   |
| Monopole less than 75 feet in height  | 750            | 750          | 750  | 750   |

- (6) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticlimbing device; provided, however, that the planning commission may waive such requirements as it deems appropriate.
- (7) *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the planning commission may waive such requirements if the goals of this article would be better served thereby:
  - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
  - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Code 2009, § 48-849; Ord. No. 142, § 26.07, 2-6-1990; Ord. No. 160, § 7, 1-20-1998)

Sec. 46-909. - Buildings or other equipment storage.

- (a) *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with antennas shall comply with the following:
- (1) The cabinet or structure shall not contain more than ten square feet of gross floor area or be more than three feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over ten square feet of gross floor area or three feet in height, shall be located on the ground and shall not be located on the roof of the structure.
  - (2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than five percent of the roof area.
  - (3) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- (b) *Antennas mounted on utility poles or light poles.* The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
- (1) In residential districts, the equipment cabinet or structure may be located:
    - a. In a front or side yard, provided the cabinet or structure is no greater than three feet in height or ten square feet of gross floor area and the cabinet/structure is located a minimum of 25 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42 to 48 inches and a planted height of at least 36 inches.
    - b. In a rear yard, provided the cabinet or structure is no greater than three feet in height or ten square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.
  - (2) In commercial or industrial districts, the equipment cabinet or structure shall be no greater than four feet in height or 12 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence eight feet in height or an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.
- (c) *Antennas located on towers.* The related unmanned equipment structure shall not contain more than 200 square feet of gross floor area or be more than 12 feet in height and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
- (d) *Modification of building size requirements.* The requirements of subsections (a) through (c) of this section may be modified by the zoning administrator in the case of administratively approved uses or by the planning commission in the case of uses permitted by special use to encourage collocation.

(Code 2009, § 48-850; Ord. No. 142, § 26.08, 2-6-1990; Ord. No. 160, § 8, 1-20-1998)

Sec. 46-910. - Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove

the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Code 2009, § 48-851; Ord. No. 142, § 26.09, 2-6-1990; Ord. No. 160, § 9, 1-20-1998)

Sec. 46-911. - Nonconforming uses.

- (a) *Not expansion of nonconforming use.* Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this article.
- (c) *Rebuilding damaged or destroyed nonconforming towers or antennas.* Notwithstanding section 46-910, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in section 46-908(b)(4) and (5). The type, height and location of the tower on-site shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in section 46-910.

(Code 2009, § 48-852; Ord. No. 142, § 26.10, 2-6-1990; Ord. No. 160, § 10, 1-20-1998)

Secs. 46-912—46-999. - Reserved.

## ARTICLE X. - LANDSCAPING

Sec. 46-1000. - Intent.

This section promotes the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping. Landscaping and landscaped buffers help protect and enhance land uses and the visual image of the community. They further preserve natural features, improve property values and can alleviate the impacts of noise, traffic and visual distractions. Landscaped buffers protect less intense uses from noise, lighting and other impacts associated with more intensive land uses. Specifically, the intent of these provisions is to:

- (1) Improve the appearance of off-street parking and storage areas and property abutting public rights-of-way;
- (2) Protect and preserve the appearance, character and value of the neighborhoods, which abut non-residential areas, parking lots and other potentially obtrusive uses;
- (3) Reduce soil erosion and depletion;
- (4) Increase soil water retention, thereby helping to prevent flooding, erosion and sedimentation and enhancing ground water recharge;
- (5) Remove air pollutants and reduce, eliminate or control glare, reflection and heat island effects; and

(6) Assist in directing safe and efficient traffic flow and prevent vehicular and pedestrian circulation conflicts.

(Ord. No. 264, 7-6-2021)

Sec. 46-1001. - General requirements.

These regulations apply to all new uses and the expansion of existing uses requiring site plan approval.

- (1) Landscaping shall be installed before occupancy, unless the planning commission authorizes occupancy prior to complete landscape installation, due to unforeseen weather conditions or other circumstances beyond the applicant's control. In such a case, a performance guarantee, per 46-84 of this chapter, shall be provided to ensure completion of the project as required. All landscaping shall be completed within one full growing season.
- (2) All landscaping shall be maintained after planting and regularly watered, fertilized, pruned and kept free from disease. The owner or controlling party shall be responsible for maintenance.
- (3) Diseased or dead plants shall be replaced within one growing season.
- (4) All plants shall be hardy per climatic conditions in the city.
- (5) All landscaped areas shall be mulched and those not containing trees and shrubs must be planted with ground cover. Mulch of any type is not considered groundcover, nor is it a substitute for ground cover.
- (6) The overall landscape plan shall not contain more than 25 percent of any one plant species.
- (7) Trees and shrubs shall not be placed closer than four feet to a fence, wall or property line.
- (8) For a corner lot or a lot with more than one frontage where landscaping is required, all frontages shall be landscaped.
- (9) Berms shall be designed to vary in height and shape to create a more natural appearance. An unbroken earth mound of uniform height shall be avoided. The maximum slope for a berm shall be one foot vertical to three feet horizontal, unless otherwise allowed by the planning commission.
- (10) Landscaping shall not obstruct sight distance, per 46-712 of this chapter.
- (11) Landscaping plans are subject to planning commission review and approval.
- (12) The planning commission may allow a deviation from the requirements of this section under any of the following circumstances:
  - a. Existing vegetation or topographic features make compliance with requirements unnecessary or difficult to achieve;
  - b. The application of requirements will result in a significant loss of existing vegetation, or natural or cultural features;
  - c. Modification of requirements will clearly result in a superior design that could not be otherwise achieved;
  - d. Where the distance between a building, parking area or use is more than 200 feet from a side or rear lot line, the planning commission may reduce the buffer area requirements along the applicable lot line(s) by 50 percent;
  - e. Where the required landscaping may interfere with view corridors, such as developments along water bodies, the planning commission may require planting of specific species in locations where the height or canopy will not compromise view corridors; and
  - f. Where landscaping requirements may not be necessary for community aesthetics.

- (13) The planning commission may impose conditions on landscaping as part of site plan review.
- (14) Where a development is proposed in phases, each phase shall comply with all applicable landscaping requirements.
- (15) Where landscaping requirements are based on a distance measured along a property line and result in a fractional requirement, the required landscaping for just that area shall be multiplied by the fraction. For example, when a fractional area is equal to 30 percent of the required distance the number of required plants shall be multiplied by 0.30. A fraction less than 25 percent may be disregarded.
- (16) To ensure that all landscaping is installed, as a condition of approval a letter of credit or some other performance guarantee may be required in accordance with 46-84 of this chapter.
- (17) Low impact design, such as use of native vegetation, rain gardens and vegetated swales is encouraged.

(Ord. No. 264, 7-6-2021)

Sec. 46-1002. - Buffer areas.

- (a) A buffer area may be required where any use in a business or industrial district is adjacent to residentially zoned land and where multiple-family residential land uses are adjacent to land in the R1, RA, R2A and R4 Districts.
- (b) A buffer area is not required if the qualifying adjacent zoning districts are separated by a public right-of-way.
- (c) A buffer area shall be parallel to and follow the property line tangent to the qualifying zoning district.
- (d) A buffer area shall be required even when the adjacent property is undeveloped.
- (e) Except for access drives or private streets determined by the planning commission to be necessary to provide safe access to a property, a building, structure or parking lot shall not encroach within a required buffer area.
- (f) When adjacent to a PUD containing a residential land use, a use in a non-residential or multiple-family residential district shall provide a buffer area along the property line adjacent to the residential use, in accordance with the requirements of Table 46-1002 (a). The planning commission, however, may waive or modify the required buffer if the setbacks and perimeter landscaping provided within the PUD meet the intent of subsection (a) above.
- (g) Buffer areas are required as shown in Table 46-1002 (a). Buffer types 1, 2 and 3 are described in Table 46-1002 (b).

| Table <u>46-1002</u> (a): Buffer Area Requirements by District |                  |                  | Adjacent district                       |
|--|------------------|------------------|---|
| Subject Zoning District  | R1 (Buffer Type) | RA (Buffer Type) | Residential areas in South Arm Township |
| R2A  | 3                | 3                | NA                                      |
| R4   | 3                | 3                | NA                                      |
| CBD  | 2                | 2                | NA                                      |
| C1   | 1                | 1                | NA                                      |

|        |   |   |    |
|--------|---|---|----|
| C2     | 1 | 1 | NA |
| WF     | 3 | 3 | NA |
| LI & I | 1 | 1 | 1  |
| PUD    | 2 | 2 | 1  |

(h) Table 46-1002 (b) shows landscaping requirements by buffer type:

| Table <u>46-1002</u> (b): Buffer Area Landscaping Requirements |               |  |               |
|--|---------------|--|---------------|
| Buffer Type  | Minimum Width | Minimum Requirements   | Intensity     |
| 1  | 10 feet       | 2 canopy trees, plus 1 evergreen tree or 1 ornamental tree, plus 12 shrubs, for each 50 linear feet of buffer area | Most Intense  |
| 2  | 10 feet       | 1 canopy tree, plus 1 evergreen tree or 1 ornamental tree, plus 8 shrubs, for each 50 linear feet of buffer area   | ↕             |
| 3  | 10 feet       | 1 canopy tree or 1 evergreen tree, plus 1 ornamental tree or 12 shrubs, for each 50 linear feet of buffer area     | Least Intense |

(i) *Buffer area alternatives.*

- (1) Plants may either be arranged formally, or be informally clustered for a more random, natural effect.
- (2) Berms may be constructed in a buffer area to supplement landscaping and add interest. Minimum landscaping requirements shall be reduced by 50 percent where a berm at least three feet tall is constructed for at least 85 percent of the length of the buffer area.
- (3) A screen wall or fence, located within a buffer area, may be used in lieu of some landscaping.
  - a. A screen wall or fence shall be six feet tall and constructed of architectural block, brick, wood, vinyl or textured concrete.
  - b. A screen wall or fence shall be located at least two feet from a property line.

- c. To maximize the effectiveness of screening, openings shall not exceed 20 percent of the surface of a wall or
- d. When a screen wall or fence has both a finished and unfinished side, the finished side shall face either outward from the development site or to the side most visible to the general public, as determined by the planning commission.
- e. Landscaping requirements may be reduced by 75 percent when a screen wall is constructed in a buffer area.

(j) *Minimum plant requirements.*

(1) The minimum plant size at the time of installation shall comply with Table 46-1002(c):

|                 | Table <u>46-1002(c)</u> : | Minimum Plant Size at Installation |                |
|-----------------|---------------------------|------------------------------------|----------------|
| Plant Material  | Minimum Caliper           | Minimum Height                     | Minimum Spread |
| Canopy tree     | 2.5"                      |                                    |                |
| Ornamental tree | 1-3/4"                    |                                    |                |
| Evergreen tree  |                           | 6'                                 |                |
| Shrubs          |                           |                                    | 24"            |

(2) Existing healthy and desirable trees to be preserved may satisfy the landscaping regulations of this section, as shown in Table 46-1002(d). Each credit may be applied toward fulfilling the requirements set forth in this section (i.e., one credit equal to one equivalent tree).

|                 | Table <u>46-1002 (d)</u> : | Credit for Existing Landscaping |         |
|-----------------|----------------------------|---------------------------------|---------|
| Tree Material   | Minimum Caliper            | Minimum Height                  | Credits |
| Canopy tree     | 4 to 8 inches              |                                 | 1       |
|                 | Greater than 8 inches      |                                 | 2       |
| Ornamental tree |                            | 6 to 10 feet                    | 1       |
|                 |                            | Greater than 10 feet            | 2       |
| Evergreen tree  |                            | 6 to 12 feet                    | 1       |



|  |  |                      |   |
|--|--|----------------------|---|
|  |  | Greater than 12 feet | 2 |
|--|--|----------------------|---|

(k) *Residential development.*

- (1) For each dwelling unit in a residential subdivision, land division or site condominium.
  - a. One canopy tree shall be planted between the right-of-way line and the street.
  - b. Trees shall be evenly spaced, except where site conditions warrant otherwise.
- (2) For a multiple-family development, one canopy or evergreen tree shall be provided for every 4,500 square feet of gross lot area.
- (3) In addition to the above requirements in section (j) above for a residential development abutting an arterial street, two evergreen trees and one canopy tree shall be planted within 30 feet of the right-of-way for every 50 feet of development frontage on the arterial street.
- (4) Berms may also be used to buffer lots or dwellings from an abutting arterial street. Minimum landscaping requirements shall be reduced by 50 percent where a berm at least three feet tall is constructed for at least 85 percent of the length of the street frontage.
- (5) In the R4 Zone, the planning commission may require berms, fencing or vegetative screening (or any combination thereof) along property lines for reasons including, but not limited to, protection of public safety, preservation of neighborhood character or the creation of privacy buffers for single-family zones.

(l) *Non-residential and mixed-use districts and non-residential uses in residential districts.*

- (1) For all non-residential uses in any zoning district except the CBD District, for every 100 feet of lot frontage as measured along a public right-of-way, the following front yard landscaping requirements apply.
  - a. Three canopy trees and one evergreen or two ornamental trees shall be provided.
  - b. The planning commission may allow landscaping anywhere within the front yard, except where a parking area is located along the lot frontage. In such instances landscaping shall be placed between the parking lot and the public right-of-way.
- (2) Berms may be constructed in a front yard to supplement landscaping and enhance buffering. Minimum front yard landscaping requirements shall be reduced by 50 percent where a berm at least three feet tall is constructed between a parking lot located along a street frontage and the public right-of-way. A berm may also be used to meet the screening requirement for parking lots as required in division (n) below.
- (3) For any permitted non-residential use in a residential district, the buffer Type 2 requirements, as specified in Table 46-1002(b), shall apply to all side and rear property lines.

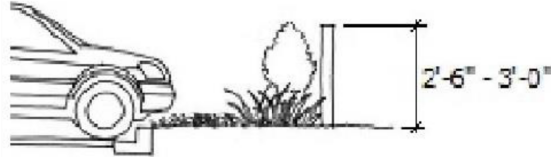
(m) *Outdoor storage areas.* Where permitted, outdoor storage areas shall be completely screened by buildings, structures or a continuous buffer at least five feet wide. The buffer area shall include:

- (1) A six-foot tall screen wall or fence along with any combination of the following to provide an effective screen, as approved by the planning commission:
  - a. Berms;
  - b. Canopy, evergreen and ornamental trees; and
  - c. Shrubs.

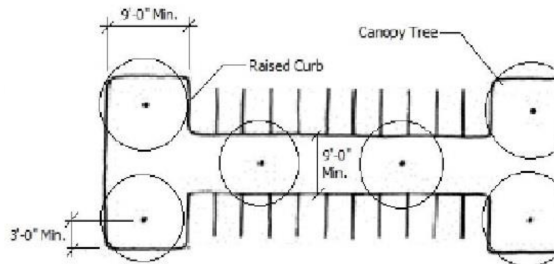
- (2) If a buffer to an adjacent zoning district is required, per Table 46-1002(a), it shall satisfy the requirements of this (m).

(n) *Parking lot landscaping.*

- (1) A parking lot containing more than ten spaces shall be screened as follows:
- Along any right-of-way or residential property line by a continuous two and one-half to three-foot tall screen; and



- The screen shall consist of landscaping, berms, a screen wall or any combination of these elements.
- (2) To provide shade and to break up the visual appearance of large paved areas, parking lots with more than ten spaces shall be landscaped based on the following requirements.
- One canopy tree for every 12 parking spaces shall be provided within a parking lot island or peninsula.



- Parking lot islands and peninsulas shall meet the following requirements:
  - All islands and peninsulas shall be protected by raised curbs; dub-downs are permitted to facilitate drainage, except in instances where the grading and drainage plan demonstrates storm water runoff can be managed without the use of raised curbs.
  - An island or peninsula shall be at least nine feet wide.
  - Islands or peninsulas may be combined for greater visual effect.
  - Trees shall be planted at least three feet from the edge of the curb or pavement.
  - Landscaping shall not obscure traffic signs, fire hydrants or sight distance within the parking lot and at driveway entrances, in accordance with 46-712 of this chapter.

(o) *Fencing, screening and walls.*

- Screening shall be required around all trash dumpsters in all zoning districts, except as may be provided elsewhere in this section.
- Solid waste dumpsters may be located in required buffers; provided, they are screened in accordance with this section (o).
- Screening shall be required even if the surrounding area or adjacent properties are not developed.
- When a property changes to a more intense land use, a special land use or when site plan approval is required, screening shall be provided in accordance with this section.
- Unless otherwise permitted in accordance with this section, a screen shall consist of a solid, sight-obscuring fence or wall that meets the following specifications:

1. Six feet tall;
  2. Enclosed on all sides and does not contain any openings other than an access gate, which shall be closed at all times when not being used. A screen around staging or loading/unloading areas may provide an opening that does not contain an access gate;
  3. Constructed of masonry, steel or other materials approved by the planning commission and must be durable, weather-resistant, rust-proof and easily maintained; and
  4. A trash dumpster enclosure and gates shall be protected by bollards or other means to prevent vehicle damage.
- b. If approved by the planning commission, a screen may consist of berms or landscaping either in combination or as a substitute for a fence or wall. It must be determined that the alternate design shall either provide the same degree, or enhanced screening as required by this section.
- (6) a. Walls must be no greater than eight feet high.
- b. Must be a minimum of two feet back from the property line.
  - c. Placement cannot interfere with pedestrian or vehicular traffic.
  - d. Walls must be maintained and kept in good condition by the property owner.
- (p) *Landscape site plan requirements.*
- (1) Proposed landscaping shall be shown on a separate drawing at the same scale as the site plan. To ensure that landscaping is not affected by, nor interferes with utilities, the plan shall indicate any existing or proposed utilities and easements.
  - (2) Planting plans shall show all landscaped areas and plants listed in a table by common and botanic name and show quantities, size at planting and anticipated mature height and spread. Anticipated mature height and spread shall be shown with circles indicating anticipated plant size at maturity.
  - (3) Text shall accompany the landscape plan, providing calculations for the proposed landscaping and describing how the plan successfully complies with the regulations of this section.
  - (4) Existing natural and human-made landscape features and proposed buildings and structures, as required for the overall site plan, shall be clearly indicated
  - (5) Contours shall be shown at intervals no greater than two feet.
  - (6) Irrigation systems shall be shown.
  - (7) All other site development plan review standards, as set forth in 46-69 through 46-85 of this chapter, shall be followed.
- (q) *Treatment of existing plant material.* The following regulations shall apply to existing plants.
- (1) *Preservation of existing plant material.* Site plans shall show all existing trees (four-inch caliper or greater) located in portions of the site that will be built upon or otherwise altered. Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan.
  - (2) *Destruction or removal of healthy trees.* In the event healthy plants that are intended to meet the requirements of this section are cut down, damaged or destroyed during construction, they shall be replaced.

(Ord. No. 264, 7-6-2021)