Chapter 52 - ZONING

Footnotes:
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Charter reference— *Zoning, § 7.11.*
Cross reference— *Any ordinance pertaining to rezoning property saved from repeal, § 1-5(a)(15); adult entertainment, § 6-121; buildings and building regulations, ch. 10; community development, ch. 16; environment, ch. 20; land divisions and subdivisions of land, ch. 24; streets, sidewalks and other public places, ch. 40; telecommunications, ch. 42; waterways, ch. 50.*
State Law reference— *Authority to regulate land use, MCL 125.581 et seq.; municipal planning, MCL 125.31 et seq.*

ARTICLE I. - IN GENERAL

Sec. 52-1. - Enactment.

This chapter continues Ordinance No. 219, adopted pursuant to Public Act No. 207 of 1921 (MCL 125.581 et seq.), for the general purpose of promoting the public health, safety and general welfare of the city. It has been designed to lessen congestion in the streets, secure safety from fire, prevent the overcrowding of land, bring about the gradual conformity of the uses of land and buildings, and minimize conflict among the uses of land and buildings, and provide adequate light and air.

(Code 1985, § 5.1)

Sec. 52-2. - 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. This provision is amended by the addition of the following definitions:

Access management (access control) means a technique to improve traffic operations along a major roadway and decrease the potential for accidents through the control of driveway locations and design; consideration of the relationship of traffic activity for properties adjacent to, and across from, one another; and the promotion of alternatives to direct access.

Access to property, reasonable means a property owner's legal right, incident to property ownership, to access a public road right-of-way. Reasonable access to property may be indirect or certain vehicle turning movements prohibited for improved safety and traffic operations.

Accessory building means any subordinate building, such as private garages and farm buildings located on the same lot with the main building, or any portion of the main building, if such portion is occupied or devoted exclusively to an accessory use. Where an accessory building is attached to a main building in a substantial manner by a wall or roof, such accessory building shall be considered part of the main building for the purpose of determining the required dimensions of yards.

Accessory dwelling unit means a space accessory to a principal residential building that is used or occupied as a wholly independent dwelling unit that is firmly attached to a permanent foundation constructed on the site in accordance with the city's building code; that complies with all plumbing, electrical, and mechanical codes; that complies with all city and/or county health department codes for water supply and sanitary sewage disposal; that complies with all pertinent building and fire codes; and that meets or exceeds all applicable roof snow load and strength requirements. Mobile homes, travel trailers, recreational vehicles, automobile chassis or tents shall not be considered accessory dwelling units. There are two types of accessory dwelling units:

(1) *Accessory cottage* shall mean an accessory structure for a dwelling unit that is detached from the principal residential building or attached garage.
(2) *Accessory apartment* shall mean a dwelling unit over an attached garage, or within or attached to the principal

residential building.

Accessory use means any use customarily incidental to the main use of the premises.

Adequate lateral support means the control of soil movement on a site as determined by accepted engineering standards.

Adjacent means touching or sharing a boundary. Adjacent does not mean contiguity for local unit boundary adjustment purposes.

Adult bookstore means an establishment that has as a substantial portion of its stock in trade and offers for sale, for any form of consideration, any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, movies, motion pictures, videocassettes, slides or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or

(2) Instruments, devices or paraphernalia designed for use as part of or in connection with specified sexual activities.

Alley means a roadway in any district that fronts a side of the parcel other than the front, especially a road between or behind buildings.

Architectural feature, significant means any building, structure, or portion thereof that is sufficiently distinctive or unusual in design or construction as to warrant the preservation and minimal alteration of its original form.

Area of the lot means the net area of the lot and shall not include portions of streets and alleys.

Arterial street means a street defined in the master plan or city's Act 51 plan as "major traffic routes" and/or as an arterial or major street by the Michigan Department of Transportation where the movement of through traffic is the primary function, with service to adjacent land uses a secondary function.

As-built plans means construction plans in accordance with all approved field changes.

Bar and tavern means any public place licensed for the sale of alcoholic liquors, having a maximum occupancy capacity of less than 100 persons and not meeting the requirements of a class I restaurant.

Berm means a mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

Buffer zone means a strip of land often required between certain zoning districts reserved for plant material, berms, walls, or fencing singularly or in combination to serve as a visual and noise barrier.

Building means any structure, either temporary or permanent, having a roof and walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any find. A building shall include tents, mobile homes, manufactured housing, storage sheds, garages, greenhouses, pole barns, semitrailers, vehicles situated on a parcel and used for the purposes of a building and similar structures. A building shall not include such structures as signs, fences, smokestacks, canopies, or overhangs but shall include structures such as storage tanks, produce silos, coal bunkers, oil-cracking towers, or similar structures.

Building envelope means the ground area of a lot which is defined by the minimum setback and spacing requirements within which construction of a principal building and any attached accessory structures (such as a garage) is permitted by this chapter. For condominium developments, the building envelope shall be illustrated on a site plan.

Building line means a horizontal line generally parallel to a front, rear, or side lot line which is located at the point of the foundation of a principal building nearest to the front, rear, or side lot line.

Building, principal means a building in which is conducted the principal uses of the lot on which such building is located.

Building, service establishment means a business which provides business-type services to patrons including, but not limited to, copy centers, postal centers, data centers and computer-repair establishments.

Cabaret means any place wherein food and any type of alcoholic liquor is sold or given away on the premises and the operator thereof holds a yearly license to sell such beverages by the glass and which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.

Caliper means the diameter of a trunk measured as follows:

(1) Existing trees are measured at four and one-half feet above the average surrounding grade; and

(2) Trees which are to be planted shall be measured 12 inches above the average surrounding grade if the tree caliper is more than four inches, or if the tree caliper is less than four inches, it shall be measured at six inches above the average surrounding grade.

Canopy tree means a deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purposes of a canopy tree are to provide shade to adjacent ground areas and to enhance aesthetics.

Certificate of zoning compliance means a document signed by the building and zoning administrator as a condition precedent to the commencement of a use or the alteration of a structure or building or the construction/reconstruction of a structure or building which acknowledges that such use, structure or building complies with the provisions of this chapter.

Colocation shall mean the location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, in an effort to reduce the overall number of structures required to support wireless communication antennas within the community.

Commercial use means an occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee for more than seven days during a calendar year.

Commercial vehicle means any vehicle bearing or required to bear commercial license plates and which falls into one or more of the categories listed below:

(1) Truck tractor.

(2) Semitrailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures.

(3) Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending supply or delivery trucks. This category shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction oriented contractors.

(4) Tow trucks.

(5) Commercial hauling trucks.

(6) Vehicle repair service trucks.

(7) Snow plowing trucks.

(8) Any other vehicle with a commercial license plate having a gross vehicle weight in excess of 10,000 pounds or a total length in excess of 22 feet.

Common elements means the portions of the condominium project other than the condominium units are defined as follows:

(1) General common elements means and includes:

a. The land in the condominium project.

b. The foundations, main walls, roofs, halls, lobbies, stairways entrances, exits, or communication ways.

c. The basements, flat roofs, yards and gardens, except as otherwise provided or stipulated.

d. The premises for the use of janitors or persons in charge of the condominium project, including lodging, except as o provided or stipulated.

e. The compartments or installations of central services such as heating, power, light, gas, cold and hot water, refrigeration, air-conditioning, reservoirs, water tanks, and pumps and the like.

f. The elevators, incinerators and, in general, all devices or installations existing for common use.

g. All other elements of the condominium project owned in common and intended for common use or necessary to the existence, upkeep and safety of the project.

(2) Limited common elements means and includes those common elements which are reserved in the master deed for the exclusive uses of less than all of the co-owners.

Common land means a parcel or parcels of land with the improvements thereof, the use, maintenance and enjoyment of which are intended to be shared by the owners and/or occupants of individual building units in a subdivision or a planned unit development.

Common open space means an unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners and occupants, and generally owned and maintained in common by them, often through a homeowners association.

Communications tower means any freestanding structure or any antenna-type apparatus appended to any existing structure, used primarily or solely for the transmission of commercial data or radio, telephone and television signals.

Contractor yard means a site on which a building or construction contractor stores equipment, tools, vehicles, building materials and other appurtenances used in or associated with building or construction. A contractor's yard may include outdoor storage, or a combination of both.

Convenience store or *mini-mart* means a one-story retail store that is designed and primarily stocked to sell food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). Convenience stores are designed to attract greater volumes of stop-and-go traffic.

Convenience store with gasoline sales means an establishment that retails convenience-food items which occupy 50 square feet or greater of the sales area in conjunction with gasoline sales.

Cul-de-sac means a dead-end public or private street, generally short in distance, which terminates in a circular or semicircular section of street which allows for vehicle turnaround.

Curb cut means the entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

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

Detention basin or *facility* means a manmade or natural water-collector facility designed to collect surface water in order to impede its flow and to release the water gradually at a rate not greater than that prior to the development of the property, onto natural or manmade outlets.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations. A development may include a site plan, a plot (building) plan, a condominium plan, a plat or a manufactured housing community.

Drive-in means a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, including customer communication facilities for banks or other uses. A drive-in restaurant is distinct from a drive-

through restaurant in that the majority of drive-in patrons consume food and beverages while in the vehicle and parked on the premises.

Dumpster or *waste receptacle* means any accessory exterior container used for the temporary storage of rubbish, pending collection, having the capacity of at least one cubic yard. Recycling stations and exterior compactors shall be considered to be dumpsters or waste receptacles.

Dwelling, accessory means an additional attached or detached dwelling located on the same lot occupied by a principal single-family dwelling intended to be subordinate to the principal dwelling with individual pedestrian access to a street; and private water and sewer facilities or public utilities serviced independently or from the principal dwelling's water, sewer and electrical connections.

Dwelling, attached single-family means a single-family dwelling unit attached to one or more other single-family dwelling units by means of a common-party wall or by a connecting wall or similar architectural feature, such as a garage or carport, and with such dwelling having its own doors which open to the outdoors.

Dwelling, multiple-family means any building usable for residence purposes by two or more families, not including a mobile home.

Dwelling, single-family means a building containing not more than one dwelling unit designed for residential use.

Dwelling, tiny home means a dwelling unit less than 400 square feet that meets the standards of the International Residential Code.

Dwelling unit means any building or portion thereof designed exclusively for and occupied exclusively for residential purposes and having cooking and bath facilities. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling.

Economic impact study means a professionally prepared, written evaluation which contrasts the economic vitality of the city with and without the proposed land use.

Entertainment facilities means an establishment which provides for activities such as, but not limited to, bowling alleys, billiard and pool halls, game and video arcades, and tag games.

Environmental impact study means a professionally prepared, written evaluation which defines, describes and evaluates the positive and negative environmental impacts of a proposed land use.

Essential public service building means a building or structure principal to an essential public service, such as a drop-off station for residential recyclables, vehicle garages, telephone exchange buildings, electricity transformer stations or substations, gas regulator stations.

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

Façade means the exterior wall of a building exposed to public view.

Family means any number of individuals customarily living together as a single housekeeping unit and using common facilities.

Feasibility of colocation. Colocation shall be deemed to be "feasible," for purposes of this section where all of the following are met:

(1) The wireless communication provider entity under consideration for colocation will undertake to pay market rent or other market compensation for colocation.

(2) The site on which colocation is being considered, taking into consideration reasonable modification of replacement of a facility, is able to provide structural support.

(3) The colocation being considered is technologically reasonable, e.g.; the colocation will not result in unreasonable

interference, given appropriate physical and other adjustments in relation to the structure, antennas, and the like.

(4) The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the city taking into consideration the several standards contained in section 52-319 of this chapter.

Floor area, gross or total means the sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed porches, courtyards, or patios shall not be considered as part of the gross area except where they are utilized for commercial purposes such as the outdoor sale of merchandise.

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

Floor area, useable. For the purposes of computing parking requirements, the useable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for utilities for sanitary facilities, shall be excluded from this computation of useable floor area. Useable floor area shall be measured from the interior faces of the exterior walls, and total useable floor area for a building shall include the sum of the useable floor area for all floors. Where calculations are not provided, the useable or gross leasable floor area shall be assumed to be 85 percent of the gross floor area.

Frontage means the linear dimension measured along the public street right-of-way line or along the private road access easement.

Frontage road means a public or private drive which generally parallels a public street between the right-of-way and the front building setback line. Frontage roads can be one-way or bidirectional in design. The frontage road provides specific access points to private properties while maintaining separation between the arterial street and adjacent land uses. A road which allows parking or is used as a maneuvering aisle within a parking area is generally not considered a frontage road.

Garage, private, means a detached accessory building or portion of a main building used for the storage of passenger vehicles.

Garage, public, means any building used for the hire, sale, storage or servicing of automotive vehicles or trailers.

Glare means the effect produced at the lot line by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Grade, average means the arithmetic average of the lowest and highest grade elevations in an area within five feet of the foundation line of a building or structure.

Grade, finished means the lowest point of elevation between the exterior wall of the structure and a line five feet from the exterior wall of the structure.

Grade, natural means the elevation of the ground surface in its natural state, before construction begins.

Greenbelt means a landscaped area along a street between the curb or road shoulder and the front yard building or parking setback line, this area also includes a front yard parking lot setback area.

Handbill means any printed or written matter, any sample or device, dodge, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature that advertises for sale any merchandise, product, commodity or thing, or which directs attention to any business, mercantile or commercial establishment, or other activity for the purpose of either, directly or indirectly, promoting the interest thereof by sales, or which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged, or a collection taken for the purpose of private gain or profit, or which, while containing reading matter other than advertising matter, is predominately and

essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private gain of any person so engaged as advertiser or distributor. Such term does not include any bona fide newspaper, the principal objective of which is the dissemination of news items, even though the newspaper contains matter of an advertising nature. Such term also does not include signs advertising garage sales, yard sales, etc., regulated elsewhere in this Code.

Hard surface. For a single-family home, hard-surface consists of MDOT 22A or 23A gravel, brick, asphalt or concrete meeting the construction specifications of the city.

Historical feature, significant means any site or structure which is located in a designated local historic district or listed in the state or national register of historic places.

Home occupation means any occupation that is customarily performed at home and that does not involve an external structural change in the building, does not require the employment of the equivalent of full-time help, does not require on-street parking, does not require the display of a sign, is not conducted in an accessory building or accessory cottage and does not impose any negative external influences upon surrounding property. Under no circumstances shall a business that involves or is related to medical marijuana in any way be considered a home occupation. Home occupations expressly excludes all medical marijuana dispensaries, retail activity, growing facilities, and all activities licensed under Public Act 281 of 2016.

Incinerator facilities means a facility that uses thermal-combustion processes to destroy or alter the character or composition of medical waste, sludge, soil or municipal solid waste, not including animal or human remains.

Impervious surface means a manmade material which covers the surface of land and substantially reduces the infiltration of storm water to a rate of five percent or less. Impervious surface shall include pavement, buildings, and structures.

Living space means areas in a dwelling unit that are livable space. Livable space does not include closets, attics, crawl spaces and other storage areas.

Lot means a parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records. For purposes of meeting the dimensional standards of this chapter, a lot does not include public rights-of-way or private road easements, but does include access easements for a service drive. A lot may be a single lot of record, a portion of a lot of record, a combination of contiguous lots of record, contiguous portions of lots of record, a parcel of land described by metes and bounds or a condominium lot.

Lot area, gross means the area contained within the lot lines or property boundary including street right-of-way if so included.

Lot area, net means the total area of a horizontal plane within the lot lines of a lot, exclusive of any public street rights-of-way or private road easements, or the area of any lake. The lot area shall be used in determining compliance with minimum lot area standards.

Lot area, net buildable means the net lot area less areas devoted to floodplains or surface water bodies; water bodies being defined as areas greater than five acres in size (either before or after project implementation) which are periodically or permanently covered with water.

Lot, corner means any lot having at least two contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A lot abutting a curved street shall be a corner lot if the arc has a radius less than 150 feet.

Lot coverage means the part or percent of a lot occupied by buildings and accessory buildings.

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

Lot, flag means a lot which is located behind other parcels or lots fronting on a public road, but which has a narrow extension to provide access to the public road.

Lot frontage means the length of the front lot line.

Lot, interior means a lot other than a corner lot which, with the exception of a "through lot," has only one lot line fronting on a street.

Lot line means a line bounding a lot, parcel, or general common element if there is no limited common element, which separates the lot, parcel, or general common element if there is no limited common element, from another lot, parcel, general common element if there is no limited common element, existing street right-of-way, approved private road easement, or ordinary high water mark.

Lot line, front means the lot line which separates the lot from the existing street right-of-way or approved private road easement that provides access to the lot. In the case of a corner lot, the line separating the narrowest side from the street.

Lot line, rear means the lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, it means an imaginary line ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.

Lot line, side means any lot line other than a front or rear lot line.

Lot, nonconforming means a lot of record which does not meet the dimensional requirements of this chapter.

Lot of record means a tract of land which is part of a subdivision shown on a plat or map which has been recorded in the Office of the Register of Deeds for Clare or Isabella Counties; or a tract of land described by metes and bounds which is the subject of a deed or land contract which is likewise recorded in the office of the register of deeds. When two lots in a recorded plat have been combined into a single building site, said lots shall be deemed a single lot of record for the purposes of this chapter.

Lot, through (also called a double frontage lot) means an interior lot having frontage on two more or less parallel streets. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

Lot width means the horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

Lot, zoning means a single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this chapter with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the county register of deeds, but may include one or more lots of record, or portions thereof.

Marijuana definitions:

(1) *Grower* means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marijuana for sale to a processor, marijuana retailer, or provisioning center.

(2) *Licensee* means a person holding a state operating license.

(3) *Marijuana* means that term as defined in the public health code, 1978 PA 368, MCL § 333.7106.

(4) *Marijuana facility* means a location at which a license holder is licensed to operate under a commercial marijuana business by the State of Michigan.

(5) *Marijuana plant* means any plant of the species Cannabis sativa L.

(6) *Marijuana-infused product* means a topical formulation, tincture, beverage, edible substance, or similar product

containing any usable marijuana that is intended for human consumption in a manner other than smoke inhalation. Marijuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL § 289.1101 to 289.8111.

(7) *Michigan Marihuana Facilities Licensing Act,* or *MMFLA,* means Act 281 of 2017, being MCL § 333.27101, et seq.

(8) *Michigan Medical Marijuana Act* means the Michigan Medical Marijuana Act, 2008 Initiated Law 1, MCL §§ 333.26421 to 333.26430, or MMMA.

(9) *Michigan Marihuana Regulation and Taxation of Marihuana Act,* or *MRTMA,* means Initiated Law 1 of 2018, being MCL § 333.27951, et seq.

(10) *Paraphernalia* means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacture, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marijuana.

(11) *Person* means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

(12) *Plant* means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

(13) *Processor* means a licensee that is a commercial entity located in this state that purchases marijuana from a grower and that extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a provisioning center.

(14) *Marijuana retailer* means a provisioning center, a dispensary, a licensee that is a commercial entity located in this state that purchases marijuana from a grower or processor and sells, supplies, or provides marijuana. Provisioning center includes any commercial property where marijuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marijuana registration process in accordance with the Michigan Medical Marijuana Act is not a provisioning center for purposes of this Act.

(15) *Registered primary caregiver* means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marijuana Act.

(16) *Registered qualifying patient* means a qualifying patient who has been issued a current registry identification card under the Michigan Medical Marijuana Act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marijuana Act, MCL § 333.26423.

(17) *Registry identification card* means that term as defined in section 3 of the Michigan Medical Marijuana Act, MCL § 333.26423.

(18) *Safety compliance facility* means a licensee that is a commercial entity that receives marijuana from a marijuana facility or registered primary caregiver, tests it for contaminates and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

(19) *Secure transporter* means a licensee that is a commercial entity located in this state that stores marijuana and transports marijuana between marijuana facilities for a fee.

(20) *State operating license* or, unless the context requires a different meaning, *license* means a license that is issued under this act that allows the licensee to operate as one of the following, specified in the license:

a. A grower.

b. A processor.

c. A secure transporter.

d. A marihuana retailer, a provisioning center, or dispensary.

e. A safety compliance facility.

(21) *Statewide monitoring system* or, unless the context requires a different meaning, *system* means an internet-based, statewide database established, implemented, and maintained by the department under the marijuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

a. Verifying medical marihuana registry identification cards.

b. Tracking marijuana transfer and transportation by licensees, including transferee, date, quantity, and price.

c. Verifying in commercially reasonable time that a transfer will not exceed the limit that the adult, patient or caregiver is authorized to receive under the laws of the State of Michigan.

Massage parlor means an establishment or place primarily in the business of providing massage services and which is not a myotherapy establishment.

Micro wireless facility means a small cell wireless facility that is not more than 24 inches in length, 15 inches in width and 12 inches in height and that does not have an exterior antenna more than 11 inches in length.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. Such term does not include a recreational vehicle.

Natural features means features including soils, wetlands, floodplain, water bodies, topography, vegetative cover, and geological formations.

Nightclub means any public place licensed for the sale of alcoholic liquors, having a maximum occupancy capacity of greater than 100 persons and not meeting the requirements of a class I restaurant.

Nonconforming building means any building or portion thereof lawfully existing at the time the ordinance from which this chapter is derived became effective and which now does not comply with its regulations.

Nonconforming use means any property use which was lawful at the time the ordinance from which this chapter is derived became effective and which now does not comply with its regulations.

Nuisance factors 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 affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noises of or congregation of people and traffic.

Obscuring screen means a visual barrier between adjacent areas or uses. The screen may consist of structures, such as a wall or fence, or living plant material.

Offset means the distance between the centerlines of driveways or streets across the street from one another.

Outdoor display, sales, or storage means outdoor display, sales, or storage that is accessory to a permitted commercial use or a business operated substantially outside of any building, including: retail sales of garden supplies and equipment (including but not limited to, trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture); sale of building and lumber supplies; automobiles, recreational vehicles, boats, mobile homes, garages, swimming pools, playground equipment, mowing equipment, farm implements, construction equipment and similar materials or equipment, rental and leasing establishments; and year-round flea markets, farmer's markets, roadside stands, and auctions.

Parapet wall means an extension of a building wall above the roof which may serve to screen roof-mounted mechanical equipment.

Paraprofessional means a person with similar, but ordinarily less, occupational background and experience than a professional, who assists a professional in the performance of his duties and responsibility.

Parcel or *tract* means a continuous area of acreage of land which can be described as provided for in the Michigan Land Division Act.

Parking lot, off-street means a facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering to provide access for entrance and exit for the parking of more than three vehicles.

Parking space means an area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and which is accessible for the parking of permitted vehicles, meeting the requirements of [sections] 52-305 through 52-308.

Pawnshop means any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledger or depositor, or loads or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property. This definition shall be deemed to exclude banks and other regulated financial business.

Performance guarantee means a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with the ordinance, regulations and the approved plans and specifications of a development.

Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

Planned residential unit development means a residential development planned and developed as an entity, under unified control, developed according to comprehensive and detailed plans, including a program providing for the continual maintenance and operation of such improvements, facilities and services, which will be for the common use of the occupants of the planned residential unit development, which may have single-family dwellings or attached single-family dwellings.

Professional means an individual whose full-time career requires extraordinary or highly specialized education, training, skills and licensing in a commonly recognized occupation which adheres to a formally established set of ethical and/or legal standards of eligibility, performance and personal conduct.

Public and quasi-public institutional buildings, structures, and uses means buildings, structures, and uses of governmental agencies and nonprofit organizations including, but not limited to, office buildings, police stations, fire stations, municipal parking lots, post offices, libraries, museums, and community centers.

Recreational vehicle means a vehicle primarily designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Restaurant means any public place licensed by the state department of agriculture where food is cooked, prepared, provided or served for human consumption without a license for the sale of alcoholic liquor, excluding churches, educational facilities, hospitals, and nonprofit clubs and lodges.

Restaurant, class I means any public place licensed by the state department of agriculture where food is cooked, prepared, provided or served for human consumption and the premises are licensed for the sale of alcoholic liquors, provided that the establishment is operated subject to all of the following requirements and performance standards:

(1) Culinary facilities shall at all times be maintained and provided for the preparation and cooking of food for consumption on the premises.

(2) The establishment shall offer a varied menu of food items, consisting of not fewer than ten such food items, cooked or prepared on the premises.

(3) Not more than 50 percent of the gross floor area open to the general public shall be used for purposes other than

seating for diners consisting of tables, chairs, booths and necessary aisle ways, and public restrooms shall not be considered in such determination.

(4) During any given 90-day period, no more than 50 percent of the gross revenues of the establishment shall be derived from the sale of any alcoholic liquor as defined by the Michigan Liquor Control Code of 1998, Public Act No. 58 of 1998 (MCL 436.1101 et seq.).

Restaurant, drive-in or drive-thru means any restaurant where foods and beverages are sold to a retail customer through a service window or similar aperture without requiring the retail customer to exit his vehicle to make the purchase, and shall include an establishment that allows the retail customer to drive in or through any enclosed building or structure and make a purchase of food and beverage without requiring the retail customer to exit his vehicle.

Restaurant, sit-down means any restaurant where foods and beverages are sold primarily for consumption on the premises.

Retention basin means a pond, pool, or basin used for the permanent storage of storm water runoff.

Screening means the method by which a view of one site from an adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

Significant natural, historical, and architectural features means significant architectural features, drainage ways and streams, endangered species habitat, floodplains, hedgerows, significant historical features, landmark trees, ponds and lakes, steep slopes, wetlands and woodlots.

Small cell wireless facility means a wireless facility that meets both of the following requirements:

(1) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six cubic feet.

(2) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Specified anatomical areas means and includes any one or more of the following:

(1) Less than completely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola; or

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities means and includes any one or more of the following:

(1) The fondling or erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Human sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation or sodomy;

(3) Human masturbation, actual or simulated;

(4) Human excretory functions as part of, or as related to, any of the activities described in subsections (1) through (3); and

(5) Physical violence, bondage, mutilation or rape, actual or simulated, as part of, or as related to, any of the activities described in subsections (1) through (4).

Steep slopes means slopes with a grade of 12 percent of more.

Story means that part of a building, except a mezzanine as defined herein, 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. A basement shall not be counted as a story.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the national register of historic places or the state inventory of historic places.

Substantial portion means a use or activity accounting for more than 20 percent of any one or more of the following:

(1) Stock in trade;

(2) Display space;

(3) Floor space; or

(4) Viewing time, movie display time or entertainment time measured per month.

Supercenter means a retail establishment selling supermarket items as well as those items typically found in a department or discount store, of more than 50,000 square feet within one or more structures.

Supermarket means a retail establishment selling groceries, dry goods, frozen foods and similar items typically within a building of over 5,000 square feet.

Telecommunication system means a system of antennas, cables, amplifiers, towers, microwave lengths, and any other conductors, converters, equipment or facilities designed and constructed for the purpose of distributing communication services to homes and businesses.

Telecommunication tower shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, micro-wave relay facilities, telephone transmission equipment buildings and private and commercial mobile radio facilities. Not included within this definition are: small cell wireless facilities; micro wireless facilities; citizen band radio facilities; short-wave receiving facilities; radio and television broadcast reception facilities; federally licensed amateur (ham) radio facilities; satellite dishes, and governmental facilities which are subject to state or federal law or regulations which pre-empt municipal regulatory authority.

Topographical map means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

Traffic impact study means the analysis of the potential traffic impacts generated by a proposed project. This type of study and level of analysis will vary dependent upon the type and size of the project.

(1) *Rezoning traffic impact study.* A traffic impact study which contrasts typical uses permitted under the current and requested zoning or land use classification. This study usually includes a trip generation analysis and a summary of potential impacts on the street system.

(2) *Traffic impact assessment.* A traffic impact study for land uses which are not expected to have a significant impact on the overall transportation system but will have traffic impacts near the site. This type of study focuses on the expected impacts of a development at site access points and adjacent driveways.

(3) *Traffic impact statement.* A traffic impact study which evaluates the expected impacts at site access points and intersec vicinity.

(4) *Regional traffic impact study.* A comprehensive traffic impact study for land uses expected to have a significant long term impact on the street system. Such a study evaluates the impacts over a long period and may involve analyses of alternate routes. This type of study is typically prepared using a computer model which simulates traffic patterns.

Truck terminal means a structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other natural resources, are delivered for immediate distribution to other parts of the city, for delivery to other intrastate or interstate destinations, or for distribution involving transfer to other modes of transportation.

Yard, front means the open space extending from the full width of the lot between a building and the front lot line.

Yard, rear means the open space extending the full width of the lot between a building and rear lot line.

Yard, side means the open space extending from the front yard to the rear yard between a building and the side lot line.

Incorporation by reference. The ordinance from which this section derived shall be deemed to incorporate by reference the definitions set forth in Public Act 365 of 2018, being MCL 460.1301 through 460.1309.

(Code 1985, § 5.7; Ord. of 9-5-2006; Ord. No. 2011-004, 3-7-2011; Ord. No. 2012-002, 2-6-2012; Ord. No. 2014-008 , 10-6-2014; Ord. No. 2016-002 , 12-5-2016; Ord. No. 2018-001 , 1-2-2018; Ord. No. 2019-003 , 4-1-2019; Ord. No. 2020-004 , 10-5-2020; Ord. No. 2020-009 , Pt. 1, 11-2-2020; Ord. No. 2021-006 , 10-4-2021)

Cross reference— Definitions generally, § 1-2.

Sec. 52-3. - Reserved.

Editor's note— Ord. No. 2016-002 , adopted Dec. 5, 2016, repealed § 52-3, which pertained to intent and derived from Ord. No. 2011-004, adopted Mar. 7, 2011.

Secs. 52-4—52-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Footnotes:
*--- (**2**) ---*
***Cross reference—** Administration, ch. 2.*

DIVISION 1. - GENERALLY

Sec. 52-31. - Administration and enforcement.

The provisions of this chapter shall be administered and enforced by the city manager. All applications for building permits shall be accompanied by a plan, drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected, the use of the property and such other information as may be necessary to provide for the enforcement of the regulations set forth in this chapter. A careful record of such applications and plans shall be kept in the office of the building inspector.

(Code 1985, § 5.91)

Sec. 52-32. - District changes and ordinance amendments.

(a) In accordance with the provisions of Public Act 110 of 2006 (MCL 125.3101 et seq.) the city commission may from time to tir amend, or change by ordinance, the number, shape, or area of districts established on the zoning map or the regulations s in this chapter but no such amendment or change shall become effective unless the ordinance proposing such amendment change shall first be submitted to the planning commission for approval, disapproval or suggestions and such planning commission shall have been allowed a reasonable time for consideration and report.

(b) Any person desiring a change in zoning of property shall petition the city commission in writing, stating the reasons for such change.

(c) Before submitting its recommendations and report to the city commission, the planning commission shall conduct a public hearing on the proposed amendment or change and shall give notice as set forth in subsection (d) below.

(d) The notices shall be given not less than 15 days before the date of the hearing on a proposed zoning amendment and notices shall be sent to:

(1) The applicant.

(2) The owner (or other owners) of the property, if different.

(3) If the zoning amendment is for less than 11 adjacent properties: the owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the zoning jurisdiction or not.

(4) If the zoning amendment is for less than 11 adjacent properties: occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the zoning jurisdiction or not.

(5) The general public by publication in a newspaper which circulates in the city.

(6) Members of the planning commission, or legislative body and planning commission if the hearing is being held by the legislative body.

(e) The notice shall include:

(1) The nature of the zoning amendment being requested.

(2) The property(ies) for which the zoning amendment has been made.

(3) If the zoning amendment is for less than 11 adjacent properties, also a listing of all existing street addresses within the property(ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)

(4) The location where the application documents can be viewed and copied prior to the date the zoning amendment hearing.

(5) The date, time and location of when the hearing on the zoning amendment will take place.

(6) The address at which written comments should be directed prior to the hearing on the zoning amendment.

(7) For members of the planning commission only, a copy of the request for the zoning amendment, the draft of the zoning amendment, and supporting documents in the record.

(f) Upon presentation of a protest petition meeting the requirements of this section, an amendment to a zoning ordinance which is the object of the petition shall be passed by a two-thirds vote. The protest petition shall be presented to the city commission before final legislative action on the amendment and shall be signed by one of the following:

(1) The owners of at least 20 percent of the area of land included in the proposed change.

(2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

For purposes of this subsection, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

(Code 1985, § 5.94; Ord. of 9-5-2006)

State Law reference— Zoning amendment procedure, MCL 125.584.

Sec. 52-33. - Violations; penalties.

(a) *First offense.* Any person who shall violate any of the provisions of this chapter or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any building or use in violation of any detailed statement or plan submitted and approved under this chapter shall be guilty of a civil infraction and be liable to a civil fine up to the sum of $500.00, in accordance with any costs and expenses permitted by law.

(b) *Second offense.* Any person who shall violate any of the provisions of this chapter, as noted in subsection (a) of this section, for a second time within a three-year period shall be guilty of a misdemeanor and shall be liable for a criminal fine of not more than $500.00 and/or up to 90 days' incarceration in the county jail.

(c) *Continuing offenses.* Each day that a violation continues to exist shall be deemed a separate offense.

(d) *Assisting in violations.* The owner of any building or premises, or part thereof, where anything in violation of this chapter shall be placed or shall exist, any architect, builder, contractor, agent, person or corporation employed in connection therewith, and who may have assisted in the commission of any such violation shall be guilty of a separate offense and, upon conviction, shall be fined as provided in this section.

(e) *Immediate threats to public health, safety and welfare.* Any person who shall violate any of the provisions of this chapter in such a way as to create an immediate threat to the public health, safety and welfare shall be guilty of a misdemeanor and shall be liable for a criminal fine of not more than $500.00 and/or up to 90 days' incarceration in the county jail. Whether a particular violation of this chapter constitutes an immediate threat to the public health, safety and welfare shall be a matter within the sole discretion of the city manager.

(Code 1985, § 5.93)

Sec. 52-34. - Public, personal and mailed notice.

(a) *Public notification.* All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act. PA 110 of 2006 and the other provisions of this section with regard to public notification.

(1) *Responsibility.* When the provisions of this ordinance or the Michigan Zoning Enabling Act require that notice be published, the city clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the city and mailed or delivered as provided in this section.

(2) *Content.* All mail, personal and newspaper notices for public hearings shall:

a. *Describe the nature of the request.* Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

b. *Location.* Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

c. *When and where the request will be considered.* Indicate the date, time and place of the public hearing(s).

d. *Written comments.* Include a statement describing when and where written comments will be received concerning t Include a statement that the public may appear at the public hearing in person or by counsel.

e. *Handicap access.* Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

(3) *Personal and mailed notice.*

a. General: When the provisions of this ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:

1. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of property.
2. Except for rezoning requests involving 11 or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within eh boundaries of the city. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
3. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to section 52-35, Registration to receive notice by mail.
4. Other governmental units or infrastructure agencies within one mile of the property involved in the application.

b. *Notice by mail/affidavit.* Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The city clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

(4) *Timing of notice.* Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this chapter where applicable, notice of a public hearing shall be provided as follows: For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation, not less than 15 days before the date the application will be considered for approval. (This means it must be published in a newspaper of general circulation and for those receiving personal notice, received by mail or personal notice, not less than 15 days before the hearing.)

(Ord. of 9-5-2006)

Sec. 52-35. - Registration to receive notice by mail.

(a) *General.* Any neighborhood organization, public utility company, railroad or any other person may register with the city clerk to receive written notice of all applications for development approval pursuant to section 52-34, Public, personal and mailed notice, or written notice of all applications for development approval within the zoning district in which they are located. The city clerk shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

(b) *Requirements.* The requesting party must provide the city clerk information on an official form to ensure notification can be made. All registered persons must reregister biannually to continue to receive notification pursuant to this section.

(Ord. of 9-5-2006)

Editor's note— Ord. of 9-5-2006 added provisions designated as § 52-53.2 to the Code. At the editor's discretion and after consultation with the city, these provisions were redesignated as § 52-35 to maintain the organizational continuity of the Code.

Secs. 52-36—52-50. - Reserved.

DIVISION 2. - RESERVED

Footnotes:
*--- (**3**) ---*
***Editor's note—** Ord. No. 2012-002, adopted Feb. 6, 2012, repealed div. 2, §§ 52-51—52-53, which pertained to the planning commission and derived from the original codification and an ordinance adopted Sept. 5, 2006. For similar provisions, see ch. 51.*

Secs. 52-51—52-70. - Reserved.

DIVISION 3. - ZONING BOARD OF APPEALS

Footnotes:
*--- (**4**) ---*
***Editor's note—** Ord. of 9-5-2006 amended div. 3 in its entirety and enacted similar provisions as set out herein. The former div. 3 derived from Code 1985, §§ 5.86 and 5.86.*
***Cross reference—** Boards and commissions, § 2-91 et seq.*

Sec. 52-71. - Created.

There shall be a zoning board of appeals appointed by the city commission, with all the powers granted, and organized and controlled by the provisions of Public Act 110 of 2006. (MCL 125.3101, et seq.)

(Ord. of 9-5-2006)

Sec. 52-72. - Special exceptions.

(a) The zoning board of appeals shall consist of five members. One member shall be a member of the planning commission. One member may be a member of the city commission, but if so, this member may not serve as chairperson of the zoning board of appeals. The remaining regular members and any alternate members shall be selected from the city electors, and shall be representative of the population distribution and of the various interests present within the city. An employee or contractor of the city commission shall not serve on the zoning board of appeals.

(b) The city commission may appoint not more than two alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision in a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until the final decision is made. The alternate member has the same voting rights as a regular member of the zoning board of appeals.

(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 nonfea in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has conflict of interest constitutes malfeasance in office.

(e) The terms of office for members appointed to the zoning board of appeals shall be for three years, except for members serving because of their membership on the planning commission or city commission, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than three years to provide for staggered terms. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

(f) The zoning board of appeals shall adopt rules of procedure for conduct of its meetings and the implementation of its duties. The zoning board of appeals shall annually elect a chairperson, a vice chairperson, and a secretary. A quorum shall be deemed to constitute a majority of the regular members of the zoning board of appeals. A majority shall be necessary to conduct business.

(g) Meetings of the zoning board of appeals shall be held at the call of the chairperson, or as set forth in the rules of procedure adopted by the zoning board of appeals. The chairperson or acting chairperson may administer oaths and compel attendance of witnesses. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act, PA 267 of 1976.

(Ord. of 9-5-2006)

Sec. 52-73. - Jurisdiction.

The zoning board of appeals shall act upon questions as they arise in the administration of this chapter. The zoning board of appeals shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, P.A. 110 of 2006, being MCL 125.3101, et seq.. The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms of intent of this chapter, but does have the power to act on those matters for which this chapter provides an administrative review, interpretation, variance or temporary land use permit. Within this capacity, the zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the zoning administrator, planning commission, or any official administering or enforcing the provisions of this chapter.

(Ord. of 9-5-2006)

Sec. 52-74. - Authorized appeals.

(1) *Administrative review.* The zoning board of appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator or by any other official or by the planning commission in administering or enforcing the provisions of this chapter. This authority shall not include review of PUD decisions of the planning commission.

(2) *Interpretation of the chapter.* The zoning board of appeals shall hear and decide upon requests to:

(a) Interpret the provisions of this chapter when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such requests, the zoning board of appeals shall ensure that its interpretation is consistent with the intent and purpose of the chapter, the article in which the language in question is contained and all other relevant provisions in the chapter.

(b) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the zoning administrator.

(c) Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it

conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. Where there is no comparable permitted or prohibited use, the zoning board of appeals shall so declare, the effect being that the use is not permitted in the city, until or unless the text of the ordinance is amended to permit it.

(d) Grant permission, and set the duration of, any temporary uses permitted within the city under the terms of this chapter.

(3) *Variance.* The zoning board of appeals shall have the power to authorize specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements, and sign requirements of this chapter, provided that all the required findings listed below are met and the record of proceedings of the zoning board of appeals contains evidence supporting each conclusion:

(a) The strict enforcement of the provisions of this chapter would cause an unnecessary hardship and deprive the owner of rights enjoyed by all other property owners within the same zoning district.

(b) There are conditions and circumstances unique to the property which are not similarly applicable to other properties in the same zoning district.

(c) The conditions and circumstances unique to the property were not created by the owner, or his predecessor.

(d) The requested variance will not grant special privileges that are denied other properties similarly situated in and in the same zoning district.

(e) The requested variance will not be contrary to the spirit and intent of this zoning ordinance.

(4) *Conditions.* The zoning board of appeals may impose conditions on an affirmative decision. These may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:

(a) Be designed to protect natural resources, the health, safety, and welfare, as well as social and economic wellbeing 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.

(b) Be related to valid exercise of the police power and purposes which are affected by the proposed use or activity.

(c) Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the chapter for the land use or activity under consideration and be necessary to ensure compliance with those standards.

(d) The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.

(5) *Rehearing.* No rehearing on an application denied by the zoning board of appeals shall be reconsidered except upon the grounds of newly discovered evidence of a falsehood previously relied upon which is found upon inspection by the zoning board of appeals to be valid. A rehearing shall be processed in the same manner as the original application, including payment of the required fee. A request for rehearing shall be made on behalf of the applicant by either the city commission, the zoning board of appeals or the zoning administrator, within 14 days.

(6) *Reapplication.* After 14 days following a decision by the zoning board of appeals have expired, no application for a variance, ordinance interpretation, or appeal shall be resubmitted for a period of one year from the date of the last denial, except upon proof of changed conditions found upon inspection by the zoning board of appeals to be valid.

(Ord. of 9-5-2006)

Sec. 52-75. - Manner of taking appeal.

Notice of appeal. A demand for a zoning appeal can be filed by:

(a) A person aggrieved, or

(b) An officer, department, board, or bureau of the state or local unit of government,

(c) Appeal requests for ordinance interpretation may be filed by written notice of appeal with the city on forms established for that purpose and accompanied by such information as is necessary to decide such request. At a minimum, six copies of the information required to be submitted for a land use permit (or a site plan) in article VII shall be submitted. Upon receipt of a notice of appeal, the city shall promptly transmit the records concerning the appealed action, as well as any related information to the chairperson of the zoning board of appeals.

(d) All appeals shall be filed not later than 21 days after the decision, order, requirement, permit, or refusal made by the zoning administrator or by any other official or by the planning commission in administering or enforcing the provisions of this chapter.

(Ord. of 9-5-2006; Ord. No. 2018-004 , 5-7-2018)

Sec. 52-76. - Hearing on appeal.

(a) Upon receipt of a notice of appeal, or of an application for ordinance interpretation, or variance request, the chairperson of the zoning board of appeals shall schedule a reasonable time and date for a public hearing.

(b) The notices shall be given not less than 15 days before the date of the hearing on a proposed zoning amendment.

(1) Notices shall be sent to:

a. The individual demanding the appeal.

b. The owner (or other owners) of the property, if different.

c. *If the appeal or variance involves more than 11 adjacent properties.* The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the zoning jurisdiction or not.

d. *If the appeal or variance involves less than 11 adjacent properties.* Occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the zoning jurisdiction or not.

e. The general public by publication in a newspaper which circulates in the city.

f. Members of the planning commission, or legislative body and planning commission if the hearing is being held by the legislative body.

(2) The notice shall include:

a. The nature of the zoning amendment being requested.

b. The property(ies) for which the appeal or variance has been made.

c. If the appeal or variance involves less than 11 adjacent properties, also a listing of all existing street addresses within the property(ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)

d. The location where the demand for appeal can be viewed and copied prior to the date the zoning amendment hearing.

e. The date, time and location of when the hearing before the appeals board will take place.

f. The address at which written comments should be directed prior to the hearing.

g. For members of the appeals board only, a copy of the demand for appeal, the entire record on the case, the staff report, and supporting documents in the record.

(c) The appeals board shall hold a hearing on the demand for appeal.

(1) *Representation at hearing.* Upon the hearing, any party or parties may appear in person or by agent or by attorney.

(2) *Standards for variance decisions by the appeals board.* The appeals board shall base its decisions on variances from the strict requirements of this chapter so that the spirit of this chapter is observed, public safety secured, and substantial justice done based on the following standards:

a. *For dimensional variances.* A dimensional variance may be granted by the zoning board of appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:

1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicants personal or economic difficulty.

2. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

4. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.

5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

b. *For use variances.* A use variance may be granted by the zoning board of appeals only in cases where the applicant demonstrates in the official record of the public hearing that undue hardship exists by showing all of the following:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.

2. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicants personal or economic hardship.

3. That the proposed use will not alter the essential character of the neighborhood.

4. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

(d) If the demand for appeal is for a variance the appeals board shall either grant, grant with conditions, or deny the application. The appeals board may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit. A majority vote of the membership of the appeals board is necessary to grant a dimensional variance and rule on an interpretation of the ordinance. A two-thirds majority vote of the membership of the appeals board is necessary to grant a use variance. The decision shall be in writing and reflect the reasons for the decision.

(1) At a minimum the record of the decision shall include:

a. Formal determination of the facts.

b. The conclusions derived from the facts (reasons for the decision).

c. The decision.

(2) Within eight days of the decision the record of the decision shall be certified and a copy delivered by first class mail to the person demanding the appeal, the administrator, and other parties.

(e) Any person having an interest affected by such decision shall have a right to appeal to circuit court within 30 days of the certified decision of the appeals board, as provided by law.

(Ord. of 9-5-2006)

Secs. 52-77—52-100. - Reserved.

ARTICLE III. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 52-101. - Districts established.

For the purposes of this chapter, the city is hereby divided into the following six classes of districts:

R-1	Single-family district
R-2	Multiple-family district
C-1	Commercial district
C-2	Commercial district
I	Industrial district
IP	Industrial park district

(Code 1985, § 5.2)

Sec. 52-102. - District boundaries.

The boundaries of these districts are indicated upon the zoning map of the city, as amended, which is on file in the office of the city clerk and made a part of this chapter. Except where designated on such map, the district boundary lines are intended to follow lot lines, the centerlines of streets or alleys, railroad right-of-way lines, section lines, one-quarter section lines, one-eighth section lines or the corporate limit line, all as they existed at the time of the enactment of the ordinance from which this chapter is derived.

(Code 1985, § 5.3)

Sec. 52-103. - Zoning certificates of compliance.

No dwelling, building or structure subject to the provisions of this chapter shall be erected, altered, enlarged or moved upon a premises from another premises until a:

(1) Zoning compliance certificate has been issued pursuant to the site plan review provisions contained in article VII; and

(2) Building permit has been issued by the appropriate code enforcement officer.

(Code 1985, § 5.11)

Sec. 52-104. - Continuing existing uses.

Any building, structure or use lawfully existing upon the effective date of this Code may be continued.

(Code 1985, § 5.12)

Sec. 52-105. - Use of rear dwellings for residential purposes.

No building in the rear of a principal building and on the same lot therewith shall be used for residential purposes with the exception of a permitted accessory dwelling unit.

(Code 1985, § 5.13; Ord. No. 2020-009 , Pt. 2, 11-2-2020)

Sec. 52-106. - Residential lot width.

Any lot used for residential purposes shall have a width of at least 75 feet facing on a dedicated street.

(Code 1985, § 5.14)

Sec. 52-107. - Accessory building front lot line setback.

No part of a detached accessory building shall be nearer to the front lot line than the front of the main building upon a parcel, when the lot or an adjoining lot is located in a residential district.

(Code 1985, § 5.15; Ord. No. 2007-02, 3-6-2007)

Sec. 52-108. - Accessory building height and setbacks.

Accessory buildings shall not exceed 28 feet in height and shall be distant at least six feet from any other separate structure on the same lot and shall not be closer than three feet to any lot line. In no case shall an accessory building for the storage of vehicles be closer to any street line than 20 feet.

(Code 1985, § 5.16)

Sec. 52-109. - Reduction or division of required yard.

No lot shall be divided or reduced so as to make the required area or dimensions less than the minimum required by this chapter, nor shall any yard required for a principal building be included as a part of a yard required under this chapter for any other building.

(Code 1985, § 5.17)

Sec. 52-110. - Yard requirements along zoning boundary line.

A lot having a side yard line along any zoning boundary line of a less restricted district shall have a side yard for the more restricted district.

(Code 1985, § 5.18)

Sec. 52-111. - Vision clearance on corner lots.

On any corner lot on which front and side yards are required, no wall, fence, structure, sign, tree, shrub or hedge may be maintained as to cause danger to traffic by obstructing the view.

(Code 1985, § 5.19)

Sec. 52-112. - Front yards on lots running through the block.

In any district where a lot runs through a block from street to street and where a front yard is required, such front yard shall be provided along each street lot line that is not a side lot line.

(Code 1985, § 5.20)

Sec. 52-113. - Projections.

Projections extending beyond the main wall of a building and attached thereto shall be considered as part of the building and such projections shall not occupy any of the minimum required yards or open spaces, except as follows:

(1) Chimneys, flues, cornices, eaves, bays, ornamental features and other similar features may project not more than three feet into any required yard.

(2) Terraces, steps, uncovered porches or other similar features shall not be higher than three feet above the average finished grade and shall not be located less than five feet from any lot line.

(Code 1985, § 5.21)

Sec. 52-114. - Height limit exceptions.

Exceptions to height limits set forth in this chapter include church spires, belfries, cupolas, chimneys, smokestacks, flagpoles, communication towers, masts, aerials and antennae, water towers, elevator bulkheads, monuments, cooling towers and necessary mechanical appurtenances. No structure which, by definition or category, qualifies for a height limit exception may impede or interfere with aviation traffic patterns or routes, or cause an unreasonable danger or safety risk to airborne craft.

(Code 1985, § 5.22)

Sec. 52-115. - Lot width and area exceptions.

Dwellings may be constructed on any officially plotted lot and recorded lot which is less than the minimum width or area, or both, required by this chapter, provided that the yard setbacks shall comply with this chapter.

(Code 1985, § 5.23)

Sec. 52-116. - Driveway and parking lot surfacing.

All driveway approaches on paved streets and off-street parking lots shall be surfaced with asphalt, bituminous aggregate, cement or seal coat and maintained so as to be dustfree and prevent sand or gravel from entering the street and storm drainage system.

(Code 1985, § 5.24)

Sec. 52-117. - Attachment of commercial communication antennas to existing structures.

Communication antennas may be appended or attached to any existing structure within districts zoned C-1, C-2, I or IP. A formal application for appendage or attachment of antennas to existing structures must be submitted in accordance with the procedures outlined in article VII.

(Code 1985, § 5.25)

Sec. 52-118. - Private garages or accessory buildings.

Private garages or accessory buildings attached to a building for a residence may be constructed within the R-1 or R-2 district with the following provisions:

(1) If any portion of the garage protrudes beyond the remainder of the building line of the front of the house, that portion of the garage shall become the front building line of the structure from which the front yard setback requirements shall be measured.

(2) If an attached garage is converted to living space or quarters, it must meet all setback requirements for that particular zoning district.

(3) The height of any garage shall not exceed the maximum building height stipulated for the respective zoning district.

(4) Private garages must be constructed of materials which will render it permanent in nature. No temporary or portable structures may be used to shelter vehicles within any residential district.

(Code 1985, § 5.26; Ord. No. 2008-01, 3-3-2008)

Sec. 52-119. - Change of use and occupancy permits for commercial or industrial purposes.

(a) No change of use of any land or existing building or structure to be used for commercial (business) or industrial purposes shall be made. No change of occupants shall be made, and no building or structure erected shall be occupied in whole or in part until the owner or occupant has obtained a zoning compliance certificate/occupancy permit from the city manager, stating the use and/or building complies with the provisions of this chapter. A fee, as established and reviewed from time to time by the city commission, shall accompany each application.

(b) No building or structure to be used for commercial (business) or industrial purposes, erected and subsequently altered, shall be used or changed in use following such alteration until the owner has obtained a zoning compliance certificate/occupancy permit from the city manager, stating that the use or building complies with the provisions of this chapter.

(c) Occupancy permits shall be applied for and issued within ten days after the lawful erection or alteration of the building is complete or, in the case of an existing structure, before the new use commences. A record of all occupancy permits shall be kept on file in the office of the city manager and copies shall be furnished, upon request, to any person having proprietary or tenancy interest in the land or building affected.

(d) The city manager shall have the power to revoke or cancel any occupancy permit in case of failure or neglect to comply with any of the provisions of this chapter or in case of any false statement or misrepresentation made in the application. The owner or his agent shall be notified of such revocation in writing, and any further misuse of the land or building shall be deemed a violation.

(e) The city manager may, upon request, issue a temporary occupancy permit for part of a dwelling, building, structure or premises prior to completion in full, but such temporary certificate shall not remain in force for a period in excess of one year, nor more than ten days after full completion.

(Code 1985, § 5.27)

Sec. 52-120. - Display of handbills.

The display of handbills shall be regulated as follows:

(1) No handbill shall be displayed within any public right-of-way of the city, upon any public land, ground or building within the city or upon any public utility apparatus or structure within the city without the specific permission and approval of the city manager.

(2) Only handbills promoting or advertising not-for-profit, community or public events shall be approved for display.

(3) All handbills approved for display shall include a "Must Be Removed By" date, and shall be removed by the responsible individuals/organizations not later than the stipulated date.

(4) Political handbills are excluded from the requirement to obtain permission from the city manager prior to being posted; however, the responsible party/individual shall remove the handbills within one week (seven days) of the political election or event.

(Code 1985, § 5.28)

Sec. 52-121. - Nonconforming uses.

(a) Any use of property that does not conform to the regulations prescribed in this chapter and which shall have been in existence prior to the adoption of the ordinance from which this chapter is derived shall be referred to as a nonconforming use.

(b) Any nonconforming use of land or buildings may be continued for indefinite periods of time, and subject to such regulations as the zoning board of appeals may require for immediate preservation of the adjoining property and the ultimate removal of the nonconforming use. The zoning board of appeals may grant a change of occupancy from one nonconforming use to another, provided, the use is within the same or higher classification as the original nonconforming use; provided, however, that such change of use and occupancy will not tend to prolong and continue the nonconforming use. A nonconforming use once changed from a lower to a higher classification use shall not be changed to a lower classification use, and such prior classification use shall be considered abandoned.

(c) A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause. In case of partial destruction of a building by fire or other cause, not exceeding 50 percent of its value, the building may be reconstructed. If the destruction is greater than 50 percent and less than the total of the building, the zoning board of appeals may grant a permit for repair after a public hearing and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of property.

(d) A nonconforming use of land or the nonconforming use of a structure shall be lost when the following occurs:

(1) The nonconforming use ceases for a period of more than six months; or

(2) There is evidence of intent, or some act or omission, on the part of the owner or user which manifests his or her voluntary decision to abandon the nonconforming use.

(Code 1985, § 5.80; Ord. No. 2012-002, 2-6-2012)

State Law reference— Nonconforming uses and structures, MCL 125.583a.

Sec. 52-122. - Reserved.

Editor's note— Ord. No. 2020-004, adopted Oct. 5, 2020, repealed § 52-122, which pertained to prohibition of marihuana establishments and derived from Ord. No. 2018-008, adopted Nov. 5, 2018.

Secs. 52-123—52-140. - Reserved.

DIVISION 2. - R-1 SINGLE-FAMILY DISTRICT

Sec. 52-141. - Purpose; uses.

(a) The R-1 single-family district classification is intended primarily for single-family residential homes and special uses that are compatible with single-family dwelling neighborhoods.

(b) Only the following principal uses are permitted in R-1 districts:

(1) Single-family dwellings not to exceed one single-family dwelling per lot.

(2) Public and parochial schools.

(3) Churches, convents and rectories.

(4) Family day cares.

(5) State licensed residential facilities, as required by section 3b of Public Act No. 207 of 1921 (MCL 125.583b).

(c) The following special uses are, when approved, permitted in R-1 districts:

(1) Parks, playgrounds, golf courses, tennis courts and similar public nonprofit recreational uses.

(2) Fire stations and water towers.

(3) Community center buildings.

(4) Cemeteries.

(5) Hospitals, provided, the site shall have an area of two acres or more and the buildings are located 50 feet from property lines.

(6) Planned residential unit developments.

(7) Group day cares.

(8) Home occupation/home professional offices.

(9) Cooperative or for-profit markets selling agricultural produce or farm products to consumers (nonwholesale) on a period basis, that do not operate more than eight days in any calendar month.

(d) Except for home occupation/home professional offices, the city planning commission shall be the approval authority for all special uses; and the city manager shall be the approval authority for all home occupation/home professional office special uses. The process for approval of special uses shall be as outlined in sections 52-342 and 52-343.

(Code 1985, § 5.31)

Sec. 52-142. - Accessory uses and buildings.

The following accessory uses and buildings are permitted in R-1 single-family districts:

(1) Private garages.

(2) Accessory buildings.

(3) Home occupations, when carried on by the occupants within the dwelling and not in an accessory building.

(4) Signs, as follows:

a. One bulletin board for a church or school, not exceeding 12 square feet in area, when located ten feet from all prop signs may be illuminated, provided the source of light is not visible.

b. One temporary, unlighted real estate sign, not exceeding eight square feet in area, advertising the sale, rental or lease of only the premises on which the sign is maintained, either located flat against the building or ten feet from any street line.

c. One wall sign on the premises of a legal nonconforming use, not to exceed 20 square feet in area. Such sign may be illuminated, provided the source of light is not visible.

d. Except for yard sale signs and similar one-day event signs (e.g., open houses, graduation parties, etc.), all off-premises signs, including real estate signs, are prohibited within city rights-of-way, unless approved by the city manager. Such one-day event signs shall be removed not later than the day after the event being signed.

e. Political signs and posters associated with elections and election campaigns may be erected within public rights-of-way and on private property without approval; however, the respective individuals/parties are responsible for removing the signs within one week after the scheduled election/political event.

(5) Accessory dwelling units.

(Code 1985, § 5.32; Ord. No. 2020-009 , Pt. 3, 11-2-2020)

Sec. 52-143. - Building height, area and yards.

The following restrictions apply in R-1 single-family districts:

(1) Maximum building height, 28 feet.

(2) Minimum front yard, 25 feet.

(3) Maximum front yard, no more than the average of homes within 500 feet of the subject parcel on the same street.

(4) Minimum rear yard, 25 feet.

(5) Minimum side yard, nine feet (three feet for a garage).

(6) Minimum side yard corner lot, 12 feet.

(7) Minimum lot width, 75 feet, except as provided in section 52-115.

(8) Minimum lot area, 10,500 square feet.

(9) Minimum square feet for any dwelling 300 square feet.

(Code 1985, § 5.33; Ord. No. 2013-001, 7-15-2013; Ord. No. 2021-006 , 10-4-2021)

Sec. 52-144. - Residential appearance requirements.

The following appearance requirements for residential parcels shall be applied:

(1) *Intent.* Single-family dwellings, whether tiny homes, mobile homes, manufactured homes, modular homes or site ("stick") built homes, located outside a mobile home park shall conform to the standards of this section. The standards herein are intended to prevent "grossly dissimilar" dwellings by promoting dwellings that positively affect the value of dwellings in the surrounding area, improve the desirability of an area to existing or prospective homeowners, increase the stability of the environment, support the most appropriate use of real estate and promote the public health, safety and welfare of the community.

(2) *Applicability.* All single-family dwellings on individual lots shall meet the appearance standards noted in subsection (3), below. The determination for compliance with these standards for dwellings less than 720 square feet shall be made by the planning commission; the determination for compliance for dwellings 720 square feet and larger shall be made by the city building inspector. All single-family dwellings shall comply in all respects with this Code, including

minimum heights for habitable rooms. Where a dwelling is required to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by this Code, then, and in such event, such federal or state standard or regulation shall apply. Homes less than 400 square feet shall comply with the International Residential Code. The standards set forth in this definition shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by state or federal law, or otherwise specifically required in provisions of this Code pertaining to such parks.

(3) *Exterior building appearance.* Each home shall be aesthetically compatible in appearance with other residences in similar zoning districts in the surrounding area. Surrounding area shall be defined as within 2,000 feet from the edge of the lot in each direction, within the same zoning district, where at least 20 percent of the lots are developed. All dwellings shall be built with durable high-quality materials, including brick, wood, fiber-cement siding, vinyl siding or other materials of similar quality in terms of durability and appearance. Corrugated metal, unfinished wood and other materials dissimilar with other residences shall be prohibited. Compatibility shall also be based on the following factors:

a. *Building design.* Building appearance and materials used in a new single-family dwelling shall be similar to the appearance and materials used in single family homes in the surrounding area. Dwellings shall be compatible with surrounding dwellings in terms of color, cladding material, style of roof/porches, nonstructural ornamentation, and the location/style of windows and doors.

b. *Roof pitch and overhang.* The dwelling shall be aesthetically compatible in appearance with other residences in the vicinity, with either a roof overhang of not less than 12 inches on all sides or alternatively with windowsills or roof-drainage systems concentrating roof drainage at collection points along the sides of the dwelling. Roof types shall be gable roof, hip roof, or gambrel roof design with a minimum 4:12 roof pitch. Homes less than 400 square feet in floor area may have a flat roof.

c. *Building elevation.* The dwelling has a minimum width across any front, side or rear elevation of 20 feet, except that tiny home dwellings may have a minimum width of eight feet on a side elevation.

d. *Building openings.* The dwelling shall have an exterior door on the front elevation and a second being either in the rear or side of the dwelling. The front elevation of all single-family dwellings shall have a stoop, deck, patio or porch at the front entrance.

e. *Additions.* Additions to existing buildings must complement the current residence's design with regard to height, proportion, scale, materials, and type of openings.

f. The above standards shall not be construed to prohibit innovative design and appearance concepts involving such matters as solar energy, view, unique land contour, or variation from the common or standard designed home.

(4) *Building permit.* All construction allowed under this chapter shall be commenced only after a building permit has been obtained in accordance with the city building code and other building regulations. Tiny homes shall adhere to the International Residential Code. All dwelling units and additions thereto shall be able to meet or exceed the construction standards of the applicable building, electrical, plumbing, mechanical and fire codes.

(5) *Foundation.* All single-family dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the city's building code and shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. If the dwelling is a mobile home as defined in this Code, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state mobile home commission or shall have a perimeter wall as required in this subsection. When any dwelling is removed from its foundation, such foundation shall be completely removed and the site shall be returned to its original state.

(6) *Undercarriage.* In the event that such dwelling unit shall be a mobile home or other home with wheels, the wheels, tong assembly and other towing appurtenances shall be removed before attachment to its permanent foundation. The foun perimeter masonry skirting shall fully enclose the undercarriage and the chassis.

(7) *Storage area.* Each such dwelling unit shall contain a storage area equal to ten percent of the square footage of the dwelling or 200 square feet, whichever is less, except for tiny homes, which shall have a storage area of at least 100 square feet. This storage area shall consist of a basement, attic, attached garage, or a separate detached accessory structure which complies with the standards of this zoning ordinance regarding accessory buildings and structures. The intent of these standards is to limit the extent of outdoor storage.

(8) *Sewage disposal and water supply.* Each such dwelling unit shall be connected to a public sewer and water supply or to such facilities approved by the local health department.

(9) *Exceptions.* The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this section and pertaining to such parks. Mobile homes that do not conform to the standards of this section shall not be used for dwelling purposes within the city unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this section.

(10) *Accessory buildings.* Accessory buildings, when permitted, must complement any primary use building with regard to height, proportion, scale, materials, and design. Accessory dwellings may be permitted subject to section 52-325, but shall not be permitted on lots where the primary dwelling is a tiny home.

(11) *Appeals.* An applicant may appeal to the zoning board of appeals within a period of 45 days from the receipt of notice of the decision of the approving authority as provided in subsection (2) above.

(Ord. No. 2007-02, 3-6-2008; Ord. No. 2021-006 , 10-4-2021)

Editor's note— Ord. No. 2021-006 , adopted Oct. 4, 2021, amended § 52-144, and in so doing changed the title of said section from residential design requirements to read as set out herein.

Sec. 52-145. - [Medical marijuana provisions.]

The following provisions shall apply to medical marijuana use as provided by state law.

(1) Qualifying patients and qualifying care-givers as registered with the state may exercise their right to use, possess or cultivate medical marijuana in conformity with state law.

(2) The medical marijuana use, possession and cultivation shall comply at all times with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health as they may be amended from time to time.

(3) All medical marijuana plants cultivated shall be contained within a fully enclosed, locked facility, inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient cultivating the plants.

(4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way.

(5) The principal use of the parcel shall be a dwelling and shall be in actual use as such. Any registered primary caregiver shall operate at his or her own primary residence.

(6) Space allocated to marijuana cultivation shall not exceed 120 square feet but not greater than ten percent of total available living space. If medical marijuana is to be grown in an unattached building such as a pole barn or garage, the area allocated to marijuana cultivation shall not exceed ten percent of the unattached building, i.e., a garage or shed.

(7) No transfer of medical marijuana to qualifying patients other than qualifying patients residing on the parcel shall occur.

(8) Except as provided by the Medical Marijuana Act regarding caregivers recouping costs for cultivation and providing marijuana, there shall be no commercial cultivation or patient to patient transfer of marijuana for any type of consideration, cash or otherwise. This provision is intended to prohibit any type of medical marijuana dispensary or commercial activity.

(9) No vested rights. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this section or any amendment of this section.

(10) No activities licensed by the State under Public Act 281 of 2016 shall be conducted in a residential zone.

(Ord. No. 2011-004, 3-7-2011; Ord. No. 2016-002 , 12-5-2016)

Secs. 52-146—52-160. - Reserved.

DIVISION 3. - R-2 MULTIPLE-FAMILY DISTRICT

Sec. 52-161. - Purpose; uses.

(a) The R-2 multiple-family district is intended primarily for multiple-family dwellings and such uses as professional offices.

(b) Only the following principal uses are permitted in R-2 districts:

(1) R-1 district uses, except as modified in this section.

(2) Multiple-family dwellings.

(3) Mobile home parks.

(4) State licensed day care centers.

(c) The city planning commission shall be the approval authority for all special uses. The process for approval of special uses shall be as outlined in sections 52-342 and 52-343. The following special uses are, when approved, permitted in R-2 districts:

(1) All special uses permitted in an R-1 district.

(2) Medical, dental, legal, architectural, accounting, engineering and real estate offices, title companies, group day cares, insurance offices, barbershops and beauty salons.

(3) Funeral homes and mortuaries.

(4) Institutes of higher education, technical colleges and trade schools, but not including those operated as a part of the criminal justice process or related to any federal, state or local penal laws or institutions.

(Code 1985, § 5.41)

Sec. 52-162. - Accessory uses and buildings.

The following accessory uses and buildings are permitted in R-2 multiple-family districts:

(1) Accessory uses and buildings permitted in the R-1 district, except as modified in this section.

(2) Signs as set forth in section 52-142(4).

(3) New buildings or conversions of existing dwellings which conform with the character of the neighborhood in which they are located.

(Code 1985, § 5.42)

Sec. 52-163. - Building height, area and yards.

The following restrictions apply in the R-2 multiple-family districts:

(1) Maximum building height, 28 feet.

(2) Minimum front yard, 25 feet.

(3) Minimum side yard, nine feet, except as required in section 52-303.

(4) Minimum rear yard, 25 feet, except as required in section 52-303.

(5) Minimum side yard corner lot, 12 feet.

(6) Minimum lot width, 75 feet, except as provided in section 52-115.

(7) Minimum lot area, 10,500 square feet, except as provided in section 52-115.

(8) Common open space of at least 40 percent of the total land area suitable for development within a multifamily development, and it shall be distributed more or less uniformly throughout the site area. The term "common open space" shall mean lands within the multifamily development to be used for park, recreation or environmental amenities. Such lands shall not include public or private streets, driveways or parking areas. Within such lands, only facilities and structures for recreational purposes may be constructed, with the total impervious area of roofs and paving constituting not more than ten percent of the total open space.

(9) Minimum square feet for any dwelling, 720 square feet.

(Code 1985, § 5.43; Ord. No. 2013-001, 7-15-2013)

Sec. 52-164. - Screening requirements.

In the R-2 multiple-family district, screening requirements shall be followed as indicated in section 52-304.

(Code 1985, § 5.45)

Sec. 52-165. - R-2 design requirements.

The following design requirements for residential parcels shall be applied:

(1) *Exterior building design.* Additions to existing buildings must compliment the current residence's design with regard to height, proportion, scale, materials, and type of openings.

(2) [*Accessory buildings*] must compliment any primary use building with regard to height, proportion, scale, materials, and design.

(Ord. No. 2007-002, 3-6-2008)

Sec. 52-166. - [Medical marijuana provisions.]

The following provisions shall apply to medical marijuana use as provided by state law.

(1) Qualifying patients and qualifying care-givers as registered with the state may exercise their right to use, possess or cultivate medical marijuana in conformity with state law.

(2) The medical marijuana use, possession and cultivation shall comply at all times with the Michigan Medical Marijuana Act and the General Rules of the Michigan Department of Community Health as they may be amended from time to time.

(3) All medical marijuana plants cultivated shall be contained within a fully enclosed, locked facility, inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying

patient cultivating the plants.

(4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way.

(5) The principal use of the parcel shall be a dwelling and shall be in actual use as such. Any registered primary caregiver shall operate at his or her own primary residence.

(6) Space allocated to marijuana cultivation shall not exceed 120 square feet but not greater than ten percent of total available living space. If medical marijuana is to be grown in an unattached building such as a pole barn or garage, the area allocated to marijuana cultivation shall not exceed ten percent of the unattached building, i.e. a garage or shed.

(7) No transfer of medical marijuana to qualifying patients other than qualifying patients residing on the parcel shall occur.

(8) Except as provided by the Medical Marijuana Act regarding caregivers recouping costs for cultivation and providing marijuana, there shall be no commercial cultivation or patient to patient transfer of marijuana for any type of consideration, cash or otherwise. This provision is intended to prohibit any type of medical marijuana dispensary or commercial activity.

(9) No vested rights. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this section or any amendment of this section.

(10) No activities licensed by the State under Public Act 281 of 2016 shall be conducted in a residential zone.

(Ord. No. 2011-004, 3-7-2011; Ord. No. 2016-002 , 12-5-2016)

Secs. 52-167—52-180. - Reserved.

DIVISION 4. - C-1 COMMERCIAL DISTRICT

Footnotes:
*--- (**5**) ---*
***Editor's note—** Ord. of 9-5-2006 amended div. 4 in its entirety and enacted similar provisions as herein set out. The former div. 4 derived from Code 1985, §§ 5.51, 5.52, and 5.54—5.58.*
***Cross reference—** Businesses, ch. 12.*

Sec. 52-181. - Purpose; uses.

(a) The C-1 commercial district classification is intended primarily for retail sales carried on within a building and service businesses.

(b) Only the following principal uses without drive-through service to customers are permitted in C-1 districts:

(1) Retail uses up to 49,999 square feet of gross floor area, as follows:

a. Automobile sales and services.

b. Bake shops.

c. Camera shops.

d. Candy stores.

e. Clothing stores.

f. Dairy stores.

g. Department store.

h. Drive-in restaurants.
i. Drugstores.
j. Florist shops.
k. Furniture stores.
l. Grocery stores or supermarkets.
m. Hardware stores.
n. Home appliance stores.
o. Jewelry stores.
p. Liquor, beer and wine sales.
q. Meat markets.
r. Paint and wallpaper stores.
s. Plant materials and seed stores.
t. Print shops.
u. Produce markets.
v. Restaurants.
w. Shoe stores.
x. Sporting goods stores.
y. Taverns.
z. Used merchandise housed within a building.
aa. Variety stores.

(2) Service businesses, as follows:

a. Automobile courts.
b. Banks.
c. Barbershops.
d. Beauty shops.
e. Broadcasting stations.
f. Cleaning and dying.
g. Day care centers, state licensed.
h. Frozen food lockers.
i. Motels.
j. Laundries, self-service.
k. Parking lots.
l. Pet grooming.
m. Professional and business offices.
n. Public utility substations.
o. Shoe repair shops.

(3) Commercial recreation facilities, as follows:

a. Auditoriums.
b. Bowling alleys.

c. Clubs and lodges.

d. Dancehalls.

e. Golf course, miniature.

f. Golf driving ranges.

g. Theaters.

(4) Commercial schools, as follows:

a. Art schools.

b. Business schools.

c. Dance studios.

d. Music studios.

e. Professional studios.

f. Trade schools.

(5) Community facilities, as follows:

a. Public and parochial schools.

b. Churches, convents and rectories.

c. Community center buildings.

d. Fire stations and water towers.

e. Hospitals.

(6) Service stations, provided they are not within 100 feet of any building or ground of any school, public playground or institution dependent on children. No pump island shall be within 12 feet of a street line. There shall be a concrete curb, six inches in height, installed along all street lines except across authorized driveways. There shall be no open oil-draining pits.

(7) Tourist homes, boardinghouses and convalescent homes.

(8) Adult bookstores, adult motion picture theaters, massage parlors or cabarets (referred to in this section as "adult entertainment establishments") via a special use permit when the following conditions are met:

a. No adult entertainment establishment may be established, operated or maintained within 1,000 feet of an R-1 or R-2 residential zoning district or within 1,000 feet of any church, state-licensed day care facility, public library, public park, preschool, elementary school, middle school or high school.

b. No adult entertainment establishment may be established, operated or maintained within 500 feet of any other adult entertainment establishment.

c. Distance limitations shall be measured in a straight line from the respective parcel or lot line of both the subject parcels and/or parcels zoned R-1 or R-2, or occupied by special uses specified in this subsection.

d. If employees or patrons of an adult entertainment establishment promote, offer, solicit, allow or engage in acts of prostitution on the premises, the special use permit may be suspended or revoked. No criminal charge need be brought for suspension or revocation of the special use permit to occur. The acts described in this subsection may be shown to have occurred by a preponderance of the evidence.

e. A permit shall be required to establish, operate or maintain an adult entertainment establishment. Such permit shall be approved by the city commission subsequent to review and recommendation of approval of the planning commission of the city. Any required fees for such permit shall be set and determined by the city commission.

(9) Any other building use or service similar to the uses listed in this section in the type of service or goods sold or similar in the effect upon adjacent areas in more restricted use districts, except those uses listed in C-2 and I

districts.

(c) Residential and multifamily uses on the second floor within blocks 16, 21, 22, 27 and 28, original plat of the city, shall be permitted as a special use, subject to the following imposed conditions for each use and subject to the review and approval of the planning commission.

(1) The special use application shall include a layout for each floor of the building and shall contain plans for dealing with tenant parking.

(2) The main entrance and exit for each apartment shall not interfere with the use of the main floor.

(3) Residential units shall comply with all building, electrical, plumbing and mechanical codes. Provisions regarding access and egress for each apartment shall comply with existing codes.

(4) Any apartment or use not conforming with this special regulated use at the time of the adoption of Ordinance No. 1996-2 shall be referred to as a nonconforming use.

(d) Any use permitted within any of the subsections noted above which contains a drive-through service or retail facility shall be permitted in C-1 as a special use, subject to article IV of this Code [zoning chapter].

(e) Retail uses shall be defined to include retail sales distribution or storage of fireworks as defined in section 22-50, including all subsections, as provided by state law.

(Ord. of 9-5-2006; Ord. No. 2012-006, 11-5-2012; Ord. No. 2018-005 , 9-4-2018)

Sec. 52-182. - Accessory buildings and uses.

Accessory buildings and uses customarily incidental to the uses listed in section 52-181 are permitted in the C-1 commercial district.

(Ord. of 9-5-2006)

Sec. 52-183. - Building height, area and yards.

In the C-1 commercial district, the following restrictions shall apply (unless more stringent requirements are set forth elsewhere in this chapter):

(1) Maximum building height, 35 feet, except the maximum height for projects abutting an R-1 district shall be limited to 18 feet.

(2) Minimum front yard, 15 feet, except where 60 percent of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed a common front yard lesser in depth than required in this subsection. New buildings shall not be erected closer to the street line than the average building line so established.

(3) Minimum rear yard, 15 feet, except as required in section 52-303, and except when a lot abuts an alley in the rear, no rear yard shall be required.

(4) Minimum side yard, none, except as required in section 52-303.

(5) Minimum lot width, none.

(6) Minimum lot area, none.

(7) Minimum square feet for any dwelling, 720 square feet.

(Ord. of 9-5-2006; Ord. No. 2013-001, 7-15-2013)

Sec. 52-184. - Screening requirements.

In the C-1 commercial district, screening requirements shall be followed as indicated in section 52-304, unless more stringent requirements are set forth elsewhere in this chapter.

(Ord. of 9-5-2006)

Sec. 52-185. - Nonconforming residential use or structures.

Any nonconforming residential use or residential building in the C-1 commercial district which has been destroyed or damaged by fire, explosion, act of God or public enemy may be reconstructed to a character similar to the original structure without increasing any nonconformity or changing the original use, unless to a conforming use. The restoration shall be commenced within six months of the date of the full or partial destruction and shall be diligently carried on to completion within one year after the commencement of the restoration.

(Ord. of 9-5-2006)

Sec. 52-186. - Outdoor storage.

Outdoor storage in the C-1 commercial district shall be regulated as follows, unless more stringent requirements are imposed elsewhere in this chapter:

(1) Retail uses permitted by subsection 52-181(b)(1) may store goods held for resale to the public outdoors, provided that such storage does not present a detriment to the district, neighborhood or parcel by its appearance, manner, maintenance, etc. Storage that attracts wildlife or nuisance species of animals, including, but not limited to, seagulls, mice, rats, deer or raccoons, shall be deemed a substantial detriment to the C-1 district.

(2) Outdoor storage of goods not held for resale to the public, including, but not limited to, pallets, packaging and parts, is permitted by all uses permitted under section 52-181, provided that such storage is wholly and completely enclosed by a fence that presents a visual barrier or screen. Screen fences shall:

   a. Not more than 12 feet in height, except in the DDA district which shall be contingent on securing planning commission approval.

   b. Be constructed and maintained in a workmanlike manner;

   c. Present a solid or semisolid visual barrier, including, but not limited to, a wooden fence rather than chain link.

(3) Uses permitted by section 52-181 that involve motor vehicles, except motor vehicle dealers licensed by the state that hold motor vehicles for resale to the public (to which subsection (1) of this section applies), may store motor vehicles outdoors for a period of not more than 30 days. One extension of 30 days may apply if rendered necessary by an unavoidable delay in receiving repair parts, including, but not limited to, acts of God, acts of war or work stoppages, if awaiting specific repair parts for which an order has been placed.

(Ord. of 9-5-2006; Ord. No. 2012-004, 6-18-2012)

Secs. 52-187—52-210. - Reserved.

DIVISION 5. - C-2 COMMERCIAL DISTRICT

Footnotes:

*--- (**6**) ---*

***Editor's note—** Ord. of 9-5-2006 amended div. 5 in its entirety and enacted similar provisions as set out herein. The former div. 5 derived from Code 1985, §§ 5.61—5.63 and 5.65—5.68.*

Sec. 52-211. - Purpose; uses.

(a) The C-2 commercial district classification is intended primarily for warehouses, businesses that require large open and enclosed storage areas, and light industrial uses which possess few, if any, nuisance characteristics.

(b) Only the following principal uses are permitted in C-2 districts:

(1) Retail uses up to 50,000 square feet.

(2) Animal hospitals.

(3) Beverage bottling distributors.

(4) Body shops.

(5) Building contractors' storage lots.

(6) Coal yard storage.

(7) Commercial greenhouses

(8) Dairy plants.

(9) Electrical contractors.

(10) Elevators.

(11) Farm machinery sales and repairs.

(12) Lumber and building materials sales and storage.

(13) Machine shops.

(14) Mobile home sales.

(15) Newspaper printing.

(16) Pet boarding.

(17) Plumbing contractors.

(18) Public garages.

(19) Railway sidings and switches.

(20) Road contractor storage lots.

(21) Truck terminals.

(22) Used car sale lots.

(23) Warehouses.

(24) Welding shops.

(25) Woodworking shops.

(Ord. No. 2017-001 , 5-15-2017)

Sec. 52-212. - Accessory buildings and uses.

Accessory buildings and uses customarily incidental to the uses listed in section 52-211 are permitted in the C-2 commercial district.

(Ord. of 9-5-2006)

Sec. 52-213. - Building height, area and yards.

In the C-2 commercial district, the following restrictions apply (unless more stringent requirements are set forth elsewhere in this chapter):

(1) Maximum building height, 35 feet.

(2) Minimum front yard, 15 feet.

(3) Minimum rear yard, 15 feet, except as required in section 52-303, and except when a lot abuts an alley in the rear, no rear yard shall be required.

(4) Minimum side yard, none, except as required in section 52-303.

(5) Minimum lot width, none.

(6) Minimum lot area, none.

(7) In the case of the erection of a building for residential purposes, the height, area, yard, and square footage requirements shall be the same as R-2 district requirements.

(Ord. of 9-5-2006; Ord. No. 2013-001, 7-15-2013)

Sec. 52-214. - Screening requirements.

In the C-2 commercial district, screening requirements shall be followed as indicated in section 52-304, unless a more stringent requirement is set forth elsewhere in this chapter.

(Ord. of 9-5-2006)

Sec. 52-215. - Nonconforming residential use or structures.

Any nonconforming residential use or building in the C-2 commercial district, which has been destroyed or damaged by fire, explosion, act of God or public enemy, may be reconstructed to a character similar to the original structure without increasing any nonconformity or changing the original use, unless to a conforming use. The restoration shall be commenced within six months of the date of the full or partial destruction and shall be diligently carried on to completion within one year after the commencement of the restoration.

(Ord. of 9-5-2006)

Sec. 52-216. - Outdoor storage.

Outdoor storage in the C-2 commercial district shall be regulated as follows, unless more stringent requirements are imposed elsewhere is this chapter:

(1) Retail uses permitted by subsection 52-211(b) may store goods held for resale to the public outdoors, provided that such storage does not present a detriment to the district, neighborhood or parcel by its appearance, manner, maintenance, etc. Storage that attracts wildlife or nuisance species of animals, including, but not limited to, seagulls, mice, rats, deer or raccoons, shall be deemed a substantial detriment to the C-2 district.

(2) Outdoor storage of goods not held for resale to the public, including, but not limited to, pallets, packaging and parts, is permitted by all uses permitted under section 52-211, provided that such storage is wholly and completely enclosed by a fence that presents a visual barrier or screen. Screen fences shall:

a. Not be less than five feet, nor more than 12 feet in height;

b. Be constructed and maintained in a workmanlike manner;

c. Present a solid or semisolid visual barrier, including, but not limited to, a wooden fence rather than chain link.

(3) Uses permitted by section 52-211 that involve noncommercial motor vehicles, except motor vehicle dealers licensed by the state that hold motor vehicles for resale to the public (to which subsection (1) applies), may store noncommercial motor vehicles outdoors for a period of not more than 30 days. One extension of 30 days may apply

if rendered necessary by an unavoidable delay in receiving repair parts, including, but not limited to, acts of God, acts of war or work stoppages, if awaiting specific repair parts for which an order has been placed.

(4) Uses permitted by section 52-211 that involve commercial motor vehicles, heavy equipment, including railway cars, etc., may store fully operable, commercial motor vehicles and heavy equipment outdoors, provided that such storage does not present a detriment to the district, neighborhood or parcel by its appearance, manner, maintenance, etc. To fall within this subsection, commercial vehicles or heavy equipment must be licensed by the state, when and where a license is applicable to its use. Inoperable commercial motor vehicles or heavy equipment shall be regulated under subsection (2). To determine whether a specific piece of equipment or vehicle is operable, the city manager or his designee is authorized to and may require the owner to demonstrate its operation, without advance notice.

(Ord. of 9-5-2006)

Sec. 52-217. - Special uses.

Retail business in excess of 50,000 square feet of gross floor area.

(Ord. of 9-5-2006)

Sec. 52-218. - Reserved.

Sec. 52-219. - Sidewalks and pathways.

(a) An eight-foot-wide pathway constructed of concrete, or a similar durable material deemed acceptable by the planning commission and the City of Clare Engineer, shall be required across the frontages of all properties abutting major roads as defined in the city's master plan. All properties that are not considered a major road shall be required to maintain a five-foot-wide sidewalk across the frontage. Properties abutting the following roads shall be required to maintain a ten-foot-wide nonmotorized vehicle pathway.

(b) The city planning commission may reduce the width of the pathway from eight feet to five feet when it is determined that the majority of the pathway in a particular area already maintains an established width.

(c) The pathway shall be constructed in either the proposed road right-of-way when the full dedication of the proposed road right-of-way is a requirement of the city, or the existing road right-of-way and in both instances, with the interior non road edge of the sidewalk being located one foot within the outer most edge of the right-of-way, unless another location is identified and improved by the city engineer.

(d) Pathways shall consist of eight feet of concrete and two feet of brick pavers as part of the pathway design.

(e) In the event of a conflict between this provision and the requirements of the complete streets system, the planning commission shall have the ultimate say as to which provisions serve the public interest most closely.

(Ord. No. 2014-010 , 11-17-2014)

Sec. 52-220. - Building exteriors.

(a) The exterior of all buildings, except any approved agricultural uses, shall be constructed of clay, brick or other comparably durable decorative building materials as approved by the planning commission.

(b) Building frontages should be constructed with a minimum 90 percent brick or similarly durable material as determined by the planning commission. The remaining ten percent of the service material may be a color integrated block, EIFS, factory finish, seam metal or other similar materials as determined by the planning commission.

(c) EIFS, block or similar materials that are susceptible to stinging shall not be utilized where signs may be installed as

determined by the planning commission.

(d) EIFS and similar materials that are susceptible to contacted damage shall not be utilized in areas below eight feet from the established grade.

(e) Buildings having brick exterior shall not be reconstructed, remodeled, altered or painted if the building is currently unpainted without prior approval of the planning commission.

(Ord. No. 2014-010 , 11-17-2014; Ord. No. 2017-001 , 5-15-2017)

Secs. 52-221—52-240. - Reserved.

DIVISION 6. - I INDUSTRIAL DISTRICT

Footnotes:
*--- (**7**) ---*
***Cross reference—** Businesses, ch. 12.*

Sec. 52-241. - Purpose; use.

(a) The I industrial district classification is primarily intended for moderate to heavy industrial uses with some nuisance characteristics. Residential construction is not permitted in the I district.

(b) Only the following principal uses are permitted in the I district:

(1) C-2 district uses, except that no building shall be erected or converted for use as a school, hospital, clinic or dwelling, except such as are integral to operations in connection with such businesses and industries permitted within the I district.

(2) Communication towers, except as provided in section 52-117.

(3) Fertilizer manufacture.

(4) Machinery assembly.

(5) Machinery manufacture.

(6) Structural steel fabricating shops.

(7) Any other similar building or use not listed in this subsection (b), provided it is a lawful use.

(c) The following special uses are, when approved, permitted in the industrial district.

(1) The special uses licensed and permitted under Public Act 281 of 2016, being medical marijuana growers, transporters, safety compliance facilities, provisioning centers, and processing centers are permitted as a special use in accordance with the specific requirement set forth elsewhere in this section, in particular section 52-351.

(2) The special uses licensed and permitted under the Michigan Regulation and Taxation of Marijuana Act, MCL § 333.27951, etc., being medical marijuana growers, transporters, safety compliance facilities, and processing centers are permitted as a special use in accordance with the specific requirement set forth elsewhere in this section, in particular section 52-351, but no Adult Use Marijuana Retailers are permitted pursuant to the Michigan Regulation and Taxation of Marijuana Act.

(Code 1985, § 5.71; Ord. No. 2017-002 , 5-15-2017; Ord. No. 2020-004 , 10-5-2020)

Sec. 52-242. - Accessory buildings and uses.

Accessory buildings and uses customarily incidental to the uses listed in section 52-241 are permitted in the I industrial district.

(Code 1985, § 5.72)

Sec. 52-243. - Building height, area and yards.

The following restrictions apply in the I industrial district, unless more stringent requirements are set forth elsewhere in this chapter:

(1) Maximum building height, 35 feet.

(2) Minimum front yard, 15 feet.

(3) Minimum rear yard, 15 feet, except as required in section 52-303, and except when a lot abuts an alley in the rear, no rear yard shall be required.

(4) Minimum side yard, none, except as required in section 52-303.

(5) Minimum lot width, none.

(6) Minimum lot area, none.

(Code 1985, § 5.73; Ord. of 9-5-2006)

Sec. 52-244. - Outdoor storage.

Outdoor storage in the I industrial district shall be regulated as follows, unless more stringent requirements are set forth elsewhere in this chapter:

(1) Retail uses permitted by section 52-241 may store goods held for resale to the public outdoors, provided that such storage does not present a detriment to the district, neighborhood or parcel by its appearance, manner, maintenance, etc. Storage that attracts wildlife or nuisance species of animals, including, but not limited to, seagulls, mice, rats, deer or raccoons, shall be deemed a substantial detriment to the I district.

(2) Outdoor storage of goods not held for resale to the public, including, but not limited to, pallets, packaging and parts, is permitted by all uses permitted under section 52-241, provided that such storage is wholly and completely enclosed by a fence that presents a visual barrier or screen. Screen fences shall:

a. Not be less than five feet, nor more than 12 feet in height;

b. Be constructed and maintained in a workmanlike manner;

c. Present a solid or semisolid visual barrier, including, but not limited to, a wooden fence rather than chain link.

(3) Uses permitted by section 52-241 that involve noncommercial motor vehicles, except motor vehicle dealers licensed by the state that hold motor vehicles for resale to the public (to which subsection (1) applies), may store noncommercial motor vehicles outdoors for a period of not more than 30 days. One extension of 30 days may apply if rendered necessary by an unavoidable delay in receiving repair parts, including, but not limited to, acts of God, acts of war or work stoppages, if awaiting specific repair parts for which an order has been placed.

(4) Uses permitted by section 52-241 that involve commercial motor vehicles, heavy equipment, including railway cars, etc., may store fully operable, commercial motor vehicles and heavy equipment outdoors, provided that such storage does not present a detriment to the district, neighborhood or parcel by its appearance, manner, maintenance, etc. To fall within this subsection, commercial vehicles or heavy equipment must be licensed by the state, when and where a license is applicable to its use. Inoperable commercial motor vehicles or heavy equipment shall be regulated under subsection (2). To determine whether a specific piece of equipment or vehicle is operable, the city manager or his designee is authorized to and may require the owner to demonstrate its operation, without advance notice.

(Code 1985, § 5.74; Ord. of 9-5-2006)

Sec. 52-245. - Signs and sandwich boards.

The construction of signs and the display of sandwich boards and handbills in the I industrial district shall be regulated as follows:

(1) *Signs.* No sign shall be constructed, erected or displayed within any public right-of-way, upon any public land, ground or building, or upon any public utility apparatus or structure within the city without the specific permission and approval of the city planning commission. The administrative process and procedures for such approval shall be in accordance with the site plan application process outlined in article VII.

(2) *Off-premises signs.* Off-premises signs are prohibited unless approved by the city planning commission and/or except as outlined under section 52-142(4).

(3) *Sandwich boards.* Sandwich boards shall:

a. Be constructed of durable, weather-resistant material.

b. Be professionally lettered and painted, and appropriately maintained.

c. Be freestanding.

d. Only be displayed during the operating hours of the respective business or commercial activity.

e. Not exceed five feet in height or three feet in width.

f. Be displayed within one block of the respective business location.

g. Not be an impediment or obstruction to pedestrian traffic.

h. Not be erected within 20 feet of another sandwich board.

(Code 1985, § 5.75)

Secs. 52-246—52-270. - Reserved.

DIVISION 7. - IP INDUSTRIAL PARK DISTRICT

> *Footnotes:*
> *--- (**8**) ---*
> ***Cross reference—** Businesses, ch. 12.*

Sec. 52-271. - Boundaries; purpose; uses.

(a) The district boundaries for the IP industrial park district shall be as identified and stipulated on the adopted zoning map of the city, as amended.

(b) The IP district classification is primarily intended for wholesale, commercial, light, medium and heavy industrial uses. Residential construction is not permitted in the IP district. The term "light industry" refers to those manufacturing processes that are attractively built and landscaped, and have little negative external influence to impose upon surrounding land uses. The terms "medium industry" and "heavy industry" refer to those that have progressively more negative external effects on surrounding land uses. In addition to the actual manufacturing processes, the transportation system, employee and service vehicle traffic and the total socio-economic and environmental impact of the operation of the plant on surrounding land uses will be used to determine whether or not proposed uses are permitted in the IP district.

(c) Uses licensed and permitted under Public Act 281 of 2016, the Medical Marijuana Facilities Licensing Act, MCL § 333.27101, et seq., and the Michigan Regulation and Taxation of Marijuana Act, MCL § 333.27951, et seq, and the

applicable rules of the State of Michigan being Medical Marihuana Growers, Processors, Safety Compliance Facilities, Provisioning Centers, and Processing Centers, but not Marijuana Retailers permitted pursuant to the Michigan regulation and Taxation of Marijuana Act, are permitted as a special use as long as the facility is licensed by the state and meets the following requirements:

(1) Uses licensed under the Public Acts noted above are permitted only in IP district zoned property located south of M-115. No facilities shall be permitted in IP zoned property north of M-115.

(2) All marihuana licensed activities shall comply at all times with the laws and rules of the State of Michigan, referenced elsewhere in this section, as they may be amended from time to time.

(3) Cultivation shall be conducted so as not to create dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible form an adjoining public way.

(4) A marijuana cultivation facility shall not be located within 1,000 feet of an R-1 or R-2 residential zoning district or within 1,000 feet of any church, state-licensed day care facility, public library, public park, preschool, elementary school, middle school, high school or public recreation facility.

(5) A marijuana cultivation facility shall obtain a zoning compliance certificate and if the applicant is not the owner of the parcel, such certificate shall include the property owners' consent to the use of the parcel as a marijuana cultivation facility.

(6) No transfer of marijuana shall occur except marijuana plants subject to the Acts.

(7) No marijuana facility shall be located, operated or maintained within 500 feet of any other marijuana cultivation facility.

(8) Distance limitations shall be measured in a straight line from the respective parcel or lot line of both the subject marijuana plants pursuant to applicable law.

(9) No person under 18 years will be admitted to the facility without his or her parent or legal guardian.

(d) The following principal uses are prohibited in the IP district:

(1) Manufacturing, refining or storage of asphalt, tar, concrete, gas, coke, coal, tar, petroleum products, hazardous chemicals, explosives and/or fertilizer.

(2) Forges, foundries and/or metal stamping plants.

(3) Tanning and curing of leather and hides.

(4) Stockyards, slaughterhouses and rendering plants.

(5) Junkyards and auto wrecking.

(6) Paper and pulp manufacturing.

(7) Processing of radioactive materials.

(e) Commercial office buildings that have as their primary customer base typical industrial park tenants or have an established business relationship akin to typical industrial park tenants are permitted as a special use in the IP district, when approved. Such special use must be recommended by the Clare Industrial Development Corporation before being considered for approval by the city planning commission.

(f) No vested rights. A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this section or any amendment of this section.

(Code 1985, § 5.75; Ord. No. 2011-004, 3-7-2011; Ord. No. 2016-002 , 12-5-2016; Ord. No. 2017-002 , 5-15-2017; Ord. No. 2018-003 , 4-7-2018; Ord. No. 2020-004 , 10-5-2020)

Sec. 52-272. - Accessory buildings and uses.

Accessory buildings and uses customarily incidental to the uses described in section 52-271(a) and (b) are permitted in the IP industrial park district, and the following regulations shall apply:

(1) All manufacturing operations shall be carried on within fully enclosed buildings and no outside activity shall be carried on except the parking, loading or unloading of motor vehicles and trains, without prior written approval of the Clare Industrial Development Corporation.

(2) Outdoor storage of equipment, raw materials, semifinished or finished products and the byproducts of manufacturing will only be permitted on rear yards, provided that such areas are screened from view from the street and adjoining property.

(3) The location and construction of all accessory buildings must be approved by the industrial development corporation and the building inspector.

(4) Temporary buildings are prohibited, except during the course of construction.

(Code 1985, § 5.76)

Sec. 52-273. - Building height, area and yards.

The following restrictions apply in the IP industrial park district:

(1) Maximum building height, 50 feet. No building can be set closer to property lines than the maximum height of such building.

(2) Minimum front yard, 50 feet. Front yards must be landscaped and maintained as a greenbelt. Driveways, sidewalks or other means of access to buildings and the interior of the property and public or utility rights-of-way are permitted in front yards.

(3) Minimum side yards, 25 feet. All loading docks must be located at the side or rear of buildings.

(4) Minimum rear yard, 25 feet, except lots adjacent to a railroad siding.

All front, side and rear yard restrictions apply to underground storage tanks.

(Code 1985, § 5.77)

Sec. 52-274. - Miscellaneous requirements.

(a) Before a building permit for an IP industrial park site will be issued, the owner and/or builder must submit the following material to the Clare Industrial Development Corporation for review and comment:

(1) A detailed site plan of the area, showing the location of all buildings, improvements, signage, walls or fencing, lighting and landscaping.

(2) Engineering/architectural plans for all buildings and utilities (i.e., water, sewer, storm drainage, gas and electricity).

(3) A description of the operation, including, but not limited to, the type of activity, number and type of employees, hours of operation, manpower and training requirements, water and sewer usage, energy consumption, solid waste disposal needs, air pollution, noise and vibration levels at the street, handling of hazardous materials and any health or safety hazards.

(b) Any industrial park building permit shall become null and void if construction has not begun within one year from date of approval. Building construction must begin 12 months from the date of property acquisition and be completed within 12 months from the start of construction.

(c) All principal structures must be of new steel or other metal, masonry and glass construction, and all exposed concrete block or metal must be painted within 60 days after date of occupancy, except the materials not normally painted or

prefinished.

(d) Walls and fences must be built within setback requirements and require prior approval of the industrial development corporation and the building inspector.

(e) Except for directional signs, all signs must be mounted flat against buildings and illuminated by lighting which is not visible from the street or be freestanding and be illuminated by lighting which is not visible from the street. Before any sign shall be erected within the city industrial park, the industrial development corporation shall review the sign design and provide a recommendation for approval of the sign to the city. Billboards or other advertising signs are prohibited. Signs offering a building for sale or lease are allowed and can be located within front yards, provided that the sign is not more than 12 square feet. Such restrictions shall not apply to the industrial development corporation.

(f) When an industrial park site fronts on two streets, the industrial development corporation will determine which side of the property is the front yard.

(g) Solid or liquid wastes shall not be stored in open areas, except in containers or a manner approved by the industrial development corporation and the city manager.

(h) Reasonable wear and tear excepted, all industrial park buildings and grounds shall be maintained and repaired in a good and sufficient condition to maintain the property in an aesthetically pleasing manner and in accordance with standards developed and approved by the industrial development corporation. Property damaged by any cause shall be repaired by the property owner as promptly as the extent of damage will permit. Vacant buildings shall be properly secured against damage from weather, fire and/or vandalism. The industrial development corporation shall have the right to enter vacant, damaged or unmaintained property to perform necessary maintenance and repairs to eliminate nuisance conditions. The cost of any such work shall become a lien against the property involved.

(Code 1985, § 5.79; Ord. No. 2012-003, 6-18-2012)

DIVISION 8. - DOWNTOWN DEVELOPMENT DISTRICT DESIGN DEVELOPMENT STANDARDS

Sec. 52-275. - Intent.

The intent of these development design standards is to establish a regulatory zoning tool for an effective façade improvement program that will create self-sustaining, self-funded and long lasting benefit to the community of Clare, specifically the downtown development district. The general goals of the development façade standards are stated below:

(1) *Goals.* The four primary goals of the design standards are as follows:

a. *Improve appearance.* The goal is to encourage commercial property owners to improve the exterior appearance of their properties in a cost effective, affordable manner.

b. *Encourage development.* The goal is to encourage development and renovation within downtown Clare.

c. *Preserve history.* The goal is to preserve historical structures and streetscape in the downtown development district.

d. *Promote civic pride.* The goal is to promote civic pride in the beauty of the city.

(2) *Objectives.* The goals stated above can be achieved by following certain principals or objectives. The principals or objectives are described below with specific improvement examples that are strongly encouraged by these design standards.

a. *Maintain a unified historic appearance.* Ill-conceived additions that detract from the building's original style shall be removed. If a building has historic character, the intent shall be to reveal the building's original form, materials and style. An example of this type of improvement would be to remove plywood covering transom or

storefront display windows.

b. *Preserve historic features.* Historic preservation is a goal of the Clare community for the downtown development district. Significant historic features and attractive elements, whether historic or otherwise, shall be preserved and restored if needed. For example, if there is a decorative iron cornice, with a piece missing, then every effort shall be made to replace the missing piece and to preserve the original cornice.

c. *Increase visibility.* Storefronts shall be made of clear, transparent glass so that the inside of the store is visible. For example, dark tinted, opaque glass shall be replaced with clear glass and solid coverings over existing windows shall be removed. These changes will project a feeling of comfort for the potential customer and will create a more attractive, brighter commercial or retail space.

d. *Use high quality materials.* High quality building materials, such as stone and brick, shall be used whenever possible as they project importance, integrity and substance. Typically, the cost of the high quality building materials is greater initially but the materials will last a great deal longer than cheaper materials and there will be a substantial savings in the long term. For example, use stone or brick rather than fake plaster (E.F.I.S.) or concrete block. Use real wood rather than plastic wood or chip board.

e. *Incorporate rich architectural details.* The buildings shall include historical details to help give the architecture human scale.

f. *Use historically accurate colors.* The building faces or façades shall be beautiful with balanced features and attractive colors that are compatible and historically accurate. The application of too many colors on one building face may not be historically accurate or appealing.

g. *Install tasteful lighting.* Storefront lighting shall highlight the attractive architectural features of the building and be adequate for the customer to feel safe. The use of tasteful building lights that gently cast light on the wall, is preferable to the flashing or bright floodlight approach.

h. *Relate to surrounding buildings.* Buildings, whether old or new, shall relate to the existing buildings on the street in form and proportion. The buildings shall be set on the zero lot line, close to the street and shall be in proportion to the height of adjacent buildings where possible to create a continuous street corridor. To illustrate, a very tall building shall not be built next to a single story building.

i. *Maintain human scale.* The downtown buildings are to be a two-story minimum height but not to exceed four stories in order for the downtown to have a comfortable scale that people can relate to. See Illustration 52-275.

ILLUSTRATION 52-275

j. *Present an inviting building entryway.* Entrances shall distinguish a building front by creating interest for the potential customer in the proper context of the historical design. Building entryways were historically recessed and often protected with an awning to provide some shelter from the elements.

k. *Use original proportions.* The renovated storefronts shall fit into the existing original opening. To illustrate, an

existing historical building storefront if expanded shall keep the existing storefront in place and simply add another second "duplicate" building storefront so it looks like there are now two building storefronts rather than one giant one. Likewise, replacement windows shall respect the original historic window opening sizes.

l. *Create attractive window displays.* Window displays shall be attractive and interesting to customers. To encourage the shopper to come inside, the business shall place its most interesting products in the window in an artistic manner that makes the customer stop and then venture inside. These window displays also tell potential customers what is sold inside. Window displays shall be rotated on a regular basis to maintain interest.

m. *Minimize signage.* Too many signs of different styles, fonts and wording are confusing to the person walking by. The signage shall be simple and shall communicate the business type inside without bombarding the customer with too many words.

n. *Modify security features.* Security features are important to store owners but these features shall not scare away the customer. Bars over storefront windows and doors project an image of crime and lack of safety. Rather than using exterior security gate measures, stores shall use security glass and/or hidden roll up security gates at the back of the window displays.

o. *Maintain property.* Broken windows and doors, litter and graffiti project an image of poverty and apathy. Broken windows and doors, for instance, shall be fixed immediately and graffiti shall be removed from the walls or walks. Litter shall be removed from the storefront area as soon as it happens to say, "We care about the community". Flower displays, boxes and planters also help to add warmth, color, and establish ownership to building fronts.

(Ord. No. 2008-01, 3-3-2008)

Sec. 52-276. - Reserved.

Editor's note— Ord. No. 2021-001 , adopted April 19, 2021, repealed § 52-276, which pertained to development design standards and derived from Ord. No. 2008-01, adopted March 3, 2008.

Sec. 52-277. - Conflicts between standards.

The standards noted below apply to the downtown development district. When there are conflicts between the standards herein and those of other sections, the standards of this section shall take precedence. Except as otherwise noted, buildings and façades in Downtown Clare shall comply with the following requirements:

(1) *Building entrances.* Building entrances shall follow the following standards:

a. All buildings shall have at least one public, pedestrian entrance that faces the main street on the frontage line and is directly accessible from the sidewalk. In the event that the building faces upon a public space, the building face on the public space shall also be treated as a building front face.

b. All buildings shall retain the original building entrance, if historically accurate.

c. Rear entrances are permitted, only if there is a primary entrance from McEwan Street or the main street. The rear building entrances shall be decorative, attractive and well-maintained.

d. Entrances with recessed doors are encouraged for protection from the elements and from doors swinging out into the sidewalk area.

e. Doors:

1. Doors shall use transparent glass.

2. Doors for new construction shall be between seven and eight feet in height. Doors measuring six feet, eight inches high and over shall have a glass transom with a minimum height of 12 inches above the door.

3. Front entrance doors shall be constructed out of wood, glass, steel, fiberglass or as approved by the city, provid with the historic character of the district.
4. Aluminum store fronts are prohibited.
5. The building entry may be either centered or off centered.
6. Entrances must be barrier-free and accessible to the physically challenged. See Illustration 52-277(a).

ILLUSTRATION 52-277(a)

(2) *Building placement.* The placement of buildings shall follow these standards:

a. Buildings shall be built at "build-to" lines with no minimum setbacks (zero setbacks along McEwan Street or other main streets), or the average setback of other buildings on the block as determined by the city. The upper third and fourth stories may be recessed to help maintain a human scale.
b. A side setback between buildings in the downtown district is not required in Clare.
c. The setback requirements may be adjusted where strict adherence would serve no good purpose or where the overall intent of downtown Clare would be better served by allowing an alternative setback, provided the conditions listed in subsections 1. through 3. below are found to exist. Such modification may be made by the city if all of the following are found to exist:
    1. That a modification in setback, or waiver of a setback altogether, will not impair the health, safety or general welfare of the city as related to the use of the premises or adjacent premises;
    2. That waiver of the setback along a common parcel line between two premises would result in a more desirable relationship between a proposed building and an existing building; and
    3. The adherence to a minimum required setback would result in the establishment of non-usable land area that could create maintenance problems. See Illustration 52-277(b).

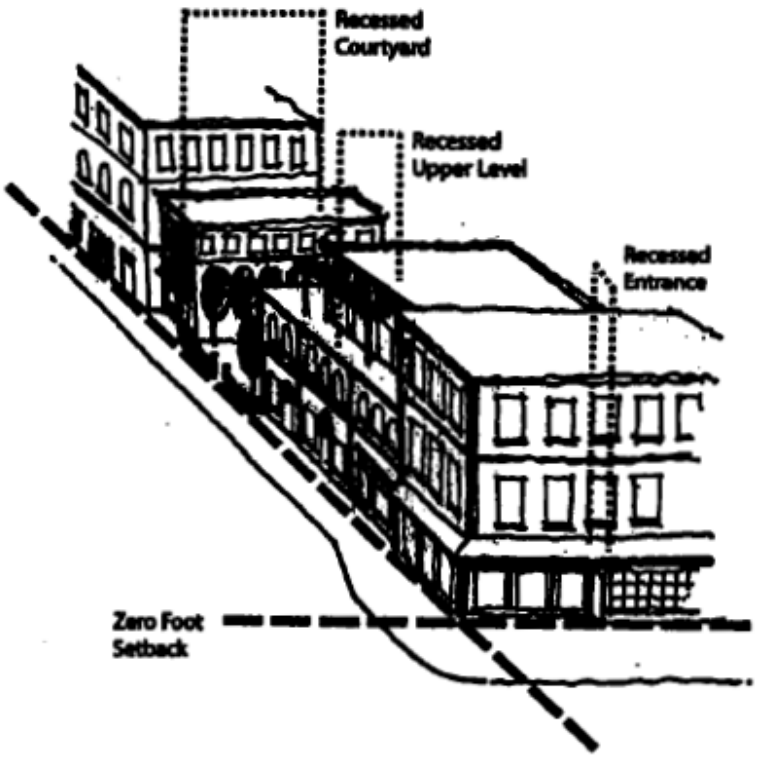


ILLUSTRATION 52-277(b)

(3) *Building height and mass.* The various elements of building heights shall be as follows:

a. The minimum height of all new buildings shall be two stories or 24 feet.

b. The maximum height of a two-story building shall be 34 feet.

c. The minimum height of a three-story building shall be 35 feet.

d. The maximum height of a three-story building shall be 46 feet.

e. The minimum height of a four-story building shall be 47 feet.

f. The maximum height of a four-story building shall be 61 feet. No buildings within the downtown shall exceed four stories in height.

g. The city may allow the construction or renovation of a one-story building if the architectural style includes a parapet or other appropriate architectural embellishments that are compatible with adjacent buildings in particular and downtown Clare in general. In such instances, the city may allow the minimum height of the one story building to be 18 feet in height.

h. All stories shall contain habitable commercial, office, or residential spaces.

i. First floor height of all two-story buildings or greater shall be a minimum of 12 feet.

j. A transition line shall be provided between the first and second stories.

k. Height exceptions: Special architectural features (e.g. corner towers, entry treatments, chimneys, steeples, belfries, turrets, flagpoles, parapet walls, etc.) will be allowed to exceed the above height requirements if:

1. The feature is located at a corner (the intersection of two public right(s)-of-way); or,

2. The building is located at a designated "gateway"; or

3. The feature is deemed to be necessary to the type, use, or style of the building in question.
4. Special architectural features shall not exceed the height of the remainder of the building by more than 35 percent.
5. The height of any new building shall not exceed the height of any immediately adjacent new or existing two-story, three-story or four-story building by more than 15 percent unless the building is on a significant corner property and is approved by the city. See Illustration 52-277(c).

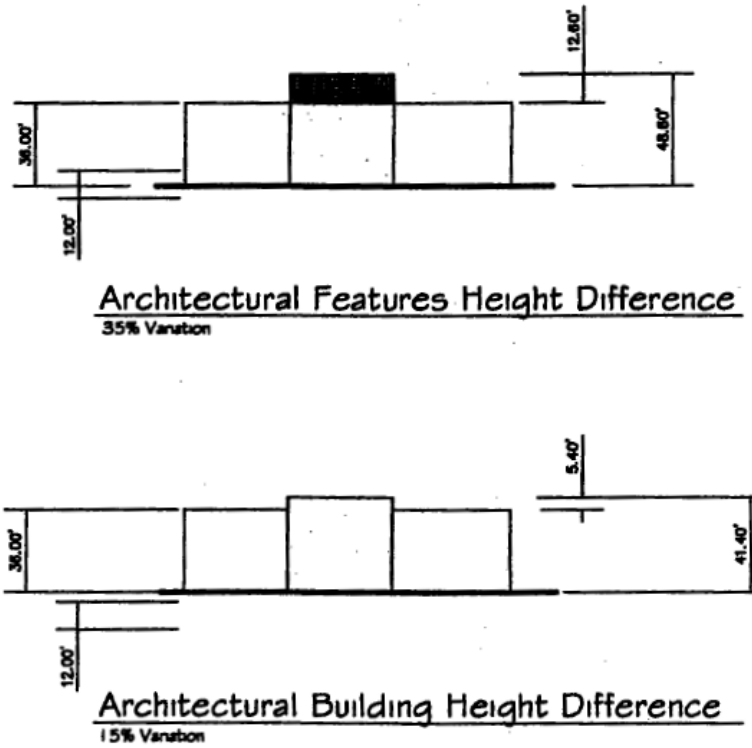


ILLUSTRATION 52-277(c)

(4) *Front façade design.* All building façades that face a street shall conform to the following design criteria:

a. *Street face:* Walls facing a public street shall include windows and architectural features customarily found on the front façade of a building such as awnings, cornice work, edge details or decorative finish materials. Blank walls shall not face a public street. Significant protrusions (more than six inches), such as awnings, cornice lines, details at the top of windows and sills are encouraged to create shadow lines or bands on the façade. Any building that terminates a view shall provide distinct and prominent architectural features of enhanced character and visibility to reflect the importance of the building's location.

b. *Storefront opening:* The storefront opening shall be a rectangular opening ten feet to 12 feet high and approximately 70 percent of the width of the storefront or bay. The opening shall be almost entirely glass (window or showcases) with few subdivisions to help maintain visual contact between the street and the building interior. The glass framing system shall be wood or metal (aluminum or pre-painted steel). Recessed openings are required.

c. *Façade pattern:* Large, long façades shall be subdivided into bays, through the location and arrangement of openings and architectural treatments that are compatible in size and scale to existing buildings. The maximum length without modulation shall be 30 feet. The bay width shall be 16 feet to 30 feet.

d. *Façade width to height ratio:*

1. *One-story buildings:* Single bay façades or individual bays of multiple bay façades, are not to exceed 1:2

(height to width) without the city approval.

2. *Two-story buildings:* Single bay façades or individual bays of multiple bay façades, are not to exceed 1:1 (height to width) without the city approval. See Illustration 52-277(d).

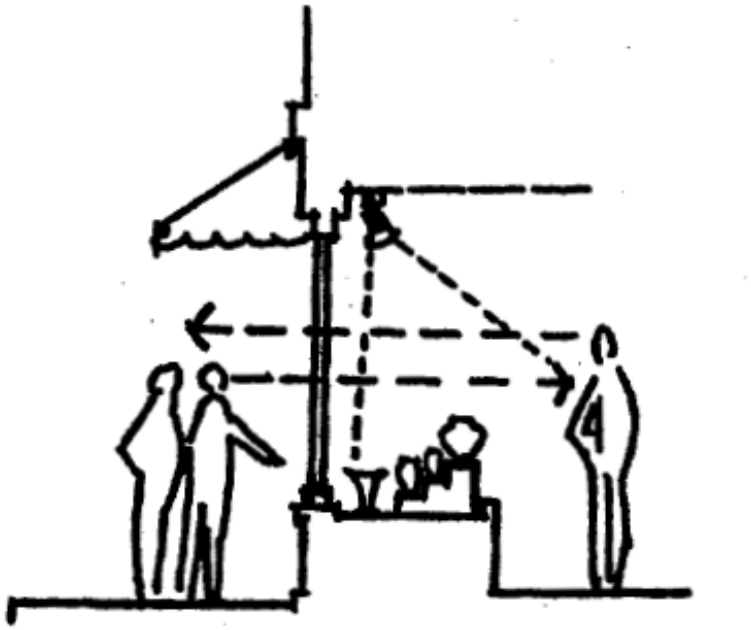


ILLUSTRATION 52-277(d)

e. *Roof type:* Many of the roof configurations in the downtown are "flat" (less than 3:1 roof slope), some with parapets that conceal the roof itself:
   1. Existing flat roofs and parapets shall be maintained.
   2. All new retail/office or mixed use buildings shall have flat roofs and parapets.
   3. Sloping roofs, gabled 6:12 (height to width)or hipped may be allowed as special architectural features, particularly for residential townhouse development subject to review and approval by the city.
   4. Parapets may be stepped.
   5. Mansard roofs, geodesic domes and A frames are prohibited.

f. *Fenestration or window and door openings:* All façades visible from the street must be glazed with transparent glass consistent with section 52-275(2)c.:
   1. First floor window area: minimum 40 percent of façade to 70 percent maximum.
   2. Second floor window area: minimum 25 percent of façade to 60 percent maximum.
   3. Butt-joint glazing is prohibited.
   4. The use of shutters shall generally not be used on commercial buildings. The city can waive this requirement, if it determines that it is in the best interest of the city and the downtown to do so.
   5. Mullion systems are encouraged.
   6. Windows and doorways shall be integrally designed.
   7. Façade openings including windows, doors, porches and colonnades shall be vertical in proportion.
   8. Sliding doors and windows are prohibited along frontage lines. See Illustration 52-277(d-2).

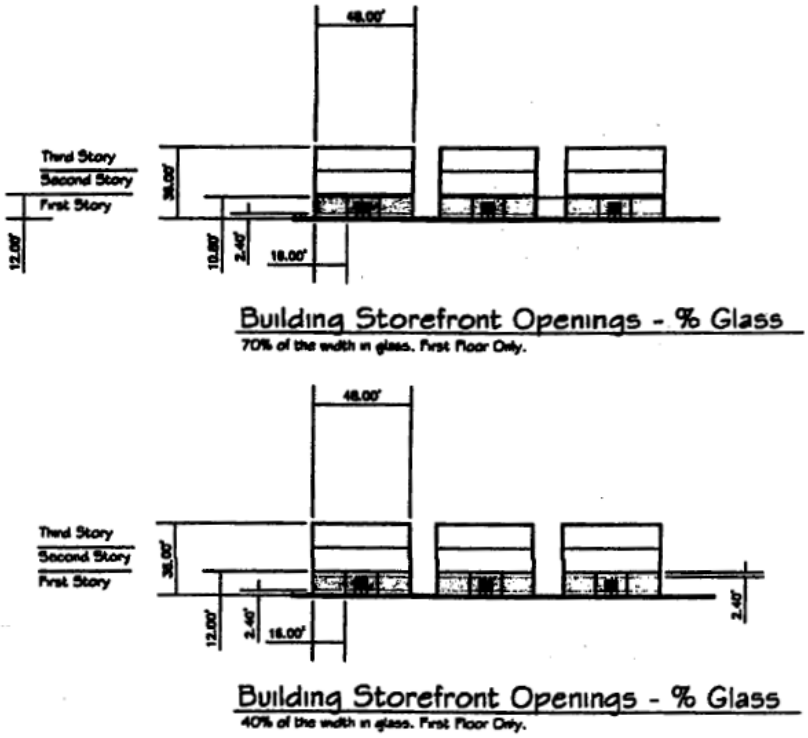


ILLUSTRATION 52-277(d-2)

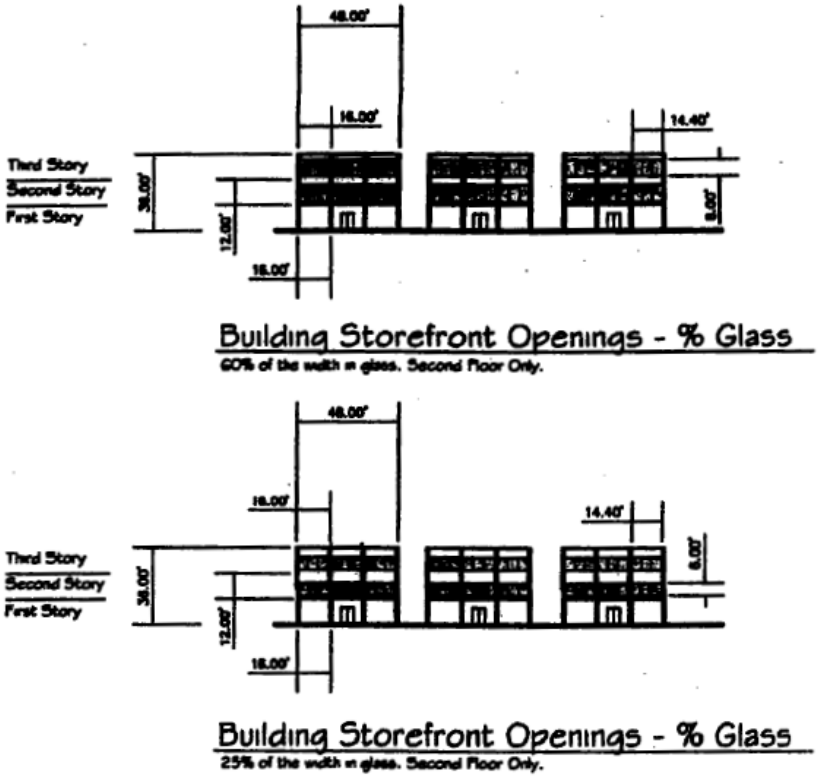


ILLUSTRATION 52-277(d-2) cont.

g. *Building materials:*

1. *Buildings:* The buildings are to be constructed from permanent materials that will weather handsomely over

time, such as brick, stone, masonry, or other natural materials. The use of bare metal, aluminum or vinyl siding, mirrored glass and plastic shall not be allowed. Imitation stucco (Dry-Vit, Sto-Wall, E.I.F.S. and other brands) shall not be allowed below 11-foot height. Imitation stucco type products may be allowed above 11-foot height with special city approval provided the architecture is in character with the historic nature of the district. The use of metal panels, wood siding, and cement board siding shall not be allowed. The city may grant special approval of metal panels, wood siding or cement board siding in circumstances where the architecture is in keeping with the historic nature of the district.

2. *Façade frame:* The façade frame, or wall, shall be brick or stone masonry constructed principally in a single plane. The top of the parapet wall shall be flat or step slightly to accentuate end piers unless a sloped roof is allowed by the city. The façade frame shall be capped by a stone coping. Brick or stone shall be laid primarily in running bond with decorative detail.
    i. *Brick:* Shall be standard modular brick with common tooled mortar joints. Untooled joints, or irregular shaped brick are prohibited. Brick color (commonly red or tan) and texture (smooth or glazed to rough) shall be compatible with original brick façades in downtown Clare. Decorative CMU or stucco may be used, subject to review and approval by the city, on rear or side façades.
    ii. *Stone:* Stone materials shall be smooth finish stone (limestone or sandstone). The stone shall be light to medium buff color. Pre-cast limestone manufactured to simulate traditional limestone or sandstone may be used with city approval.
    iii. *Metal:* Aluminum or painted sheet steel may be permitted after review and approval by the city. Color and finish shall coordinate with that of the window framing system.
3. *Parapet cap:*
    i. *Brick:* The brick shall be standard modular brick with common tooled mortar joints. Untooled joints or irregular shaped brick are prohibited. Brick color (commonly red) and texture (smooth or glazed to rough) shall be compatible with original brick façades in downtown Clare. Decorative CMU or stucco may be used, subject to review and approval by the city, on rear or side façades.
    ii. *Stone:* The stone shall be smooth finish stone (limestone or sandstone). The stone shall be light to medium buff color. Pre-cast limestone to simulate traditional limestone or sandstone may be used with the city approval.
    iii. *Metal:* Metal shall be aluminum or painted sheet steel if permitted after review and approval by the city. The color and finish shall match that of window framing system.
4. *Storefront opening:*
    i. *Framing system:* Wood is preferable, however, aluminum or pre-painted steel storefront glazing system is acceptable.
    ii. *Glass:* Glass shall be clear. Reflective, mirror, heavily tinted, or unusually colored glass is prohibited.
5. *Canopies:*
    i. *Fascia trim:* Fascia trim shall be natural finish aluminum, bronze or painted metal.
    ii. *Soffit:* The soffit shall be metal or cement plaster.
    iii. *Support rods:* The support rods shall be metal and shall not block pedestrian movement.
    iv. *Design:* Canopies shall be narrow in elevation, six inches to 12 inches and flat or slightly angled. Typically, the canopies shall be flat or slightly angled so that the overall height dimension does not exceed 18 inches. Canopies shall be self supporting or supported by tension rods. Canopy projections shall be limited to 48 inches. Canopies shall be designed as an integral component of the building.
6. *Awnings:*

i. *Design:* Awnings shall be traditional in design and must be made from fabric or similar material, rather than metal, plastic or rigid fiberglass. Awnings shall not be made of high gloss, shiny or translucent materials.

ii. *Size:* Awnings shall be proportional to the window opening and compatible in height, length, depth and bulk with the building façade. Awnings shall not obscure the architectural features of the building but rather the awnings shall respect the overall building façade. The awning shall match the width of the storefront or window opening.

iii. *Shape:* An awning that is triangular in section sloping outward and down from the top of the awning (type A) or half round (type B) shall be used. The city may approve other awning shapes, such as round top, box or other unusual shapes, where such shape is appropriate to the integral architectural design of the façade. See Illustration 52-277(d-3).

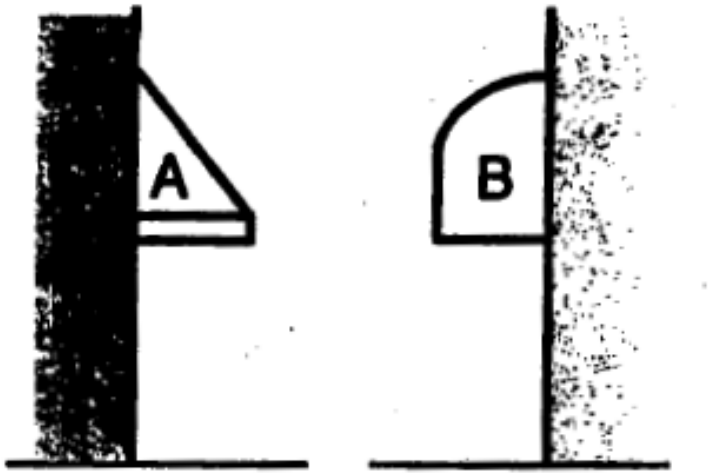


ILLUSTRATION 52-277(d-3)

iv. *Frame:* The frame shall be a traditional historic frame. Wood or metal support structures shall be painted or bronzed.

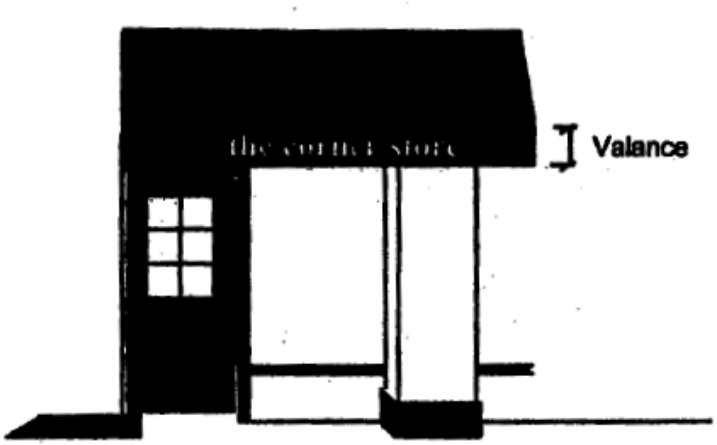
v. *Fabric:* Fabric shall be standard cloth fabrics in either solid, stripe or patterns.

vi. *Color:* Color shall be a solid through color with the underside of the awning the same color as the exposed face. A maximum of three colors on the awning shall be allowed. Awning colors must be complementary and compatible wit the building façade.

vii. *Location:* Awnings shall not cover distinctive architectural features of the building façade. All awnings shall be attached directly to the building, rather than supported by columns or poles. First floor awnings shall not be located higher than the midpoint between the highest level of the first floor and the window sill of the second floor. First floor awnings may encroach upon the frontage line but must avoid street trees and must provide a minimum clearance of eight feet of vertical clearance from the sidewalk surface grade. Awnings must be setback a minimum of two feet from the road curb and generally shall project no more than five feet from the building. Upper floor awnings shall be permitted only on vertically proportioned windows, provided the awning is only the width of the window and encroaches on the frontage line no more than three feet and is not used as a back lit sign.

viii. *Lighting:* Internally illuminated or back-lit awnings are prohibited.

ix. *Awning signage:* Awnings with lettering, symbols and/or other graphics shall be considered signage and shal city's signage regulations. See Illustration 52-277(d-4).



Awning Sign

ILLUSTRATION 52-277(d-4)

7. *Balconies, railings and porch structures:* Balconies, railings and porch structures shall be metal, stone, wood or pre-cast limestone.
8. *Windows:*
   i. Second story windows shall maintain the height and width of the original historic window openings.
   ii. Window muttons shall be wood or metal and shall be painted or bronzed.
   iii. Curtains or blinds are permissible for second story windows in storage areas.
   iv. Window opening shall not be blocked or covered with a solid materials on the first floor.
9. *Security systems:*
   i. Security systems shall not cover distinctive architectural features on the façade.
   ii. Laminated glass or security film must be installed on the inside of the window or door glass.
   iii. Security bars, solid metal security gates or solid roll-down windows shall be prohibited.
   iv. Link or grill type security devices shall be permitted only if installed from inside, within the window or door frames. With special permission by the city, link or grill type security devices may be installed on the outside if the coil box is recessed and concealed behind the building wall. Security grills shall be recessed and concealed during normal business hours. Models that provide a sense of transparency, in light colors, are encouraged. Other types of security devises fastened to the exterior walls are prohibited. The preferred location for the link or grill type of security system is behind the window display so merchandise is still visible after hours.
   v. Burglar alarms or security cameras shall not be visible from the street.
   vi. Any exterior security lighting shall be installed per the lighting section of these design standards and must meet the lighting requirements of the city.

h. *Building colors:* Exterior colors shall be compatible with the colors on adjacent buildings and are subject to prior review and approval by the city. Proposed colors shall be specified on the plans. Historic paint colors are encouraged and typically no more than three colors shall be used without permission from the city. Gaudy or fluorescent colors are prohibited. The painting of brick or stone of existing unpainted buildings or proposed

building construction shall generally not be allowed. The city may approve the painting of unpainted existing buildings or proposed building construction where the building painting is in keeping with the historic and architectural character of the city. The removal of paint on building surfaces shall be performed in such a way that the original masonry and mortar is not damaged.

i. *Air conditioners and other utility systems:* Air conditioning units shall not be permitted on the front façade of any building or building façade where there is a pedestrian entry. Air conditioning units on side or rear walls shall be flush with the building walls and screened with decorative grills. In no instance shall the air conditioning drain onto walkways.

j. *Mechanical equipment:* Roof top mechanical equipment shall be hidden from view for adjacent properties and from the rights-of-way.

(5) *Side and rear façade design.* Whenever a side or rear façade is visible from a public street, or if parking is located at the side or rear of the building, the façade shall be designed to create a pleasing appearance, in accordance with the following design criteria:

a. *Design:* Rear and side storefronts should be similarly designed as front façades described above.

b. *Parapet:* If a parapet is used, the top of the parapet wall shall be flat or step slightly to accentuate end piers. If no parapet is used, downspouts shall be located at the outer sides of the façades, not in the middle of the façade.

c. *Materials:* Materials and architectural features similar to those present on the front of the building should be used on the side or rear façade. Acceptable materials include brick, stone and precise limestone. Decorative CMU (concrete masonry unit) or stucco may be permitted with permission by the city. The buildings are to be constructed from permanent materials that will weather handsomely over time, such as brick, stone, masonry, or other natural materials. The use of bare metal, aluminum siding, mirrored glass and plastic shall not be allowed. Imitation stucco (Dry-Vit, Sto-Wall, E.I.F.S. and other brands) shall not be allowed below 11-foot height. Imitation stucco type products may be allowed above 11-foot height with special city approval provided the architecture is in character with the historic nature of the district. The use of metal panels, wood siding, and cement board siding shall not be allowed. The city may grant special approval of metal panels, wood siding or cement board siding in circumstances where the architecture is in keeping with the historic nature of the district.

d. *Building colors:* Exterior colors shall be compatible with the colors on adjacent buildings and are subject to prior review and approval by the city. Proposed colors shall be specified on the plans. Historic paint colors are encouraged and typically no more than three colors shall be used without permission from the city. Gaudy or fluorescent colors are prohibited. The painting of brick or stone of existing unpainted buildings or proposed building construction shall generally not be allowed. The city may approve the painting of unpainted existing buildings or proposed building construction where the building painting is in keeping with the historic and architectural character of the city. The removal of paint on building surfaces shall be performed in such a way that the original masonry and mortar is not damaged.

e. *Service areas:* Trash receptacle and service areas shall be completely screened with landscaping, a fence, a wall, or a combination thereof.

f. *Open space:* Open areas shall be landscaped with lawn, ground cover, ornamental shrubs and trees. On every site involving new development or redevelopment, foundation plantings adjacent to the building may be required at the discretion of the city. The species and design shall be identical to or compatible with the landscaping schematic for the downtown development district.

g. *Streetscape:* The area within the right-of-way between the curb and building shall be identical to or compatible with the streetscape scheme of the downtown development district.

h. *Roof top mechanical equipment:* Roof top mechanical equipment shall be hidden from view for adjacent

properties and for the rights-of-way.

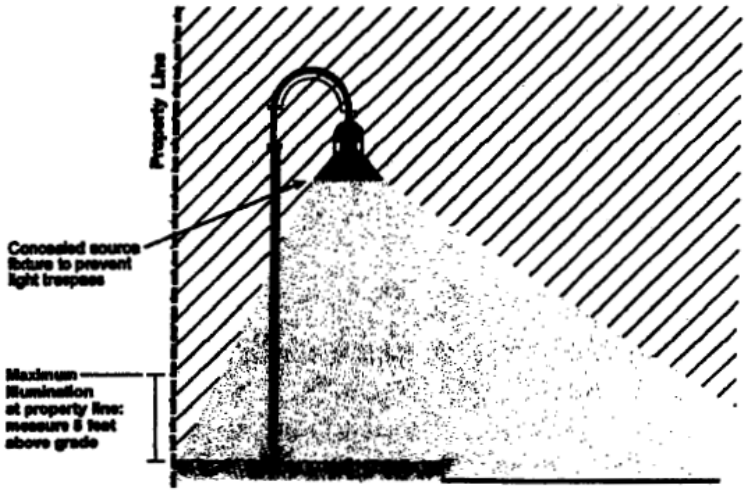
(6) *Lighting.* Exterior lighting must be placed so that sidewalks and parking areas are properly lighted to facilitate the safe movement of pedestrians and vehicles and provide a secure environment. Exterior lighting can also be used to tastefully highlight special architectural features of buildings.

a. *Type:* Pole lighting shall be compatible with the historic-style street lamps. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited, except where historical-style lighting is used that is compatible with historic-style street lamps. Lighting style shall be compatible with the historic character of the area.

b. *Lighting source:* The lighting source shall not be directly visible from adjoining properties. The lighting shall be shielded so as to direct the light onto the site and away from adjoining properties.

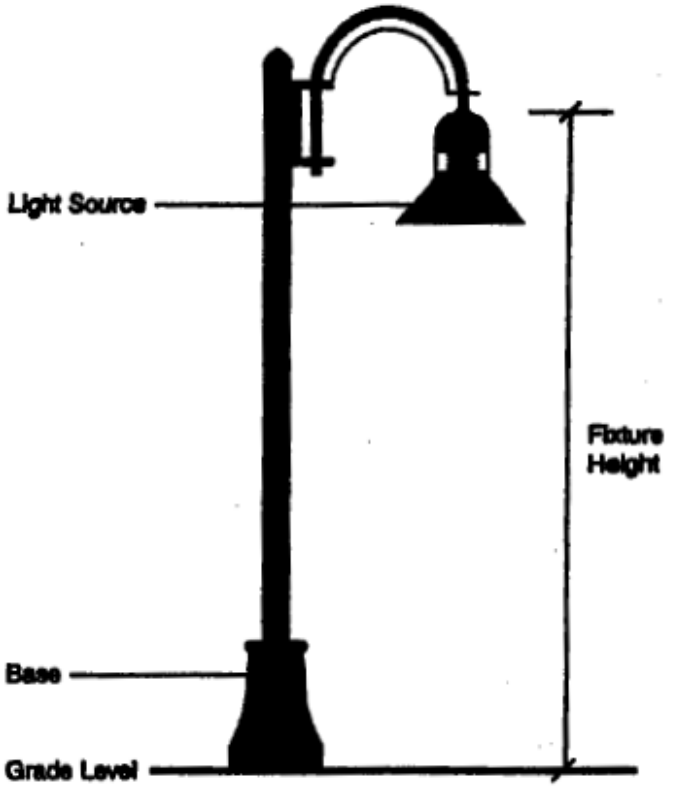
c. *Intensity:* In parking areas, the light intensity shall average a minimum of 1.0 foot candle, measured five feet above the surface. In pedestrian areas, the light intensity shall average 2.0 foot candles, measured five feet above the surface. The intensity of light shall not exceed ten feet candles at any location within the site and 1.0 foot candle at any lot boundary, except where it abuts a residential district or use where a maximum of 0.5 foot candle is permitted. Lighting shall not be flashing, pulsating or project unshielded glare onto the sidewalks or roadways.

d. *Height:* The maximum height of light poles to the top of the fixture shall be 20 feet high. See Illustration 52-277(f) and (f-2).



Lighting Fixture Orientation and Shielding

ILLUSTRATION 52-277(f)



Light Fixture Height

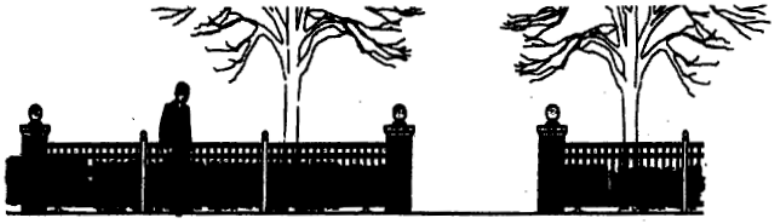
ILLUSTRATION 52-277(f-2)

(7) *Parking.* Parking and parking lot design shall comply with the standards below:

a. *Parking lot:* No new parking lot shall be created nor any existing parking lot expanded in front of a building unless the city determines that parking in front of the building would be acceptable for either of the following reasons:

1. Front yard parking is required to maintain the continuity of front building setbacks in the block while making efficient use of the site; or
2. Front yard parking is required for the purposes of traffic safety and to minimize driveway curb cuts where the new parking lot is proposed to connect with one or more parking lots on adjoining parcels.

b. *Parking:* Parking located in front or on the side of a building shall be screened from the road with a 30 inches to four-foot high decorative brick, stone or other masonry wall complementing the adjacent buildings. A continuous evergreen hedge or decorative ornamental fence may be allowed with the city approval. Screen wall openings for vehicular and pedestrian access shall have a maximum width of 25 feet. Sight clearance must be maintained. Any required fencing shall be decorative iron rather than chain-link fence. See Illustration 52-277(g)(2).



Decorative Wall or Fence with Planting Strip

ILLUSTRATION 52-277(g)(2)

c. *Pavement:* Paving shall be confined to the minimum area necessary to comply with the city parking requirements, in order to maximize the amount of land area left for landscaping and open space.

d. *Parking spaces:* Parking spaces located adjacent to residential buildings and uses shall require the following:

1. A six-foot high decorative brick wall shall be required between non-residential and residential uses.
2. Wherever feasible, a five-foot wide opening(s) shall be provided in the wall to encourage and connect to existing or future pedestrian pathway systems located on adjacent parcels.

(8) *Landscaping.* New landscaping shall comply with the city standards, in addition to the standards below:

a. *Street trees:*

1. *Spacing:* On every site involving new development or re-development, street trees shall be provided at 25- to 40-foot intervals.
2. *Variety:* The species of street tree and exact locations shall be as specified on the future streetscape plan. In the event that future streetscape plan has not been prepared, then any of the following street trees shall be planted within the road right-of-way at 25- to 40-foot intervals: Norway Maple, Red Maple, Cleveland Pear, Aristocrat Pear or Little Leaf Linden.
3. *Street tree plan:* A street tree plan shall be submitted for review and approval for any modifications that do not fit into subparagraph b. below. See Illustration 52-277(h).

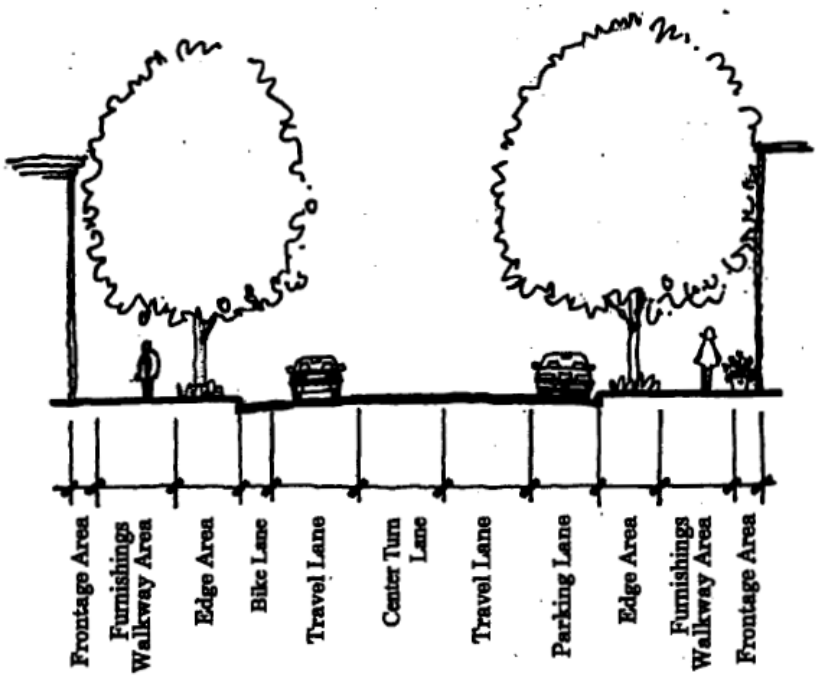


ILLUSTRATION 52-277(h)

b. *Landscape plan:* On every site involving new development or total redevelopment, a landscape plan shall be submitted for review and approval.

c. *Window boxes:* Window boxes with attractive, live floral displays are encouraged. The window boxes shall be placed below the windows and their width shall be proportionate to the individual window width.

(9) *Sidewalk displays.* Sidewalk displays shall be permitted directly in front of a business establishment provided at least five feet of clearance is maintained along pedestrian circulation routes. Displays are required to comply with the following:

a. *Size:* Display cases shall be located against the building wall and shall not be more than two feet deep. The display area shall not exceed 50 percent of the length of the storefront.

b. *Hours and materials:* Display cases shall be permitted only during normal business hours, and shall be removed at the end of the business day. Cardboard boxes, pallets and plastic containers shall not be used for sidewalk displays.

c. *Maintenance and style:* Sidewalk displays shall maintain a clean, litter-free and well-kept appearance at all items and shall be compatible with the colors and character of the storefront from which the business operates.

(10) *Courtyards and plazas.*

a. *Design:* Exterior public and semi-public spaces, such as courtyards or plazas, shall be designed to enhance surrounding buildings and provide functional amenities for the users.

b. *Composition:* Exterior public or semi-public spaces shall include textured paving, landscaping, lighting, fountains, street trees, benches, trash receptacles and other items of street furniture, as appropriate.

c. *Edges:* Courtyards shall have recognizable edges defined on at least three sides by buildings, walls, elements of landscaping, and elements of street furniture, in order to create a strong sense of enclosure.

d. *Integration:* Courtyards and plazas shall be connected to the public sidewalk pathway system.

(11) *Outdoor cafe/cafes, outdoor eating areas and open front restaurant (i.e. window service).*

a. *Size:* Any outdoor eating area outside of the building footprint shall not exceed 15 percent of the gross floor area of the ground floor level of the principal building.

b. *Location:* Outdoor eating areas (with the exception of sidewalk cafes) shall be located no closer than five feet from any street right-of-way or any vehicular parking or maneuvering areas and shall provide the minimum five feet of clearance space for pedestrian circulation. Such eating areas shall be separated from all vehicular parking and maneuvering areas by means of a greenbelt, wall, or architectural feature.

c. *Location and screening:* The outdoor eating area shall not be located within 50 feet or any properties used or zoned for single-family residential purposes. The area shall be completely screened from view from all single-family residential properties by an obscuring wall or greenbelt, in compliance with this division.

d. *Maintenance:* The outdoor eating area shall be kept clean and devoid of litter at all times. Fences or landscaping shall be provided to control blowing debris.

e. *Vending machines:* All vending machines and arcades shall be located within a completely enclosed building.

f. *Outdoor sidewalk cafes:* Outdoor sidewalk cafes shall be subject to the following standards:

1. A minimum of five feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs and other encumbrances to allow for pedestrian circulation. If the sidewalk is not wide enough to allow for a five-foot wide clearance for circulation, the cafe/cafes shall not be permitted. Planters, posts with ropes, or other removable enclosures are encouraged and shall be used to define the area occupied by the outdoor seating.

2. Pedestrian circulation and access to store entrances shall not be impaired. Thus, a boundary (maximum encroa length) into the public sidewalk shall be established, with an accessible aisle being maintained between this line accordance with the provisions of the National Americans with Disabilities Act (ADA) and Michigan Barrier Free F
3. The operators of the outdoor cafe/cafes shall be responsible for a clean, litter-free, and well-kept appearance within and immediately adjacent to the area of the tables and chairs. Additional outdoor trash receptacles shall be required. Trash shall be emptied from any outdoor receptacles associated with an outdoor cafe/cafes on a daily basis. Outdoor cafe/cafes trash receptacles shall be removed from the sidewalks between November 1 and March 30. Written procedures for cleaning and trash containment and removal responsibilities of the cafe/cafes must be noted on the site plan to the satisfaction of the city.
4. Tables, chairs, planters, trash 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.
5. Additional signs shall not be permitted, beyond what is permitted for the existing restaurant.
6. The hours of operation for the outdoor seating area shall be established and noted on the plan.
7. Preparation of food and beverages shall be prohibited in this outdoor area. The sale and consumption of alcohol are governed by the Michigan Liquor Control Act and any applicable local ordinance.
8. Liability issues for use of the public sidewalk shall be addressed and reviewed by the city attorney.

(12) Mechanical equipment.

a. *Mechanical and communication equipment.* All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes and other telecommunications devices, including small cell wireless facilities as defined by the Small Cell Wireless Facilities Deployment Act, and other telecommunication devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties, by using walls, fences, roof elements, penthouse-type screening devices or landscaping.

b. *Fire escapes.* Fire escapes shall not be permitted on a building's front façade. [No] buildings requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.

(13) *Service access.*

Service alley: A service alley or designed loading space shall be reserved at the rear of the building.

(Ord. No. 2008-01, 3-3-2008; Ord. No. 2009-004, 11-2-2009; Ord. No. 2019-003 , 4-1-2019)

Sec. 52-278. - Miscellaneous requirements.

(a) Before a building permit for a DDA parcel will be issued, the owner and/or builder must submit the following material to the downtown development authority/main street board for review and comment:

(1) A detailed site plan of the area, showing the location of all buildings, improvements, signage, walls or fencing, lighting and landscaping.

(2) Engineering/architectural plans for all buildings and utilities (i.e., water, sewer, storm drainage, gas and electricity).

(3) A description of the operation, including, but not limited to, the type of activity, number and type of employees, hours of operation, manpower and training requirements, water and sewer usage, energy consumption, solid waste disposal needs, air pollution, building entrances and placement, front façade, rear façade, lighting, courtyards and plazas.

(b) Any DDA/main street district building permit shall become null and void if construction has not begun within one year of date of approval.

(c) All principal structures must conform to the development design standards applicable to the downtown

development/main street district.

(d) After review the downtown development authority/main street board shall issue its recommendation and report to the city planning commission for its use in evaluating the site plan pursuant to this chapter, section 52-411 et seq.

(Ord. No. 2008-01, 3-3-2008)

Sec. 52-279. - Sign review standards.

Sign review and approval is required by the City of Clare for all users in downtown Clare in accordance with the City of Clare Zoning Ordinance article IX, Signs. For projecting signs, suspended signs and wall signs, sign review and approval shall be reviewed and approved by the City of Clare in accordance with the Zoning Ordinance and the additional requirements below. In the event that there is a conflict between the article IX sign regulations and the standards noted herein, these downtown sign review standards shall govern. Signs erected within downtown Clare shall comply with the following:

(1) *Location.*

a. No sign shall be erected which shall be less than eight feet from ground level measured vertically from the bottom of said sign to ground level.

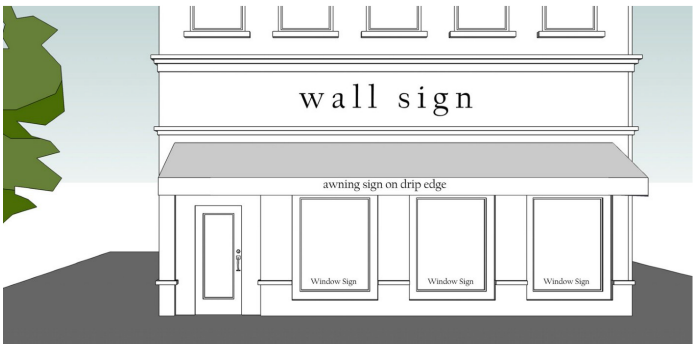
b. No sign shall be erected within a distance of ten feet measured horizontally from any fire hydrant, traffic light or street lighting poles, nor shall any sign be erected in any location where, by reason of traffic conditions, fire or explosion hazards, it would imperil public safety or interfere with the function of the fire department.

c. Signs shall be prohibited from extending, in any manner, into or over public rights-of-way traveled, or intended for use by motorized vehicles. However, projecting or canopy signs may extend into the right-of-way as permitted in subsection (8)f., below. Municipal banners may be permitted by special approval from the city manager.

d. Signs shall be located either in the panel situated above the awning or transom windows, on the canvas awning, on the window or door glass, on the transom window area or on a small projecting sign.

e. No wall, canopy or projecting sign shall extend above the roof or parapet of the structure to which it is attached by more than one foot. See Illustration 52-279(1).

ILLUSTRATION 52-279(1)



(2) *Sign size.*

a. The total surface area of all wall signs shall not exceed one and one-half square feet per lineal foot of building frontage, not to exceed 100 square feet. The sign size shall fit the existing features of the building and shall not cover up architectural details.

b. The total area of freestanding ground signs shall not exceed one-half of a square foot per lineal foot of lot frontage, not to exceed 25 square feet for a single face sign, 50 square feet for a double face sign, or a total of 50 square feet of surface for any other sign configuration.

c. If a façade is shared by more than one premises, the total sign area available to the façade under the terms of these standards shall be allocated so that the sign area available to each premises bears the same proportion

that the façade area bears to the total façade area.

(3) *Projecting signs.* Individual projecting signs to be mounted perpendicular to building façade shall be permitted subject to the following:

a. The signboard shall not exceed eight square feet.

b. Business signs may be located on the second story façade of the building so long as the minimum height requirements established elsewhere are met and the sign is not closer than three feet below the roof line of the building. (No signs shall be mounted on the roof line or roof top.)

c. The distance from the ground to the lower edge of the signboard shall be eight feet minimum.

d. The distance from the building wall to the signboard shall not exceed six inches.

e. The width of the signboard shall not exceed three feet.

f. The height of the lettering, numbers or graphics shall not exceed eight inches.

g. The outside edge of a projecting sign shall not extend more than four feet from the face of the building that it is attached to or one-third of the sidewalk width whichever is less.

(4) *Lettering.* Applied letters may substitute for wall-mounted signs, if constructed of painted wood, painted cast metal, bronze, brass or black anodized aluminum. Applied plastic letters shall not be permitted. The height of applied letters shall not exceed eight inches.

(5) *Wall-mounted signs.* Wall-mounted signs shall be permitted subject to the following:

a. The sign shall be affixed to the front façade of the building and shall project outward from the wall to which it is attached no more than six inches.

b. The area of the signboard shall not exceed five percent of the ground floor building façade area, or 24 square feet, whichever is less.

c. The maximum permitted height is 15 feet above the front sidewalk elevation and shall not extend above the base of the second-floor windowsill, parapet, eave or building façade.

d. The height of the lettering, numbers or graphics shall not exceed eight inches.

e. The sign shall be granted to commercial uses occupying buildings facing on public streets only and shall not be allocable to other uses.

f. Wall-mounted signs shall be limited to one sign per business.

(6) *Painted window or door signs.* Painted window or door signs shall be permitted, provided the following standards are met:

a. The sign shall not exceed 20 percent of the window or door area, or four-square feet, whichever is less.

b. The sign shall be silk-screened, hand painted, or may be of vinyl materials.

c. The painted window door signs shall be limited to one sign per business, painted on either the window or the door, but not on both.

d. The painted window or door signs may be in addition to only one of the following: a wall-mounted sign, a freestanding sign, an applied letter sign, a projecting sign or a valance awning sign.

e. Painted or vinyl signs shall be professional in appearance.

(7) *Awning signs.* Awnings or canopies used to advertise a business shall be made of cloth or materials resembling cloth. Awning signs shall be permitted for ground floor uses only provided the following standards are met:

a. If acting as the main business sign, it shall not exceed ten square feet in area, and the height of the lettering, numbers or graphics shall not exceed eight inches.

b. If acting as an auxiliary business sign, it shall be located on the valance only, shall not exceed four square feet in

area, and the height of the lettering, numbers or graphics shall not exceed four inches. No awning sign shall extend vertically or horizontally beyond the limits of the awning.

c. Limited to two such signs per business, on the valance.

d. If acting as the main business sign, it shall not be in addition to a wall-mounted sign.

e. Internally illuminated awning signs are prohibited. Indirect awning lighting is permitted after review and approval by the City of Clare. See Illustration 52-279(i).

(8) *Freestanding signs.* One freestanding sign may be provided, subject to the following conditions:

a. The building where the business to which the sign refers to shall be set back a minimum of ten feet from the street line.

b. The area of the signboard shall not exceed three square feet.

c. The height of the lettering, numbers or graphics shall not exceed four inches.

d. The height of the top of the signboard, or of any posts, brackets or other supporting elements shall not exceed six feet from the ground.

e. The signboard shall be constructed of wood, with wood or cast-iron brackets, and shall be architecturally compatible with the style, composition, materials, colors and details of the building.

f. The sign shall be located within four feet of the main entrance to the business and its location shall not interfere with pedestrian or vehicular circulation.

g. Freestanding signs shall be limited to one sign per building and shall not be in addition to wall-mounted, applied letters or projecting signs.

(9) *Corner business signage.* Businesses located in corner buildings are permitted one sign for each street frontage.

(10) *Service entry signage.* Businesses with service entrances may identify these with one sign not exceeding two square feet.

(11) *Directional signage.* One directional sign, facing a rear parking lot, may be erected. This sign may be either wall-mounted on the real façade, projecting or freestanding, but shall be limited to four square feet in area.

(12) *Restaurant and cafe signage.* In addition to other signage, restaurants and cafes shall be permitted the following, limited to one sign per business:

a. A wall-mounted display within a shallow wood or metal case, clearly visible through a glass front, which shall be attached to the building wall, next to the main entrance, at a height of approximately five feet, shall not exceed a total area of two square feet, and may be lighted.

b. A sandwich board sign, as follows:

1. The area of the signboard, single-sided, shall not exceed five square feet. The height shall not exceed five feet and the width shall not exceed three feet.

2. The signboard shall be professionally constructed of durable, weather-resistant materials such as wood, chalkboard or finished metal.

3. Letters must be professionally painted or handwritten.

4. The sign shall be located within four feet of the main entrance to the business and its location shall not interfere with pedestrian or vehicular circulation.

5. The sign shall be removed at the end of the business day.

6. The sign shall not be erected within 20 feet of another sandwich board.

(13) *Sign design standards.*

a. Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition,

materials, colors and details of the building, as well as with other signs used on the building or its vicinity.

b. Signs shall fit within the existing façade features, shall be confined to signable areas, and shall not interfere with door and window openings, conceal architectural details or obscure the composition of the façade where they are located. Signs shall be placed on a façade only in a manner historically appropriate to the style of the building.

c. Whenever possible, signs located on buildings within the same block-face shall be placed at the same height, in order to create a unified sign band.

d. Wood and painted metal are the preferred materials for signs. Flat signs shall be framed with raised edges. Signs using wood shall use only high-quality exterior grade wood with suitable grade finishes. Sign materials shall be durable in nature.

e. Sign colors shall be compatible with the colors of the building façade. A dull or matte finish is recommended, for it reduces glare and enhances legibility.

f. Signs shall be spot-lighted (indirect lighting such as gooseneck light fixtures) with a diffused light source. Spot-lighting shall require complete shielding of all light sources; light shall be contained within the sign frame and shall not significantly spill over to other portions of the building, or site. Warm fluorescent bulbs may be used to illuminate the interior of display cases. Neon signs are not allowed.

g. Signs shall be mounted so that the method of installation is concealed. Signs applied to masonry surfaces shall be mechanically fastened to mortar joints only and not directly into brick or stone. Drilling to provide electrical service shall also follow the same rule.

h. Signage quantity shall be kept to a minimum and temporary signage shall be removed when in disrepair.

(Ord. No. 2008-01, 3-3-2008; Ord. No. 2009-001, §§ 1, 2, 5-4-2009; Ord. No. 2009-004, 11-2-2009; Ord. No. 2010-002, 7-19-2010; Ord. No. 2014-003 , 8-4-2014; Ord. No. 2014-008 , 10-6-2014; Ord. No. 2021-001 , 4-19-2021)

Secs. 52-280—52-300. - Reserved.

ARTICLE IV. - SUPPLEMENTARY REGULATIONS

Sec. 52-301. - Swimming pools.

(a) Pools used for swimming or bathing shall be in conformity with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than 24 inches deep or having a surface area less than 250 square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.

(b) A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until a permit has been obtained from the building inspector.

(c) All pools shall be located so as to comply with accessory structure setbacks. Each pool shall be enclosed by a fence or wall with a height of at least four feet and sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must not be less than four feet above the underlying ground. All gates must be self-latching with latches placed four feet above the underlying ground or otherwise made inaccessible from the outside to small children. A natural barrier, hedge, pool cover or other protective device approved by the planning commission may be used as long as the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the enclosure, gate and latch described in this subsection.

(d) All swimming pool installations shall comply with the state construction code and all standard codes referred to therein.

(Code 1985, § 5.101)

Sec. 52-302. - Fences and walls.

(a) All fences and walls shall be of standard materials, design and construction.

(b) Essential retaining walls which do not extend above the ground, being retained by more than 18 inches, are permitted in any yard in all zoning districts.

(c) Fences or walls not exceeding six feet in height are permitted in rear and side yards of R-1 and R-2 zoning districts, except in the DDA district which shall be contingent upon securing downtown development authority approval.

(d) Subject to building inspector approval, decorative fences up to four feet in height and not more than 50 percent solid are permitted in front yards of R-1 and R-2 zoning districts. Subject to building inspector approval, decorative fences up to four feet in height and not more than 50 percent solid are permitted in front yards of C-1 zoning districts.

(e) Fences or walls not exceeding 12 feet in height are permitted in all yards in C-1, C-2, I-1 and IP zoning districts, except that all fences located in front yards of such districts, which exceed four feet in height, shall be contingent on securing planning commission approval.

(Code 1985, § 5.102; Ord. No. 2012-004, 6-18-2012)

Sec. 52-303. - Setback requirements for districts abutting the R-1 district.

Where all other zoning districts abut the R-1 district, all structures shall be at least 30 feet from any perimeter boundary line, except that such structures in excess of 40 feet in length shall be set back an additional foot for every five feet of building length parallel to such boundary line.

(Code 1985, § 5.103)

Sec. 52-304. - Screening requirements for districts abutting single-family residentially zoned or used property.

(a) *Construction.* Screening shall be constructed and maintained along all adjoining boundaries with single-family residentially zoned or used property. An obscuring screen shall be a berm, wall, landscaping or other screening device, or combination thereof, that obstructs 75 percent of the field of vision from the ground to a height of six feet, when viewed from a distance of five feet or more. Open spaces within such screening shall not exceed a one square foot. Such screen shall be constructed in accordance with one or a combination of the following:

(1) *Berm.* A berm (mound of earth) no less than six feet high and contoured to a gradient of no less than three to one. The berm will be planted with grasses and/or shrubs and trees so as to be attractively landscaped.

(2) *Wall or solid fence.* A solid wall or fence with a finished surface fronting on the residential district. All materials shall be new or other material if approved by the building inspector.

(3) *Landscape buffer.* A landscape buffer not less than six feet in width, consisting of not less than 75 percent evergreen material. Plant material shall be of a variety which shall maintain an obscuring screen.

(b) *Ingress and egress.* Any and all screens constructed along boundaries adjoining the R-1 district shall be constructed to within 20 feet of any and all roads which would otherwise bisect such boundary, or no closer than 20 feet to any point at which a vehicle is required to stop before proceeding onto another drive or road.

(c) *Planning commission and city commission modifications.* Any of the requirements of this section may be waived or modified through site plan approval, provided the planning commission or city commission first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

(d) *Zoning board of appeals modifications.* The zoning board of appeals, in its sole discretion, may waive or modify the

requirements of this section where the public interest would not be served by strict application or the requirements would constitute an undue hardship or burden upon property owners.

(Code 1985, § 5.104)

Sec. 52-305. - Off-street parking requirements generally.

(a) The following off-street parking requirements are established for all zoning districts within the city:

		NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
RESIDENTIAL **		
	Residential, one-family and two-family	2 for each dwelling unit
	Residential, multiple-family	2½ for each dwelling unit
	Roominghouse/boardinghouse	1 for each occupant
	Housing for the elderly	1½ for every 2 bedrooms
	Mobile home park	As required under the Michigan Administrative Code, Rules R125.1925 and R125.1926
INSTITUTIONAL AND RECREATIONAL **		
	Church, temple and synagogue	1 for each 3 seats based on the maximum seating capacity in the main place of assembly
	Hospital and clinic	1 for each 4 beds, and if outpatient service is provided, there shall be an additional off-street parking space for each 50 square feet of usable floor area in the waiting room and 1 space for each examining room, dental chair, office, laboratory, X-ray, therapy room or similar outpatient areas
	Convalescent or nursing home	1 for every 2 bedrooms
	Elementary and junior high schools	1 for each teacher/employee in addition to the requirements of assembly areas (1 for each 3 seats based on maximum seating capacity)
	Library or museum	1 for each 300 square feet of usable floor area, plus 1 for each 2 employees
	Nursery school, day nursery or child care center	1 for each employee and 1 for each 300 square feet of usable floor area
	Private club or lodge hall	1 for each 65 square feet of usable floor area
	Senior high school	1 for each 3 persons allowed within the maximum occupancy load established by the single state construction code
	Stadium, sport arena or similar place of outdoor assembly	1 for each 3 seats or 6 feet of benches
	Theater and auditorium	1 for each 4 seats, plus 1 for each 2 employees
BUSINESS AND COMMERCIAL **		
	Auto wash (automatic)	1 for each employee and stacking space equal to 5 times the maximum capacity of the auto wash, determined by dividing the length of each wash line by 20
	Auto wash (self-service or coin-operated)	2 for each wash stall, plus the wash stall itself and, in addition, stacking space equal to 3 times the length of each wash stall
	Barbershop or beauty parlor	1½ for each chair
	Bowling alley	5 for each bowling lane, plus spaces required for accessory uses

	Class I restaurant	1 for each 2½ occupants based on the maximum rated occupancy established by the fire marshal, building inspector or the single-state construction code; however, occupancy may not be set in excess of available parking area
	Dancehall, pool or billiard parlor, roller skating rink, exhibition hall and assembly hall without fixed seats	1 for each 100 square feet of usable floor area
	Drive-in restaurant	1 for each 50 square feet of customer services area*, plus 10 stacking spaces for each drive-in or drive-thru transaction station (stacking spaces will not extend onto any public street or interfere with ingress and egress to parking spaces). **Customer service area is synonymous with the definition of usable floor area.*
	Establishments for the sale and consumption on the premises of beverages, food or refreshments	1 for each 65 square feet of usable floor area
	Furniture, carpet and major household appliances and equipment; repair shop; show-room of plumber, decorator, electrician or similar trade shoe repair; and other similar uses	1 for each 800 square feet of household usable floor area (for that floor area used for service processing, 1 additional space for reach 2 employees)
	Gasoline or service filling station	1 for each 300 square feet of usable floor space in sales room and 1 for each service stall
	Laundromat and coin-operated dry cleaner	1 for each 2 washing and dry cleaning machines
	Laundry (drive-in/drive-thru)	
	Mortuary establishment	
	Motel, hotel or other commercial lodging establishment	1 for each occupancy unit, plus 1 for each employee, plus those required for accessory uses
	Motor vehicle sales and service establishment	1 for each 200 square feet of usable floor space of sales room and offices and 1 for each auto service stall/bay
	Nightclub, bar and tavern	1 for each 2 occupants based on the maximum rated occupancy established by the fire marshal, building inspector or the single state construction code; however, occupancy may not be set in excess of available parking area
	Restaurant and other establishment for sale and consumption on the premises of beverages, food or refreshments, except class I restaurants, nightclubs, bars or taverns	1 for each 3 occupants based on the maximum rated occupancy established by the fire marshal, building inspector or the single state construction code; however, occupancy may not be set in excess of available parking area
	Retail store, except as otherwise specified in this table	1 for each 150 square feet of useable floor area
	Retail or shopping center with less than 250,000 square feet of gross leasable floor area	1 for each 150 square feet of useable floor area
	Retail or shopping center with 250,000 or more of gross leasable floor area	1.0 for each 200 square feet of gross floor area, plus spaces required for any grocery store, bookstore or restaurant if included
	Self-service food market, supermarket, convenience and party store	1 for each 100 square feet of useable floor area
	Wholesale establishments and warehouse clubs	1.0 for each 500 square feet of gross floor area
OFFICES **		
	Financial institution	1 for each 100 square feet of usable floor area, plus 3 stacking spaces for each drive-thru window (stacking spaces will not extend onto any public street or interfere with ingress and egress to parking spaces)

	Business office or professional office (except as indicated below)	1 for each 200 square feet of usable floor area
	Professional office of doctor, dentist, lawyer, architect or similar profession	1 for each 150 square feet of usable floor in waiting room; 1 for each examining room, dental chair, laboratory, office or similar use area
INDUSTRIAL **		
	Industrial or research establishment and related accessory offices	5, plus 1 for every l½ employees in the largest working shift or spaces, plus 1 for every 550 square feet of usable floor area, whichever is greater
	Warehouse and wholesale establishment and related accessory offices	5, plus 1 for every employee in the largest working shift, or 5, plus 1 for every 1,700 square feet of usable floor area, whichever is greater
** Exceptions granted as stipulated in section 52-306 for commercial buildings.		

(b) The planning commission shall have the authority to restrict excessive parking area within its sound discretion.

(c) Where parking facilities exceed 200 parking spaces, the planning commission may elect to require facilities for horse-and-buggy parking within its sound discretion.

(Code 1985, § 5.105; Ord. of 9-5-2006; Ord. No. 2014-003 , 8-4-2014)

Cross reference— Stopping, standing and parking, § 44-31 et seq.

Sec. 52-306. - Collective parking.

(a) The collective provision of off-street parking for two or more structures or uses is permitted provided that the number of spaces provided collectively is not less than the sum of the requirements for various individual uses, except as provided below.

(b) The total of such off-street parking facilities required for joint or collective use may be reduced by the planning commission in accordance with the following rules and standards:

(1) Uses for which the collective off-street parking facilities are to serve do not operate during the same hours of the day or night.

(2) Not more than 50 percent of the off-street parking facilities required for theaters, churches, bowling alleys, dance halls, and establishments for sale and consumption of alcoholic beverages, food, or refreshments may be supplied by off-street parking facilities provided for other buildings.

(3) The required off-street parking for a particular use may be reduced by its proportionate share of any publicly-owned parking lot within 300 feet of street travel, or for which it has been assessed.

(c) The amount of parking for nonresidential uses may be reduced by the planning commission by up to 50 percent upon a finding that patrons will be able to walk to the use from nearby residential areas, patrons are parked at other uses and visiting several uses, and/or on-street parking is available.

(d) Where an applicant demonstrates to the satisfaction of the planning commission that the minimum number of required parking spaces exceeds the amount necessary for the proposed use, the commission may approve construction of a lesser number of parking spaces, subject to the following:

(1) The banked parking shall be shown on the site plan and set aside as landscaped open space.

(2) The banked parking shall be constructed upon request by the chief building official, after the department of building and code enforcement documents three incidents of problem parking on the site within any one-year period.

(3) Banked parking shall be located in areas which are suitable for future parking and comply with ordinance requirements.

(Code 1985, § 5.106; Ord. of 9-5-2006)

Cross reference— Stopping, standing and parking, § 44-31 et seq.

Sec. 52-307. - Location, layout and construction standards of off-street parking areas.

Whenever off-street parking is required, it shall be located, laid out and constructed in accordance with the following standards:

(1) A site plan must be reviewed and approved in accordance the procedures outlined in article VII in the event of the following types of improvements:
   a. New buildings;
   b. Additions to buildings which increase the exterior dimensions or usable floor area;
   c. Alterations to the site, including changes in the parking layout, driveway, landscaped areas, screening walls and public walkways; and
   d. Changes in usage that increase the number of required parking spaces.

(2) Residential off-street parking areas shall be parking bays, driveways or garages and shall be located on the premises they serve.

(3) Off-street parking for other than residential uses shall be either on the same lot or within 400 feet of the building it serves, measured from the nearest point of the building to the nearest point of the off-street parking lot. The parking area shall be constructed on property owned, rented or leased by the property owner of the nonresidential business or dwelling.

(4) Plans for the layout of off-street parking shall conform to the minimum requirements specified in the following table, except that they may be modified by handicap parking regulations found in Public Act No. 230 of 1972 (MCL 125.1501 et seq.):

Pattern	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)
0*	12	8	23
30—53**	13	9	18
54—75**	16	9	18
76—90**	21	9	18
* Signifies parallel parking			
** Signifies diagonal parking angles			

(5) Off-street parking areas for other than residential uses shall include spaces for the handicapped in accordance with the provisions of Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

(6) All maneuvering lanes in off-street parking areas must be wide enough to permit at least one-way traffic.

(7) A clearly defined and marked driveway shall be provided for each parking area.

(8) All parking areas, other than those for single-family and duplex units, shall provide adequate access by means of maneuvering lanes so that backing directly onto a street is unnecessary.

(Code 1985, § 5.107)

Cross reference— Stopping, standing and parking, § 44-31 et seq.

Sec. 52-308. - Vehicle storage and parking.

No vehicle shall be parked in any portion of a front yard within the city unless in a prepared driveway or parking area of aggregate or hard surfaced material. The parking or storage of a commercial vehicle, excluding an emergency vehicle, of more than two-ton capacity is prohibited within any residential district. The parking and storage of a recreational vehicle, including a trailer, camper, boat or other similar object shall be permitted only in a required side or rear yard.

(Code 1985, § 5.108; Ord. No. 2008-01, 3-3-2008)

Sec. 52-309. - Additional off-street parking requirements.

(a) Minimum required off-street parking spaces shall not be replaced by any other use until equal parking facilities are provided elsewhere.

(b) When units or measurements determining the number of required parking spaces result in a fractional space, any fraction shall require one parking space.

(c) For the purpose of computing the number of parking spaces required, the definition of the term "usable floor area" set forth in section 52-2 shall apply.

(d) For the purposes of calculating parking under the site plan review where detailed floor drawings are not available, the following shall apply:

(1) *Commercial buildings.* Usable floor area shall equal 75 percent of the gross floor area.

(2) *Office buildings, other than medical office buildings.* Usable floor area shall equal 80 percent of the gross floor area.

(3) *Medical offices.* Usable floor area shall equal 85 percent of the gross floor area.

(e) Off-street parking existing at the effective date of the adoption of the ordinance from which this article is derived shall not change for an existing building or use and shall not be reduced to an amount less than that required for a similar new building or new use.

(f) Any permissible expansion, alteration or change of use which increases the required number of parking spaces shall be required to provide the required increase in the number of parking spaces, subject to appropriate review and approval. Any deficiency in the existing parking shall be corrected at such time.

(g) Two or more buildings may collectively provide the required off-street parking, provided the required number of spaces shall equal the sum of the required spaces computed separately, except when it can be demonstrated that the operating hours of the uses do not overlap. Based upon recommendation of the city planning commission, the city commission may grant an exception to the individual provisions for those particular uses.

(h) All driveway approaches on paved streets and off-street parking lots in all zoning districts shall be surfaced with asphalt, bituminous aggregate, cement or seal coat and maintained so as to be dustfree and prevent sand or gravel from entering the street and storm drainage system.

(Code 1985, § 5.109)

Sec. 52-310. - Reserved.

Editor's note— Ord. of 9-5-2006 deleted § 52-310, which pertained to exterior lighting and derived from Code 1985, § 5.110.

Sec. 52-311. - Docks and other structures at water's edge.

No dock or other structure of a similar nature shall extend 20 feet past the water's edge of any waterway or be more than six feet in width.

(Code 1985, § 3.84)

Sec. 52-312. - Unoccupied mobile homes.

No person shall park or permit the parking of any unoccupied mobile home outside of a duly licensed mobile home park, except the parking of unoccupied mobile homes in any accessory private garage building or in any rear yard is permitted; provided no living quarters shall be maintained or any business practiced in such mobile homes; provided, however, that nothing contained in this section shall be construed to hinder or prevent any person from engaging in the business of handling mobile homes for sale, resale or storage, subject to such regulations as may be prescribed by this Code relative to zoning or regulations of such business.

(Code 1985, § 5.151(3); Ord. No. 2002-012, 11-4-2002)

Sec. 52-313. - Mechanical equipment and utilities.

(a) Ground-mounted mechanical equipment, such as blowers, ventilating fans, and air conditioning units are permitted only in nonrequired side yards and in any rear yard, as determined by the building official/zoning administrator.

(b) Mechanical equipment shall be placed no closer than three feet to any lot line in the commercial zones.

(c) Any ground-, building-, or roof-mounted mechanical equipment or utilities, including water and gas meters, utility boxes, transformers, elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment (HVAC), and other similar equipment, shall comply with the following standards:

(1) All such equipment shall be screened by a solid wall, fence, landscaping, and/or architectural features that are compatible in appearance with the principal building.

(2) Roof-mounted equipment shall not exceed a height of ten feet above the surrounding roof surface, and shall occupy no more than 15 percent of the total roof area. All roof-mounted mechanical units must be screened so they are not visible from ground level, even if not specifically addressed as part of site plan review.

(Ord. of 9-5-2006)

Sec. 52-314. - Nonresidential design requirements.

The following design requirements for non-residential buildings shall be applied during site plan review as outlined in article VII, Site Plan Review.

(a) *Exterior building design.*

1. Buildings shall possess architectural variety, but enhance the overall cohesive community character. All buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, recesses, projections, wall insets, arcades, window display areas, peaked roof lines, or towers.
2. Building walls and roofs over 50 feet in length shall be broken up with varying building lines, windows, gables, and/or architectural accents such as pilasters, columns, dormers, and awnings.
3. Window area shall make up at least 20 percent or more of the exterior wall area facing the principal street(s) from which access is gained.
4. In addition, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements of this chapter must also be satisfied.
5. Except in Industrial (I) and Industrial Park (IP) zones, overhead doors shall not face a public street or residential district. The planning commission can modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be moderated through use of building materials, architectural features and landscaping beyond that required in article VIII, Landscape Standards and Tree Replacement.
6. Additions to existing buildings must complement the current building design with regard to height, proportions,

scale, materials, and rhythm of openings.

(b) *Building materials.*

1. Durable building materials which provide an attractive, quality appearance must be utilized.
2. The predominant building materials should be quality materials that are characteristic of Michigan such as earth-toned brick, decorative tilt-up panels, wood, native stone, and tinted/textured concrete masonry units and/or glass products.
3. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete dryvit panels, or prefabricated steel panels should only be used as accents and not dominate the building exterior of the structure.
4. Metal roofs may be allowed if deemed by the planning commission to be compatible with the overall architectural design of the building.

(c) *Building and sign colors.*

1. Exterior colors shall be of low reflectance, subtle, neutral, or earth-tone colors. The use of high-intensity colors such as neon, metallic, or fluorescent for the façade and/or roof of the building are prohibited except as approved by the planning commission for building trim.
2. The use of trademark colors not meeting this requirement shall be approved by the planning commission.
3. Mechanical and service features such as gutters, ductwork, service doors, etc. that cannot be screened must be of a color that blends in with the color of the building.

(d) *Roof design.*

1. Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest, and be appropriate to the architectural style of the building.
2. Variations in architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged, with a minimum overhang of 12 inches.
3. Architectural methods shall be used to conceal flat roof tops and mechanical equipment.
4. Overhanging eaves, peaked roofs, and multiple roof elements are highly encouraged.

(e) *Customer entrances.* Clearly defined, highly visible customer entrances may be included in the design. Features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged to identify such entrances.

(f) *Community amenities.* Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches, or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement. The planning commission, in its sound discretion, may limit the amount of amenities that may be calculated as part of the landscaping requirement.

(g) *Signs.* Signs shall be in accordance with article IX, Signs. All sign bases shall be constructed of materials compatible with the architecture of the building(s) located on the premises.

(h) *Natural features.* Buildings shall be sited to protect existing natural areas such as steep natural grades, trees, significant groupings of healthy vegetation (shrubs and trees), and rock outcroppings. To the extent practical, these areas shall be incorporated into the overall site plan.

(i) *Building location and orientation.* New buildings shall have at least one principal building entrance oriented parallel toward the front lot line.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Sec. 52-315. - Performance standards.

No land use otherwise allowed shall be permitted within a zoning district that does not conform to the following standards of use, occupancy, and operation. These performance standards are hereby established as the minimum requirements to be maintained.

(a) *Smoke.*

1. *Generally.* It shall be unlawful for any person to permit the emission of any smoke from any source, excepting smoke from a chimney for a fireplace of wood/coal-burning stove in a residential structure, to a density greater than that density described as No. 1 of the Ringelmann chart; provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to, but not darker than No. 2 of the Ringelmann chart, for a period, or periods, aggregating four minutes in any 30-minute period.
2. *Method of measurement.* For the purpose of grading the density of smoke, the Ringelmann chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the umbra scope readings of smoke densities may be used when correlated with the Ringelmann chart.

(b) *Radioactive, toxic and hazardous materials.* Radioactive materials and wastes, including electromagnetic radiation such as X-ray machine operation, shall not be emitted in excess of quantities established as safe by the U.S. Bureau of Standards, when measured at the property line. All transportation, including by rail, of radioactive materials, hazardous waste, and toxic waste shall be within permissible standards set by the federal government.

(c) *Noise.* Operations or activities which exceed the maximum sound-intensity levels defined below shall be prohibited. A sound level meter and an octave band analyzer shall be used to measure the intensity and frequency of the sound or noise levels encountered by day and/or by night. Sounds with very short duration, which cannot be accurately measured with a sound level meter, shall be measured by an impact noise analyzer; and the maximum levels indicated in the following table may be exceeded by no more than five decibels. Where questions on noise arise, the current standards recognized by the U.S. Department of Housing and Urban Development shall apply.

Maximum Permitted Sound Intensity Levels in Decibels		
Octave Bank Cycles/Second	Day	Night
00 to 74	76	70
75 to 149	70	62
150 to 299	64	56
300 to 599	57	49
600 to 1,199	51	44
1,200 to 2,399	45	39
2,400 to 4,799	38	33

4,800 and above	36	31

(d) *Light.* Exterior lighting shall be installed so that the nearest surface of the source of light shall not be visible from the nearest residential district boundary and it shall be so arranged to reflect light away from any residential use. In no case shall the intensity of light exceed ten footcandles within any lot or one footcandle at any property line. See also article X.

(e) *Glare.* Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be performed in such a manner as not to extend beyond the property line and as not to create a public nuisance or hazard along lot lines. See also article X.

(Ord. of 9-5-2006)

Sec. 52-316. - Waste receptacles and enclosures.

(a) Waste receptacles, including dumpsters or compactors, shall be required for all nonresidential uses unless interior facilities are provided.

(b) All outdoor waste receptacles shall be enclosed on three sides and screened. The enclosure shall be constructed of brick or decorative concrete material, consistent with the building materials of the principal building.

(c) The enclosure shall also include a gate, made of wood, vinyl, or other high-quality material, as determined by the planning commission, on the fourth side. If the waste receptacle is a dumpster it must have an enclosing lid or cover, which must be kept closed except for necessary access.

(d) The enclosure shall have a minimum height of six feet or one foot above the height of the waste receptacle, whichever is greater. The enclosure must be spaced at least three feet from the waste receptacle.

(e) Except in Industrial (I) and Industrial Park (IP), waste receptacles and enclosures shall be located in the rear yard, not closer than three feet from the rear lot line, or nonrequired side yard, unless otherwise approved by the planning commission and shall be as far as practical, but in no case be less than 20 feet, from any residential district. If practical, the back side of the waste receptacle enclosure should be placed against the building. In this circumstance the wall may act as one side of the enclosure. In the Industrial (I) and Industrial Park (IP) Districts, the waste receptacle may be located in any yard so long as the screening requirements are met.

(f) Waste receptacles shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces or interfering with the normal movement of vehicles on or off the site.

(g) The waste receptacle base shall be at least nine feet by six feet in area, constructed of six inches of reinforced concrete pavement. The base shall extend six feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.

(h) The unloading of waste receptacles shall only occur between the hours of 7:00 a.m. and 11:00 p.m.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Sec. 52-317. - Private road standards.

(a) The city may allow private roads only when meeting the standards of this section. The regulations for private roads contained herein shall not apply to approved private roads within platted subdivisions regulated by the city subdivision control ordinance, as amended or internal access drive to parking within approved site plans for multiple-family developments or commercial access drives.

(b) Private roads are reviewed and approved by the city commission after a recommendation from the planning commission. Documentation accepted by the city commission must support that the property possess unusual configuration and/or topography which would render construction of public streets under city standards for grades, radii, width, and/or material impractical.

(c) An easement for private road access, for not more than two residential structures, shall be provided of not less than 24 feet in width for roads and utilities serving two or fewer lots or single-family residential units and not less than 66 feet in width for roads serving more than two homes. This easement shall be recorded with the Clare County Register of Deeds office and a copy of the recorded easement provided to the building official/city manager.

(d) Any lot gaining access from a private road shall have at least the minimum lot frontage required herein for the zoning district in which the lot is located. The frontage for the lot shall be measured at the point between the lot lines designated by the building official/city manager as the side lot lines.

(e) Any lot created on a private road along with accompanying buildings, shall comply with all site development standards applicable to the zoning district in which it is located. The easement for the private road shall not be included in the minimum lot width and lot area requirements.

(f) The maximum length of any private road cul-de-sac shall not exceed the city standard for public roads.

(g) The minimum roadway width of any private driveway, leading only to a single family residence, shall be at least 18 feet, however if such roadway is within 300 feet of a fire hydrant, such width may be reduced to 14 feet upon approval of the City of Clare Fire Department.

(h) The surface and base material and construction of any private road shall be of asphalt, concrete or an equivalent approved by the city commission.

(i) Issuances of a building permit for the placement of buildings/structures on lots and/or parcels on a private road shall not be considered a guarantee or warranty that adequate access exists to the lot for emergency vehicles. The city assumes no responsibility for the maintenance of or improvements to private roads.

(j) The applicant shall submit a joint maintenance agreement or master deed in recordable form that runs with the land, binds benefiting parcels, and allows the city to make any repairs or conduct any maintenance it deems necessary, and charge the property owners or homeowners association served by the private road for such service.

(k) The applicant shall provide a recorded statement running with the land informing purchasers of lots accessed by the private road that the access road is private.

(Ord. of 9-5-2006; Ord. No. 2016-001 , 6-6-2016)

Sec. 52-318. - Residential occupancy.

(a) Intent. This section is intended to reasonably regulate the number of persons who can live in a residential dwelling unit. The city finds that occupancy limits are needed to provide density control; preserve and enhance residential neighborhoods as stable, quiet places for citizens to live and raise children; protect safety and welfare; and maintain property values. Such limits are also needed to insure that there are adequate public and private facilities including adequate offstreet parking, utilities, and adequate lot size to accommodate the residents of each dwelling unit without impairing the character of the neighborhood. The city also finds there are a number of residential living arrangements other than the traditional biological family arrangement. This section is intended also to accommodate those alternative living arrangements.

(b) A dwelling unit may not be occupied by more persons than one of the following family living arrangements:

(1) One or more persons related by blood, marriage, adoption or guardianship living as a single housekeeping unit, in all districts.

(2) Four persons plus their offspring living as a single housekeeping unit, in all districts.

(3) Six persons living as a single housekeeping unit in any district except R-1 districts.

(4) A functional family living as a single housekeeping unit which has received a special exception use permit as provided elsewhere in this chapter.

(c) In this section, offspring means descendants, including natural offspring, adopted children, foster child and legal wards.

(d) In this section, functional family means a group of people plus their offspring, having a relationship which is functionally equivalent to a family. The relationship must be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. Functional family does not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary.

(e) In addition to the standards set forth elsewhere in this chapter, a permit for a functional family is subject to the following standards and regulations:

(1) It must meet the definition of this section.

(2) Two offstreet parking spaces must be provided. Additional parking spaces may be required by the planning commission if any of the following conditions are met:

a. The property is located more than 300 feet from a bus stop.

b. Street parking available for visitor parking is limited.

c. The petitioner intends to park more than two vehicles regularly on the site and there is limited area available for tandem parking in a driveway.

In order for the planning commission to determine if adequate parking will be provided, the petitioner must submit a plan indicating the location of proposed offstreet parking and an analysis of public parking and transit facilities provided within a 300-foot radius of the parcel. The planning commission may defer the provision of up to 40 percent of the required spaces if shown on the approved plan for the permit. If the building official determines that some or all of the deferred parking spaces are needed, these spaces must be installed. Any person aggrieved by the building official's determination may appeal as provided elsewhere in this chapter.

(3) This permit shall apply only to the functional family type which obtained the permit and shall be limited to the number of persons specified in the permit.

(4) There is a contact person who will act as head of household in relating to the city.

(f) The zoning board of appeals may grant a variance from the standards of this section if it is reasonably necessary to give a handicapped person (as defined in 42 USC section 3602) equal opportunity to use and enjoy a dwelling.

(g) The occupancy limits of this section do not apply to rooming or boarding houses, fraternity or sorority houses, student cooperatives, emergency shelters, or convalescent homes.

(Ord. No. 2011-004, 3-7-2011)

Sec. 52-319. - Wireless telecommunications towers.

(a) *Purpose and goals.* The purpose of this section is to establish guidelines for the siting, use, and maintenance of wireless telecommunications towers and antennas. The goals of this section are to:

(1) Protect residential areas, park or recreation areas, and protect future land uses from potential adverse impacts of towers and antennas.

(2) Protect the public health and safety.

(3) Permit telecommunications facilities within city boundaries as required by law.

(4) Minimize the total number of towers throughout the city by encouraging the joint use of existing and new tower

sites.

(5) Require users of towers and antennas to configure or shield them in a way that minimizes the adverse visual impact of the towers and antennas.

(6) Avoid potential damage to adjacent properties from tower failure.

(7) Provide for the maintenance of existing facilities as well as timely removal of obsolete, unused or abandoned facilities.

In furtherance of these goals, the city shall give due consideration to the city's master plan, zoning map, existing and future land uses, and sensitive areas in approving sites for the location of towers and antennas.

(b) *Applicability.* Wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other approval under the ordinance from which this section derived if all of the following requirements are met:

(1) The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.

(2) The existing wireless communications support structure or existing equipment compound is in compliance with the city's zoning ordinance or was approved by the appropriate city zoning body or official.

(3) The proposed collocation will not do any of the following:

a. Increase the overall height of the wireless communications support structure by more than 20 feet or ten percent of its original height, whichever is greater.

b. Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.

c. Increase the area of the existing equipment compound to greater than 2,500 square feet.

(4) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of the city.

(c) *Applicability special use.* Wireless communications equipment that will be collocated on an existing wireless communication support structure or in an existing compound and is in compliance with the city's zoning ordinance or was approved by the city but does not comply with the height requirements, width requirements, area requirements, or the previous approval of the wireless communications support structure as set forth in (b) (3) and (4) above, shall be subject to a special land use approval in accordance with the terms of this section and the overall site plan requirements of the ordinance from which this section derived.

(d) *Exemptions.*

(1) *Amateur radio station operators.* This section shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally licensed amateur radio station operator. Amateur radio towers will be governed by maximum heights for non-attached structures in appropriate districts, as required elsewhere in the ordinance from which this section derived.

(2) *Receive only antennas.* This section shall not govern any receive only antenna or tower installed and used by an individual to receive a fixed-wireless data signal at only a single location, except receive only antennas or towers shall meet the following conditions:

a. A tower or antenna is permitted only as an accessory use in all districts.

b. The tower or antenna height shall not exceed 50 feet.

c. The tower shall be setback from all property lines the minimum of the tower height or the underlying setbacks of the district, whichever is greater.

d. Guy wires are not permitted on the tower.

e. The tower shall be equipped with an anti-climbing device.

f. No ground equipment or additional buildings are permitted to accommodate the tower or antenna.

g. No antenna or structure shall extend more than six feet horizontally from the tower.

h. A certificate of zoning compliance is required prior to constructing the tower.

i. The antenna or tower shall not be used to retransmit a data signal to multiple individuals' locations.

(3) *Preexisting towers and antennas.* Towers and antennas that existed prior to enactment of the ordinance from which this section derived shall not be required to meet the requirements of this section, other than any applicable requirements elsewhere in the ordinance from which this section derived.

(4) Small cell wireless facilities are exempt from this section 52-319. See [section] 52-320.

(5) Installing a cable microcell network through 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.

(e) An application for special land use approval of wireless telecommunications equipment described in section (c) above shall be subject to a special use application and approval process as set forth in the ordinance from which this section derived.

(1) A site plan as required by the ordinance from which this section derived, including a map of the property and existing proposed buildings and other facilities shall be submitted in accordance with city Code chapter 52, article VII, Site Plan Review.

(f) *Determination of an administratively complete application.* After an application for a special land use approval is filed with the city, the city shall determine whether the application is administratively complete. Unless the city determines that the application is administratively incomplete as set forth in this provision, the application shall be considered to be administratively complete 14 days after the city receives the application or makes a determination, whichever is first.

If, before the expiration of the 14-day period, the city official responsible for approving the special land uses notifies the applicant that the application is not administratively complete, the notification must 1) specify the information necessary to make the application administratively complete, 2) or notify the applicant that a fee required to accompany the application has not been paid and specific the amount due. If notification is given under this subsection, the running of the 14-day period to determine whether the application was administratively complete is tolled, until the applicant submits to the body or official the specified information or fee amount due. All notices under this section shall be given in writing or by electronic notification.

Time. The city shall approve or deny the special land use application not more than 90 days after the application is considered to be administratively complete. If the city fails to timely approve or deny the application, the application shall be considered approved and the body or official shall be considered to have made any determination required for approval, subject to notice by the applicant as required by MCL 125.1315(2).

(g) *Conditions.* Special land use approval of wireless communication equipment may be made conditional only on the equipment meeting the requirements of local ordinance, and state and federal laws before the equipment begins operation.

(h) *Requirements for special uses defined in section (c) above.*

(1) *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.

(2) *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, road frontage 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.

(3) *Inventory of existing sites and justification of new sites.* Each application for an antenna and/or tower shall provide to the city an inventory of existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the city or within three miles of the border thereof, including specific information about the location, height, and design of each tower. The city may share such information with other applicants applying for siting approvals under the ordinance from which this section derived, provided however that the city is not, by sharing such information, in any way representing or warranting that such sites are available or suitable. In addition, the applicant shall supply a written statement from an independently hired radio frequency professional that justifies the need for the proposed new site by describing the unsuitability of existing towers for the proposed use.

(4) *Height.* Overall heights for new towers and antennas shall meet the following requirements:

a. Maximum height for a single-user tower is 150 feet. A single-user tower must have a foundation capable of supporting a tower with a height of 195 feet, to facilitate possible future tower height extension in the event of colocation by other users.

b. Maximum height for a tower with allowances for multiple users is 195 feet. The applicant must provide written assurance, verifying that there are reasonable provisions (including the tower, the equipment structure plan, and site location) for colocation by two other users. In addition, the applicant must provide written assurance that permission to colocate will be granted for compensation at the prevailing market rate. Suitability of this documentation will be assessed by the zoning administrator (for certificate of zoning compliance) or by the planning commission during site plan review.

(5) *Setbacks.* The following setback requirements shall apply to all new towers:

a. Towers must be setback a distance equal to at least the height of the tower from an adjoining lot line, except in an industrial district where the setback from an adjoining lot line will be half the tower height. These setback requirements are in addition to meeting the requirements of section (h) above.

b. Accessory buildings must satisfy the minimum zoning district setback requirements.

(6) *Road frontage.* For the entire lot, including a sub-parcel on which a tower or antenna is sited, there shall be a minimum of 150 feet of road frontage.

(7) *Separation distances.* New towers shall be located a minimum of 400 feet from any existing residential dwelling on adjacent properties.

(8) *Tower and antenna appearance.* Towers and antennas shall meet the following requirements:

a. 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.

b. 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.

c. 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.

(9) *Landscaping.* The following requirements shall govern the landscaping surrounding towers:

a. Towers and accompanying facilities shall be landscaped in a manner that effectively screens the view of the tower compound from property used (or potentially to be used) for residences. A landscaping plan shall be submitted for approval by the zoning administrator (certificate of zoning compliance) or by the planning commission (site plan review).

b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. such as towers sited on large, wooded lots, natural growth around the property perimeter may provide sufficient bu

(10) *Security.* Towers shall be equipped with anti-climbing devices and enclosed by security fencing not less than eight feet in height. The fence may be equipped with an appropriate anti-climbing device, at the discretion of the owner.

(11) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, all available lighting options must be presented to the zoning administrator (certificate of zoning compliance) or to the planning commission (site plan review).

(12) *State or federal requirements.* All towers and antennas 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 antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by the ordinance from which this section derived shall bring such towers and antennas into compliance with such revised standards and regulations. 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, as required in section 52-321.

(13) *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. If, upon inspection, the city concludes that a tower fails to comply with applicable 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 60 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 60 days shall constitute grounds for removal of the tower or antenna at owner's expense, as required in section 52-321.

(14) *Engineering certification and liability insurance.* Application for tower or antenna siting approval must be accompanied by a signed certification from an independently hired State of Michigan licensed professional engineer. The engineer shall certify integrity of the design and indicating how the tower or antenna would fall in event of such occurrence. Application for tower or antenna siting approval must also include evidence of at least $1,000,000.00 U.S. dollars of general liability insurance to cover the applicant, land owner, city and damage to other persons or property that may result from unforeseen events or circumstances. The city shall be notified of any notice cancellations or changes in liability insurance.

(15) *Measurements.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the city irrespective of municipal, county, and state jurisdictional boundaries.

(16) *Not essential services.* Towers and antennas shall be regulated or permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

(17) *License[s] or franchises.* Owners and/or operators of towers or antennas shall certify that all licenses or franchises required by law for the construction and/or operation in the city have been obtained and shall file a copy of all required licenses or franchises with the zoning administrator.

(18) *Signs.* No signs shall be allowed on an antenna or tower except for usual regulatory signs required by the State of Michigan or the FCC such as "No Trespassing," "Danger," or a sign indicating who should contacted in case of an emergency.

(19) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of section 52-319(i).

(20) *Provision for removal.* The application for siting of any antenna or tower shall require the applicant to deposit with the city clerk security of a performance guarantee (in a time duration and with a financial institution deemed acceptable to the city) in the form of cash, a certified check, or irrevocable bank letter of credit, which will ensure full

compliance with the ordinance from which this section derived and any conditions of approval. The security shall cover removal of the facility when it has been abandoned, is no longer in use, or is in violation as provided in section 52-321. The security shall be in the amount indicated in the following schedule:

Total Construction Cost	Security
$0.00—$2,500	$500
$2,501—$7,500	$1,000
$7,501—$15,000	$2,000
$15,001—$25,000	$5,000
$25,001—$50,000	$15,000
$50,001 and greater	$25,000

Total construction cost includes all costs for construction, including engineering and design costs, governmental review, permitting fees, labor, and parts. The security shall be kept in full force and effect and irrevocable and non-cancelable (except by the written consent of both the city and the then-owner of the antenna, tower or related facility) during the entire time while the antenna or tower exists or is in place. The applicant and owner shall further agree as a condition of the security that the applicant and owner are responsible for the payment of any costs and attorney fees incurred by the city in securing removal.

(21) *Tower spacing.* Minimum spacing between tower locations shall be two miles. The planning commission may waive this standard where the proposed location of the tower will serve to cluster two or more towers in close proximity to one another and, thereby, minimize the visual impacts upon panoramic views in the city.

(i) *Buildings and other equipment storage.*

(1) Antennas located on towers.

a. The related unmanned equipment structures shall not contain more than 300 square feet of gross floor area per user or be more than 12 feet in height. It shall be located within 50 feet of the associated tower. Multiple users will be strongly encouraged to share an equipment structure with a common wall.

b. The structure or cabinet shall be screened as required in subsection (h)(9).

c. The structure shall be surrounded by a security fence as required in subsection (h)(10).

d. The structure will comply with all applicable building codes.

(2) *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with antennas shall comply with the following:

a. The cabinet or structure shall not contain more than 300 square feet of gross floor area per user or be more than 12 feet in height. In addition, for buildings and structures that are less than 65 feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or eight feet in height, shall be located on the ground and shall not be located on the roof of the structure.

b. If the equipment is located on the roof of a building, the area of the equipment structure and other equipment

and structures shall not occupy more than 25 percent of the roof area.

c. If the equipment structures or cabinet is located on the ground, it will be surrounded by a security fence as required in subsection (h)(10).

d. Equipment storage buildings or cabinets shall comply with all applicable building codes.

(j) *Nonconforming uses.*

(1) *Not expansion of nonconforming use.* Towers that are constructed and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use of a structure.

(2) *Pre-existing towers.* Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such pre-existing towers. New construction (other than routine maintenance), height modification, expanded use, or application for colocation on a pre-existing tower shall comply with the requirements of the ordinance from which this section derived.

(3) *Replacing damaged or destroyed nonconforming towers or antennas.* Pre-existing or nonconforming antennas or towers that are damaged or destroyed are governed by reconstruction in section 52-121 of the ordinance from which this section derived. In the event of abandonment or termination of use, such towers will be removed.

(Ord. No. 2018-001 , 1-2-2018; Ord. No. 2019-003 , 4-1-2019)

Sec. 52-320. - Movable, pre-constructed storage buildings.

Storage buildings not to exceed ten feet by twelve feet in size and not having a permanent foundation such as the movable storage barns purchased from others are permitted in any residential district or any commercial district subject to the setbacks set forth in that district.

(Ord. No. 2018-004 , 5-7-2018)

Sec. 52-321. - Reserved.

Editor's note— Ord. No. 2021-004, adopted Aug. 2, 2021, repealed § 52-321, which pertained to small cell wireless communications and derived from Ord. No. 2019-003 , 4-1-2019.

Sec. 52-322. - Criteria applicable to all wireless communications facilities installed within the public right-of-way or upon public or semi-public property.

(a) The city may require a wireless provider to repair all damage to the right-of-way directly caused by the activities of the wireless provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, utility poles or wireless support structures in the right-of-way and must return the right-of-way to its functional equivalent before the damage. Should a wireless provider fail to make the repairs required by the city within 60 days after a written notice, the city may make the repairs and charge the wireless provider the reasonable and documented cost of the repairs. The provider shall remit the invoice provided under the terms of this provision forthwith.

(b) Before discontinuing its use of a small cell wireless facility, utility pole, or wireless support structure, a wireless provider shall notify the city in writing. The notice shall specify when and how the wireless provider intends to remove the small cell wireless facility, utility pole, or wireless support structure. The city may impose reasonable and nondiscriminatory requirements and specification s for the wireless provide to return the property to its preinstallation condition. If the wireless provider does not complete the removal within 45 days after the discontinuance of use, the authority may

complete the removal and assess the costs of removal against the wireless provider. The provider shall remit the invoice provided under the terms of this provision forthwith. A permit under this section for a small cell wireless facility expires upon removal of the small cell wireless facility.

(c) Should a wireless provider undertake work that will unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in a public right-of-way or public or semi-public lands, the wireless provider must submit a permit to the city as provided elsewhere in this Code.

(d) The notice that an application is administratively incomplete or that a fee has not been paid as set forth in section 52-320(b)(3) or as set forth in section 52-320(e)(2) tolled the running of the time period to approve or deny the application as set forth in the Small Cell Wireless Facility Deployment Act. The running of time tolled under the law and the ordinance from which this section derived resumes when the applicant makes a supplemental submission in response to the city's notice of incompleteness. If a supplemental submission is inadequate, the city shall notify the applicant in writing not later than ten days after receiving the supplemental submission that the supplemental submission did not provide the information identified in the original notice delineating the missing documents or information. The time period may be tolled in the case of second or subsequent notices under the procedures identified herein. A second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

(e) The city shall approve or deny the application and notify the applicant in writing as follows: Should the city fail to comply within the time set forth, the completed application is considered to be approved subject to the condition that the applicant provide the city not less than seven days advance written notice that the applicant will be proceeding with the work pursuant to the automatic approval provisions of the Small Cell Wireless Facility Deployment Act, section 15, being MCL 460.1315(H).

(Ord. No. 2019-003 , 4-1-2019)

Editor's note— Ord. No. 2019-003 , adopted April 1, 2019, added provisions to the Code designated as §§ 52-320 and 52-321. Inasmuch as there were already provisions so designated as § 52-320, the provisions have been redesignated as §§ 52-321 and 52-322, respectively, at the discretion of the editor.

Sec. 52-323. - Farm animals, except chickens and ducks.

Animals usually associated with farms, except chickens and ducks, as specified in section 52-324, are not allowed in residential districts. Other districts may allow animals by permit, provided that:

(1) The property is eligible for the keeping of animals under the generally accepted agricultural management practices as published by the State of Michigan and within the Right to Farm Act.

(2) The property is located in a rural area of the city.

(3) The property is at least two acres in size for small animals, such as turkeys or rabbits and four acres in size for large animals, such as goats, pigs or horses.

(4) Under no circumstances may a rooster qualify as an animal permitted within any district within the City of Clare.

(5) Such animals are to be used as pets and shall not be used to produce income. The by-products such as eggs or meat shall not be sold.

(6) A person who has been issued a permit shall submit it for examination upon demand by any police officer or code enforcement officer.

(7) All barns and similar structures to be used in conjunction with any large animals shall be located at least 80 feet from all property lines. The location of all other structures shall conform to the yard and setback requirements of this section.

(8) The area to be used as pasture shall be adequately fenced to prevent animals from leaving the property.

(9) The city manager shall determine the maximum of each type of animal allowed on the property as part of the approval process.

(10) The applicant shall provide the city with a site plan indicating: a) all existing buildings located on the property and within 300 feet of the property; b) the location of all proposed structures, either existing or to be constructed to be used in connection with the animals; and c) the location of all waste storage areas and a disposal plan for removal of all waste from the property.

(11) The applicant shall provide any additional information deemed necessary for the city to approve or deny the request.

(12) Animals to be used for 4-H or similar activities shall be governed by this use permit. Permits for such activities shall be limited to not more than one year by the city.

(Ord. No. 2020-007 , 11-2-2020)

Sec. 52-324. - Raising chickens within the city.

Chickens or ducks may be raised within the city by permit, as provided:

(1) Any person who keeps chickens or ducks in the City of Clare shall obtain a permit from the city manager prior to acquiring any chickens or ducks. No chickens or ducks shall be kept unless the owners of all residentially zoned adjacent properties (as defined below in subsection (5)j. consent in writing to the permit and this consent is presented along with an application for a permit. The permit fee shall be as determined from time to time by the city commission by resolution. Permits expire and become invalid five years after the date of issuance. A person who wishes to continue keeping chickens or ducks shall have obtained a new permit on or before the expiration date of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a new permit.

(2) Notwithstanding the issuance of a permit by the city, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens or ducks is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

(3) A person who keeps or houses chickens or ducks on his or her property shall comply with all of the following requirements:

a. Have been issued the permit required under subsection (2) above.

b. Keep no more than two chickens or ducks in total, i.e. two chickens or one chicken and one duck or two ducks.

c. The principal use of the person's property is for a single-family dwelling or two-family dwelling.

d. No person shall keep any rooster.

e. The chickens or ducks shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Fenced enclosures are subject to all provisions of the City Code.

f. A person shall not keep chickens or ducks in any location on the property other than in the backyard. For purposes of this section, "backyard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two-family structure and extending to the side lot lines.

g. No covered enclosure or fenced enclosure shall be located closer than ten feet to any property line of an adjacent property.

h. All enclosures for the keeping of chickens or ducks shall be so constructed or repaired as to prevent rats, mice, or

other rodents from being harbored underneath, within, or within the walls of the enclosure. A covered enclosure or fenced enclosure shall not be located closer than 40 feet to any residential structure on an adjacent property provided, however, this requirement can be waived as follows:

1. If the principal use of applicant's property is for a single-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners that there is no objection to the issuance of the permit.
2. If the principal use of the applicant's property is for a two-family dwelling, to obtain such a waiver the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners and of the occupants of the other dwelling stating that there is no objection to the issuance of the permit.

i. For purposes of this section, adjacent property means all parcels of property that the applicant's property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the applicant's property by a public or private street.

j. All enclosures for the keeping of chickens or ducks shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.

k. All feed and other items associated with the keeping of chickens or ducks that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.

l. If the above requirements are not complied with, the city may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.

(4) A person who has been issued a permit shall submit it for examination upon demand by any police officer or code enforcement officer.

(5) The area to be used as pasture shall be adequately fenced to prevent animals from leaving the property.

(6) The applicant shall provide the City of Clare City Manager with a site plan indicating: a) all existing buildings located on the property; b) the location of all proposed structures, either existing or to be constructed to be used in connection with the animals; and c) the location of all waste storage areas and a disposal plan for removal of all waste from the property.

(7) The applicant shall provide any additional information deemed necessary for the city manager to approve or deny the request.

(8) Animals to be used for 4-H or similar activities shall be governed by this use permit. Permits for such activities shall be limited to not more than one year by the city manager.

(Ord. No. 2020-007 , 11-2-2020)

Sec. 52-325. - Accessory dwelling units.

(a) Accessory dwelling units may be permitted in the R-1 district, subject to site plan approval upon compliance with the following standards:

(1) *General requirements.*

a. There shall be a maximum limit of three registered accessory dwelling units at any given time.

b. The dwelling unit must be situated on a lot or parcel in conformance with the minimum lot area and setback requirements of the R-1 district. Subdivision to create a separate lot for accessory dwelling units is prohibited.

c. An application shall be submitted by the owner-occupant. The applicant shall clearly demonstrate that the single-family character of the neighborhood will not be adversely affected by the creation of the proposed accessory dwelling unit.

d. At least one owner of record shall occupy either the principal residential unit or the accessory dwelling unit. The ow shall meet the requirements for a principal residence tax exemption.

e. The health department shall certify that the onsite septic system is properly designed to handle the anticipated additional load. Where sanitary sewers are available, both units shall be connected and are subject to the appropriate connection fees. All public utilities servicing the accessory dwelling unit (sanitary sewer, water, electrical) shall be provided independently or from the principal dwelling's water, sewer and electrical connections. All water and sewer/septic service shall comply with all health department and township ordinances and rules.

f. The dwelling unit shall clearly be incidental to the principal dwelling unit and the structure's exterior shall appear to be single-family and shall be consistent with the character of the surrounding neighborhood.

g. Only one accessory dwelling unit shall be permitted per lot and per single family dwelling.

h. One (1) additional off-street parking space shall be provided.

i. The accessory dwelling unit shall be registered with the city clerk's office.

j. The dwelling unit shall be situated on a permanent foundation constructed on the site in accordance with the city's building code. In no case shall a mobile home travel trailer, recreational vehicle, automobile chassis or tent be considered an accessory dwelling unit.

k. An accessory dwelling unit shall have a valid certificate of occupancy before it can be used as a dwelling unit.

l. The maximum occupancy of any accessory dwelling unit shall be four (4) persons.

m. Accessory dwelling units shall comply with all plumbing, electrical, and mechanical codes; all city and/or county health department codes for water supply and sanitary sewage disposal; all pertinent building and fire codes; and meet or exceed all applicable roof snow load and strength requirements.

(2) *Accessory cottages.*

a. An accessory cottage shall contain at least 420 square feet and shall be a maximum of 35 percent of the total floor area of the principal unit or 1,000 square feet, whichever is less.

b. No accessory cottage shall include more than 2 bedrooms.

(3) *Accessory apartments.*

a. Accessory apartments shall only be located attached to the principal residential building or located above or attached to an attached or detached garage. Accessory apartments located above a garage or shall not exceed 20 feet in height.

b. An accessory apartment shall contain at least 420 square feet and shall not exceed 35 percent of the total floor area of the principal unit. This shall be construed to prohibit the creation of an accessory apartment in a single-family dwelling unit with a total floor area of less than 1,200 square feet.

c. No accessory apartment shall include more than two bedrooms.

(Ord. No. 2020-009 , Pt. 4, 11-2-2020)

Editor's note— Ord. No. 2020-009, Pt. 4, adopted Nov. 2, 2020, set out provisions intended for use as § 52-323. For purposes of classification, and at the editor's discretion, these provisions have been renumbered as § 52-325.

Secs. 52-326—52-340. - Reserved.

ARTICLE V. - SPECIAL USE REGULATIONS

Footnotes:

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***Editor's note—** Ord. of 9-5-2006 amended art. V in its entirety and enacted similar provisions as set out herein. The former art. V derived from Code 1985, §§ 5.120—5.122.*

Sec. 52-341. - Purpose.

The intent of this article is to provide standards for special land uses, which are uses that, under usual circumstances, could be detrimental to other land uses permitted within the same zoning district, but may be permitted because of circumstances unique to the location of the particular use. This article provides standards for the planning commission to determine the appropriateness of a given special land use using factors such as: compatibility with adjacent zoning, location, design, size, intensity of use, impact on traffic operations, potential impact on groundwater, demand on public facilities and services, equipment used, and processes employed. Accordingly, special land uses should not be permitted without consideration of relevant restrictions or conditions being imposed which address their unique characteristics.

(Ord. of 9-5-2006)

Sec. 52-342. - Standards.

A special land use must meet general standards which involve judgment and leave room for interpretation. In general, special land uses are of large scale and/or intensity with a potential impact that goes beyond the subject site and abutting uses. All special uses shall meet the following minimum standards:

(1) The proposed use must be consistent with the spirit and intent of this article.

(2) The proposed use must be compatible with adjacent uses of land, the natural environment and the capabilities of affected public services and facilities.

(3) The proposed use must be consistent with the public health, safety and welfare of the community.

(4) The proposed use shall be in conformance with the objectives and specific elements of the current adopted master plan of the city and any special studies adopted as amendments thereto.

(5) A special use must meet any additional standards which are as specified in the district regulations of the applicable zoning district providing for the subject special land use. Reasonable conditions may be required to ensure conformance with the standards specified in this article pursuant to the land development standards.

(6) Consideration of special land use applications must include, as a minimum, relevant issues, such as parking requirements, traffic considerations, relative size and design of the structure compared to design and size of other neighboring structures, and other related issues prior to considering approval.

(Ord. of 9-5-2006)

Sec. 52-343. - Application procedure.

(a) Any person owning or having an interest in the subject property may file an application for special land use approval as provided for in this article.

(b) The following materials shall be submitted to the city at least 30 days prior to the meeting at which the planning commission first considers the special land use application:

(1) Payment of the required fee.

(2) Copies of completed application forms.

(3) Copies of a site plan meeting the requirements of article VII, Site Plan Review.

(4) Impact assessment if required by the planning commission; the analysis shall be carried out by qualified individuals

and shall include, but need not be limited to, the impact on: natural features, stormwater management, surrounding land uses, public facilities/services, public utilities, and traffic.

(c) The planning commission shall have the discretion to require an applicant to submit an economic impact study or an environmental impact study if deemed necessary to protect the public interest if in its sole discretion it deems such studies in the best interest of the city.

(Ord. of 9-5-2006)

Sec. 52-344. - Designated review authority and approval procedure.

(a) The planning commission shall have final review authority for all special land uses.

(b) Following submission of the required application materials the planning commission shall hold a public hearing. The zoning administrator shall notify the following persons of the application being considered, so the notice is sent not less than 15 days before the date that the application will be considered and the notices sent to:

(1) The applicant.

(2) The owner of the property, if different.

(3) *If the special use involves less than 11 adjacent properties.* The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the city or not.

(4) *If the special use involves less than 11 adjacent properties.* Occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the city or not.

(5) The general public by publication in a newspaper which circulates in the city.

(6) The members of the planning commission.

(c) The notice shall include:

(1) The nature of the special use permit being requested.

(2) The property(ies) for which the request has been made.

(3) If the special use involves less than 11 adjacent properties, also a listing of all existing street addresses within the property(ies) which is(are) subject of the special use. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)

(4) The location where the application documents can be viewed and copied prior to the date the application will be considered.

(5) The date, time and location of when the hearing on application will take place.

(6) The address at which written comments should be directed prior to the consideration.

(7) For members of the commission only, a complete copy of the special use permit application and supporting documents in the record.

(d) The planning commission shall review the application in terms of the requirements of section 52-342 and any other applicable standards contained within this chapter, Standards for approval and shall approve, approve with conditions, or deny the application.

(Ord. of 9-5-2006)

Sec. 52-345. - Conditions of approval.

(a) As part of any special land use approval, the planning commission may impose any additional conditions or limitations

as, in its judgment, may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review considerations of section 52-342 standards for approval and the applicable specific regulations imposed by this chapter. Special land use specific requirements must be met.

(b) The approval of a special land use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.

(c) A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the special land use approval is approved.

(d) A record of the decision of the planning commission, the reasons for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the planning commission.

(e) The building official/zoning administrator shall make periodic investigations of developments authorized by special land use approval to ensure continued compliance with all requirements imposed by the planning commission and this article. Noncompliance with the requirements and conditions approved for the special land use shall constitute grounds for the planning commission to terminate the approval following a public hearing. Such hearing shall be held in accordance with the procedures used for the original hearing and as required by this article.

(Ord. of 9-5-2006)

Sec. 52-346. - Validity of special land use approval.

(a) In cases where actual physical construction of a substantial nature of the structures authorized by a special land use approval has not commenced within one year of issuance, and a written application for extension of the approval has not been filed as provided below, the approval shall automatically become null and void and all rights thereunder shall terminate.

(b) Upon written application filed prior to the termination of the one-year period, the planning commission may authorize a single extension of the time limit for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one year extension.

(c) The granting of a special land use shall allow that particular use to be conforming on the subject property, as long as the standards of this article are maintained.

(d) Any use for which a special land use approval has been granted and which ceases to continuously operate for a six-month period shall be considered abandoned and the special land use approval shall become null and void.

(e) No application for a special land use approval which has been denied wholly or in part shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the planning commission.

(Ord. of 9-5-2006)

Sec. 52-347. - Special land use amendments and expansions.

(a) *Amendments.* Any person or agency who has been granted a special land use approval shall notify the building official/zoning administrator of any proposed amendment to the approved site plan of the special land use. The building official/zoning administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with the requirements of article VII, Site Plan Review. A major amendment to a special land use approval shall comply with the application and review procedures contained in this article.

(b) *Expansion or change in use.* The expansion, change in activity, reuse, or redevelopment of any use requiring a special land use approval, with an increase of ten percent or greater, of the total square footage of use, shall require

resubmittal in the manner described in this article. A separate special land use approval shall be required for each use requiring special land use review on a lot, or for any expansions of a special land use on property which has not previously received special land use approval.

(Ord. of 9-5-2006)

Sec. 52-348. - Specific requirements.

(a) *Outdoor advertising signs.*

(1) Outdoor advertising shall be permitted only in the IND industrial district.

(2) Outdoor advertising signs shall not exceed 300 square feet in area.

(3) Outdoor advertising signs shall not exceed 20 feet in height.

(4) Outdoor advertising signs shall be spaced a minimum of 500 feet from any other non-outdoor advertising sign or building and 1,200 feet from any other outdoor advertising sign.

(5) Outdoor advertising signs shall be set back at least 100 feet from any property line or any other public right-of-way.

(6) Outdoor advertising signs shall be set back at least 500 feet from the property lines of any public park, playground, school, residential district, religious institution, or other areas of public assembly as determined by the planning commission.

(7) Outdoor advertising signs shall not be permitted adjacent to or within 500 feet of an interchange or an intersection. The distance shall be measured from the point of beginning or ending of pavement widening at the exit from, or entrance to, the main traveled way.

(8) Each face shall exhibit no more than two pictorials and/or two written messages about one use, product, service, goods, event, or facility located on other premises. No face of a sign shall be so designed as to give the impression of more than two signs.

(9) Any outdoor advertising sign not in use for advertising purposes shall have unused surfaces kept uniformly white in color overall. However, the owner of the sign shall be permitted to place a phone number on it to which inquiries for advertisement may be directed.

(10) All outdoor advertising signs shall obtain a sign permit to confirm compliance with article IX, Signs.

(11) Outdoor advertising signs shall comply with all applicable requirements and conditions to P.A. 106 of 1972, as amended, the Highway Advertising Act of 1972. All signs prohibited by the Highway Advertising Act of 1972 are also prohibited by the city.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-349. - Reserved.

Editor's note— Ord. No. 2020-007, adopted Nov. 2, 2020, repealed § 52-349 which pertained to farm animals, except chickens and ducks and derived from Ord. No. 2011-012, adopted Sep. 19, 2011; and Ord. No. 2015-004 , adopted Aug. 4, 2015. Said ordinance added similar provisions as § 52-323, as set out therein.

Sec. 52-350. - Reserved.

Editor's note— Ord. No. 2020-007, adopted Nov. 2, 2020, repealed § 52-350 which pertained to raising chickens within the city and derived from Ord. No. 2011-012, adopted Sep. 19, 2011; Ord. No. 2012-002, adopted Feb. 6, 2012; and Ord. No. 2014-009 , adopted Oct. 6, 2014. Said ordinance added similar provisions as § 52-324, as set out therein.

Sec. 52-351. - Special use regulations related to marijuana.

Marijuana land uses, because of their unique character and potential impacts on the welfare of adjacent properties and the city, require additional specific requirements. Such requirements are listed below and shall be the specific standards and regulations that must be met in addition to any standards imposed elsewhere for approval.

(1) All marijuana licensed activities shall comply at all times with the Medical Marijuana Act, Public Act 281 of 2016, the Medical Marijuana Facilities Licensing Act, MCL § 333.27101, et seq., and the Michigan Regulation and Taxation of Marijuana Act, MCL § 333.27951, et seq., and the applicable rules of the State of Michigan, as they may be amended from time to time.

(2) Cultivation shall be conducted so as not to create dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way. Special use permit applications shall address measures contemplated to control all dust, glare, noise, odors, or light spillage. In addition, cultivation shall be conducted so as not to create discharge to the city wastewater treatment system that unduly burdens the city. The special use permit application shall address the amount and type of discharge that will be entering the city wastewater treatment system and subject to review and approval by the city.

(3) A marijuana facility shall not be located within 1,000 feet of an R-1 or R-2 residential zoning district or within 1,000 feet of any church, state-licensed day care facility, public library, public park, preschool, elementary school, middle school, high school or public recreation facility.

(4) A marijuana facility shall obtain a zoning compliance certificate and if the applicant is not the owner of the parcel, such certificate shall include the property owners' consent to the use of the parcel as a medical marijuana cultivation facility.

(5) To the extent cultivation occurs outside an enclosed building, the special use permit application shall include and address all security matters, including security fencing, intrusion alarms to the satisfaction of the planning commission and city commission.

(6) No marijuana facility may be established, operated or maintained within 500 feet of any other medical marijuana facility, except as provided below.

(7) Distance limitations shall be measured in a straight line from the respective parcel or lot line of both the subject parcels and/or parcels zoned R-1 or R-2, or occupied by special uses specified in this subsection (b)(8).

(8) No person under 18 years will be admitted to the facility without his or her parent or legal guardian.

(9) Insofar as multiple state licensed facilities are permitted to be operated under the same roof or in the same facility, this section shall be deemed to permit and encourage any combination of multiple state licensed marijuana operations at one location, or on the same property, or in the same building. For the purposes of this section, multiple licensed facilities may operate on one zoning parcel.

(10) Uses permitted under Public Act 281 of 2016 the Medical Marijuana Facilities Licensing Act, MCL § 333.27101, et seq., and the Michigan Regulation and Taxation of Marijuana Act, MCL § 333.27951, et seq., and the applicable rules of the State of Michigan, being marijuana growers, secure transport, safety compliance facilities, provisioning centers, and processing centers, shall be subject to a separate license and permit from the city and:

a. The fee for the permit shall be as set by the city commission from time to time, and

b. If at any time the business licensed under this Public Act has the state revoke, suspend or the business otherwise loses its license, it must immediately shut its doors and the city permit will be considered to be null and void, and

c. The permits run annually and expire on the anniversary date of the issuance.

(Ord. No. 2017-002 , 5-15-2017; Ord. No. 2020-004 , 10-5-2020)

Secs. 52-352—52-370. - Reserved.

ARTICLE VI. - PLANNED RESIDENTIAL UNIT DEVELOPMENT

Footnotes:
*--- (**10**) ---*
***State Law reference—** Planned unit development, MCL 125.584b.*

Sec. 52-371. - Intent.

(a) The intent of this article is to provide an optional method for residential land development, which allows for flexibility in the application of the standards governing the type of residential structures permitted and their placement on the property. A planned residential unit development will provide for the development of residential land as an integral unit which incorporates within a single plan the location and arrangement of all buildings, drives, parking areas, utilities, landscaping and any other improvements or changes within the site. Deviation from the specific site development standards of this chapter may be allowed as long as the general purposes for the standards are achieved and the general provisions of the zoning regulations are observed. A planned residential unit development shall be designed to:
    (1) Achieve compatibility with the surrounding area and to encourage innovation and variety in the design, layout and type of residential development;
    (2) Achieve economy and efficiency in the use of land, natural resources and energy;
    (3) Provide for efficiencies and economies in providing public services and utilities; and
    (4) Encourage the development of more useful open space.
(b) The total area comprising a planned residential unit development is to be planned and developed as a unified and coordinated project.

(Code 1985, § 5.47.00)

Sec. 52-372. - 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:

Common open space means lands within the planned residential unit development, under the common ownership of all residents in the planned residential unit development, to be used for a park, recreation or environmental amenity. Such lands shall not include public or private streets, driveways or parking areas. Within the lands only facilities and structures for recreational purposes may be constructed, with the total impervious area of roofs and paving constituting not more than ten percent of the total open space.

Homeowners' association means an association of all owners of a project, organized for the purpose of administering, managing and maintaining the common open space, and common property and facilities. The association shall be described in all covenants, deeds or other recorded legal documents which affect the title to any land within the development.

(Code 1985, § 5.47.01)

Cross reference— Definitions generally, § 1-2.

Sec. 52-373. - Development standards and modifications.

A planned residential unit development will be developed in accordance with the following standards, except that, upon recommendation of the city planning commission, the city commission may waive a part or all of these requirements where, because of parcel size or shape or other extenuating factors, such a restriction would be to the detriment of quality development,

and through site design, any adverse affects to adjoining properties can be eliminated:

(1) *Minimum size.* The minimum size shall be three acres.

(2) *Permitted principal uses.* Permitted principal uses shall be as follows:

a. *Residential R-1 districts.*

1. Single-family dwellings.
2. Attached single-family dwellings limited to a cluster of units not more than 150 feet in length.

b. *Residential R-2 districts.*

1. Single-family dwellings.
2. Attached single-family dwellings limited to a cluster of units not more than 150 feet in length.
3. Multiple-family dwellings.

(3) *Allowable densities.*

a. The maximum density permitted in a planned residential unit development shall be:

1. R-1, 5.0 dwelling units per acre.
2. R-2, 15.0 dwelling units per acre.

b. Where a planned residential unit development includes land in more than one zoning district, the dwelling units must be distributed throughout the project in accordance with the allowable density of the zoning district in which they are located.

(4) *Permitted accessory uses.* Permitted accessory uses shall include:

a. Common open space for passive or active recreation and golf course area specifically for the residents of the planned residential unit development.

b. Streams or ponds.

c. Parking lots.

d. Other uses which, as the result of the plan review process, are determined to be designed to serve the residents of the planned residential unit development.

(5) *Common open space.* At least 40 percent of total land area within a planned residential unit development shall be in common open space, and it shall be distributed more or less uniformly throughout the total site area.

(6) *Unified control.* All lands within a proposed planned residential unit development shall be under the control of a single applicant, with that applicant being an individual, partnership, corporation or group of individuals, partnerships or corporations. All buildings, structures, landscaping and other improvements in a planned residential unit development shall be under the unified control of the same applicant.

(7) *Access and circulation.*

a. Roadway access for planned residential unit developments will be reviewed in accordance with standards set forth in chapter 24.

b. Private roadway width shall be a minimum of 20 feet. Roadways will be paved in accordance with specifications approved by the city engineer.

c. Improved walkways will be provided within the planned residential unit development as dictated by internal circulation requirements, and walkways shall connect to external walks providing access to schools, parks and other pedestrian traffic generators.

(8) *Parking standards.*

a. *Spaces required.* Parking spaces shall be required as follows:

1. One-bedroom units, 1½ spaces.
2. Two-bedroom units or more, two spaces.
3. Guest parking as dictated by the project design.

b. *Design and layout in R-1 residential districts.*

1. Parking in an R-1 residential district must be arranged so as to be compatible with the surrounding development in that residential district. Parking for residents and guests must be considered in the overall design. Private drives and garages are allowed.
2. Parking lots shall conform to the following:
   i. Parking space dimensions shall be no less than ten feet in width or 20 feet in length.
   ii. A single parking area shall contain no more than 20 parking spaces.
   iii. Within a parking area, no more than ten spaces shall be permitted in a continuous row without being interrupted by landscaping.
3. Separate parking or storage areas may be provided to accommodate motor homes, campers, boats and similar vehicles and equipment. Such areas will be screened from both within and without the planned residential unit development.

c. *Design and layout in R-2 residential districts.*

1. Parking space dimensions shall be no less than ten feet in width or 20 feet in length.
2. Parking lots shall conform to the following:
   i. No more than 40 parking spaces shall be accommodated in a single parking area.
   ii. No more than ten parking spaces shall be permitted in a continuous row without being interrupted by landscaping.

d. *Screening.* Parking areas shall be screened from adjacent roads and buildings with hedges, fences, walls, dense plantings or berms.

e. *Lighting.* All areas shall be adequately lighted. Lighting shall be arranged so as to be directed away from any residential buildings.

(9) *Site perimeter yard requirements.*

a. Where a planned residential unit development abuts a R-1 district, all structures shall be at least 30 feet from any perimeter boundary line, except that such structures in excess of 40 feet in length shall be set back an additional foot for every five feet of building length parallel to such boundary line.

b. Where a planned residential unit development abuts a zoning district other than an R-1 or R-2 district, all structures shall be set back at least 25 feet from any perimeter boundary line.

c. Where a planned residential unit development abuts an R-1 district, no intensive recreational building or facility shall be located within 50 feet of any perimeter boundary line.

d. Except for single-family detached dwelling units, where a planned residential unit development abuts an R-1 district, no parking area shall be within 50 feet of any perimeter boundary line.

(10) *Interior yard requirements.* Yards in the interior of a planned residential unit development may be less than those required in the zoning district within which they are located. Development may occur without any provision for interior yards, but in no case shall buildings be closer than ten feet from each other (zero lot line development).

(11) *Underground utilities.* All utilities within a planned residential unit development shall be constructed underground.

(12) *Lot sizes.* Lot sizes may be reduced from the regulations of the specific zoning district. Provisions may be made for developments without lot area.

(13) *Dwelling unit access.* Dwelling units may front on and take access from private roadways which are part of the common lands within the development.

(Code 1985, § 5.47.02)

Sec. 52-374. - Application procedure.

(a) *Filing.* Applications for a planned residential unit development are to be filed with the city manager.

(b) *Applicant.* An application for approval of a planned residential unit development shall be submitted by or on behalf of an applicant who has a demonstrable legal interest in all of the lands within the proposed development.

(c) *Preapplication conference.* An applicant shall meet with the city manager prior to the submission of a formal application. The purpose of the conference is to review procedures necessary for the submission of an application. Special problems concerning utilities, street access, site design and zoning will be identified to enable the developer to better plan for the project. Time requirements for plan approval will be reviewed.

(d) *Preliminary plan application.* Before submitting a final plan, an applicant shall submit a preliminary plan of the planned residential unit development in accordance with requirements set forth in subsection (f) of this section. The plan shall show the name, location and principal design elements so as to enable the city to make a determination as to whether the planned residential unit development is in conformance with the requirements of this chapter. The approval of a preliminary plan shall confer on the applicant the conditional right that the general terms and conditions under which the preliminary plat approval was granted will not be changed.

(e) *Final plan application.* Upon approval of a preliminary plan application, a developer shall prepare and submit a final plan application in accordance with the requirements set forth in subsection (g) of this section. A final plan submitted in accordance with an approved preliminary plan shall warrant approval by the city planning commission and the city commission. Upon approval of a final plan application by the city commission, the developer may obtain necessary building permits for the construction of the planned residential unit development.

(f) *Preliminary plan application submission requirements.* The preliminary plan application shall contain the following:

(1) Two copies of the following information: applicant's name, address, telephone number and proof of property interest, and the name, address and telephone number of the architect, engineer or designer preparing the application.

(2) Two copies of a written legal description of the total site area proposed for development.

(3) Five copies of a site plan and supporting maps and drawings containing the following information, at a scale of not more than one inch equals 100 feet, and sufficiently dimensioned so as to identify the size and location of the various elements of the plan:

a. Location map.

b. Site topography, existing and proposed, at an interval of no greater than two feet.

c. Location of all existing and proposed buildings and structures.

d. Public and private roadways within and adjacent to the site.

e. Walkways within and adjacent to the site.

f. Park areas, driveways, and loading and service areas.

g. Open areas and a description as to use thereof.

h. A written tabulation of statistical data concerning the site, including the number of dwelling units by type, the area of all parcels created, the area of all common open space and the number of parking spaces provided.

i. A general landscape plan of landscaping within the site. Specific details of plant size shall be shown for any landscaping provided to comply with any required screening within the project.

j. Location and screening of any outside trash containers.

k. Location and size of all existing utilities and drainage facilities.

l. General location and size of all proposed utilities and drainage facilities.

m. Dimensions of all parcels to be created as a part of the development.

(4) Two copies of building elevation drawings, showing the architectural style to be used in the development.

(5) A submittal fee in accordance with section 24-104.

(g) *Final plan application submission requirements.* The final plan application shall contain the following:

(1) Two copies of the following information: applicant's name, address, telephone number and proof of property interest, and the name, address and telephone number of the architect, engineer or designer preparing the application (two copies).

(2) Two copies of a written legal description of the total site area proposed for development.

(3) Two copies of a letter of transmittal setting forth the proposed development schedule, including the sequence of any phases of development.

(4) Five copies of a site plan, and supporting maps and drawings containing the following information, at a scale of not more than one inch equals 100 feet, and dimensioned so as to identify the size and location for the various elements of the plan:

a. A location map.

b. Site topography, existing and proposed, at an interval of no greater than two feet.

c. Location of all existing and proposed buildings and structures.

d. Public and private roadways within and adjacent to the site.

e. Walkways within and adjacent to the site.

f. Park areas, driveways, and loading and service areas.

g. Open areas and a description as to the use thereof.

h. A written tabulation of statistical data concerning the site, including the number of dwelling units by type, the area of all parcels created, the area of all common open space and the number of parking spaces provided.

i. A general landscape plan of landscaping within the site. Specific details of plant size shall be shown for any landscaping provided to comply with any required screening within the project.

j. Location and screening of any outside trash containers.

k. Dimensions of all parcels to be created as a part of the development.

(5) Two copies of the organizational structure of the homeowners' association to be formed for the operation and maintenance of all common open space and common property and facilities within the development.

(6) Two copies of all covenants pertaining to the development.

(7) Plans and specifications for all sanitary sewer, storm drainage, water and roadways within the project. Such plans and specifications shall be prepared by a professional engineer in accordance with the standards of the department of public health of the state, as they pertain to public utilities.

(Code 1985, § 5.47.03)

Sec. 52-375. - Planning commission review and approval of preliminary plan.

Public hearing and notice. The planning commission shall conduct a public hearing on the proposed planned residential unit development. Notice of such public hearing shall be given as set forth in section 52-344.

(Code 1985, § 5.47.04; Ord. of 9-5-2006)

Sec. 52-376. - City commission review and approval of preliminary plan.

Public hearing and notice. The city commission shall conduct a public hearing on the proposed planned residential unit development. Notice of such public hearing shall be given as set forth in section 52-344.

(Code 1985, § 5.47.05; Ord. of 9-5-2006)

Sec. 52-377. - Review and approval of final plan.

(a) *Submission.* A developer may submit to the city manager for final approval all or part of the plan for which preliminary approval has been received. Any final plan for a part of the larger development shall be such that its proportional share of the common space shall be included in and contiguous to the area to be developed, and such partial development shall be capable of standing on its own with respect to necessary improvements, circulation, facilities and open space.

(b) *Planning commission action.* After a study of the proposed final plan for a planned residential unit development or part thereof, the planning commission shall, within 30 days of the receipt of such plan, recommend to the city commission approval, approval with modification or disapproval of the project. The planning commission shall prepare a report explaining its action. The planning commission shall recommend approval of a final plan unless it is determined that the final plan is not in accordance with the approved preliminary plan or that the final plan, when a part of a total proposed plan, does not represent a proportion of all critical elements of the plan.

(c) *City commission action.* Within 30 days of the receipt of a recommendation from the city planning commission and after the execution of the agreement by the developer, as required in subsection (d) of this section, the city commission shall approve, approve with modification or disapprove the final plan. A final plan shall be approved unless it is determined that it is not in conformance with the approved preliminary plan or that such final plan, when a part of the total proposed plan, does not represent a proportional part of all the critical elements of the plan. The planning commission shall set forth, in writing, the basis for its decision and any conditions relating to an affirmative decision.

(d) *Agreement required.*

(1) Prior to final plan approval by the city commission, the developer shall have executed, and submitted in duplicate to the city manager, an agreement with the city, setting forth:

a. The specific location and use of all common lands and common facilities within the development;

b. The organizational structure of the homeowners' association and provisions for implementation of transfer of control to such association from the developer;

c. The methods for levying taxes, and operation and maintenance fee;

d. Provisions enabling the city to enter in and maintain such common lands and facilities when the developer or homeowners' association has failed to do so, along with procedures for assessing such costs back to the development;

e. Provisions whereby the building inspector shall not issue a certificate of occupancy until all the required improvements as set forth in the site plan have been completed, or a financial guarantee sufficient to cover the cost of any improvements not completed, has been provided to the city as prescribed in accordance with the provisions of section 52-379;

f. Provisions to allow the city to enter and complete such improvements if the developer has failed to do so within the stated period of time.

(2) The agreement shall be approved as to form and content by the city attorney.

(Code 1985, § 5.47.06)

Sec. 52-378. - Approval period.

(a) *Preliminary plan.* The length of approval of a preliminary plan for a planned residential unit development shall be 18 months from the date of the city commission's action. An extension may be applied for in writing by the applicant prior to the expiration date, and extensions may be granted by the city commission twice, each for a period of one year.

(b) *Final plan.* The length of approval of a final plan for a planned residential unit development shall be two years from the date of the city commission's action. An extension may be applied for in writing by the applicant prior to the expiration date, and extensions may be granted by the city commission twice, each for a period of one year. Where a planned residential unit development is being developed in phases, the initiation of each new development phase shall automatically extend the approval for two years from the date of issuance of a building permit.

(Code 1985, § 5.47.07)

Sec. 52-379. - Performance guarantee.

(a) *Condition for issuance of temporary certificate of occupancy.* If, when a certificate of occupancy is requested, all required site improvements have not been completed, the building inspector may issue a temporary certificate of occupancy upon receipt from the developer by the city clerk of a financial guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount sufficient to cover the cost of outstanding improvements.

(b) *Covered improvements.* The amount of the performance guarantee shall be limited to cover the estimated cost of improvements necessary to comply with the provisions of this chapter and any conditions attached to the planned residential unit development approval, and such improvements shall include, but not be limited to, roadways, lighting, utilities, sidewalks, screening and drainage.

(c) *Exemption.* This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit or surety bond has been deposited pursuant to Public Act No. 288 of 1967 (MCL 560.101 et seq.).

(d) *Completion time.* All required improvements covered by the performance guarantee shall be completed within 240 days of the issuance of the temporary certificate of occupancy. If all required improvements are not completed within the time period provided, the city, by resolution of the city commission, may proceed to have such work completed and reimburse itself for the cost thereof from the security furnished by the proprietor.

(e) *Release.* Upon the written request of the developer for a release of all or a portion of the financial security provided for the completion of the improvements, and upon certification by the city building inspector that the proportion of the financial security requested to be released is equal to or less than the proportion of the improvements installed at the date of such request, the city manager may authorize the release of such financial security to the developer or to such other source as shall be directed by the developer. Any written request from the developer seeking a release of a portion of the financial security shall be accompanied by a written certification from the developer's engineer or architect certifying what part of the improvements have, in fact, been completed.

(Code 1985, § 5.47.08)

State Law reference— Deposit of performance guarantee, MCL 125.584e.

Sec. 52-380. - Plan amendments.

Minor changes in the location, siting or character of buildings and structures may be authorized by the city manager, if required by engineering or other circumstances not foreseen at the time the final development program was approved. No change authorized under this section may increase by more than ten percent, or decrease by more than 20 percent, the size of any building or structure, nor change the location of any building or structure by more than ten feet in any direction, provided,

notwithstanding anything in this subsection to the contrary, the city manager may not permit changes beyond the minimum or maximum requirements set forth in this article. All other changes in the planned residential unit development, including changes in the site plan and the development schedule, must be made under the procedures that are applicable to the initial approval of a planned residential unit development.

(Code 1985, § 5.47.09)

Sec. 52-381. - Subdivision requirements.

Any planned residential unit development which will result in the creation of parcels of land under separate ownership, as defined in Public Act No. 288 of 1967 (MCL 560.101 et seq.), the Land Division Act; or Public Act No. 59 of 1978 (MCL 559.101, et seq.), the Condominium Act, shall comply with the provisions of such Acts.

(Code 1985, § 5.47.10; Ord. of 9-5-2006)

Secs. 52-382—52-410. - Reserved.

ARTICLE VII. - SITE PLAN REVIEW

Footnotes:
*--- (**11**) ---*
***Editor's note—** Ord. of 9-5-2006 amended art. VII in its entirety and enacted similar provisions as set out herein. The former art. VII derived from Code 1985, ch. 56, §§ 1—10.*

Sec. 52-411. - Purpose.

(a) It is the intent of this article to require site plan review approval by the planning commission prior to issuance of a building permit for certain buildings, structures, and uses that can be expected to have an impact on natural resources, traffic patterns, adjacent parcels, and the character of future development, and for all special land uses, to ensure that all such buildings, structures, and uses are in conformity with the provisions of this article.

(b) It is further the intent of this article to require the eventual upgrade of existing sites that do not conform with current standards of this article and ensure that the arrangement, location, design, and materials within a site are consistent with the character of the city and the goals and design guidelines in the city master plan.

(Ord. of 9-5-2006)

Sec. 52-412. - Uses requiring site plan review.

Uses Requiring Site Plan Review				
	Use or Activity	Requires Site Plan Review	Sketch Plan Review (Adm. Approval)	Exempt
a.	New construction of any nonresidential or multiple-family development	*		

b.	All special land uses in accordance with article V Special Land Uses	*		
c.	Site condominium developments	*		
d.	Planned unit developments (PUDs) in accordance with article VI Planned Unit Development Standards	*		
e.	Erection of a tower, antenna, or other communication facility; essential public service buildings and storage yards	*		
f.	Colocation of a communication antenna upon an existing tower		*	
g.	Adult and child residential care facilities including day-care centers, foster care homes, family day-care homes and group homes			
h.	Home occupations	*		
i.	Temporary uses, buildings, structures, and seasonal events		*	

j.	An increase in floor area of uses subject to site plan review up to 1,000 square feet or 5 percent of existing floor area, whichever is less		*	
k.	Change in use to one permitted in zoning district and requires no significant changes to building façade, footprint, parking, landscaping, lighting, signs, bike paths or sidewalks		*	
l.	Improvements to outdoor recreational uses and parks		*	
m.	Expansion, replacing or alteration of landscaping areas consistent with this article		*	
n.	Improvements or installation of walls, fences, or lighting		*	

o.	Alterations to off-street parking layout or installation of pavement or curbing improvements provided total number of spaces shall remain constant, and the construction plans and lot construction are approved by the appropriate city staff		*	
p.	Construction or relocation of a waste receptacle or enclosure		*	
q.	Changes to façade, architectural features or wall signs (elevation plan showing changes and construction materials is required)	*		
r.	Approved changes to utility systems		*	
s.	Grading, excavation, filling, soil removal, creation of swimming pool, creation of ponds or tree clearing over 100 square feet		*	

t.	Grading, excavation, filling, soil removal, creation of ponds, installation of a swimming pool or clearing of trees within an area of less than 100 square feet			*
u.	Modifications to nonconforming uses, buildings or sites, including a change to a more conforming situation; modifications to nonconforming single-family dwelling units shall be in accordance with provisions governing nonconforming uses, structures, and lots		*	
v.	Modifications to upgrade a building to improve barrier free design, comply with Americans with Disabilities Act or other federal, state or county regulations		*	
w.	Construction or erection of permitted accessory buildings and structures accessory to a single- or two-family dwelling unit			*

x.	Construction, reconstruction, erection and/or expansion of single-family or two-family dwelling on parcel zoned solely for residential purposes			*
y.	Development regulated by the Land Division Act of 1997 (P.A. 112) and the city subdivision control ordinance			*
z.	Erection of essential public service local distribution lines			*
aa.	Construction, erection or relocation of permitted accessory buildings and structures less than 100 square feet in area accessory to a multiple-family, commercial, office, essential service, municipal, or industrial use			*
bb.	Keeping of pets as an accessory use without additional structures, except kennels			*
cc.	Construction of accessory building or structure for the keeping of pets		*	

dd.	Accessory outdoor display of general retail items as determined by the building official/city manager		*	
ee.	Internal construction or change in the floor plan for a conforming use that does not increase gross floor area, provided the construction cost over a 12 month period does not exceed 50 percent of the building SEV or affect parking requirements on a site			*
ff.	Construction or erection of signs, antennas, cooling/heating or other mechanical equipment, telephone booth, newspaper boxes, or similar structures which conform to other city standards and where site plan review is not specifically required under other sections of this article			*
gg.	Any proposed building or use which does not qualify for sketch plan or exempt from any site plan review	*		

TBD	Construction or erection of permitted accessory dwelling units	*		

(Ord. of 9-5-2006; Ord. No. 2020-009 , Pt. 5, 11-2-2020)

Sec. 52-413. - Planned unit developments, site condominiums, and condominium subdivisions.

Site plans for planned unit developments, site condominiums and condominium subdivisions shall be subject to the provisions of article VI, Planned Unit Development Standards.

(Ord. of 9-5-2006)

Sec. 52-414. - Optional preliminary site plan review process.

The site plan approval process includes a review, at the option of the applicant, of a preliminary site plan by the planning commission. This option is recommended for site plans affecting over five acres, plans affecting locations designated in the city master plan as having significant natural features, sites containing floodplain or within the flood hazard zones, sites containing or potentially containing MDEQ-designated/regulated wetlands or sites regulated by MDEQ or other environmental grounds, special land uses and complex commercial developments. The review of a preliminary site plan allows the planning commission and city staff to review and comment on the project's compliance with the requirements of this article prior to the preparation of all the required site plan review materials.

(Ord. of 9-5-2006)

Sec. 52-415. - Site plan submittal requirements.

The site plan shall include all the following information, unless the building official/city manager determines that some of the required information is not reasonably necessary:

(a) *Application, form and fees.* A completed application form, supplied by the city clerk, building official/zoning administrator, and an application fee; a separate escrow deposit may be required for administrative charges to review the site plan submittal;

(b) *Proof of ownership.* Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.

(c) *Project schedule.* A narrative indicating the period of time within which the project will be completed.

(d) *Copies.* Fifteen copies of the site plan.

(e) *Sheet size.* Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale of one inch equals 20 feet.

(f) *Cover sheet.* Cover sheet providing:

1. Applicant's name.
2. Name of the development.
3. Preparer's name and professional seal of architect, engineer, surveyor, or landscape architect indicating license in the state.

4. Date of preparation and revision dates.
5. North arrow.
6. Property lines and dimensions.
7. Complete and current legal description and size of property in acres.
8. Small location sketch of sufficient size and scale to determine the site's location within the city.
9. Note on each plan sheet stating "Not to Be Used as Construction Drawings".

(g) *Site plan.* Plan sheet(s) indicating:

1. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site.
2. Lot lines and all structures on the property and within 100 feet of the site's property lines.
3. Location of any vehicle access points on both sides of the street within 100 feet of the site along streets where vehicle access to the site is proposed.
4. Existing buildings and any public or private easements, noting those which will remain and which are to be removed.
5. Layout and typical dimensions of proposed lots, footprints and dimensions of proposed buildings and structures; uses with the acreage allotted to each use; for residential developments, the number, type, and density of proposed housing units; if a multiphase development is proposed, identification of the areas included in each phase.
6. Elevations showing height, materials and colors for all proposed structures, including any residential units, shall be provided and considered part of the approved site plan; the building elevations must show all rooftop mechanical units along with the proposed method of screening.
7. Building footprints, setbacks, typical floor plans and a sketch of any ground mounted equipment to scale along with required screening.
8. Existing and proposed locations of utility services (with sizes), including storm drainage, retention or detention ponds, fire hydrants, and any public or private easements; notes shall be provided clearly indicating which existing services will remain and which will be removed.
9. Locations of all natural, historical, and architectural features; natural features shall include all woodlands, trees, wetlands, lakes, rivers, drainage ways, topography, etc.
10. Location(s) of any MDEQ-regulated wetland, including submission of a wetland delineation by a qualified wetland consultant, and indication of the status of application for an MDEQ wetland permit or copy of permit received including description of any wetland mitigation required; and location of other non-regulated wetland areas over two contiguous acres.
11. Location and method of screening for all waste receptacles including dumpsters and compactors, meeting the requirements of section 52-316, Waste receptacles and enclosures.
12. Location and dimensions of parking lots and spaces, and loading/unloading areas (including vehicle pathway to access loading area), and calculations to meet the requirements of sections 52-305 through 52-309, Off-Street Parking and Loading-Unloading Standards.
13. Details of exterior lighting meeting the requirements of article X, Lighting Standards including locations, height, method of shielding; and a photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles).
14. Size, type, and location of proposed identification signs including:
    a. Location, type, height and method of lighting for identification signs.

b. Location and type of any directional or regulatory/traffic control signs, with details for any sign not conforming t Manual of Uniform Traffic Control Devices.

15. Details of site circulation and access design, including:

a. *[Dimensions.]* Dimensions of existing and proposed right-of-way lines, including those abutting the site, and names of abutting public streets.

b. *[Pavement.]* Indication of pavement widths and pavement type including internal service and access drives.

c. *[Street dimensions.]* Street horizontal and vertical dimensions, including curve radii.

d. *[Access points.]* Locations and dimensions of access points, including deceleration or passing lanes, distance from adjacent driveways or intersection streets, including those across a street.

e. *[Sidewalks, bicycle paths.]* Location of existing sidewalks and location and dimensions for proposed sidewalks and bicycle paths.

f. *[Access easements.]* Written verification of access easements or agreements, if applicable.

h. *Landscape plan.* A landscape plan in accordance with article VIII, Landscape Standards and Tree Replacement indicating proposed plant locations with common plant name, number, and size in caliper at installation. Berms, retaining walls or fences shall be shown with elevations from the surrounding average grade.

i. *Grading plan.* A site grading plan for all developments where grading will occur, with existing and proposed topography at a minimum of two-foot contour levels and with topography extending a minimum of 50 feet beyond the site in all directions and a general description of grades within 100 feet, and further where required to indicate stormwater runoff into an approved drain or detention/retention pond.

j. *Stormwater management plan.* A general description and location of stormwater management system shall be shown on the grading plan, including pre- and post-site development runoff calculations used for determination of stormwater management, and location and design (slope) of any retention/detention ponds. Stormwater outfall structures or basins constructed in a MDEQ-regulated wetland may require an MDEQ wetland permit; and, if constructed below the ordinary high water mark of an inland lake or stream, will require a permit under the Inland Lakes and Streams Act, PA 346 of 1972, as amended. Status of all such MDEQ permit applications or copies of permits with attached conditions shall be provided as applicable.

k. *Additional items.* Any additional graphics or written materials requested by the planning commission or city commission to assist the city in determining the compliance with the site plan standards, such as aerial photography, photographs, traffic impacts using trip generation rates recognized by the Institute of Transportation Engineers (ITE) for an average day and peak hour of the affected roadways, and impact on significant natural features and drainage.

l. *Flood hazard zones.* The following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard area zone:

1. The elevation of the ground floor and any basement floors of all structures.
2. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
3. Proof of development permission from appropriate city, state, and federal agencies as required, including a floodplain permit, approval, or letter of authority from the Michigan Department of Environmental Quality under authority of Act 245 of the Public Acts of 1929, as amended by Act 167 of the Public Acts of 1968, the Flood Plain Regulatory Authority.
4. Base flood elevation data where the proposed development is subject to Act 288 of the Public Acts of 1967, the Subdivision Control Act, or greater than five acres in size.
5. Additional information which may be reasonably necessary to determine compliance with the provisions

of this article

(Ord. of 9-5-2006)

Sec. 52-416. - Standards for site plan approval.

Based upon the following standards, the planning commission may recommend approval, approval with conditions or denial of the site plan:

(a) *General.* All elements of the site plan shall be designed to take into account the site's topography, existing historical and architectural features, the size and type of plot, the character of adjoining property and the traffic operations of adjacent streets. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this article.

(b) *Building design.* The building design shall relate to the surrounding environment in regard to texture, scale, mass, proportion, and color. High standards of construction and quality materials will be incorporated into the new development in accordance with the requirements of section 52-314, Nonresidential development requirements.

(c) *Preservation of significant natural features.* Judicious effort shall be used to preserve the integrity of the land, existing topography, and natural features, in particular woodlands, MDEQ-designated/regulated wetlands, and, to a lesser extent, wetlands which are not regulated by the MDEQ.

(d) *Landscaping.* The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this article. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Landscaping, landscape buffers, and greenbelts shall be provided and designed in accordance with the provisions of article VIII, Landscape Standards and Tree Replacement.

(e) *Streets.* All streets shall be developed in accordance with the city subdivision control ordinance and construction standards, unless developed as a private road in accordance with the requirements of section 52-317, Private road standards.

(f) *Access, driveways and circulation.* Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided and shall meet the following criteria:

1. Drives, streets, parking and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.
2. All driveways shall meet the design and construction standards of the city.
3. Access to the site shall be designed to minimize conflicts with traffic on adjacent streets, particularly left turns into and from the site.
4. For uses having frontage and/or access on a major traffic route, as defined in the city master plan, the number, design, and location of access driveways and other provisions for vehicular circulation shall comply with the provisions of article XI, Access Management and Driveway Standards.

(g) *Emergency vehicle access.* All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the city fire and police department.

(h) *Sidewalks, pedestrian and bicycle circulation.*

1. The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and sidewalks/pedestrian or bicycle pathways in the area.
2. A pedestrian circulation system shall be separated from vehicular circulation system.
3. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other

such facilities may be required in the vicinity of primary and secondary schools, playgrounds, local shopping area, fast food/service restaurants and other high traffic areas of pedestrians or bicycles.

(i) *Barrier-free access.* The site has been designed to provide barrier-free parking and pedestrian circulation.

(j) *Parking.* The number and dimensions of off-street parking spaces shall be sufficient to meet the minimum required by sections 52-305 through 52-309, Parking and Loading-Unloading Standards. However, where warranted by overlapping or shared parking arrangements, the planning commission or city council may reduce the required number of parking spaces if deemed in the best interest of the public.

(k) *Loading and storage.* All loading and unloading areas and outside storage areas shall be screened as determined by the planning commission in accordance with article VIII, Landscape Standards and Tree Replacement.

1. *Soil erosion control.* The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other materials. The final determination as to adequacy of, or need for, lateral support shall be made by the city engineer.
2. *Utilities.* Public water and sewer facilities shall be available or shall be provided for by the developer as part of the site development, where such systems are available.
3. *Stormwater management.* Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater which complements the natural drainage patterns and wetlands, prevent erosion and the formation of dust. Sharing of stormwater facilities with adjacent properties shall be encouraged. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water.
4. *Lighting.* Exterior lighting, in accordance with article X, Lighting Standards, shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.
5. *Noise.* The site has been designed, buildings so arranged, and activities/equipment programmed to minimize the emission of noise, particularly for sites adjacent to residential districts.
6. *Mechanical equipment and utilities.* Mechanical equipment and utilities, roof, building and ground mounted, shall be screened in accordance with the requirements of section 52-313, Mechanical equipment and utilities.
7. *Waste receptacles.* Waste receptacles shall be provided as required in section 52-316, Waste receptacles and enclosures.
8. *Signs.* The standards of article IX, Signs must be met.
9. *Hazardous materials or waste.* For businesses utilizing, storing or handling hazardous material such as automobile service and automobile repair stations, automobile body repair stations, dry cleaning plants, metal plating industries, and other industrial uses, documentation of compliance with state and federal requirements shall be provided.
10. *Other agency reviews.* The applicant has provided documentation of compliance with other appropriate agency review standards, including, but not limited to, the MDEQ, MDOT, Clare County Drain Commission, Clare County Health Department, and other federal and state agencies, as applicable.

(Ord. of 9-5-2006)

Sec. 52-417. - Site plans with multiple phases.

The planning commission shall review site plans with multiple phases as a site plan meeting the submission requirements of article VII, Site Plan Submittal Requirements. Any future phases identified on a site plan must be reviewed by the planning commission in the form of a separate site plan submission. The planning commission may require that the conceptual layout for future phases and outlots be shown on site plans to ensure proper development of the overall site. When a future phase of development is identified on a site plan, however, the planning commission is not bound by any aspect of that portion of the plan until a site plan meeting the requirements of this article have been provided. In addition, any phase of a site plan where construction has not commenced within one year from the date of approval must return to the planning commission for a new site plan approval.

(Ord. of 9-5-2006)

Sec. 52-418. - Conditions of site plan approval.

(a) As part of an approval to any site plan, the planning commission may impose any additional conditions or limitations as in its judgment may be necessary to ensure that public services and facilities can accommodate the proposed site plan and its activities, to protect significant natural features and the environment, and to ensure compatibility with adjacent land uses. Such conditions shall be considered necessary by the planning commission to ensure compliance with the review standards of section 52-415, Standards for site plan approval, and necessary to meet the intent and purpose of this chapter.

(b) Approval of a site plan, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property or holder of the site plan.

(c) A record of conditions imposed shall be recorded on the site plan and maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with section 52-421, Deviations from approved site plan.

(d) A record of the decision of the planning commission, the reason for the decision reached and any conditions attached to such decision shall be kept and made a part of the minutes of the planning commission.

(e) The building official/city manager may require that the applicant review and resubmit a site plan in compliance with the conditions imposed by the planning commission. Should resubmittal be required, all modifications shall be highlighted on the plan in such a manner that the modifications are easily identified. The building office/city manager shall have authority to approve the site plan.

(f) The building official/city manager may make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall constitute grounds for the planning commission to terminate such approval following a public hearing.

(Ord. of 9-5-2006)

Sec. 52-419. - Validity of approved site plan.

(a) Approval of the site plan, including any phase of a multiphased site plan, is valid for a period of one year. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the site plan shall be null and void.

(b) Upon written application filed prior to the termination of the one-year review period, the planning commission may authorize a single extension of the time limit for approval of a site plan for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that the development has a likelihood of

commencing construction within the extension period, the length of which shall be determined by the planning commission but which shall not exceed one year.

(Ord. of 9-5-2006)

Sec. 52-420. - Appeals of site plan.

(a) Any person aggrieved by the decision of the planning commission in granting or denial of final site plan approval shall have the right to appeal the decision to the zoning board of appeals (ZBA). The appeal shall be filed with the city clerk within 21 business days of the decision of the planning commission. The appeal shall state the aggrieved parties' grounds for appeal.

(b) The filing of an appeal of a decision of the planning commission concerning a site plan shall act to stay any building permit issued for improvements on the property which is the subject of the appeal.

(c) On hearing such appeal, the ZBA shall review the record before the planning commission and shall determine whether or not there was support on the record for the original decision. The appellant shall not have the right to present new evidence, but shall be bound by the record before the planning commission. The ZBA shall approve the site plan if the requirements of this article and other applicable city ordinances are met, and prepare written findings on its decision on the appeal.

(d) An appeal of a ZBA decision concerning a site plan shall be to the Circuit Court of Clare County.

(Ord. of 9-5-2006)

Sec. 52-421. - Deviations from approved site plan.

Amendments to the approved site plan may occur only under the following circumstances:

(a) An applicant or property owner who has been granted site plan approval shall notify the building official/city manager of any proposed amendment to such approved site plan.

(b) Minor changes may be approved by the city building official/city manager. The building official/city manager must provide, in writing to the planning commission, documentation that the proposed revision does not alter the basic design, compliance with the standards of this article, nor any specified conditions of the plan as agreed upon by the planning commission. In considering such a determination, the building official/city manager shall consider the following to be a minor change:

1. Change in size of structures, for residential buildings by up to five percent, provided that the overall density of units does not increase.
2. Change in square footage of nonresidential buildings by up to five percent or 1,000 square feet, whichever is smaller.
3. Alterations to horizontal and/or vertical elevations by up to five percent.
4. Movement of a building or buildings by no more than ten feet.
5. Increase in designated "areas not to be disturbed."
6. Replacement of plantings approved in the site plan landscape plan by similar types and sizes of landscaping which provides a similar screening effect on a one-to-one or greater basis, with approval of the building official/city manager.
7. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
8. Changes of building materials to another of higher quality, as determined by the building official/city manager.
9. Changes in floor plans which do not alter the character of the use.

10. Slight modification of sign placement or reduction of size.
11. Relocation of sidewalks and/or refuse storage stations.
12. Internal rearrangement of parking lot which does not affect the number of parking spaces or alter access locations or design.
13. Changes required or requested by the city for safety reasons.

(c) Should the building official/city manager determine that the requested modification to the approved site plan is not minor, the planning commission shall be notified in writing that the site plan has been suspended, and, if construction has initiated, a stop work order shall be issued for the section of the project deemed not to be in compliance. Thereafter, the applicant may revise the site plan and submit to the building official/city manager for resubmission to the planning commission. All modifications must be highlighted in such a manner that the modifications to the approved plan are easily identified.

(d) Any deviation from the approved site plan, except as authorized in section 52-421, Deviations from approved site plan, shall be considered a violation of this article.

(Ord. of 9-5-2006)

Sec. 52-422. - Projects eligible for sketch plan review and administrative approval.

(a) *Intent.* The intent of this section is to permit submittal of a sketch plan in certain specific instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this chapter. The intent is to also provide for an administrative review by city staff of planning commission approved site plans for compliance with conditions as imposed by the planning commission.

(b) *Eligibility.* A sketch plan, rather than a complete site plan package, may be submitted for uses or activities identified in section 52-412, Uses requiring site plan review.

(c) *Procedure.*

(1) *Sketch plan.* The process for administrative approval of a sketch plan shall involve submittal of the sketch plan and required application form, and fee to the building official/city manager. The building official/city manager shall review the sketch plan in accordance with the same standards used by the planning commission for a full site plan. The building official/city manager shall make a report of administrative reviews to the planning commission.

a. The minimum contents of a sketch plan submitted for administrative review include:

1. General information including:

a) Completed application form and fee.

b) Title block with sheet number/title; name, address and telephone number of the applicant and firm or individual who prepared the plans; and date(s) of submission and any revisions (month, day, year).

c) Scale and north-point.

d) Location map drawn to a separate scale with north-point, showing surrounding land, water features, zoning and streets within a quarter mile.

e) Legal and common description of property including net acreage.

f) Identification and seal of registered or licensed architect, engineer, land surveyor, or landscape architect who prepared drawings.

g) Zoning classification of petitioner's parcel and all abutting parcels.

h) A note on each plan sheet stating "Not to Be Used as Construction Drawings."

2. *Buildings and structures.*

a) Existing and proposed buildings and parking lots with dimensions and setbacks.

b) Floor plan indicating existing and proposed uses.

c) Building elevations including materials and colors for all sides with proposed changes.

3. *Parking and access.*

a) Existing and proposed parking calculations.

b) Existing and proposed driveways.

4. *Site data.*

a) Existing and proposed landscaping illustrated on the plan and described in a plant list.

b) Proposed changes to grading and other natural features.

c) Existing and proposed lighting and screening.

d) Proposed changes to utilities.

e) Any other items requested by the building official/city manager to assist in the administrative review.

b. *Planning commission approved site plan.* If the administrative review consists of a review of an approved site plan with conditions by the planning commission, the complete site plan must be submitted with all revisions highlighted in such a manner that all modifications are easily identified.

c. *Additional information.* The building official/city manager retains the option to require additional information or a complete site plan for review by the planning commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts or sites experiencing problems with drainage, traffic, noise, aesthetics or other general health and safety issues. If a full site plan is required, the building official/city manager shall inform the applicant to submit a set of plans in accordance with this article within 14 days of receipt of the application.

(Ord. of 9-5-2006)

Sec. 52-423. - As-built drawing.

As-built drawings shall be provided as required by the city engineer, city building department or city commission as determined from time to time.

(Ord. of 9-5-2006)

Sec. 52-424. - Property maintenance after approval.

(a) It shall be the responsibility of the owner of the property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. This maintenance requirement includes healthy landscaping, walls, fences, pavement, pavement markings, signs, building exterior, litter and debris control, drainage facilities and all other elements of a site.

(b) Any property owner who fails to so maintain an approved site plan shall be deemed in violation of the provisions of this article and shall be subject to the same penalties appropriate for a violation.

(c) With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association.

(Ord. of 9-5-2006)

Secs. 52-25—52-29. - Reserved.

ARTICLE VIII. - TREES AND LANDSCAPING

Sec. 52-430. - Purpose.

(a) The intent of this article is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscape improvements. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and the overall character of the city. The standards of this article are intended to help achieve a number of functional and environmental objectives such as:

(1) Promoting the implementation of the city master plan and sub-area studies.

(2) Defining and articulating outdoor spaces and architectural elements.

(3) Obscuring, integrating and complementing various site elements.

(4) Assisting in directing safe and efficient movement of vehicular and pedestrian circulation.

(5) Screening headlights to reduce glare and incidental pollution.

(6) Reducing the physical impact between adjacent land uses.

(7) Providing landscape treatments that are consistent with adjacent sites and parcels within the surrounding area.

(8) Providing incentives to preserve quality existing plant material.

(9) Providing reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein.

(b) The standards contained in this article are considered the minimum necessary to achieve the objectives identified above. In several instances these standards are intentionally flexible to encourage flexibility and creative design. Additional landscaping beyond the minimum specified is encouraged to further improve the function, appearance and value of the property.

(Ord. of 9-5-2006)

Sec. 52-431. - Landscape plan specifications.

(a) A separate detailed landscape plan shall be submitted as part of the site plan review process.

(b) The landscape plan shall demonstrate that all requirements of this article are met and shall:

(1) Illustrate location, spacing, species, and size of proposed plant material.

(2) Separately identify compliance with the minimum numeric requirements for greenbelts, buffer zones, parking lot trees, detention ponds, and interior landscaping; required trees or materials cannot be double counted.

(3) If applicable, identify compliance with the numeric requirements for tree replacement and preservation.

(4) Provide, as determined by the planning commission, typical cross sections to illustrate views from adjacent land uses and the slope, height and width of proposed berms or landscape elements.

(5) Identify trees and other landscape elements to be preserved.

(6) Delineate the location of tree protection fence and limits of grading at the perimeter of areas that are to be preserved.

(7) Provide significant construction details to resolve specific conditions such as limits of grading adjacent to areas with

trees and vegetative cover to be preserved, tree wells to preserve existing trees or culverts to maintain natural drainage patterns.

(8) Provide details to ensure proper installation and establishment of proposed plant material.

(9) Identify grass areas and other methods of ground cover.

(10) Identify a landscape maintenance program including a statement that all diseased, damaged or dead materials shall be replaced in accordance with standards of this chapter.

(Ord. of 9-5-2006)

Sec. 52-432. - Replacement of removed trees.

A tree survey shall be submitted with any site plan for new development. The survey shall identify the location, species, and size of existing trees on the proposed site. Existing trees that are greater than eight caliper inches that are planned to be removed shall be replaced on the site in accordance with the following standards:

(a) Removed trees between eight and 18 caliper inches shall be replaced at a rate of 50 percent of the total diameter breast height (DBH).

(b) Removed trees greater than 18 caliper inches shall be replaced at a rate of 75 percent of the total dbh.

(c) Removed trees greater than 30 caliper inches shall be replaced at a rate of 100 percent of the total dbh.

(d) Trees that are dead or diseased, with no visible growth, as determined by the building official/zoning administrator, are exempt from replacement requirements.

(e) A summary table of existing trees shall be provided, indicating those trees that will be removed. Said summary table shall include the common name of each tree, its botanical name, the size of the tree, its condition, and any replacement calculations regarding any replacement necessary under this chapter.

* Diameter at breast height (dbh) is the diameter measured at a height of four and one-half feet above the natural grade.

(Ord. of 9-5-2006)

Sec. 52-433. - Design standards.

(a) *Greenbelts.* A greenbelt shall be planted or preserved along public rights-of-way and designated frontage roads. The greenbelt is intended to provide a transition between the roadway and an existing or proposed land use. Greenbelts shall be provided in accordance with the following requirements:

(1) The width of the greenbelt shall be 35 feet in residential districts and equivalent to the minimum required parking lot setback in nonresidential districts.

(2) Greenbelts shall include only living materials and planting beds, except for approved sidewalks, bike paths, signs, driveways, and essential services.

(3) Where sidewalks are located within the greenbelt, plant materials shall be provided on each side of the pathway to provide visual and physical separation between the vehicular and pedestrian circulation.

(4) The greenbelt shall contain two canopy trees per 40 linear feet and six shrubs per 30 linear feet, or fraction thereof, of street frontage including any openings for driveways, pathways, or easements. The planning commission may approve the substitution of evergreen trees for up to 50 percent of the required canopy trees when appropriate in consideration of the land use and existing character of adjacent uses.

(5) Ornamental trees may be used to diversity (diversify) greenbelt planting requirements, provided two ornamental trees shall be provided for each one required canopy tree.

(6) Greenbelt plantings shall be arranged to simulate a natural setting such as massing or staggered rows, except where th commission finds a more formal arrangement would be consistent with the established character of the area.

(7) Greenbelts shall be designed to ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, clearance from overhead utility lines, adequate separation from underground utilities and accessibility to fire hydrants. Where such conditions prohibit full compliance, the planning commission may adjust the location of the required materials so long as the design intent is met.

(b) *Buffer zones.*

(1) A buffer shall be provided between the subject site and all adjacent properties, developed or undeveloped, in accordance with the following table.

(2) The planning commission shall use the table as the minimum requirements necessary and determine whether landscaping, a wall, a berm, or combination of these elements are needed to attain the intended screening.

(3) The use of canopy trees and associated understory are encouraged while walls and berms are discouraged.

Buffer Zones								
	Zoning or Use of Adjacent Site							
Zoning or proposed use of subject site	Single-family	Multiple-Family	Manufactured housing	Office	Medical or Municipal Use	Central Business District	Commercial	Industrial
Single-family	None	B	A	B	A	A	A	A
Multiple-family	B	None	A	B	A	A	A	A
Manufactured Housing	A	A	None	A	A	A	A	A
Office	B	B	A	None	B	B	B	B
Commercial	A	A	A	B	B	B	None	A
Industrial	A	A	A	B	A	A	A	None
Outdoor Storage Areas in Any district	A	A	A	B	B	A	A	B

Public Utility Buildings And Structures In any District	A	A	A	A	A	A	A	B
Parking Lots	A	A	A	B	B	B	B	B

Buffer Zone A	30-foot minimum width, along the property line with two canopy trees and four shrubs, or one canopy tree, one evergreen and four shrubs per 27 linear feet, rounded upward, and including a wall, berm or combination of these elements as determined by the planning commission.
Buffer Zone B	Ten-foot minimum width, along the property line with one canopy tree and four shrubs, or one evergreen tree and four shrubs per 27 linear feet, rounded upward.
Along U.S. 127 or U.S. 27 right-of-way	A six-foot high berm shall be provided and meet the planting requirements of buffer A.

(c) *Parking lot landscaping.* Parking lot landscaping shall be provided in accordance with the following standards:

(1) Landscaping shall be dispersed evenly throughout the parking lot in order to break up large expanses of pavement and assist with vehicular and pedestrian flow.

(2) At least one canopy tree shall be provided per ten parking spaces provided.

(3) All of the required parking lot trees shall be placed within the parking lot envelope as described by the area including the parking lot surface and extending outward ten feet from the edge of the parking lot.

(4) A minimum of one-third of the trees shall be placed within the parking lot envelope.

(5) Parking lot islands shall be curbed and be at least 100 square feet in area. Islands within parking lots having less than 100 spaces may be a minimum of ten feet in width, parking areas with more than 100 spaces shall have islands at least 20 feet in width. The depth of the island shall be two feet shorter than an adjacent parking space.

(6) Only trees, shrubs, grass or other living ground cover shall be used within parking lot islands. Natural colored bark mulch shall be permitted to enhance living materials as necessary.

(7) The design and layout of the parking lots shall provide appropriate pedestrian circulation and connections to perimeter pedestrian connections.

(d) *Detention/retention pond landscaping.* Ponds shall be located outside required setbacks and designed to provide a natural appearance. Detention and retention ponds shall be provided in accordance with the following standards:

(1) Side slopes shall be such that the perimeter of the pond shall not need to be fenced.

(2) One canopy or evergreen tree and ten shrubs are required per 50 feet of pond perimeter, as measured along the top

of the bank elevation. The required landscaping shall be planted in a random pattern, not limited to the top of the pond bank.

(3) Where a natural landscape is found not to be particular or desirable the planning commission may require some type of decorative fencing, or fencing for safety purposes.

(e) *Interior site landscaping.* Site landscaping shall be located near building entrances, along building foundations, along pedestrian walkways, near service areas or as landscaped plazas.

(f) *Residential and site condominium developments.* Landscaping for single-family and multiple-family residential developments shall be provided in accordance with the following requirements:

(1) Street trees shall be provided at a rate of one tree per 40 linear feet of frontage, or thereof, along all interior roads. The planning commission may determine that existing trees preserved within ten feet of the road edge may fulfill the street tree requirement for that portion of the road. Trees should generally be planted between the sidewalk and road curb, in consideration of intersection sight distance.

(2) The landscape plan shall also include details of the cul-de-sac islands, project entrances, accessory buildings and common open space areas.

(g) *Right-of-way landscaping.* Public rights-of-way located adjacent to required landscaped areas shall be considered part of the required landscaped areas. Such areas shall be planted with grass or other suitable living plant material and maintained by the owner or occupant of the property. Trees and shrubs may be planted within the right-of-way with permission from the appropriate authority with jurisdiction over the street.

(h) *Accessory site components.* In addition to required screens or walls, site elements such as waste receptacles, air conditioner units, utility boxes and other similar components shall be appropriately screened with plant material.

(Ord. of 9-5-2006; Ord. No. 2008-01, 3-3-2008)

Sec. 52-434. - Specifications for landscape improvements and plant materials.

(a) *Wall standards.* While walls are not necessarily encouraged, certain situations may be appropriate for a provision of a wall. When provided, walls shall meet the following requirements:

(1) Walls shall be located on the lot line or within the required setback when it is desired to have plant material on both sides of the wall.

(2) Walls shall be continuous except for openings for pedestrian connections as approved by the planning commission.

(3) Walls shall be constructed of the primary building material of the principal structure as determined by the planning commission.

(4) The height of any wall shall be as determined by the planning commission based on the intended screening.

(b) *Berm standards.* While berms are not necessarily encouraged, they may be appropriate in certain situations. Instances where wider open spaces are available between uses, the planning commission may allow the substitution of a berm with additional landscaping in place of the wall requirement. Berms shall be constructed with horizontal and vertical undulations so as to represent a natural appearance with a crest area at least four feet in width. Berms shall be planted with trees, shrubs or lawn to ensure that it remains stable. The exterior face of the berm shall be constructed as a earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other similar method. The maximum slope of the berm shall not exceed one foot of vertical rise to three feet of horizontal distance.

(c) *Plant material.* All plant materials shall be hardy to the city, be free of disease and insects and conform to the American Standard for Nursery Stock of the American Nurserymen.

(d) *Minimum sizes and spacing.* The minimum plant sizes and spacing shall be provided in accordance with the following:

Wherever screening is required, screening shall consist of closely spaced evergreen plantings which can be reasonably expected to form a complete visual barrier. Deciduous plant material may be used for variety to supplement evergreen plantings.

Minimum Sizes and Spacing		
Type of Plant Material	Minimum Plant Sizes	Spacing Requirements
Deciduous canopy trees	2½" caliper	25' on-center
Ornamental trees	2" caliper	
6' height (clump form)	15' on-center	
Evergreen trees	6' height	15' on-center
Narrow evergreen trees	4' height	12' on-center
Deciduous shrubs	2' height	4'—6' on-center
Upright evergreen shrubs	2' height	3'—4' on-center
Spreading evergreen shrubs	18"—24" spread	6' on-center

(e) *Mixing of species.* The overall landscape plan shall not contain more than 33 percent of any one plant species. The use of native species and mixture of trees from the same species association is strongly encouraged.

(f) *Trees not permitted.* The following trees are not permitted as they split easily, their wood is brittle, their roots clog drains and sewers, and they are unusually susceptible to disease or insects. The planning commission may however allow trees from this list when associated with an appropriate ecosystem. Trees not permitted are as follows: Box elder, elms, tree of heaven, willows, soft maples (silver), poplars, horse chestnut (nut bearing), ash ginkgo (female), cottonwood, mulberry, black locust, honey locust (with thorns). Elms which have been demonstrated to be disease-resistant may be used.

(g) *Planting beds.* Bark used as mulch shall be maintained at minimum of two inches deep. Planting beds shall be edged with plastic, metal, brick or stone in residential districts and metal edging in all other zoning districts.

(h) *Topsoil.* Topsoil shall consist of a four-inch base for lawn areas and an eight- to 12-inch base within planting beds.

(i) *Proximity to utilities.* Plant material shall not be located in a manner that will interfere with or cause damage to underground utility lines, public roads or other public facilities.

(j) *Lawn grasses.* Lawn grasses shall be planted in species normally grown as permanent lawns in Clare County. Grasses may be plugged, sprigged, seeded or sodded except that rolled sod, erosion-reducing net or suitable mulch shall be used in swales or other areas susceptible to erosion and shall be staked where necessary for stabilization. When complete sodding or seeding is not used, nursegrass seed shall be sown and mulched for immediate protection until permanent coverage is achieved. Grass sod and seed shall be free of weeds and noxious pests or disease.

(Ord. of 9-5-2006)

Sec. 52-435. - Minimum standards for installation, irrigation and maintenance.

(a) *Timing of planting.* All required plant material shall be planted prior to issuing a final certificate of occupancy. In the event that the project is completed during a time of year when planning [planting] is impractical, a financial guarantee in the amount of the remaining improvements shall be provided in a form of payment acceptable to the city.

(b) *Completion of improvements.* Tree stakes, guy wires and tree wrap shall be removed after completion of the initial growing season.

(c) *Irrigation.* All landscaped areas shall be provided with an underground irrigation system.

(d) *Maintenance.* Landscaped areas and plant materials required by this chapter shall be kept free from refuse and debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance in accordance with the approved site plan. If any plant material dies or becomes diseased, it shall be replaced within 30 days' written notice from the city or within an extended time period as specified in said notice.

(Ord. of 9-5-2006)

Sec. 52-436. - Standards for compliance for existing sites.

In any case where the building and/or parking area is being increased by at least 25 percent over the originally approved site plan or is being changed to a more intense use as determined by the planning commission, the site shall be brought into full compliance with the landscape standards herein. In instances where the increase in building and/or parking area is less than 25 percent over the original site plan, the extent of new landscaping shall be equal to four percent of compliance for every one percent of increase in building or parking footprint. For example, a building or parking area increase of ten percent requires 40 percent compliance with the landscape standards.

(Ord. of 9-5-2006)

ARTICLE IX. - SIGNS

Sec. 52-437. - Purpose.

The purpose of this article is to regulate signs and to minimize outdoor advertising within the city so as to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction, and loss of sight distance; promote public convenience; preserve property values; support and complement land use objectives as set forth in the city master plan and this chapter; and enhance the aesthetic appearance and quality of life within the city. The standards contained herein are intended to be content neutral.

These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the city so as to:

(1) Recognize that the proliferation of signs is unduly distracting to motorists and nonmotorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for crashes.

(2) Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.

(3) Reduce visual pollution and physical obstructions caused by a proliferation of signs which would (diminish) the city's image, property values and quality of life.

(4) Recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises. There are alternative channels of

advertising communication and media are available for advertising which do not create visual blight and compromise traffic safety.

(5) Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.

(6) Prevent placement of signs which will conceal or obscure signs of adjacent uses.

(7) Protect the public right to receive messages, especially noncommercial messages such as religious, political, economic, social, philosophical and other types of information protected by the First Amendment of the U.S. Constitution.

(8) The regulations and standards of this article are considered the minimum necessary to achieve a substantial government interest for public safety, aesthetics, protection of property values, and are intended to be content neutral.

(9) Prevent signs from conflicting with other allowed land uses.

(10) Maintain and improve the image of the city by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.

(11) Preserve and enhance the image of the city's commercial areas.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-438. - Sign definitions.

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

Accessory sign. A sign which pertains to the use of the premises on which it is located.

Animated sign. A sign which uses lights, moving parts, or other means to depict action, create an image of a living creature or person, or create a special effect or scene. This includes hot-air and gas-filled balloons, banners, pennants, streamers, festoons, ribbons, tinsel, pinwheels, nongovernment flags, and searchlights.

Awning or canopy sign. A nonrigid fabric marquee or awning-type structure which is attached to the building by supporting framework, which includes a business identification message, symbol and/or logo. See "wall sign."

Banner. A fabric, plastic or other sign made of nonrigid material without enclosing structural framework.

Business center. A grouping of two or more business establishments on one or more parcels of property which may share parking and access and are linked architecturally or otherwise present the appearance of a unified grouping of businesses. A business center shall be considered one use for the purposes of determining the maximum number of ground signs. An automobile or vehicle dealership shall be considered a business center regardless of the number or type of models or makes available, however, used vehicle sales shall be considered a separate use in determining the maximum number of signs, provided that the used vehicle sales section of the lot includes at least 25 percent of the available sales area.

Changeable message sign. A sign on which the message is changed mechanically or manually, including time/temperature signs; also called menu board, reader board or bulletin board.

Electronic message sign. A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means, including animated graphics and video.

Festoon. A string of ribbons, tinsel, small flags, pinwheels or lights, typically strung overhead in loops.

Freestanding sign. A sign which is erected upon or supported by the ground, including "pole or pylon signs" and "ground signs."

Ground or *monument sign.* A three-dimensional, self-supporting, base-mounted freestanding identification sign, consisting of two or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.

Illegal sign. A sign which does not meet the requirements of this article and does not have legal nonconforming status.

Integral sign. A memorial sign or commemorative tablet which contains names of buildings, dates of erection, and monumental citations.

Luminance. The amount of light emitted from a source. Luminance is measured by candelas per square meter or cd/m2 or nits.

Luminous tube. See "neon (sign)" and "outline tubing sign."

Mansard. A sloped roof or roof-like façade. Signs mounted on the face of a mansard roof shall be considered wall signs.

Marquee. A permanent roof-like structure or canopy, supported by and extending from the face of the building. The structure extends from part or all of a building face and is constructed entirely of noncombustible materials. A marquee sign is a sign attached to or supported by a marquee structure.

Neon sign. See "outline tubing sign."

Nit. A unit of measurement of luminance. One nit is equal to one candela per square meter (1 cd/m2).

Nonconforming sign. A sign that does not comply with the size, placement, construction or other standards or regulations of this article, but were lawfully established prior to its adoption. Signs for which the zoning board of appeals has granted a variance are exempt and shall not be defined as nonconforming. This does not include any temporary sign, banner, or placard, including signs affixed to the interior or exterior of windows.

Obsolete sign. A sign that advertises a product that is no longer made or that advertises a business that has closed.

Outdoor advertising sign. A freestanding sign with a sign area in excess of 125 square feet.

Outline tubing sign. A sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it. See "neon (sign)" and "luminous tube."

Photometer. An instrument that measures light intensity in terms of luminance.

Pylon or *pole sign.* A sign supported on the ground by a pole, braces or monument, and not attached to any building or other structure.

Pylon overlay district. An area within the city that, due to its proximity to US-10, higher road speeds and auto-oriented character, allows taller pylon signs for improved visibility.

Regulatory sign. A sign installed by a public agency to direct traffic flow, regulate traffic operations and provide information in conformance with the Michigan Manual of Uniform Traffic Control Devices.

Residential entranceway sign. A sign which marks the entrance to a subdivision, apartment complex, condominium development, or other residential development.

Roof line. The top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

Roof sign. Any sign that extends above the roof line or is erected over the surface of the roof.

Sandwich board sign. A sign that consists of two faces connected and hinged at the top and have a message targeted to pedestrians. Also known as A-frame sign.

Sign. Any display or object designed for the purpose of bringing attention to, identifying or advertising an establishment, project, goods, services, or other message to the general public. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible from any public street, sidewalk, alley, park, or public property, but not signs which are primarily visible to and directed at persons within the premises upon which the sign is located.

Temporary sign. Temporary sign means a display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, or any other sign intended for a limited period of display that is not permanently anchored to the ground or building.

Wall sign. A display which is painted on or attached directly to the building wall or door.

Window sign. A sign that is applied, painted, posted, displayed, or etched onto a glazed surface, regardless of opacity or perforation, including those placed or posted inside and located within 20 feet of the window that are visible and legible from the exterior as determined by the city manager or authorized designee.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-439. - Exempt signs.

The following signs are specifically exempt from the provisions of this article provided they are not located in the public right-of-way or in conflict with the regulations found elsewhere in this chapter:

(1) Address numbers with a numeral height no greater than six inches for residences and 18 inches for businesses.

(2) Traffic control signs including regulatory and directional traffic control and street signs erected by a public agency in compliance with Michigan Manual of Uniform Traffic Control Devices.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-440. - Prohibited signs.

The following signs shall be prohibited in any district:

(1) Any sign that is not specifically permitted by this chapter is prohibited.

(2) Signs which obstruct free access or egress from any building.

(3) Any sign that gives the appearance of motion, including moving, scrolling, animated, or flashing elements. This includes changes of illumination levels and color, except as approved by special event permit.

(4) Exterior pennants, spinners, inflatables, feather signs, and streamers.

(5) Any sign which is structurally or electrically unsafe.

(6) Any sign erected on a tree, utility pole, street furniture or waste receptacles.

(7) Any sign on a motor vehicle or trailer which is parked so as to be visible from a public right-of-way outside of business hours for the primary purpose of advertising a business or product or service of a business located on the premises where such vehicle is parked.

(8) Rope light, string light or similar lighting attached to, surrounding or otherwise drawing attention to a sign.

(9) Any sign erected on or projecting into the public right-of-way, except for a-frame business signs as permitted in this chapter and other signs expressly permitted in the right-of-way in this article. The city may remove and destroy or otherwise dispose of, without notice to any person, any sign which is erected on the public right-of-way in violation of this subsection.

(10) Signs that imitate a traffic control device.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-441. - General standards for permitted signs.

Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this article; provided, that no such sign shall be erected or altered until approved by the building official/city manager and until a sign permit has been issued pursuant to this chapter.

(1) *Sign setbacks.*

a. All signs, unless otherwise provided for, shall be set back a minimum of three feet from any public or private street right-of-way line or access drive in all districts. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.

b. Side yard setbacks for signs shall be the same as that required for the main structure or building, provided that all nonresidential signs shall be set back at least 100 feet from any residential district.

(2) *Location.* Sign location to assure adequate sight distance. In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of 24 inches and six feet within a triangular area measured 25 feet back from intersection of public right-of-way lines. Furthermore, signs shall not be permitted where they obstruct motorist vision of regulatory signs, traffic-control devices or street signs. Within the discretion of the traffic control board or committee of the City of Clare, greater restrictions than are contained within this section may be imposed in order to protect minimum clear vision area or adequate line of sight. Such sight and condition respective requirements shall be within the sole discretion of the committee or board having authority over traffic control.

(3) *Design and construction.* Signs, as permitted in the various zoning districts, shall be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect in accordance with the standards set forth herein.

(4) *Illumination.*

a. The source of illumination may be internal or external. The source of the light shall not be exposed.

b. Glare control for sign lighting shall be achieved through the use of full cutoff fixtures, shields, and baffles, and appropriate application of fixture mounting height, wattage, aiming angle, and fixture placement.

c. All luminaires shall be shielded to direct light to a sign and shall contain shields, baffles or other appropriate elements to prevent direct light from extending above a horizontal plane extending from the top of the light source. No luminaire shall be aimed or directed such as to cause light from the luminaire to be directed toward residential buildings on adjacent or nearby land or public ways.

d. Underground wiring shall be required for all illuminated signs not attached to a building.

(5) *Maintenance and construction.*

a. Every sign shall be constructed and maintained in a manner consistent with the building code provisions and maintained in good structural condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal, wood or other materials used for parts and supports.

b. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least 20 pounds per square foot or 75 mph.

c. All signs, including any cables, guy wires, or supports shall have a minimum clearance of four feet from any electric fixture, street light, or other public utility pole or standard.

(6) *Measurement.* Measurement of allowable sign area:

a. The allowable area for signs shall be measured by calculating the square footage of the sign face and any frame

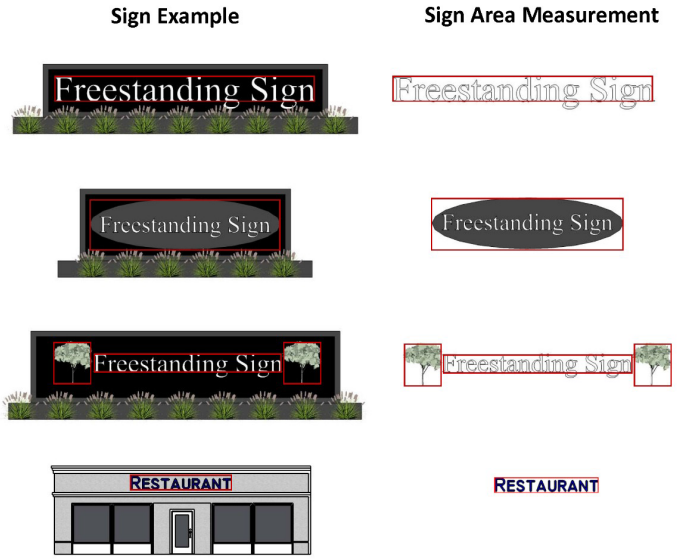
of other material or color forming an integral part of the display or used to differentiate it from the background against which it is placed as measured by enclosing the most protruding points or edges of a sign within a rectangle.

b. When a sign has two or more faces, the area of all faces shall be included in calculating the area of the sign except that where two such faces are placed back-to-back, only the larger face shall be considered, provided that both faces are part of the same structure and are separated by no more than two feet.

c. For permanent signs, except projecting and hanging signs, sign area shall constitute the entire area within a rectangle or the sum of rectangles enclosing the extreme limits of writing, representation, emblem or any figure of similar character, regardless of opacity or missing space within the "extreme limits." Any single row of text shall be grouped into one continuous rectangle. For freestanding signs that have a non-black background, the entire surface area is included.

d. For temporary signs and all projecting, window and hanging signs, the extreme limits of the sign including all background elements, regardless of opacity, are included in the calculation of sign area.

Sign Measurement (Section 52-441(e))



(6) *Substitution.* Noncommercial messages shall be permitted on any sign constructed or erected in compliance with this article.

(7) *Severability.* If any word, sentence, section, chapter or any other provision or portion of this code or rules adopted hereunder is invalidated by any court of competent jurisdiction, the remaining words, sentences, sections, chapters, provisions, or portions will not be affected and will continue in full force and effect.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-442. - Specific sign standards.

The number, display area, and height of signs within the various zoning districts is provided in the table within this section and its accompanying footnotes. Additional standards for specific types of signs are given below:

(1) *Property access signs.* No more than one sign shall be permitted for each approved driveway, with a maximum sign area of four-square feet per sign, and a maximum height of four feet.

(2) *Outdoor advertising signs.* Outdoor advertising signs shall additionally comply with the provisions specified in article V.

(3) *Projecting and canopy signs.* Projecting signs and canopy signs may be used as an alternative to wall signs listed in the s dimensional standards and regulations table, provided that they meet the following standards:

a. Any sign area on a canopy shall be included in calculations of maximum wall sign square footage.

b. Projecting or canopy signs in the C-1 district shall be set back at least two feet from any street curb line, shall not extend more than six feet over the public right-of-way, and shall leave a minimum clearance of eight feet above the ground.

c. Projecting or canopy signs, other than those in the C-1 district, shall have a minimum ground clearance of ten feet, shall be set back at least six feet from any adjacent public right-of-way, nor project over an alley or private access lane. A projecting sign shall not extend for more than two feet from the building to which it is attached.

d. No wall, canopy or projecting sign shall extend above the roof or parapet of the structure to which it is attached by more than one foot.

e. Wood posts or supporting arms shall not be used in conjunction with any projecting sign.

f. Projecting signs shall not exceed 32 square feet in area.

g. Canopy signs shall not be internally illuminated.

(4) *Non-residential uses in residential districts.* Permanent signs of permitted non-residential uses in residential districts, including the use of a changeable message sign, are permitted subject to the following standards:

a. A minimum setback from the street right-of-way or property line of 15 feet.

b. Area not to exceed 45 square feet.

c. A maximum of six feet in height.

(5) *Entranceway signs.* One permanent sign per vehicular entrance identifying developments such as subdivision, apartment complexes, condominium communities, senior housing complexes, manufactured housing communities, office and industrial parks and similar uses, is permitted, provided that the sign is set back a minimum of 15 feet from any property line or public right-of-way; has a maximum height of six feet; and does not exceed 24 square feet in area.

(6) *Sandwich or A-frame signs.* A-frame or sandwich board signs are permitted in the C-1, C-2, and I districts at the public entrances to businesses subject to the following requirements:

a. *Signs.* Such signs may be permitted in the public right-of-way, provided a permit is obtained by the city.

b. *Sandwich boards.* Sandwich boards shall:

1. Be constructed of durable, weather-resistant material.

2. Be professionally lettered and painted, and appropriately maintained. The sign shall not be illuminated, nor shall it contain moving parts, or have balloons, windsocks, pinwheels, streamers, pennants, or similar adornment attached to them.

3. Be freestanding.

4. Only be displayed during the operating hours of the respective business or commercial activity and shall otherwise be kept inside when not displayed.

5. Not exceed five feet in height or three feet in width.

6. Be displayed within one block of the respective business location.

7. The sign shall be located within a sign zone extending from a minimum of three feet to 15 feet from the right-of-way. An A-frame sign shall not be located where it interferes with vehicular or pedestrian traffic flow or the visibility of motorists.

8. Not be erected within 20 feet of another sandwich board.

(7) *Limits on wall signs.* One wall sign shall be allowed per business, in addition to any other allowed ground signs. Busines on a corner lot shall be allowed up to two wall signs, one for each front façade. The maximum wall sign area shall not e percent of the front façade of the building (any façade which faces a public street), per use or business establishment.

(8) *Additional standards for ground signs.*

a. Only one ground sign is permitted per use, including uses which occupy more than one parcel and business centers, with additional signs permitted according to the following table, however, no site shall have more than two ground signs, regardless of the number of street frontages or the amount of frontage.

Frontage along two or more rights-of-way	=	One sign up to the maximum sign face square footage shall be allowed along two frontages
300 feet of frontage along one rights-of-way	=	One ground sign along that frontage
Over 300 feet of frontage along one rights-of-way	=	Two ground signs

b. Electronic messages may be allowed on ground signs, pursuant to the following:

1. An electronic message sign may serve as one component of a permanent ground sign and is permitted up to a maximum of 50 percent of the total permanent sign area per sign face.
2. Electronic message signs shall not emit more than 5,000 nits between sunrise and sunset, and no more than 250 nits at all other times, as measured with a photometer. The displays shall transition smoothly at a consistent rate from the permitted daytime brightness to the permitted nighttime brightness levels. All electronic message signs shall have functioning ambient light monitors and automatic dimming equipment which shall at all times be set to automatically reduce the brightness level of the sign proportionally to any reduction in the ambient light. In order to verify compliance with City Code or other applicable law, the interface that programs an electronic message sign shall be made available to city staff for inspection upon request. If the interface is not or cannot be made available upon the city's request, the sign shall cease operation until the city has been provided proof of compliance with City Code.
3. Changeable copy.
   i. Changeable copy shall not change more than once per 30 seconds.
   ii. Changeable copy shall not and shall not appear to flash, scroll, travel, undulate, pulse, blink, expand, contract, bounce, rotate, spin, twist, or otherwise move, except as provided in iii, below.
   iii. Video messages may be permitted by special land use, subject to the following conditions:
      (A) The proposed sign is located in the Pylon Overlay district.
      (B) The proposed sign is set back a minimum of 20 feet from the front lot line.
      (C) Video display shall cease one hour after sunset to minimize distraction to motorists.
4. All electronic message signs shall default to an unlit black screen when more than 50 percent of the light source fails or if the light source otherwise is not displaying properly.

(9) *Changeable message signs.* Places of assembly shall be permitted one marquee sign, not to exceed 100 square feet,

designed for periodic message change to indicate events. A portion of such sign may be an electronic display as permitted in subsection (8)b., above.

(10) *Additional restrictions.* No ground sign is allowed on property fronting Highway U.S. 127 (note: this does not prohibit ground signs on Business Route 127). If site restrictions dictate, the planning commission will review a request for an eight-foot height allowance. For shopping centers and strip malls, only the name of the center is allowed on the ground sign. See table below.

Sign Dimensional Standards and Regulations for Non-Residential Districts							
District	Wall Sign		Canopy/Projecting Sign		Ground Sign		
	Number	Maximum Size	Number	Maximum Size	Number	Maximum Size	Maximum Height
Commercial-1	1	10% of front façade	1	32 square feet	1 per street frontage	60 square feet	8 feet
Commercial-2	1	10% of front façade	1	32 square feet	1 per street frontage	60 square feet	8 feet
Industrial Park	1	10% of front façade	1	45 square feet	1 per street frontage	60 square feet	8 feet
Indust-rial-1	1	10% of front façade	1	45 square feet	1 per street frontage	60 square feet	8 feet

District	Pylon Signs (permitted only in the following districts)		
	Number	Maximum Size	Maximum Height
Commercial 1	1 see (11) below	120 square feet	8 feet
Commercial 2	1 see (11) below	120 square feet	8 feet
Industrial 1	1 see (11) below	120 square feet	8 feet

(11) *Pylon Overlay District.* Pylon signs may exceed the maximum height provided above within the pylon sign overlay zone. The Pylon Overlay district corresponds to the "Regional Commercial" designation on the city's Future Land Use Map and the "Neighborhood Commercial" designation, north of Witbeck Drive for parcels with Business US 10/15 and Business US 127 frontage. The following standards apply:

a. There shall be no more than one pylon sign for each 300 feet of frontage along a single right-of-way.

b. Pylon signs shall not exceed a maximum height of 30 ft in the area designated as "Regional Commercial" on the city's Future Land Use Map and a maximum height of 20 ft in the area designated as "Neighborhood Commercial" on the city's Future Land Use map.

c. Pylon signs may contain electronic message display up to 25 percent of the sign area.

(12) *Temporary signs.*

a. Temporary signs shall be permitted as follows:

Table 1. Maximum area per sign face, maximum height, and allowed type of temporary signs

District	Permitted Types	Maximum Area of All Temporary Signs by Type	Maximum Area of Any Individual Sign	Maximum Height (Freestanding)
(1) Residential	Freestanding	0.2 square feet (sf) of sign area per linear foot of street frontage, provided the maximum allowable total area shall not be less than 15 sf nor more than 48 sf	12 square feet	5 feet
	Wall [1]	3 square feet per building in single family residential districts; 12 square feet per building in multiple family residential districts.	3 square feet in single family districts; 12 square feet per building in multiple family residential districts	
(2) Non-Residential	Freestanding	0.6 square feet (sf) of sign area per linear foot of street frontage, provided the maximum allowable total area shall not be less than 32 sf nor more than 100 sf	32 square feet	6 feet
	Wall [1]	20 square feet per building	20 square feet	

[1] The display period for temporary wall signs shall be limited to a total of 28 days per calendar year. Such signs shall not be displayed for any continuous period greater than 14 days. After this time expires, the sign shall be removed. See Section 52-446 for permit requirements.

b. Freestanding temporary signs shall be setback five feet from all property lines. Except as noted below in subsection maximum display time of freestanding temporary signs is 65 days. After this time expires, the sign shall be removec temporary sign is removed, there shall be a gap of at least 30 days between display of the same temporary sign on t zoning lot.

c. Notwithstanding the above, three square feet of temporary freestanding or temporary wall sign area is allowed on each zoning lot at any time and without permits or expiration of display time. The area of this sign is counted towards the area maximum in Table (l).

d. When all or a portion of a building or land area on a zoning lot is listed or advertised for sale or lease, the maximum display time for temporary signs shall be the duration the building, building unit or land is listed or advertised for sale or lease. Once a building unit is leased or sold, the sign shall be removed if it has been displayed for more than 65 days. In all cases, the sign area limits in the Table (l) shall apply.

e. Temporary signs shall be constructed of durable, all-weather materials and designed to remain in place and in good repair so long as they remain on display; provided, however, that each zoning lot may have one temporary freestanding sign up to three square feet constructed of any non-illuminated material. All temporary freestanding signs larger than three square feet shall have a frame or rigid border.

f. Temporary signs shall be subject to the maintenance standards of this section.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-443. - Nonconforming signs.

Nonconforming signs are those signs that do not comply with the size, placement, construction or other standards or regulations of this chapter, but were lawfully established prior to its adoption. Signs for which the board of appeals has granted a variance are exempt and shall not be defined as nonconforming. It is the intent of this article to encourage eventual elimination of nonconforming signs in a timely manner. This objective is considered as much a subject of public health, safety and welfare as the prohibition of new signs in violation of this article. Therefore, the purpose of this article is to remove illegal nonconforming signs while avoiding any unreasonable invasion of established private property rights. A nonconforming sign may be continued and shall be maintained in good condition as described elsewhere in this article; however, the following alterations are regulated:

(1) A nonconforming sign shall not be structurally altered or repaired so as to prolong its useful life or so as to change its shape, size, type or design unless such change shall make the sign conforming.

(2) A nonconforming sign shall not be replaced by another non-conforming sign.

(3) A nonconforming sign shall not be reestablished after abandonment as defined in section 52-444, Dangerous, unsafe, abandoned, and illegally erected signs.

(4) A nonconforming sign must not be re-established after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost as determined by the building official/city manager or if 50 percent or more of the face of the sign is damaged or destroyed.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-444. - Dangerous, unsafe, abandoned, and illegally erected signs.

(a) *Dangerous signs.* Any sign constituting an immediate hazard to health or safety shall be deemed a nuisance and may be immediately removed by the city and the cost thereof charged against the owner of the property on which it was installed.

(b) *Unsafe signs.* Any sign that becomes insecure, in danger of falling, or otherwise unsafe but not considered an immediate danger by the building official/city manager to the health or safety of the public shall be removed or repaired according

to the process outlined in subsection (e) below.

(c) *Abandoned signs.* Any sign that advertises a business that has been discontinued for at least 90 days or that advertises a product or service that is no longer offered shall be deemed abandoned. Permanent signs applicable to a business temporarily suspended by a change in ownership or management shall not be deemed abandoned unless the structure remains vacant for at least six months. An abandoned sign shall be removed by the owner or lessee of the premises. If the owner or lessee fails to remove the sign, the building official/city manager shall initiate the process noted in subsection (e) below.

(d) *Illegally erected signs.* The building official/city manager shall order the removal of any sign erected illegally in violation of this article, according to the process outlined in subsection (e) below.

(e) *Process for enforcing violations of this section.* For violations of subsections (b) through (d), the building official/city manager shall send notice, by certified mail addressed to the owner of the property on which the sign is located. The notice shall describe the violation and allow seven days for removal. Should the sign not be removed or repaired within the time specified, the building official/city manager shall have the authority to remove the sign, and the property owner shall be liable for the cost thereof.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-445. - Administration and appeals of sign ordinance standards.

(a) *Generally.* The regulations of this article shall be administered and enforced by building official/city manager.

(b) *Violations.* It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, use or maintain any sign in the city, or cause or permit the same to be done, contrary to or in violation of any of the standards and regulations of this article. Any such violation, including the failure to remove a sign when directed under the authority of this article, shall constitute a misdemeanor punishable in accordance with this Code of Ordinances.

(c) *Appeals.* The Zoning Board of Appeals shall have power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or determination made by any administrative official, in connection with the enforcement of this chapter. The Zoning Board of Appeals shall have power to authorize a variance from the strict application of this chapter where such application will result in practical difficulties to the person owning or having the beneficial use of the property or sign for which a variance is sought. For a building or property that is designated as historic by federal, state or local government, the zoning board of appeals may consider it to be a hardship or practical difficulty and may grant a variance, if is determined that a proposed sign is necessary and integral to the historic character of the building or property. The appeal procedures, and standards for review, for the zoning board of appeals in division 3 shall be applicable to appeals under this chapter.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-446. - Permits and application.

Sign permits shall be issued by the city manager or his/her designee upon approval of a written application. Where electrical permits are required, they shall be obtained at the same time as the sign permit. All signs regulated by this article, except temporary signs in residential districts, window signs, and freestanding temporary signs in non-residential districts, that are erected, altered, relocated or maintained are subject to a permit from the city in accordance with the following regulations:

(1) Applications for sign permits shall be made upon a form provided by the city for this purpose. The application shall contain the following information:

a. Name, address, phone, and if available, fax and e-mail, of the person applying for the permit.

b. Name, address, phone, and if available, fax and e-mail, of the person owning the parcel upon which the sign is

proposed to be placed.

c. Location of the building, structure, and parcel on which the sign is to be attached or erected.

d. Position of the sign in relation to nearby buildings, structures, property lines, and existing or proposed rights-of-way.

e. Two copies of the plans and specifications. The method of construction and/or attachment to a building, or in the ground, shall be explained in the plans and specifications.

f. Name, address, phone, and if available, fax and e-mail of the person erecting the sign.

g. The zoning district in which the sign is to be placed.

(2) No permit shall be required for ordinary servicing, repainting of existing sign message or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or outdoor advertising sign.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-447. - Permit fees.

Permit fees for signs shall be established by the city commission by resolution from time to time. The permit fees must relate to the cost of issuing the permit and may vary based on the size, type and height of the sign.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Sec. 52-448. - False information.

A person providing false information under this article shall be guilty of a misdemeanor.

(Ord. of 9-5-2006; Ord. No. 2021-001 , 4-19-2021)

Secs. 52-449—52-500. - Reserved.

ARTICLE X. - LIGHTING STANDARDS

Sec. 52-501. - Purpose.

The purpose of this article is to protect the health, safety and welfare of the public by recognizing that buildings and sites need to be illuminated for safety, security and visibility for pedestrians and motorists. To do so, this article provides standards for various forms of lighting that will: minimize light pollution; maintain safe night-time drive performance on public roadways; preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to "sky glow"; reduce light pollution and light trespass from light sources onto adjacent properties; conservation of electrical energy; and curtail the degradation of the night-time visual environment.

(Ord. of 9-5-2006)

Sec. 52-502. - Applicability.

The standards in this article shall apply to any light source that is visible from any property line, or beyond, for the site from which the light is emanating. The building official/city manager may review any building or site to determine compliance with the requirements under this article. Whenever a person is required to obtain a building permit, electrical permit for outdoor lighting or

signage, a special land use approval, subdivision approval or site plan approval from the city, the applicant shall submit sufficient information to enable the building official/city manager and/or planning commission to determine whether the proposed lighting will comply with this article.

(Ord. of 9-5-2006)

Sec. 52-503. - Lighting 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:

Canopy structure. Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.

Flood or *spot light.* Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.

Glare. Direct light emitted by a lamp, luminous tube lighting or other light source.

Lamp. The component of the luminaire that produces the actual light including luminous tube lighting.

Light fixture. The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.

Light pollution. Artificial light which causes a detrimental effect on the environment, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties.

Light trespass. The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Luminaire. The complete lighting system including the lamp and light fixture.

Luminous tube lighting. Gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g. neon, argon, etc.

Outdoor light fixtures. Outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement.

Shielded fixture. Outdoor light fixtures, shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, e.g. "shoebox-type" fixtures. A luminaire mounted in a recessed fashion under a canopy or other structure such that the surrounding structure effectively shields the light in the same manner is also considered fully shielded for the purposes of this article.

(Ord. of 9-5-2006)

Sec. 52-504. - Submittal requirements.

The following information must be included for all site plan submissions and where site plan approval is not required, some or all of the items may be required by the building official/city manager prior to lighting installation.

(a) Location of all freestanding, building-mounted and canopy light fixtures on the site plan and building elevations.

(b) Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles).

(c) Specifications and details for the type of fixture being proposed including the total lumen output, type of lamp and

method of shielding.

(d) Use of the fixture proposed.

(e) Any other information deemed necessary by the building official/city manager to determine compliance with provisions of this article.

(Ord. of 9-5-2006)

Sec. 52-505. - Lighting standards.

Unless exempted under section 52-506, Exemptions, all lighting must comply with the following standards:

(1) *Freestanding pole lighting and canopy lighting.*

a. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity of light within a site shall not exceed ten footcandles within any site or one footcandle at any property line, except where it abuts a residential district or use whereby a maximum of 0.5 footcandles is permitted.

b. The only exception is with gas station canopy and automobile dealership lighting, where a maximum of 20 footcandles is permitted within the site but the above standards shall apply to intensity at the property line.

c. LED fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent "sky glow."

d. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures are necessary to preserve the intended character of the site.

e. The maximum height of parking lot light fixtures shall be 20 feet, except that the planning commission may permit a maximum height of 30 feet or when the poles are no closer than 150 feet to a residential district or use.

f. Except where used for security purposes, all outdoor lighting fixtures, existing or hereafter installed and maintained upon private property within commercial, industrial and office zoning districts shall be turned off between 11:00 p.m. and sunrise, except when used for commercial and industrial uses, such as in sales, assembly and repair areas, where such use continues after 11:00 p.m. but only for so long as such use continues.

(2) *Building-mounted lighting.*

a. Building-mounted lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity of light shall not exceed ten footcandles within any site or one footcandle at any property line, except where it abuts a residential district or use whereby a maximum of 0.5 footcandles is permitted at the property line.

b. LED fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent "sky glow."

c. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.

d. Luminous tube and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings, e.g. along the roof line and eaves, around windows, etc. The planning commission may approve internally illuminated architectural bands when it can be shown that the treatment will enhance the appearance of the building or is necessary for security purposes.

(3) *Window lighting.*

a. Any light fixtures visible through a window must be shielded to prevent glare at the property line.

b. Luminous tube and exposed bulb fluorescent lighting (visible from the property line) is prohibited unless it is part of a sign that meets the requirements of article IX, signs, of this chapter.

(4) *Other lighting.*

a. The internal illumination of building-mounted canopies is prohibited.

b. Indirect illumination of signs, canopies and buildings is permitted provided a maximum 125-watt bulb is utilized and there is no glare.

c. The use of laser light source, search lights or any similar high-intensity light for outdoor advertisement or entertainment is prohibited.

d. Lighting shall not be of a flashing, moving or intermittent type.

e. Luminous tube and exposed bulb fluorescent lighting is permitted as part of a sign meeting the requirements of article IX, signs, of this chapter.

(Ord. of 9-5-2006; Ord. No. 2021-005 , 9-7-2021)

Sec. 52-506. - Exemptions.

The following are exempt from the lighting requirements of this article, except that the building official/city manager may take steps to eliminate the impact of the above exempted items when deemed necessary to protect the health, safety and welfare of the public.

(a) Sports fields.

(b) Swimming pools.

(c) Holiday decorations.

(d) Window displays without glare.

(e) Shielded pedestrian walkway lighting.

(f) Soffit lighting.

(g) Residential lighting with no off-site glare.

(h) Street lights.

(Ord. of 9-5-2006)

Sec. 52-507. - Lamp or fixture substitution.

Should any light fixture regulated under this article, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the building official/city manager for his approval, together with adequate information to assure compliance with this chapter, which must be received prior to substitution.

(Ord. of 9-5-2006)

Secs. 52-508—52-514. - Reserved.

ARTICLE XI. - ACCESS MANAGEMENT AND DRIVEWAY STANDARDS

Sec. 52-515. - Statement of purpose.

The purpose of this article is to provide access standards which will facilitate through traffic operations, ensure public safety along roadways, and protect the public investment in the street system; while providing property owners with reasonable, though not always direct, access. The standards are specifically designed for streets whose primary function is the movement of through traffic, as opposed to local street whose primary function is access to adjacent properties.

(Ord. of 9-5-2006)

Sec. 52-516. - Application of standards.

(a) The development of access and roadways or driveways within the City of Clare shall be consistent with Public Act 135 of 2010 and the Michigan Department of Transportation Complete Streets Policy.

(b) The access standards contained herein shall be required in addition to, and where permissible shall supersede, the requirements of the Clare County Road Commission (CCRC) and the Michigan Department of Transportation (MDOT).

(c) The standards contained in this article shall apply to all uses, except permitted single-family and two-family dwelling units.

(d) For expansion and/or redevelopment of existing sites where the planning commission determines that compliance with all the standards of this article is unreasonable, the standards shall be applied to the maximum extent possible. In such situations, suitable alternatives which substantially achieve the purpose of this article may be accepted by the planning commission, provided that the applicant demonstrates all of the following apply:

(1) Size of the parcel is insufficient to meet the dimensional standards.

(2) The spacing of existing, adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost.

(3) The use will generate less than 500 total vehicle trips per day or less than 75 total vehicle trips in the peak hour of travel on the adjacent street, based on the most recent rates developed by the Institute of Transportation Engineers (ITE).

(4) There are no other reasonable means of access.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Sec. 52-517. - Walkable-bikeable complete streets.

(a) "Complete streets" is defined as a design principle to promote a safe network of access for pedestrians, bicyclists, motorists, and transit riders of all ages and abilities.

(b) It is the policy of the city to encourage complete streets, and in furtherance of that policy:

(1) There shall be a nonmotorized network plan approved by the public service department, in consultation with the transportation division.

(2) The nonmotorized network plan shall include, at a minimum, accommodations for accessibility, sidewalks, curb ramps and cuts, trails and pathways, signage, and bike lanes, and shall incorporate principles of complete streets and maximize walkable and bikeable streets within the city.

(3) To the extent financially feasible, future construction or re-construction of city rights-of-way or any parts thereof shall be in conformity with the nonmotorized network plan.

(4) It shall be a goal of the city to fund adequately the implementation of the nonmotorized network plan, which shall include targeting at least five percent of State Act 51 funds received by the city annually in furtherance of the plan's implementation.

(5) The nonmotorized network plan shall be updated, at a minimum, every five years from the date of its initial adoption by the public service department.

(Ord. No. 2014-008 , 10-6-2014)

Sec. 52-518. - Number of driveways.

(a) (1) Access to a parcel shall consist of either a single two-way driveway or a pair of one-way driveways wherein one driveway designed and appropriately signed to accommodate ingress movements and the other egress movements.

(2) Access to a parcel that runs through a city block, abutting two streets, may have a second access driveway, or curb-cut, with written authority granted by the street administrator.

(b) Where parcel frontage is insufficient to provide a driveway meeting the minimum driveway width and radii, a shared driveway or other means of access may be required.

(c) Where parcels of at least two acres in area, have frontage along two streets, access should be provided only along the street with the lower average daily traffic volume, unless the planning commission determines this would negatively affect traffic operations or surrounding land uses.

(d) Where the property has continuous frontage of over 300 feet and the applicant can demonstrate, using the Institute of Transportation Engineers Manual Trip General (Trip Generation Manual) or another accepted reference, that a second access is warranted, the planning commission may allow an additional access point. Where possible, this access should be spaced accordingly to the standards contained herein, located on a side street, shared with an adjacent property, and/or be constructed to restrict one or both left turn movements.

(e) Where the property has continuous frontage of over 600 feet, a maximum of three driveways may be allowed, with at least one such driveway being constructed and signed for right-turns-in, right-turns-out only.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014; Ord. No. 2020-008 , 11-2-2020)

Editor's note— Ord. No. 2014-008 , adopted Oct. 6, 2014, amended and renumbered former §§ 52-517—52-523 as §§ 52-518—52-524.

Sec. 52-519. - Shares access—Joint driveways, frontage road, parking lot connections and rear service drives.

(a) Shared use of access between two or more property owners should be encouraged through use of driveways constructed along property lines, connecting parking lots and construction on-site of frontage roads and rear service drives; particularly within one-quarter mile of major intersections, for sites having frontage on two or more streets, where frontage dimensions are less than 300 feet, at locations with sight distance problems, and/or along roadway segments experiencing congestion or accidents. In such cases, shared access of some type may be the only access design allowed.

(b) In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility may be required by the planning commission.

(c) In cases where a site is adjacent to undeveloped property, the site should be designed to accommodate a future frontage road, parking lot connection or rear service drive.

(d) The applicant shall provide the city with letters of agreement or access easements from all affected property owners.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Editor's note— See editor's note to § 52-518.

Sec. 52-520. - Adequate sight distance.

(a) Requirements for minimum intersection or corner site [sight] distance for driveways, shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in chapter 9 of A Policy on Geometric Design of Highways and Streets, 1994.

(b) The planning commission may adjust driveway location where there is inadequate sight distance.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Editor's note— See editor's note to § 52-518.

Sec. 52-521. - Driveway spacing from intersections and U.S. 127 ramps.

(a) Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the intersecting street's right-of-way line.

(b) In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way shall be based on the following:

(1) For locations in the vicinity of intersections experiencing congestion (peak hour operations below level of service "C" for one or more movements) and/or a significant number of traffic accidents (five or more annually), the planning commission may require that access be constructed along the property line furthest from the intersection.

(2) For locations within 200 feet of any signalized or four-way stop intersection, driveways shall be spaced a minimum of 150 feet from the intersection. Where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of 75 feet from the intersecting street right-of-way.

(3) For locations not addressed by subsection (2), above, not including single-family parcels, driveways shall be spaced 100 feet from the intersection.

(4) Driveways shall be spaced a minimum of three hundred (300) feet from the centerline of the U.S. 127 on and off ramps.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Editor's note— See editor's note to § 52-518.

Sec. 52-522. - Driveway spacing from other driveways.

(a) Driveway spacing from other driveways shall be measured from the centerline of each driveway at the point where it crosses the street right-of-way line.

(b) Minimum driveway spacing from other driveways along the same side of the street shall be determined based on posted speed limits along the parcel for each particular frontage, as follows:

Driveway Spacing From Other Driveways	
Posted Speed (mph)	Minimum Driveway Spacing
25 mph	100 feet
30 mph	125 feet
35 mph	150 feet
40 mph	185 feet
45 mph	230 feet
50 mph	275 feet

55 mph	350 feet

(c) Driveways shall be directly aligned with those across the street or, where offset, the minimum driveway spacing from driveways across the street shall be a minimum of 150 feet, as determined by the planning commission, excluding when one or both driveways are designed and signed for right-turn-in, right-turn-out only.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Editor's note— See editor's note to § 52-518.

Sec. 52-523. - Driveway design, channelized driveways, deceleration lanes and tapes, bypass lanes.

(a) *Standards.* Driveways shall be designed to the standards of the Clare County Road Commission, except where stricter standards are including herein or by the city driveway construction standards.

(b) *Driveway width and radii.* The typical driveway design shall include one ingress and one egress lane, with a combined maximum throat width of 30 feet, measured from face to face of curb.

(1) Wherever the planning commission determines that traffic volumes or conditions may cause significant delays for traffic exiting left, two exit lanes may be required.

(2) For one-way paired driveway systems, each driveway shall be 16 feet wide, measured perpendicularly.

(3) In areas with pedestrian traffic, the exit and enter lanes may be separated by a median with a maximum width of 25 feet.

(4) Driveways shall be designed with 25-foot radii; 30-foot radii where daily semi truck traffic is expected.

(c) *Driveway storage.* Driveway storage shall be determined by the planning commission based on traffic volumes and conditions. A minimum of 40 feet of driveway storage shall be provided for less-intense developments and a minimum of 120 feet of driveway storage shall be required for larger developments. Driveway storage shall be measured from the right-of-way line.

(d) *Directional driveways, divided driveways, and deceleration tapers and/or bypass lanes.* Directional driveways, divided driveways, and deceleration tapers and/or bypass lanes may be required by the planning commission where they are necessary to reduce congestion and accident potential for vehicles accessing the proposed use or site. Right-turn tapers shall be a minimum of 75 feet in length and at least 11 feet wide.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Editor's note— See editor's note to § 52-518.

Sec. 52-524. - Design of frontage road, rear service drives and parking lot connections.

Frontage roads, rear service drives and drives connecting two or more parking lots shall be constructed in accordance with the following requirements:

(a) Pavement width shall be a maximum of 30 feet, measured face of curb to face of curb; intersection approaches may be widened to 39 feet for a left-turn lane.

(b) Frontage road access to public streets shall be spaced according to the standards of section 52-521, driveway spacing from intersections and U.S. 127 ramps and section 52-522, driveway spacing from other driveways.

(c) Frontage roads shall have a minimum setback of 30 feet between the outer edge of pavement and the right-of-way line, with a minimum 60 feet of uninterrupted queuing (stacking) space at the intersections.

(d) Parking along or which backs into a frontage road shall be prohibited.

(e) For properties which are currently developed or adjacent to developed uses, and the standards of subsections (a) through (d) above, are determined by the planning commission to be too restrictive, frontage roads can be defined through parking lots by a raised curb and/or painted islands, as shown, provided that at least every third island at the end of the parking row is a raised curbed island.

(Ord. of 9-5-2006; Ord. No. 2014-008 , 10-6-2014)

Editor's note— See editor's note to § 52-518.

Sec. 52-525. - Conflict.

In the event of a conflict between the standards set forth in sections 52-515 through 52-524 and any MDOT standards or Complete Streets Standards as established by law, the provisions which provide the greater compliance with the Walkable-Bikeable Complete Streets shall prevail.

(Ord. No. 2014-008 , 10-6-2014)

Sec. 52-526. - Maintenance of private drives, driveways, service drives and parking lot connections.

To the extent roads that serve the public but are private driveways or access under this chapter exist or are created, said driveways shall be maintained in a state reasonably safe for travel. Under this section, the director of public works of the city may issue a notice to the appropriate businesses or property owners that shall require immediate repairs to the driveway, frontage road, or access drive in accordance with this section. In the event that repairs are not undertaken within 30 days of the date of the notice, the director of the department of public works may issue a notice of intent to close the access drive and proceed to close the drive to vehicular access by the public. The director of public works' action under this section shall be appealable to the city commission by filing a written request for hearing before the city commission within 15 days of the notice to either repair or the notice of closure of the access way. The findings of the city commission as to the safety and condition of the road or driveway at issue shall be final and binding and is not appealable to any court.

(Ord. No. 2014-010 , 11-17-2014)

Editor's note— Ord. No. 2014-010 , adopted Nov. 17, 2014, enacted new provisions designated as § 52-524. Inasmuch as §§ 52-524 and 52-525 already exist, said ordinance has been added as § 52-526 at the discretion of the editor.

Secs. 52-527—52-529. - Reserved.

ARTICLE XII. - CONDITIONAL ZONING

Sec. 52-530. - Conditional zoning.

(a) *Intent.* It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of section 405 of the Public Act 110 of 2006 by which an owner seeking a zoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(b) *Application and offer of conditions.*

(1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which

a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

(2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

(3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(4) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this chapter.

(5) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter may only be commenced if a variance for such use or development is ultimately granted by the zoning board of appeals in accordance with the provisions of this chapter.

(6) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.

(7) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the city commission provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.

(c) *Planning commission review.* The planning commission, after public hearing and consideration of the factors for rezoning set forth in section 52-32, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(d) *City commission review.* After receipt of the planning commission's recommendation, the city commission shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The city commission's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in section 52-32. Should the city commission consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the city commission shall, in accordance with section 405 of the Public Act 110 of 2006, refer such amendments to the planning commission for a report thereon within a time specified by the city commission and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(e) *Approval.*

(1) If after review and recommendation of the planning commission the city commission finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the city commission to accomplish the requested rezoning.

(2) The statement of conditions shall:

a. Be in a form recordable with the register of deeds of the county in which the subject land is located or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving

notice of the statement of conditions in a manner acceptable to the city commission.

b. Contain a legal description of the land to which it pertains.

c. Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.

d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

e. Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the city with the register of deeds of the county in which the land referenced in the statement of conditions is located.

f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.

(3) Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The city clerk shall maintain a listing of all lands rezoned with a statement of conditions.

(4) The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the city with the register of deeds of the county in which the land is located. The city commission shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(5) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

(f) *Compliance with conditions.*

(1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this zoning ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(2) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.

(g) *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended for a one-year period by the city commission if: (1) it is demonstrated to the city commission's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and (2) the city commission finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(h) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection (g) above, then the land shall revert to its former zoning classification as set forth in MCL 125.584g. The reversion process shall be initiated by the city commission requesting that the planning commission

proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(i) *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to subsection (h) above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the register of deeds of the county in which the land is located a notice that the statement of conditions is no longer in effect.

(j) *Amendment of conditions.*

(1) During the time period for commencement of an approved development or use specified pursuant to subsection (g) above or during any extension thereof granted by the city commission, the city shall not add to or alter the conditions in the statement of conditions.

(2) The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.

(k) *City right to rezone.* Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with the ordinance and Public Act 110 of 2006.

(l) *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. of 9-5-2006)