Chapter 36 - ZONING

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

ARTICLE I. - IN GENERAL

Sec. 36-1. - Definitions, rules of construction.

(a) For the purpose of this chapter, certain rules of construction apply to the text as follows:

(1) The term "building" includes the term "structure."

(2) The term "lot" includes the term "plot," "tract" or "parcel."

(3) The term "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

(4) Any word or term not interpreted or defined by this section shall be used with a meaning of common or standard utilization.

(5) In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday.

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

Accessory building means a building or structure customarily incidental and subordinate to the principle structure and located on the same lot as the principal building; not to be used for human habitation.

Accessory use means a use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Agricultural building means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products and that is clearly incidental to agricultural activity, excluding the business of retail trade.

Agriculture means any land, buildings and machinery used in the commercial production of farm products as defined in the Michigan right to farm act, Public Act No. 93 of 1981 (MCL 286.471 et seq.), including but not limited to pasturage, floriculture, dairying, horticulture, forestry and livestock or poultry husbandry.

Alley means a public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

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

Apartment means a room or suite of rooms, including bath and kitchen facilities, in a two-family or multifamily dwelling intended and designed for use as a residence by a single family.

Apartment house. See *dwelling, multiple-family.*

Automobile repair garage means a premises where the following services may be carried out in a completely enclosed building: general repairs, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame or fender straightening and repair; painting and undercoating of automobiles.

Basement means that portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement, as defined herein, shall not be counted as a story.

Berm means a manmade, formed earth mound of definite height and width used for the purpose of obscuring the view between adjacent parcels, the intent of which is to provide a transition between uses of differing intensity.

Buffer yard means a ten-foot strip of land, including interlocking trees, foliage or other appropriate ground cover to a height of six feet which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them. The maintenance of the area shall be a continuing obligation of the owner of the area.

Building means any structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or property.

Building,principal, means a building in which is conducted the main or principal use of the lot on which it is located.

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

Building line means a line defining the minimum front, side and rear yard requirements outside of which no building may be located.

Carport means a partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to private garages.

Cellar means a portion of a dwelling having more than one-half of its height below the average finished grade of the adjoining ground.

Change of use means a use of a building, structure or parcel of land or portion thereof which is different from the previous use in the way it is classified in this chapter or in the state construction code, as amended.

Church means a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

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

Condominium means the ownership of a dwelling unit and the space enclosed by the description thereof as contained in the master deed for the complex or project, established in conformance with the provisions of the Michigan condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.).

Coverage means that percent of the plot or lot covered by the building area.

Customary agricultural operation means a condition or activity which occurs on a parcel of land in connection with the commercial production of farm products and includes but is not limited to noise, odors, dust, fumes, operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, insecticides and herbicides and the employment of labor when such conditions or activities are conducted in a usually or generally accepted manner. (See *Farm.*)

Density means the number of dwelling units situated on or to be developed on a net acre of land, which shall be calculated by taking the total gross acreage and subtracting the area in rights-of-way for streets and roads.

District means an area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.

Dwelling means any building, or portion thereof, which is designed or used exclusively for residential purposes.

(1) The dwelling shall meet the minimum square footage requirements for the district in which it is located.

(2) The minimum width across any front, side or rear elevation shall be at least 24 continuous feet of exterior wall. This is to imply that the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least 24 feet.

(3) The dwelling shall comply in all respects with the state construction code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations allow standards of construction which are less stringent than those imposed by the state construction code, the less stringent federal or state standard or regulation shall apply.

(4) The dwelling shall be placed upon and secured to a permanent foundation in accordance with the state construction code. The area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the state construction code for single-family dwellings.

(5) If the dwelling has wheels, towing mechanisms or undercarriages they shall be removed.

(6) The dwelling shall be connected to a public sewer and water supply or to private facilities approved by the local health department.

(7) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever is less.

(8) The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached steps connected to the exterior door areas or to porches connected to the door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the zoning administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the zoning board of appeals within a period of 15 days from the receipt of notice of the zoning administrator's decision.

(9) The dwelling shall not contain additions or rooms or other areas which are not constructed with similar

quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(10) The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to the mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

(11) 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 the ordinance of the city pertaining to such parks.

Dwelling, multiple-family, means a building containing three or more dwelling units designed for residential use for three or more families living independently of each other.

Dwelling, row house or townhouse, means three or more one-family dwelling units, each having access on the first floor to the ground and with common walls separating the dwelling units.

Dwelling, two-family, or *duplex,* means a building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in the above definition of "dwelling, single-family," except that specified storage space and entrances shall be provided for each dwelling unit.

Dwelling unit means one or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes.

Driveway means a private path of travel over which an automobile may be driven which provides access to a public street.

Earth-sheltered home means a dwelling which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.

Easement, permanent recorded, means a grant of one or more property rights from a property owner to another person which is permanent and appurtenant to the land and is recorded in the office of the county register of deeds.

Essential cropland means land having soil quality and slopes which are well suited for agricultural crops when treated and managed in accordance with modern agricultural practices.

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience or welfare, but not including office buildings, substations or structures which are enclosures or shelters for service equipment, or maintenance depots.

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

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

Family means an individual, or two or more persons related by blood, marriage or adoption, or parents along with their direct lineal descendants, and adopted or foster children, including domestic employees, or a group that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single, nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangements and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.

Farm means any parcel of land containing at least five acres which is used for gain in the raising of agricultural crops such as grains and under special conditions, livestock. It includes necessary storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

Fence means an artificially constructed barrier of wood, metal, stone or any manufactured materials erected for the enclosure of yard areas.

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

Floodplain or *flooding* means normally dry land areas which temporarily experience partial or complete inundation from:

(1) The overflow of inland waters onto land adjoining the channel of a river stream, watercourse, lake or other body of water;

(2) The unusual and rapid accumulation or runoff of surface water.

Floor area means the sum of the gross horizontal areas of the floor of a building or dwelling unit, measured from the interior faces of exterior walls, or from the centerlines of walls separating dwelling units.

Footing means that portion of the foundation of a structure which spreads and transmits loads directly to the soil or the pilings.

Frontage means the total continuous length of the front lot line.

Garage, parking, means a structure or series of structures for the temporary storage or parking of motor vehicles, having no public shop or service connected therewith.

Garage, private, means an accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles, boats, house trailers, snowmobiles and similar vehicles owned and used by the occupants of the building to which it is accessory.

Gasoline grade means the elevation of the finished surface of ground after the development, filling or excavation of a parcel of land. For the purpose of controlling the number of stories and the height of any structure, the grade shall be determined by the level of ground adjacent to the walls of that structure if the grade is uniform. If the grade is not uniform, the grade shall be determined by averaging the elevation of the ground for each face of the structure as determined in the state construction code.

Gasoline service station means any area of land, including any structure thereon, that is used or designed for the supply of gasoline or oil or other fuel for the propulsion of vehicles. For the purpose of this chapter, the term "gasoline service station" shall also mean any area or structure used or designed for polishing, greasing, washing, drycleaning, spraying (but

not including painting) or otherwise cleaning or servicing such motor vehicles.

Habitable space means space in a dwelling unit or structure used for living, sleeping, eating, cooking or otherwise conducting activities directly related to the structure's principal use, which is equipped with means of egress, light and ventilation facilities in accordance with applicable construction codes. Bathrooms, toilet compartments, halls and closets are not considered to be habitable space.

Inoperable or abandoned motor vehicle means any motor vehicle which is not licensed for use upon the highways of the state, and shall also include, whether so licensed or not, any motor vehicle which is inoperative.

Junk means any motor vehicles, machinery, appliances, products or merchandise with parts missing or scrap metals or other trash, rubbish, refuse or scrap materials that are damaged or deteriorated, except if in a completely enclosed building. It includes any motor vehicle which is not licensed for use upon the highways of the state for a period in excess of 30 days and shall also include, whether so licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 20 days and which is not in a completely enclosed building. It does not include domestic refuse if stored so as to not create a nuisance and is 30 feet or more from any residential structure for a period not to exceed seven days. It also includes any other material so determined to be junk pursuant to chapter 14, article 11, the city blight control ordinance.

Junkyard means any land or building used for abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running conditions, machinery or parts thereof.

Kennel, commercial, means any lot or premises used for the commercial sale, boarding or treatment of dogs, cats or other domestic pets.

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

Lot means land occupied or to be occupied by a building, structure, land use or group of buildings together with such open spaces or yards as are required under this chapter and having its principal frontage upon a public thoroughfare.

Lot, corner, means a lot which has at least two contiguous sides abutting upon a public street for their full length.

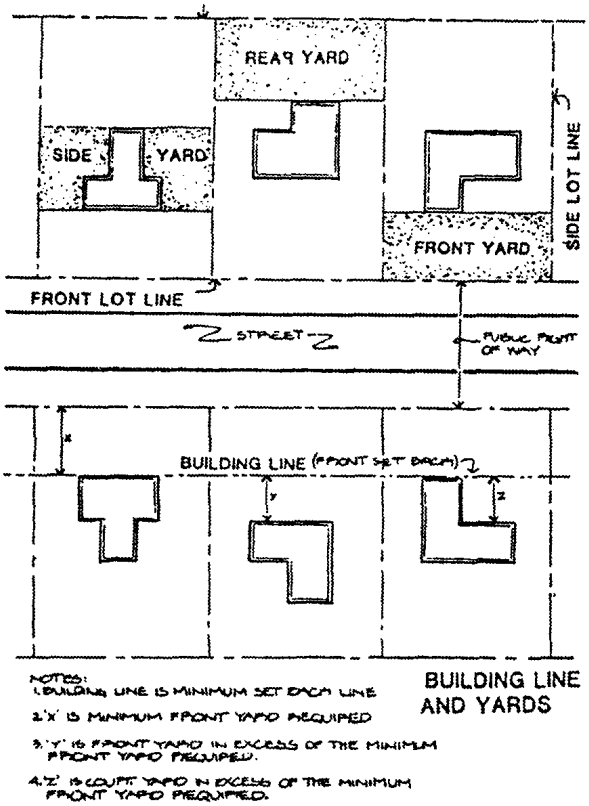
Lot, depth of, means the average distance from the front lot line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

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

Lot, through, means a double-frontage lot, not a corner lot, having a street for both front and rear lot lines.

Lot area means the total horizontal area within the lot lines of a lot.

Lot lines.



(1) *Front lot line* means, in the case of an interior lot, that line separating the lot from the public street right-of-way. In the case of a through lot, it is that line separating the lot from either street. In the case of a corner lot, the shorter street line shall be considered the front lot line, except in the case of both street lines being equal, the choice may be made at the discretion of the property owner. Once declared and so indicated on the building permit application, the designated front lot line shall remain as such.

(2) *Rear lot line* means that lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten feet in length, lying farthest from the front lot line and wholly within the lot.

(3) *Side lot line* means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lot of record means a lot which is part of a subdivision, the map of which has been recorded in the office of the register of deeds of the county, or a parcel or lot described by metes and bounds, the deed to which has been recorded in the office of the register of deeds of the county prior to the adoption of this chapter.

Major thoroughfare means a public street, the principle use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property and which has been classified as county primary, state trunkline, or U.S. trunkline.

Master plan means the statement of policy by the city planning commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions.

Minor or local street means a public way, the principle use or function of which is to provide access to abutting lands.

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 permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. The term "mobile home" shall not include pickup campers, travel trailers, motor homes, converted buses, tent trailers or other transportable structures designed for temporary use.

Mobile home park means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home.

Modular (premanufactured) housing unit means a dwelling unit constructed solely within a factory, as a single unit or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

Motel means a building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" shall include buildings designated as "auto courts," "tourist courts," "motor courts," "motor hotels" and similar appellations which are designed as integrated units of individual rooms under common ownership.

Municipal water supply means a water supply system owned by a city, township, charter township, city, county, the state or an authority or commission composed of these governmental units.

Nonconforming building or *nonconforming structure* means a building or structure or portion thereof lawfully existing on May 6, 1984, that does not conform to the provisions of this chapter relative to height, bulk, area, placement or yards for the zoning district in which it is located.

Nonconforming use means a use of a building or structure or of a parcel or tract of land, lawfully existing on May 6, 1984, that does not conform to the regulations of the zoning district in which it is situated.

Nuisance means an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated 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:

(1) Noise;

(2) Dust;

(3) Smoke;

(4 Odor;

(5) Glare;

(6) Fumes;

(7) Flashes;

(8) Vibration;

(9) Objectionable effluent;

(10) Noise of a congregation of people, particularly at night;

(11) Passing traffic; or

(12) Invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

Nuisance, attractive, means a use, practice, structure or condition that meets the criteria as contained in the "classic statement of the doctrine of attractive nuisance" (2 Restatement of Torts, 2d 339, p. 167; 76 Mich. App. 137, June 1977).

Nursery school (day care center) means a public or private school, kindergarten or child care facility wherein day care or day care and education is provided for five or more minors.

Nursing home means an installation other than a hospital having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury or infirmity.

Open space, common, means open space which is held for the collective use and enjoyment of the owners, tenants or occupants of a single development.

Open space, required, means the yard space of a lot which is established by and between the street, or the lot lines and required setback line and which shall be open, unoccupied and unobstructed by any structure or any part thereof, except, as otherwise provided in this chapter.

Owner means the owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, sole proprietorship, partnership, association or corporation directly or indirectly in control of a building, structure or real property, or his duly authorized agent.

Park means a parcel of land, building or structure used for recreational purposes including but not limited to playgrounds, sports fields, game courts, beaches, trails, picnicking areas and leisure time activities.

Parking space means an area of not less than 20 feet in length or ten feet in width, exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Planned unit development means a tract of land developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses.

Principal use means the main use to which the premises is devoted and the principal use for which the premises exists.

Private sanitary sewage disposal system means an individual on-site sewage disposal system as defined in the county health department sanitary code.

Private water supply means a well or other water supply system approved by the county health department pursuant to part 127 of Public Act No. 368 of 1978 (MCL 333.12701 et seq.).

Prohibited use means a use of land which is not permitted within a particular land development district.

Public sanitary sewer means a system of pipe owned and maintained by a governmental unit used to carry human, organic and industrial waste from the point of origin to a point of discharge.

Public watercourse means a stream or creek which may or may not be serving as a drain as defined by Public Act No. 40 of 1956 (MCL 280.1 et seq.), or any body of water which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

Public utility means any person, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations, to the public gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

Rehabilitation means the upgrading of an existing building or part thereof which is in a dilapidated or substandard condition.

Repair means the reconstruction or renewal of any part of an existing building for the purpose of maintenance.

Restaurant, fast food, means an establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state, for consumption:

(1) Within the restaurant building;

(2) Within a motor vehicle parked on the premises; or

(3) Off the premises as carry-out orders, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic or other disposable containers.

Restaurant, standard, means an establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

(1) Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed; and/or

(2) A cafeteria-type operation where food and beverage generally are consumed within the restaurant building.

Restoration means the reconstruction or replication of an existing building's original architectural features.

Right-of-way means a street, alley or other thoroughfare or easement permanently established for passage of persons, vehicles or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

Roadside stand means a structure which is used seasonally for display and sale of agricultural produce. The operation of a roadside stand shall not constitute a commercial use.

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

Setback means the minimum unoccupied distance between the lot line and the principal and accessory buildings, as required herein.

Setback, front, means minimum unoccupied distance, extending the full lot width, between the principal building and the front lot line.

Setback, rear, means the minimum required unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.

Setback, side, means the minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line.

Shopping center means a business or group of businesses which provide a variety of merchandise and/or services which require a location on a major road and a large parking area to accommodate vehicular traffic. Such a center may be a small neighborhood center, a discount store or a mall, though this does not limit such use to be one or any of these.

Signs means any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which are visible from any public way and used as an outdoor display.

Site, net area, means the total area within the property lines of a project or development, excluding streets.

Site plan means a plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this chapter.

Solid waste shall have the meaning as ascribed in MCL 324.11506.

Special use permit means a permit issued by the city council to a person intending to undertake the operation of an activity upon land or within a structure and for those uses not specifically mentioned in this chapter which possess unique characteristics and are found to be not injurious to the health, safety, convenience and general welfare of the city inhabitants.

Stopwork order means an administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this chapter.

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

Story, half, means that part of building between a pitched roof and the uppermost full story, the part having a finished floor area which does not exceed one-half of the floor area of a full story.

Story, height of, means the vertical distance from the top surface of one floor to the top surface of the next above. The height of the top-most story is the distance from the top surface of the floor to the top surface of the ceiling joists.

Street means a dedicated public thoroughfare which affords the principal means of access to abutting property and meets construction standards promulgated by the county road commission.

Street line means the legal line of demarcation between a street right-of-way and abutting land.

Structural alteration means any change in the supporting members of a building such as the bearing walls, beams or girders, or any change in the dimensions or configuration of the roof or exterior walls.

Structure means anything constructed or erected which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings, satellite dishes and freestanding signs and not including sidewalks, drives, patios, streets and utility poles.

Subdivide or *subdivision* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of this chapter by MCL 560.108 and 560.109. The term "subdivide" or "subdivision" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this chapter or the requirements of an applicable local ordinance.

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 before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this 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 the alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Swimming pool means any structure or container located either above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing. A swimming pool shall be considered as an accessory building for the purposes of determining required yard spaces and maximum lot coverage. All swimming pools shall be enclosed by a fence at least four feet in height.

Tower, freestanding, means a tower erected for the purpose of radio wave, television or other forms of communications which is more than 55 feet in height above the grade at the base of the structure.

Travel trailer means a recreational vehicle designed to be used for temporary residence purposes and commonly known as a travel trailer or recreational vehicle.

Travel trailer park.

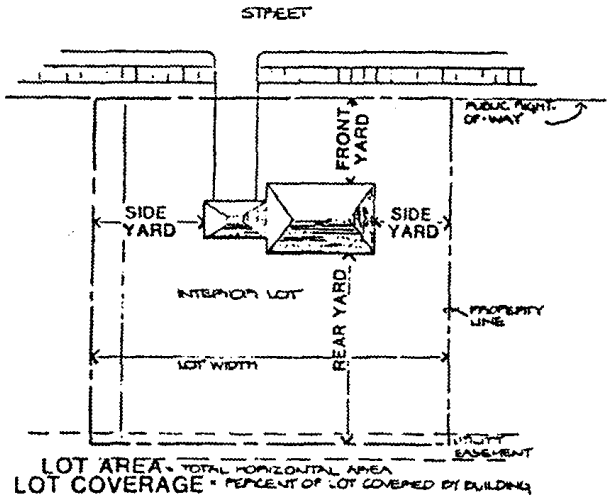
(1) *Overnight park* has elaborate facilities and is usually located along or near a main highway where trailers stay overnight on the way to some other destination.

(2) *Destination park* is located at or near a scenic or historic area or near fishing, hunting, boating, skiing or other recreational facilities and has sufficient washroom and restroom facilities to meet the demands, plus providing tot lot recreational facilities, such as swings or slides.

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

Variance means a modification of the literal provisions of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in a practical difficulty or unnecessary hardship.

Yards.



(1) *Yard, front*, means an open space extending the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.

(2) *Yard, rear*, means an open space extending the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

(3) *Yard, side*, means an open space between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard.

Zoning administrator means the city mayor or his authorized representative charged with the responsibility of administering this chapter.

(Code 1991, § 19-1; Ord. No. 80, §§ 3.01, 3.02, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-2. - Statutory authorization.

This chapter is enacted by the city pursuant to Public Act No. 110 of 2006 (MCL 125.3101 et seq.), to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated; to provide for the location, the size and the types of uses that may be made of the minimum open spaces; to provide for sanitary, safety, light and other protective measures; to provide for the maximum number of families that may be housed in dwellings, buildings and structures; to provide for the administration and amendment of this chapter; to provide for appeals and for the organization and procedures to be followed by the board of zoning appeals; and to provide for penalties for the violation of this chapter.

(Code 1991, § 19-2; Ord. No. 83, 4-16-1984)

Sec. 36-3. - Intent.

It is the purpose of this chapter to promote the public health, safety, morals, comfort, convenience and general welfare of the inhabitants of the city by encouraging the use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes; to enhance social and economic stability; to prevent excessive concentration of population; to reduce hazards due to flooding; to conserve and stabilize the value of property; to provide adequate open space for light and air; to prevent fire and facilitate the fighting of fires; to allow for a variety of residential housing types and commercial and industrial land uses; to lessen congestion on the public streets and highways; to facilitate adequate and economical provision of transportation, sewerage and drainage, water supply and distribution, and

educational and recreational facilities; ensuring adequate provisions for food, natural resources, housing and commerce; ensuring appropriate locations and relationships for uses of land; and facilitating the expenditure of funds for adequate public facilities and services and the expenditure of funds for other public facilities and services, by establishing herein standards for physical development in accordance with the objectives and policies contained in the general development plan for the city; and to provide for the administration and enforcement of such standards.

(Code 1991, § 19-3; Ord. No. 83, § 2.01, 4-16-1984)

Sec. 36-4. - Establishment of districts.

For the purpose of this chapter, the city is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

(1) RA-1 Medium Density Residential District.

(2) RA-2 General Residential District.

(3) AG Agricultural District.

(4) B-1 Central Business District.

(5) B-2 General Business District.

(6) LI Light Industrial District.

(7) QP Quasi-Public District.

(Code 1991, § 19-4; Ord. No. 83, § 7.01, 4-16-1984; Ord. No. 118, § 1, 3-12-2007)

Sec. 36-5. - Zoning district map established.

(a) The boundaries of the respective districts enumerated in section 36-4 are defined and established as depicted on the map entitled "Official Zoning Map of the City of Ovid, Clinton County, Michigan," which is an integral part of this chapter. This map, with all notations and explanatory matter thereon, shall be incorporated by reference as part of this chapter as if fully described herein.

(b) The official zoning map shall be identified by the signature of the city mayor, attested by the city clerk and shall bear the following: "This is to certify that this is the Official Zoning Map of the City of Ovid Zoning Ordinance adopted on the 16th day of April 1984." If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map after amendment has been approved by the city council together with an entry on the official zoning map as follows: "On (date), by official action of the City Council, the following change(s) were made: (brief description with reference number to council proceedings)."

(c) Two copies of the official zoning district map are to be maintained and kept up to date, one in the city clerk's office, and one in the zoning administrator's office.

(Code 1991, § 19-5; Ord. No. 83, § 7.02, 4-16-1984)

Sec. 36-6. - Replacement of official zoning map.

(a) If the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the city council may, by ordinance, adopt a new official zoning map which shall supersede the prior official zoning map. The official zoning map shall be identified by the signature of the city

mayor, attested by the city clerk and bear the seal of the city under the following words:

"This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of the City of Ovid adopted on _____, 20___ which replaces and supersedes the Official Zoning Map which was adopted on _____, 20___."

(b) Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

(Code 1991, § 19-6; Ord. No. 83, § 7.03, 4-16-1984)

Sec. 36-7. - Interpretation of district boundaries.

Where, due to the scale, lack of details or illegibility of the official zoning map there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application to the board of zoning appeals. The board, in arriving at a decision on such matters, shall apply the following standards:

(1) Boundaries indicated as approximately following the streets or highways, the centerlines of the streets or highways shall be construed to be such boundaries.

(2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following city boundary lines shall be construed as following such city boundary lines.

(4) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.

(5) Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official zoning district map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official zoning district map.

(6) Boundaries following the shorelines of streams, lakes or other bodies of water shall be construed to follow such shorelines, and in the event of change in the shorelines shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals or other bodies of water shall be construed to follow such threads.

(7) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the board of zoning appeals after recommendation from the planning commission.

(Code 1991, § 19-7; Ord. No. 83, § 7.04, 4-16-1984)

Sec. 36-8. - Scope of regulations.

(a) Except as may otherwise be provided in this chapter, every building and structure erected, every use of any lot, building or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building and structure occurring after May 5,

1984, shall be subject to all regulations of this chapter which are applicable in the zoning district in which such use, building or structure shall be located.

(b) Any use of land not specifically permitted is prohibited, except that the board of zoning appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district, if so petitioned and in accordance with the requirements of section 36-71(2). If the board of zoning appeals finds no comparable uses based on an examination of the characteristics of the proposed use, it shall so state and the planning commission may be petitioned to initiate an amendment to the text of the chapter to establish the appropriate district, type of use (by right or special use), and criteria that will apply for that use. Once this chapter has been amended to include the new regulations, then an application can be processed to establish that use.

(c) No part of a setback area, or other open space, or off-street parking or loading space required about or in connection with any use, building or structure, for the purpose of complying with this chapter, shall be included as part of a setback area, open space or off-street parking or loading space similarly required for any other use, building or structure.

(d) No setback area or lot existing before May 5, 1984, shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after May 5, 1984, shall meet at least the minimum requirements established herein.

(e) No portion of one lot, once established and/or improved with a building or structure, shall be sold unless each lot resulting from each such reduction, division or sale shall conform with all of the requirements established herein.

(f) Accessory uses are permitted as indicated for the various zoning districts and if such uses are clearly incidental to the permitted principal uses.

(Code 1991, § 19-8; Ord. No. 83, § 7.05, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-9. - Zoning of vacated areas.

Whenever any street, alley or other public way within the city hall have been vacated by official governmental action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands shall automatically acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach, and shall be used for those uses as are permitted under this chapter for such adjoining lands.

(Code 1991, § 19-9; Ord. No. 83, § 7.06, 4-16-1984)

Sec. 36-10. - Zoning of filled lands; use of water.

No fill shall be placed in any wetland, lake or stream without proof of a valid permit therefor from the state department of environmental quality. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same be used for those purposes as are permitted under this chapter for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

(Code 1991, § 19-10; Ord. No. 83.4, 2-15-1989)

Sec. 36-11. - Categories within zoning districts.

In order to ensure all possible benefits and protection for the zoning districts in this chapter, the land uses have been classified into two categories:

(1) *Uses permitted by right.* The primary uses and structures specified for which the zoning district has been established.

(2) *Uses permitted by special use permit.* Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zoning district, but could present potentially injurious effects upon the primary uses and structures within the zoning district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing following review by the planning commission and city council.

(Code 1991, § 19-11; Ord. No. 83, § 7.19, 4-16-1984)

Sec. 36-12. - Conflicting regulations.

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

(Code 1991, § 19-12; Ord. No. 83, § 7.08, 4-16-1984)

Sec. 36-13. - Interpretation and conflicts.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or land, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or structures or land or upon the courtyards or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this chapter shall control.

(Code 1991, § 19-13; Ord. No. 83, § 21.01, 4-16-1984)

Sec. 36-14. - Severance clause.

(a) Sections of this chapter shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this chapter as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid.

(b) Further, if any court shall declare invalid the application of any provision of this chapter to a particular parcel, lot use, building or structure, such ruling shall not affect the application of this provision to any other parcel, lot use, building or structure not specifically included in the ruling.

(Code 1991, § 19-14; Ord. No. 83, § 21.02, 4-16-1984)

Sec. 36-15. - Vested rights.

Nothing in this chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

(Code 1991, § 19-15; Ord. No. 83, § 21.03, 4-16-1984)

Sec. 36-16. - Penalties and remedies.

(a) Any building, structure or use constructed, altered, moved or maintained in violation of the provisions of this chapter is hereby declared to be a nuisance per se.

(b) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations and conditions and safeguards established in connection with variances and conditional uses and violations of approved site plans, shall constitute a municipal civil infraction.

(c) The city council may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violation of this chapter. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this chapter.

(Code 1991, § 19-16; Ord. No. 83, § 21.05, 4-16-1984)

Secs. 36-17—36-35. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Sec. 36-36. - Administrator designated.

The administration and enforcement of this article shall be the responsibility of the city mayor and city council. The mayor and council shall have the right to delegate responsibility to appropriate city officers or employees. The person or persons administering and enforcing this chapter shall be known as the zoning administrator. The zoning administrator shall have the power of a public officer in the enforcement of this chapter.

(Code 1991, § 19-46; Ord. No. 83, § 4.01, 4-16-1984)

Sec. 36-37. - Duties of administrator.

It shall be the responsibility of the zoning administrator to enforce the provisions of this article and in doing so shall perform the following duties:

(1) *Permits.* All applications for zoning permits shall be submitted to the zoning administrator who may issue zoning permits when all applicable provisions of this chapter have been complied with.

(2) *Files, records.* The zoning administrator shall maintain files of all applications for zoning permits, and shall keep records of all permits issued; these shall be filed in the office of the city clerk and shall be open for public inspection.

(3) *Inspections.* The zoning administrator shall be empowered to make inspections of buildings or premises in orde out the enforcement of this chapter. No person shall molest the zoning administrator in the discharge of his dut zoning administrator shall seek a search warrant through the city attorney any time a property owner refuses a property in order to make an inspection to determine compliance with this chapter.

(4) *Record of complaints.* The zoning administrator shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter, and of the action taken consequent to each complaint; such records shall be open for public inspection.

(5) *Report to city council.* The zoning administrator shall report to the city council periodically at intervals not greater than monthly, summarizing for the period since the last previous report, all zoning permits issued and all complaints of violation and any action taken on each complaint. Under no circumstances is the zoning administrator permitted to make changes in this chapter, nor to vary the terms of this chapter while carrying out the duties prescribed herein.

(Code 1991, § 19-47; Ord. No. 83, § 4.02, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-38. - Permit procedures and regulations.

(a) *Intent and purpose.* It is the intent and purpose of this section to create a review and permit process for the administration of this chapter. The process shall require the issuance of one permit which shall be the zoning permit. Issuance of such a permit pursuant to subsection (c) of this section shall indicate that the plans and specifications for any particular land use that has been requested complies with this chapter.

(b) *Jurisdiction.* The excavation for any building or structure shall not be commenced; the erection of, addition to, alteration of or moving of any building or structure shall not be undertaken; or any land shall not be used; or any existing land use changed to a different type or class; or the use or occupancy of any building or premises, or part thereof, hereafter shall not be undertaken, without the issuance of the proper and appropriate certificates and permits pursuant to the stipulations of subsections (c) and (d) of this section. Except upon written order of the board of appeals, no such permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this chapter.

(c) *General conditions.*

(1) *Permit required.* No building shall be erected, altered, moved or repaired until a zoning permit has been issued.

(2) *Expiration of permit.* Any permit granted under this section shall become null and void after six months from the date of granting the permit unless the development proposed has passed its first building inspection. Before voidance is actually declared, the zoning administrator shall notify the applicant of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten days before such voidance is effective. The permit shall be renewable upon reapplication and upon payment of the original fee, subject to the provisions of all ordinances in effect at the time of renewal.

(3) *Revocation.* The zoning administrator shall have the power to revoke or cancel any zoning permit in case of failure or neglect to comply with any provisions of this chapter or in the case of any false statement or misrepresentation made in the application. The owner or his agent shall be notified of the revocation in writing.

(4) *Fees.* Fees for review of development proposals, inspections and the issuance of permits or certificates required under this chapter shall be deposited with the city clerk in advance of processing any application or

issuance of any permit. The amount of such fees shall be established by resolution of the city council and shall cover the cost of inspection and supervision resulting from the enforcement of this chapter. Such fees may include but are not limited to all costs associated with conducting a public hearing or inspection, including the newspaper notice, postage, photocopying, staff time, planning commission, council and/or zoning board of appeals time, mileage and any costs associated with reviews by qualified professional planners and/or engineers. Such fees may be collected in escrow with any unexpended balance returned to an applicant.

(5) *Issuance.* Whenever the buildings, structures and uses as set forth in any application are in conformity with the provisions of this chapter, the zoning administrator shall issue the appropriate permit. In any case, where a permit is refused, the causes shall be stated in writing to the applicant.

(6) *Nonconforming uses.* It shall not be necessary for a legal nonconformity, existing on May 6, 1984, to obtain a zoning permit in order to maintain its legal, nonconforming status. However, no nonconforming building, structure or use shall be renewed, changed or extended pursuant to article X of this chapter until a zoning permit has been issued by the zoning administrator. In such cases the permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this chapter.

(7) *Verification of other required permits.* The zoning administrator may withhold any zoning permit pending verification that an applicant has received required county, state or federal permits including but not limited to soil erosion and sedimentation control permits, wetlands permits, floodplain, culvert, driveway or building permits. Alternatively, the planning commission or city council may conditionally approve any development activity upon the receipt of any of the above-mentioned county, state or federal approvals and/or direct the zoning administrator not to issue a zoning permit until the permits from other agencies have been obtained.

(8) *Performance guarantee.* A performance guarantee may be required as a condition to the issuance of any zoning permit in order to insure conformance with the requirements of this chapter. The guarantee can be required to ensure that required landscaping, screening, buffering, fencing, paving, parking, lighting, streets, sidewalks, drains, curbs and any other requirements of this chapter have been met prior to final occupancy. A performance guarantee may take the form of cash, check, time certificate, a surety bond, bank letter of credit or other instrument as acceptable to the city, but shall be in an amount sufficient for the city to complete the required improvement or condition if the property owner fails to do so. The performance guarantee shall be returned when an occupancy permit has been granted.

(9) *Occupancy permit.* No structure or use shall be occupied (except for a single-family residence in zones permitting single-family residences, without first receiving an occupancy permit. An occupancy permit shall be issued by the zoning administrator following an inspection that confirms that all requirements of a previously issued zoning permit, if any, or if not, of this chapter have been met.

(d) *Application.* An application for a zoning permit shall be considered for approval by the zoning administrator when the application contains the following information:

(1) In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, either a report from the county health department certifying in writing the approval of a private sanitary sewage disposal system, or when public sanitary sewage service is available or required by local ordinance or state law, a written notice of acceptance or a hook-up fee receipt shall be required.

(2) When a municipal, public or private water supply system is required by law or proposed by the applicant either a report from the county health department, certifying approval of private water supply systems, or

when municipal or public water supply is required by local ordinance or state law, a written notice of acceptance or a hook-up fee receipt shall be required.

(3) Two copies of an accurate, readable scale drawing showing the following shall be required except in the case of minor alterations, repairs and demolitions as determined by the zoning administrator:

a. The location, shape, area and dimension of the lot;

b. The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered or moved on the lot;

c. The intended uses;

d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users;

e. The yard, open space and parking lot dimensions, parking space dimensions and number of spaces;

f. A vicinity sketch showing the location of the site in relation to the surrounding street system, and adjacent land uses within 300 feet in every direction including on the opposite side of any public thoroughfare (commercial and industrial areas only);

g. Any other information deemed necessary by the zoning administrator to determine and provide for the enforcement of this chapter.

(e) *Inspections.* The zoning administrator shall inspect the site prior to the beginning of construction including the pouring of footings, or excavation for a foundation.

(Code 1991, § 19-48; Ord. No. 83, § 4.03, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-39. - Enforcement.

(a) The zoning administrator shall enforce the provisions of this article. Violations of any provisions of this article are declared to be nuisances per se.

(b) The zoning administrator shall inspect each alleged violation. Whenever the zoning administrator determines that a violation of this chapter exists, the zoning administrator shall issue a notice of violation, in writing, which specifies all conditions found to be in violation.

(c) Such notice shall be directed to each owner of or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally or, in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.

(d) All violations shall be corrected within a period of 30 days after the violation notice is issued. Should a violation not be corrected within this time period, the zoning administrator shall notify the owner, or party of interest in writing, of the time and place of a hearing to be held before the city council on the conditions causing the notice of violation. At the hearing the person to whom the notice is addressed shall have the opportunity to show cause why the violation should not be ordered to be corrected or why the action would cause an undue hardship.

(e) The city council shall take testimony of the zoning administrator, the owner of the property and any other interested party or witness. Upon findings of the hearing the city council may extend the time by which the violations must be corrected for a period not to exceed six months. However, the city council shall not allow such violations to exist longer than this period.

(f) If the owner or party in interest fails to appear, or neglects to correct the violation within the time period

specified by the city council, the city council shall prepare a report of their findings for the city attorney recommending that the appropriate action be taken. The city attorney may then initiate prosecution proceedings.

(Code 1991, § 19-49; Ord. No. 83, § 4.04, 4-16-1984)

Secs. 36-40—36-66. - Reserved.

ARTICLE III. - ZONING BOARD OF APPEALS

Footnotes:
*--- (**2**) ---*
***State Law reference—** Zoning board of appeals, MCL 125.3601 et seq.*

Sec. 36-67. - Intent; purpose.

The purpose of this article is to ensure that the objectives of this chapter are fully and equitably achieved, that a means be provided for competent interpretation of this chapter, that flexibility be provided for in the strict application of this chapter, that the spirit of the chapter be observed, public safety secured and substantial justice done.

(Code 1991, § 19-71; Ord. No. 83, § 5.01, 4-16-1984)

Sec. 36-68. - Creation; membership.

(a) A zoning board of appeals is hereby established in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.). The board shall consist of five members: the chairperson of the planning commission; a member of the city council appointed by the city council; and the remaining members appointed by the city council from the electors residing in the city.

(b) Members may be reappointed. An elected officer of the city shall not serve as chairperson of the board. An employee of the city may not serve as a member of the board. Members shall be appointed for three-year terms. Members of the board shall be removable by the city council for nonfeasance, malfeasance or misfeasance of office. A member shall disqualify himself from a vote in which the member has a conflict of interest. Failure to do so shall constitute malfeasance in office.

(c) The city council may appoint not more than two alternate members for the same term as regular members of the board. No alternate member may be either a member of the city council or the planning commission. The alternate members may be called as needed, on a rotating basis, to sit as regular members of the board in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the board.

(Code 1991, § 19-72; Ord. No. 83, § 5.02, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-69. - Organization.

(a) *Rules of procedure.* The zoning board of appeals shall adopt rules of procedure for the conduct of its meetings

and the implementation of its duties. The board shall annually elect a chairperson, a vice-chairperson and a secretary.

(b) *Meetings and quorum.* Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the board in its rules of procedure may specify. A majority of the total membership of the board shall constitute a quorum. All meetings shall be open to the public.

(c) *Oaths and witnesses.* The chairperson may administer oaths and compel the attendance of any witness in order to ensure a fair and proper hearing.

(d) *Records.* The minutes of all meetings shall contain the grounds for every determination made by the board including all evidence and data considered, all findings of fact and conclusions drawn by the board for every case, along with the vote of each member and the final ruling on each case. The zoning board of appeals shall file its minutes in the office of the city clerk.

(Code 1991, § 19-73; Ord. No. 83, § 5.03, 4-16-1984)

Sec. 36-70. - Jurisdiction.

The zoning board of appeals shall act upon questions as they arise in the administration of this chapter. The board shall perform its duties and exercise its powers as provided in Public Act No. 110 of 2006 (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 or intent of this chapter, but does have the power to act on those matters for which this chapter provides an administrative review, interpretation, variance or temporary use permit. Within this capacity the 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 as set forth in section 36-71.

(Code 1991, § 19-74; Ord. No. 83, § 5.04, 4-16-1984)

Sec. 36-71. - Authorized appeals.

The zoning board of appeals shall hear the following specified categories of appeals in accordance with the following standards:

(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 in administering or enforcing the provisions of this chapter.

(2) *Interpretation of 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 request, the zoning board of appeals shall ensure that its interpretation is consistent with the intent and purpose of this chapter and the section in which the language in question is contained.

b. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the 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. If no comparable use is found, the zoning board of appeals shall so inform the petitioner

and indicate that the requested use would only be permitted if this chapter is amended to specifically include it in a particular district and pursuant to particular standards.

d. Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in article V, division 2 of this chapter, by an analysis of the specific needs. If no comparable use is found, the zoning board of appeals shall so inform the petitioner and indicate that the parking space requirements will have to be established by amendment of this chapter.

(3) *Variance.*

a. The zoning board of appeals shall have the power to authorize specific variance 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:

1. There are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
2. A genuine hardship exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature.
3. The hardship or special conditions or circumstances do not result from actions of the applicant.
4. The variance will relate only to property under control of the applicant.
5. The variance will be in harmony with the general purpose and intent of this chapter and will not cause a substantial adverse effect upon surrounding property, property values and the use and enjoyment of property in the neighborhood or district.
6. Granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
7. The variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.
8. The variance shall not permit the establishment, within a district, of any use which is not permitted by right within that zoning district, or any use for which a special use permit or a temporary use permit is required.

b. In granting any variance, the zoning board of appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and shall automatically invalidate the permit.

c. Each variance granted under the provisions of this chapter shall become null and void unless:

1. The construction authorized by such variance or permit has commenced within six months of granting of the variance.
2. The occupancy of land, premises or buildings has taken place within one year after the granting of the variance.

d. No application for a variance which has been denied, wholly or in part, by the zoning board of appeals shall for a period of one year from the date of the last denial, except on the grounds of newly discovered evidenc changed conditions found upon inspection by the board to be valid.

(Code 1991, § 19-75; Ord. No. 83, § 5.05, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-72. - Appeal procedures.

(a) The appeal procedures for the zoning board of appeals shall be as set out in MCL 125.3604.

(b) *Fee.* A fee as established by the city council shall be paid to the city clerk at the time the petitioner files an application with the board. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, hearing records and other expenses incurred by the board in connection with the appeal. No fee shall be charged if the city or any official body of the city is the moving party.

(c) *Decision.* The zoning board of appeals shall render its decision within 30 days of filing of notice of appeal unless an extension of time is necessary to review new information pertinent to making the decision, and the extension is agreed upon by the appellant and a majority of the members of the appeals board present; or in the opinion of a majority of the members of the zoning board of appeals there are other extenuating circumstances which do not reasonably permit a decision within 30 days. The vote of a majority of members, appointed and serving, shall be necessary to take action on an appeal.

(Code 1991, § 19-76; Ord. No. 83, § 5.06, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-73. - Administrative variance.

(a) *Procedure and criteria.* The zoning administrator is hereby authorized to grant administrative waivers to the provisions of this chapter in an amount not to exceed a ten percent variation from the site development standards, parking and loading requirements, advertising structure requirements, and the specific dimensional, area, and similar provisions and requirements contained in this chapter. Up to a 20 percent variation from side yard requirements may be permitted. This authority does not extend to waiver or consideration of different land uses within a zoning district. Upon receipt of a request for an administrative waiver, the zoning administrator shall prepare a report of the situation and all factual data concerning the site in terms of what the situation would be if developed pursuant to the standards stated in this chapter, what the situation would be if the administrative waiver were granted, what impacts, if any, on the public and neighboring property owners would result if the administrative waiver were granted, and the conclusion on the waiver request and the rationale for that conclusion. No administrative waiver shall be granted if doing so would create a nuisance or result in significantly more noise, odor, dust, bright or flashing lights, or similar impact on the public or abutting property. Decisions rendered by the zoning administrator shall be in the form of a letter which states specifically a determination on each of the items listed in this subsection. An appeal on any administrative waiver may be made by any affected person to the zoning board of appeals within ten days following the decision. No decision by a zoning administrator on an administrative waiver shall be effective until after this ten-day period has passed. All abutting property owners shall receive notice of any administrative waiver request and when a decision is expected to be made, prior to a determination by the zoning administrator. Abutting property owners may file a written statement on the administrative waiver request with the zoning administrator, but the decision of the zoning administrator shall be based on the standards contained in this section.

(b) *Appeals.* The decision of the zoning administrator may be appealed to the board of appeals pursuant to section

36-72.

(Code 1991, § 19-77; Ord. No. 83, § 5.08, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Secs. 36-74—36-104. - Reserved.

ARTICLE IV. - SUPPLEMENTARY REGULATIONS

Sec. 36-105. - Intent and purpose.

The provisions in this article establish miscellaneous regulations which have not been specifically provided for in other portions of this chapter, yet are applicable to all zoning districts unless otherwise indicated.

(Code 1991, § 19-101; Ord. No. 83, § 6.01, 4-16-1984)

Sec. 36-106. - Required water supply and sanitary sewerage facilities.

Any structure for human occupancy after May 6, 1984, and used for dwelling, business, industrial, recreational, institutional, mercantile or storage purposes shall not be erected, altered, used or moved upon any premises unless the structure is provided with a potable water supply and wastewater disposal system that ensures a safe and effective means of collection, treatment and disposal of human, commercial and industrial wastes. All such installations shall comply with the requirements of the state and the county health department.

(Code 1991, § 19-102; Ord. No. 83, § 6.02, 4-16-1984)

State Law reference— Sewage disposal and waterworks systems, MCL 324.4100 et seq.

Sec. 36-107. - Grading and filling.

In order to protect adjacent properties, public roads, public watercourses and to provide for adequate drainage of surface water, the following rules shall apply to all construction activities requiring permits pursuant to this chapter:

(1) The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flows away from the building or structure and is managed in a manner which avoids increased flow onto adjacent properties or public roads, the erosion or filling of a roadside ditch, the blockage of a public watercourse or the creation of standing water over a private sewage disposal drainage field.

(2) Filling with earth or other materials a parcel of land to an elevation above the established grade of adjacent developed land is prohibited without the expressed written approval of the county drain commissioner.

(Code 1991, § 19-103; Ord. No. 83, § 6.03, 4-16-1984)

State Law reference— Building and construction in floodplain, MCL 324.3108; soil erosion and sedimentation control, MCL 324.9101 et seq.; soil conservation districts law, MCL 324.9301 et seq.; habitat protection, MCL 324.30101 et seq.; subdivision within or abutting floodplain, plat requirements, MCL 560.138; subdivision within floodplain, conditions for approval, MCL 560.194.

Sec. 36-108. - Required access.

After May 6, 1984, all lots shall have the required minimum lot width along and adjacent to a public thoroughfare, or the required minimum lot width in conjunction with access to a public thoroughfare provided by a right-of-way of not less than 30 feet in width. The right-of-way shall be established by legal or equitable title or a recorded permanent easement. Under this provision, no more than one lot may be served by such an access route.

(Code 1991, § 19-104; Ord. No. 83, § 6.04, 4-16-1984)

Sec. 36-109. - Moving buildings.

No existing building or other structure within or outside of the city shall be relocated upon any parcel or lot within the city unless the building design and construction are compatible with the general architectural character, design and construction of other structures located in the immediate area of the proposed site; the building and all materials therein are in conformity with the state construction code ; and the building or structure can be located upon the parcel and conform to other requirements of the respective zoning district.

(Code 1991, § 19-105; Ord. No. 83, § 6.05, 4-16-1984)

State Law reference— Moving buildings or obstructions, MCL 247.188 et seq.

Sec. 36-110. - Temporary buildings, structures.

Temporary buildings and structures may be placed on a lot or parcel of record and occupied only under the following conditions as authorized by the zoning administrator:

(1) During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than 90 days.

(2) Temporary buildings and structures incidental to construction work, except single-family residences. Such temporary buildings shall be removed within 15 days after construction is complete, but in no case shall the building or structure be allowed more than 12 months, unless expressly authorized after petition to the zoning board of appeals.

(3) Temporary building incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the fire chief and building inspector, and by relevant state agencies.

(4) No garage, barn or accessory buildings, or cellar, whether fixed or portable, shall be used or occupied as a dwelling. Travel trailers or motor homes may be occupied for a period not to exceed 15 days in one year unless in an approved travel trailer park or campground.

(5) The zoning administrator shall require a performance guarantee in the form of cash, check or savings certificate be deposited with the city clerk-treasurer in an amount equal to the estimated cost of removing the temporary structure if it is not removed by an applicant at the end of an authorized period. The applicant shall similarly sign an affidavit holding the city harmless against any claim for damages if the city were to subsequently use the performance guarantee to remove the temporary structure after its authorized period had expired.

(Code 1991, § 19-106; Ord. No. 83, § 6.06, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-111. - Temporary housing permits.

The city council, upon receiving planning commission recommendation, may issue temporary housing permits for structures for dwelling purposes, including mobile homes, subject to the following limitations and procedures:

(1) *Emergency housing.* When a dwelling is destroyed by fire, collapse, explosion, acts of God or acts of a public enemy to the extent that it is no longer safe for human occupancy, as determined by the building inspector, a temporary housing permit shall be issued upon the request of the owner at the time of destruction. The permit shall be in effect for no more than six months; any extension must be approved by the city council which may grant the same for a period of not more than one year.

(2) *Conditions.* A temporary housing permit shall not be granted for any reason unless the council finds evidence that the proposed location of the temporary dwelling will not be detrimental to property in the immediate vicinity (within 300 feet), and that the proposed water supply and sanitary facilities have been approved by the county health department. All applicable dimensional requirements within the district shall apply to temporary dwellings.

(3) *Performance guarantee.* The city council may require a performance guarantee to insure removal of temporary housing authorized by this section in accord with the procedures and requirements of section 36-110(5).

(Code 1991, § 19-107; Ord. No. 83, § 6.07, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-112. - Accessory uses, buildings, structures.

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

(1) An accessory building, including carports attached to the principal building, shall comply in all respects with the requirements of this chapter applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor area.

(2) An accessory building or structure, unless attached and made structurally a part of the principal building, shall not be closer than ten feet to any other structure on the lot.

(3) No accessory building or structure shall be closer than five feet to any interior side or rear lot line.

(4) Accessory buildings and structures are subject to all setback requirements from the street applying to the principal building; provided, however, when topographic conditions prevent compliance with this provision, the zoning board of appeals may vary the above requirements in such a manner as to contribute to the public safety and general welfare.

(5) An accessory building or structure shall not occupy more than 25 percent of the area of any rear yard, providing that in no instance shall the accessory building or structure exceed the ground floor area of the principal building. Except that an accessory building or structure may occupy up to 50 percent of the area of any rear yard, if it is a nonconforming lot of record, and provided side and rear yard setbacks are still met.

(6) No detached residential accessory building or structure shall exceed one story or 14 feet in height. Detached accessory buildings for other uses may be constructed to equal the permitted maximum height of structures in the districts, subject to zoning board of appeals' approval if the building exceeds one story or 14 feet in height. This restriction shall not apply to agriculture-related accessory structures, or accessory structures allowed by special use permit.

(7) Buildings accessory to principal buildings shall not be erected in the front yard.

(Code 1991, § 19-108; Ord. No. 83, § 6.08, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-113. - One building per lot.

No more than one principal building may be permitted on a lot or parcel, unless specifically provided for elsewhere in this article.

(Code 1991, § 19-109; Ord. No. 83, § 6.09, 4-16-1984)

Sec. 36-114. - Permitted yard encroachments.

The minimum yard size and setback requirements of this chapter are subject to the following permitted encroachments:

(1) Existing buildings or structures shall be permitted to encroach upon the minimum yard area and setback requirements of this chapter with architectural elements that are necessary to the integrity of the structure of the building, or health or safety of the occupants such as cornices, eaves, gutters, chimneys, pilasters, outside stairways, fire escapes and similar features which may project into a required yard area no more than five feet.

(2) Terraces, patios, porches and decks provided that they are not covered with a roof, or that the deck or paved area is no closer than ten feet from any lot line or public right-of-way line.

(Code 1991, § 19-110; Ord. No. 83, § 6.10, 4-16-1984)

Sec. 36-115. - Front setback reductions.

Any front setback area in any district may be reduced below the minimum requirements when the average front setback of existing principal buildings within 200 feet of a proposed principal building location is less than the minimum required, in which case the required minimum front setback shall be based on the established average. When the established setback is greater than the required minimum, the required setback for the proposed building shall be the average of the existing buildings. Front setbacks may be further reduced in the QP district by special use permit.

(Code 1991, § 19-111; Ord. No. 83, § 6.11, 4-16-1984; Ord. No. 118, § 2, 3-12-2007)

Sec. 36-116. - Allocation of lot area.

No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

(Code 1991, § 19-112; Ord. No. 83, § 6.12, 4-16-1984)

Sec. 36-117. - Height requirement exceptions.

The following are exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

(1) Those purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, and that do not exceed 75 feet in height;

(2) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks,

water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers or other structures where the manufacturing process requires a greater height but do not exceed 100 feet in height;

(3) Those structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five feet above height limitations and shall have no window openings;

(4) Public utility structures, but not including communication towers, except with a special use permit;

(5) Communication towers with a height not to exceed 200 feet within the QP district, but only with a special use permit; or

(6) Agriculture-related structures, such as barns, silos, elevators and the like that do not exceed 100 feet in height.

(Code 1991, § 19-113; Ord. No. 83, § 6.13, 4-16-1984; Ord. No. 83.4, 2-15-1989; Ord. No. 118, § 3, 3-12-2007)

Sec. 36-118. - Fences, walls, screens.

The following regulations shall apply to all fences, walls, screens or similar devices:

(1) No fence, wall, sign or screen or any planting shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve, or within 20 feet of the right-of-way of a public street.

(2) No fence, wall, sign, screen or planting shall be erected or maintained in such a way as to obstruct vision between a height of three and ten feet within 20 feet of the right-of-way of a public street.

(Code 1991, § 19-114; Ord. No. 83, § 6.14, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-119. - Home occupations.

Any use carried on by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling. Such use shall be conducted entirely within the dwelling or accessory building, and shall not involve any alteration of structure or change the character thereof. Home occupations shall satisfy the following additional conditions:

(1) The nonresidential use shall only be incidental to the primary residential use.

(2) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(3) The home occupation shall not employ more than two persons, one of whom must reside on the premises.

(4) The majority of all activities shall be carried on indoors. No visible outdoor storage shall be permitted.

(5) There shall be no change in the exterior appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one announcement sign, not exceeding two square feet in area, nonilluminated, and mounted flat against the wall of the principal building.

(6) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard.

(7) The regulation of home occupations as provided herein is intended to secure flexibility in the application of the requirements of this chapter; but such flexibility is not intended to allow the essential residential

character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.

(8) Limited retail sales may be permitted on the premises, as a part of or in conjunction with a home occupation.

(Code 1991, § 19-115; Ord. No. 83, § 6.15, 4-16-1984; Ord. No. 83.4, 2-15-1989)

State Law reference— Single-family residence; instruction in craft or fine art as home occupation, MCL 125.3204.

Sec. 36-120. - Setback measurement.

All setbacks shall be measured from the right-of-way of public streets whenever a lot line abuts a public street or from the lot line between lots in all other situations except where a body of water, or a stream or creek makes up a lot line, then the measurement shall be from the line of permanent vegetation.

(Code 1991, § 19-116; Ord. No. 83.4, 2-15-1989)

Secs. 36-121—36-138. - Reserved.

ARTICLE V. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 36-139. - Requirements.

The requirements in this article apply to all lands, uses, buildings and structures within each zoning district, except as otherwise established in this article. Owners of nonconforming lots of record should refer to section 36-565 as well. Limited administrative waivers are provided in section 36-73. Variances may be granted by the zoning board of appeals only upon a showing of practical difficulty or unnecessary hardship (see section 36-71).

(Code 1991, § 19-141; Ord. No. 83.4, 2-15-1989; Ord. No. 118, § 4, 3-12-2007)

Secs. 36-140—36-161. - Reserved.

DIVISION 2. - RA-1 MEDIUM DENSITY RESIDENTIAL DISTRICT

Sec. 36-162. - Intent.

It is the intent of this division to stabilize, protect and encourage the residential character of the RA-1 Medium Density District and prohibit activities not compatible with a residential neighborhood.

(Code 1991, § 19-151; Ord. No. 83, § 8(intro.), 4-16-1984)

Sec. 36-163. - Scope.

In the RA-1 Medium Density District, no building or land shall be used and no building or structure erected except for one or more of the uses specified in this division, unless otherwise provided for in this chapter.

(Code 1991, § 19-152; Ord. No. 83.4, 2-15-1989)

Sec. 36-164. - Uses permitted by right.

The following uses are permitted by right in RA-1 districts:

(1) Single-family detached dwellings;

(2) Duplexes (two-family dwellings);

(3) Accessory buildings;

(4) State-licensed residential facilities.

(Code 1991, § 19-153; Ord. No. 83, § 8.01, 4-16-1984)

State Law reference— State-licensed residential facilities, MCL 125.3206; adult foster care licensing act, MCL 400.701 et seq.; child care organizations, MCL 722.111 et seq.

Sec. 36-165. - Permitted accessory uses.

The following uses are permitted accessory uses in RA-1 districts:

(1) Swimming pools;

(2) Automobile parking;

(3) Home occupations.

(Code 1991, § 19-154; Ord. No. 83, § 8.02, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-166. - Uses permitted by special use permit.

The following uses are permitted by special use permit in RA-1 districts:

(1) Conversion of large houses, pursuant to section 36-496;

(2) Religious institutions such as churches, convents, parsonages; educational and social institutions such as public or private elementary and secondary schools, pursuant to section 36-499.

(Code 1991, § 19-155; Ord. No. 83, § 8.03, 4-16-1984)

Sec. 36-167. - Site development requirements.

The following minimum and maximum standards shall apply to all uses and structures in the RA-1 district except as modified by article I of this chapter, article VIII of this chapter, or as varied pursuant to article III of this chapter:

(1) *Minimum lot area.* No single-family building or structure shall be established on any parcel less than 5,000 square feet in size; no two-family dwelling shall be established on any parcel less than 7,500 square feet.

(2) *Minimum frontage.* Each parcel shall have continuous frontage of not less than 50 feet along a public thoroughfare for a single-family dwelling nor less than 75 feet for a duplex.

(3) *Minimum lot dimensions.* The minimum width shall not be less than 50 feet; minimum depth shall not be less than 100 feet.

(4) *Yard setback requirements.*

a. Front yard: 25 feet.

b. Side yards: Ten feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required on the front yard.

c. Rear yard: 35 feet.

(5) *Maximum height requirements.* No residential structure shall exceed 35 feet from the average finished grade. Accessory buildings shall not exceed 12 feet in height.

(6) *Minimum building floor area.* Every single-family dwelling hereafter erected shall have a minimum gross living space per dwelling unit of not less than 900 square feet, exclusive of basements, garages, porches and breezeways. Every two-family dwelling shall have a minimum gross living space per dwelling unit of 750 square feet.

(7) *Maximum lot coverage.* 30 percent.

(Code 1991, § 19-156; Ord. No. 83, § 8.04, 4-16-1984)

Secs. 36-168—36-187. - Reserved.

DIVISION 3. - RA-2 GENERAL RESIDENTIAL DISTRICT

Sec. 36-188. - Intent.

It is the intent of the RA-2 General Residential District to provide for a diverse residential environment by allowing single-family, two-family and certain multifamily dwellings which meet the requirements of this division. Provisions are also made within this district to provide for grouped housing developments such as subdivisions, apartment complexes and mobile home parks.

(Code 1991, § 19-171; Ord. No. 83, § 9(intro.), 4-16-1984)

Sec. 36-189. - Scope.

In the RA-2 district, no building or land shall be used and no building or structure erected except for one or more of the uses specified in this division, unless otherwise provided for in this chapter.

(Code 1991, § 19-172; Ord. No. 83.4, 2-15-1989)

Sec. 36-190. - Uses permitted by right.

The following uses are permitted by right in RA-2 districts:

(1) Single-family detached dwellings;

(2) Two-family dwellings (duplexes);

(3) Accessory buildings;

(4) Temporary structures;

(5) State-licensed residential facilities.

(Code 1991, § 19-173; Ord. No. 83, § 9.01, 4-16-1984; Ord. No. 83.4, 2-15-1989)

State Law reference— State-licensed residential facilities, MCL 125.3206; adult foster care licensing act, MCL 400.701 et seq.; child care organizations, MCL 722.111 et seq.

Sec. 36-191. - Permitted accessory uses.

The following uses are permitted accessory uses in RA-2 districts:

(1) Swimming pools;

(2) Automobile parking;

(3) Pens or enclosures for customary household pets;

(4) Home occupations.

(Code 1991, § 19-174; Ord. No. 83, § 9.02, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-192. - Uses permitted by special use permit.

The following uses are permitted by special use permit in RA-2 districts:

(1) Multiple-family dwellings, pursuant to section 36-497;

(2) Grouped housing, pursuant to section 36-498;

(3) Mobile home parks, pursuant to section 36-499;

(4) Religious institutions such as churches, convents, parsonages and other housing for religious personnel, educational and social institutions such as public or private elementary and secondary schools, institutions for higher education, auditoriums and other places for assembly and centers for social activity, pursuant to section 36-499;

(5) Public buildings and public service installations such as publicly owned and operated buildings, including libraries, telephone exchange buildings, transformer stations and substations, and other public utility buildings and structures;

(6) Subdivisions, pursuant to section 36-500.

(Code 1991, § 19-175; Ord. No. 83, § 9.03, 4-16-1984)

Sec. 36-193. - Site development requirements.

The following maximum and minimum standards shall apply to all uses and structures in the RA-2 district except as modified by article I of this chapter and article VIII of this chapter, or as varied pursuant to article III of this chapter, zoning board of appeals:

(1) *Minimum lot area.* No building or structure shall be established on any parcel less than 12,000 square feet in size.

(2) *Minimum frontage.* Each parcel of land shall have continuous frontage of not less than 100 feet along a public thoroughfare.

(3) *Minimum lot dimensions.* The minimum lot width shall not be less than 100 feet; minimum lot depth shall not be less than 120 feet.

(4) *Yard and setback requirements.*

a. Front yard*:* 25 feet.

b. Side yards: Ten except in the case of a corner lot where the side yard on the street side shall not be less than required for the front yard.

c. Rear yard: 35 feet.

(5) *Maximum height requirements.* No residential structure shall exceed 35 feet from the average finished grade. Residential accessory buildings shall not exceed 14 feet in height.

(6) *Minimum building floor area.* Every single-family dwelling hereafter erected shall have a minimum gross living space per dwelling unit of not less than 1,000 square feet, exclusive of basements, garages, porches and breezeways.

(7) *Maximum lot coverage.* 30 percent.

(Code 1991, § 19-176; Ord. No. 83, § 9.04, 4-16-1984)

Secs. 36-194—36-224. - Reserved.

DIVISION 4. - AG AGRICULTURAL DISTRICT

Sec. 36-225. - Intent.

The AG Agriculture District is intended to preserve, enhance and stabilize areas within the city which are presently used predominantly for general farming; and areas which because of their soil characteristics and location should be conserved for agricultural uses.

(Code 1991, § 19-191; Ord. No. 83, § 10(intro.), 4-16-1984)

Sec. 36-226. - Scope.

In the AG district, no building or land shall be used and no building erected except for one or more of the uses specified in this division unless otherwise provided for in this chapter.

(Code 1991, § 19-192; Ord. No. 83, § 10.01, 4-16-1984)

Sec. 36-227. - Uses permitted by right.

The following uses are permitted by right in AG districts:

(1) Agricultural or horticultural activities on parcels of land of two acres or more, including general and specialized farming and related activities but not limited to:

a. Raising of grain, grass, seed crops;

b. Orchards;

c. Apiculture (beekeeping);

d. Floriculture;

e. Raising of tree fruits, nuts and berries;

f. Raising of ornamental trees, shrubs and nursery stock;

g. Vegetable raising;

h. Greenhouses;

(2) The raising and keeping of cattle, hogs, horses, ponies, sheep, swine and similar livestock or small animals such as rabbits, poultry and goats on parcels of land of five acres or more;

(3) Accessory buildings.

(Code 1991, § 19-193; Ord. No. 83, § 10.01, 4-16-1984)

Sec. 36-228. - Permitted accessory uses.

The following uses are permitted accessory uses in AG districts: accessory uses or structures, clearly incidental to the operation of an existing farm, including:

(1) Barns, silos, sheds and similar structures customarily incidental to the permitted principal use.

(2) Outdoor storage of equipment and materials limited to farm machinery, implements and related material provided that such storage is not in conflict with section 36-118. Storage activities shall be subject to minimum setback requirements.

(3) One roadside stand for the sale of farm produce, specialty crops such as tree fruits, nuts, berries and the like, or foodstuff made from such produce, providing it is raised on the property.

(Code 1991, § 19-194; Ord. No. 83, § 10.02, 4-16-1984)

Sec. 36-229. - Uses permitted by special use permit.

Uses permitted by special use permit in AG districts are public buildings and community service installations.

(Code 1991, § 19-195; Ord. No. 83, § 10.03, 4-16-1984)

Sec. 36-230. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the AG district except as modified by article I of this chapter and article VIII of this chapter, or as varied pursuant to article III of this chapter:

(1) *Minimum lot area.* No building or structure shall be established on any parcel less than one acre in size.

(2) *Minimum frontage.* Each parcel of land shall have continuous frontage of not less than 165 feet for one- to two-acre parcels, 225 for parcels larger than two acres along a public thoroughfare.

(3) *Yard and setback requirements.*

a. Front yard: 25 feet.

b. Side yards: Ten feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.

c. Rear yard: 35 feet.

d. In any case, no permanent or temporary structure housing livestock or for storage of feed or manure shall be located any closer than 100 feet to a lot line.

(4) *Maximum lot coverage.* 25 percent.

(5) *Maximum height.* No nonfarm structure or dwelling unit shall exceed a height of 35 feet measured from the average finished grade.

(Code 1991, § 19-196; Ord. No. 83, § 10.04, 4-16-1984)

Secs. 36-231—36-253. - Reserved.

DIVISION 5. - B-1 CENTRAL BUSINESS DISTRICT

Sec. 36-254. - Intent.

It is the intent of the B-1 Central Business District to provide for office buildings and the great variety of retail stores and related activities which occupy prime retail frontage in the downtown area and serves comparison, convenience and service needs of the entire city as well as surrounding residential and agricultural area beyond the city limits. The district regulations are designed to promote convenient pedestrian shopping and stability of retail development by encouraging a contiguous retail frontage and by prohibiting automotive related, highway service and nonretail areas which tend to break up such continuity.

(Code 1991, § 19-206; Ord. No. 83, § 11(intro.), 4-16-1984)

Sec. 36-255. - Scope.

In the B-1 district, no building or land shall be used and no building or structure erected except for one or more of the uses specified in this division unless otherwise provided for in this chapter. All uses permitted in this district are subject to the requirements and standards of site plan review (article IX of this chapter) prior to initiation of the use or structure.

(Code 1991, § 19-207; Ord. No. 83.4, 2-15-1989)

Sec. 36-256. - Uses permitted by right.

The following uses are permitted by right in B-1 districts:

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building including, but not limited to, foods, drugs, liquor, furniture, clothing, dry goods, notions or hardware.

(2) Personal service establishments which perform services on the premises within a completely enclosed building, such as, but not limited to, repair shops, barbershops and beauty shops, photographic studios and drycleaners.

(3) Restaurants and taverns where the patrons are served while seated within a building that is not part of a drive-in.

(4) Theaters when completely enclosed.

(5) Office establishments which perform services on the premises including but not limited to financial institutions, insurance offices, real estate offices, professional offices for accountants, doctors, lawyers, engineers and governmental offices such as post offices, etc.

(6) Offices and showrooms of plumbers, electricians, decorators or similar trades in connection with which not more than 25 percent of the floor area of the building or part of the building occupied by the establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or

merchandise, and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or displays.

(7) Hospitals or other facilities for human health care.

(8) Residential uses when occupying the second or third floors, provided that all requirements of the state construction code are met, and that any new structure created must have adequate on-site parking.

(Code 1991, § 19-208; Ord. No. 83, § 11.01, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-257. - Permitted accessory uses.

The following uses are permitted accessory uses in B-1 districts:

(1) Signs, pursuant to article VII of this chapter;

(2) Automobile parking, pursuant to article VI of this chapter.

(Code 1991, § 19-209; Ord. No. 83, § 11.02, 4-16-1984)

Sec. 36-258. - Site development requirements.

The following minimum and maximum standards shall apply to all uses in the B-1 district except as modified by article I of this chapter or as varied pursuant to article III of this chapter:

(1) *Minimum lot area.* 2,500 square feet.

(2) *Minimum frontage.* None.

(3) *Minimum lot width.* None.

(4) *Yard setback requirements.*

a. Front yard: None.

b. Side yard: None.

c. Rear yard: None.

(5) *Maximum height requirement.* 50 feet.

(6) *Performance standards.*

a. All storage of materials on any land shall be within the confines of the building or part thereof occupied by the establishment.

b. Material which normally and reasonably discarded from commercial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than five feet in height.

(Code 1991, § 19-210; Ord. No. 83, § 11.03, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Secs. 36-259—36-279. - Reserved.

DIVISION 6. - B-2 GENERAL BUSINESS DISTRICT

Sec. 36-280. - Intent.

It is the intent of the B-2 General Business District to furnish areas for business activity generally incompatible with pedestrian movement and which are located to service highway and passerby traffic.

(Code 1991, § 19-221; Ord. No. 83, § 12(intro.), 4-16-1984)

Sec. 36-281. - Scope.

In the B-2 district, no building or land shall be used and no building or structure erected except for one or more of the uses specified in this division unless otherwise provided for in this chapter. All uses permitted in this district are subject to the requirements and standards of site plan review (article IX of this chapter) prior to initiation of the use or structure.

(Code 1991, § 19-222; Ord. No. 83.4, 2-15-1989)

Sec. 36-282. - Uses permitted by right.

The following uses are permitted by right in the B-2 district:

(1) All uses permitted in the B-1 district;
(2) New and used automobile sales or showrooms including accessory parking and outdoor sales areas;
(3) Farm implement dealers including accessory parking and outdoor sales areas;
(4) Bus passenger stations;
(5) Public utility offices, exchanges, transformer stations, pump stations and service yards;
(6) Self-service laundry and dry cleaning establishments;
(7) Bowling alleys;
(8) Private club or lodge halls;
(9) Pool or billiard halls;
(10) Drive-in restaurants;
(11) Hotels, motels and motor inns.
(12) Farmers' market.

(Code 1991, § 19-223; Ord. No. 83, § 12.01, 4-16-1984; Ord. No. 119, § 1, 3-12-2007; Ord. No. 134 , § 2, 7-10-2017)

Sec. 36-283. - Permitted accessory uses.

The following uses are permitted accessory uses in B-2 districts:

(1) Signs, pursuant to article VII of this chapter;
(2) Automobile parking, pursuant to article VI of this chapter.

(Code 1991, § 19-224; Ord. No. 83, § 12.02, 4-16-1984)

Sec. 36-284. - Uses permitted by special use permit.

Uses permitted by special use permit in B-2 districts are gasoline service stations and automotive repair pursuant to section 36-502.

(Code 1991, § 19-225; Ord. No. 83, § 12.03, 4-16-1984)

Sec. 36-285. - Site development requirements.

The following minimum and maximums standards shall apply to all uses in the B-2 district, except as modified by article I of this chapter or as varied pursuant to article III of this chapter:

(1) *Minimum lot size.* 10,000 square feet.

(2) *Minimum lot frontage.* 100 feet.

(3) *Minimum lot width.* 100 feet.

(4) *Yard setback requirements.*

a. Front yard: 25 feet.

b. Side yard: Ten feet.

c. Rear yard; 35 feet.

(5) *Maximum height requirement.* 35 feet.

(6) *Performance standards.*

a. Storage of materials or goods shall be enclosed entirely within a building or shall be enclosed so as not to be visible to the public from any abutting residential district or public street.

b. Vehicle ingress and egress points shall not be closer than 60 feet to the intersection of any two public streets or closer than 30 feet to an adjacent driveway.

c. No major repairs or refinishing shall be done on outside lots intended for display or sales areas.

d. No lighting shall in any way impair the safe movement of traffic on any street or highway.

e. There must be sufficient on-site storage to accommodate at least two queued vehicles waiting to park or exit the site without using any portion of the public street right-of-way or in any other way interfering with street traffic.

f. Screening at least four feet in height shall be erected to prevent headlight glare from shining onto adjacent residential property. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicles, or be closer than 30 feet to any street right-of-way line.

(Code 1991, § 19-226; Ord. No. 83, § 12.04, 4-16-1984)

Secs. 36-286—36-303. - Reserved.

DIVISION 7. - LI LIGHT INDUSTRIAL DISTRICT

Sec. 36-304. - Intent.

It is the intent of the LI Light Industrial District to provide for a variety of light industrial uses, processing, storage and commercial establishments not engaging primarily in retail sales. Such industrial areas should be free of incompatible uses and designed so as not to harm adjacent conforming uses.

(Code 1991, § 19-251; Ord. No. 83, § 13(intro.), 4-16-1984)

Sec. 36-305. - Uses permitted by right.

The following are uses permitted by right in LI districts when conducted in a permanent fully enclosed building. (Subject to site plan review. See article IX of this chapter):

(1) Light industrial establishments which perform assembly, fabrication, compounding, manufacture, or treatment of materials, goods and products, including but not limited to:
   a. Jobbing and machine shops;
   b. Fabricated metal products;
   c. Plastic products, forming and molding;
   d. Processing of machine parts;
   e. Monument and art stone production;
   f. Industrial laundry operations;
   g. Wood products processing facility;
   h. Printing and publishing;
(2) Storage facilities for building materials, sand, gravel, stone, lumber and contractor's equipment;
(3) Grain and feed elevators, bulk blending plants and/or handling of liquid nitrogen fertilizer and anhydrous ammonia;
(4) Commercial uses not primarily involved in retail sales as a primary use, including but not limited to:
   a. Building material suppliers, farm implement dealers and repair;
   b. Veterinary hospitals and kennels;
   c. Commercial freestanding towers;
(5) Planned research or industrial parks.

(Code 1991, § 19-252; Ord. No. 83, § 13.01, 4-16-1984)

Sec. 36-306. - Permitted accessory uses.

Permitted accessory uses in LI districts are accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use, such as:

(1) Incidental offices for management and materials control;
(2) Restaurant or cafeteria facilities for employees working on the premises.

(Code 1991, § 19-253; Ord. No. 83, § 13.02, 4-16-1984)

Sec. 36-307. - Uses permitted by special use permit.

The following uses are permitted by special use permit in LI districts:

(1) Automobile salvage and private junkyards, pursuant to section 36-503;
(2) Slaughterhouse and poultry, meat and food processing plants, pursuant to section 36-504;
(3) Residential quarters for a caretaker/security personnel, provided it is clearly accessory to the principal use, does not occupy more than 400 square feet of space, and does not violate any setbacks.

(Code 1991, § 19-254; Ord. No. 83, § 13.03, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-308. - Site development requirements.

The following maximum and minimum standards shall apply to all uses in the LI district except as modified by article I of this chapter and article VIII of this chapter, or as varied pursuant to article III of this chapter:

(1) *Minimum lot area.* No building, structure or permitted use shall be established on any parcel less than two acres in size.

(2) *Minimum frontage.* Each parcel of land shall have continuous frontage of not less than 200 feet along a major or secondary public thoroughfare and meets all applicable county construction and design standards.

(3) *Minimum lot width.* The minimum lot width shall be not less than 200 feet.

(4) *Yard and setback requirements.*

a. Front and rear yards: 50 feet.

b. Side yards: 50 feet, except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.

c. Lots adjacent to railroad right-of-way: When industrial parcels are adjacent to railroad rights-of-way, the side and rear yard requirements will be waived and setbacks can be zero feet from the right-of-way line.

(5) *Maximum lot coverage.* 50 percent.

(6) *Maximum height.* No structure shall exceed a height of 35 feet measured from the average finished grade.

(Code 1991, § 19-255; Ord. No. 83, § 13.04, 4-16-1984)

Sec. 36-309. - Performance standards.

The following performance standards shall apply to LI districts:

(1) External areas for storage shall be screened on all sides by an opaque fence of not less than six feet in height.

(2) When a side or rear lot line abuts or is adjacent to property located within the RA-1 or RA-2 residential districts a berm or buffer yard shall be required in addition to the minimum yard requirements, specific driveways and plantings of which shall be determined through the site plan review process.

(3) Performance standards for sound, vibration, odor, gasses, glare, heat, light, electromagnetic radiation, smoke, dust, dirt, fly ash, drifted and blown material:

a. Sound. The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

Decibels (dba)	Adjacent Use	Where Measured
55	Residential dwellings	Common lot line
65	Commercial	Common lot line
70	Industrial and other	Common lot line

The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards. Objectionable noises due to intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

b. Vibration. All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch measured by any lot line of its source.

c. Odor. The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air as to produce a public nuisance or hazard beyond lot lines, is prohibited.

d. Gases. The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.

e. Glare and heat. Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.

f. Light. Exterior lighting shall be so installed that the surface of the source of light shall not be visible and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one footcandle power of light cross a lot line five feet above the ground in a residential district.

g. Electromagnetic radiation. Applicable rules and regulations of the Federal Communication Commission in regard to propagation of electromagnetic radiation shall be used as standards for this chapter.

h. Smoke, dust, dirt, fly ash. Any atmospheric discharge requiring a permit from the state department of environmental quality or the federal government shall have the permit as a condition of approval for any use in this district.

i. Drifted and blown material. The drifting or airborne transmission beyond the lot line of dust, particles or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.

j. Radioactive materials. Radioactive materials shall not be emitted to exceed quantities established as safe by the United States Bureau of Standards, as amended from time to time.

k. Other forms of air pollution. It shall be unlawful to discharge into the atmosphere any substance not covered in subsections (3)c., (3)d. and (3)h. of this section and in excess of standards approved by the state department of environmental quality.

l. Liquid or solid wastes. It shall be unlawful to discharge at any point any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the state department of environmental quality.

m. Hazardous wastes. Hazardous wastes as defined by the state department of environmental quality shall be disposed of by methods approved by the state department of environmental quality.

(Code 1991, § 19-256; Ord. No. 83, § 13.05, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Secs. 36-310—36-336. - Reserved.

DIVISION 8. - QP QUASI-PUBLIC DISTRICT

Sec. 36-337. - Scope and purpose.

The purpose of the QP Quasi-Public District is to:

(1) Provide notice of areas approved for public or quasi-public use by delineating those areas on the zoning map; and

(2) Retain and preserve public and quasi-public areas needed for the growth and general welfare of the city as a whole.

(Code 1991, § 19-260; Ord. No. 118, § 5, 3-12-2007)

Sec. 36-338. - Uses permitted by right.

The following uses are permitted as of right in the QP district:

(1) Federal, state, county, municipal or township organization buildings and facilities, including, but not limited to, offices, administration buildings, libraries, museums, halls, post offices, police stations, fire stations, courts, civic centers, and centers for social activity such as lodges and fraternal organizations.

(2) State, metropolitan, or municipally owned and operated parks, parkways, open spaces, and accessory facilities.

(3) Public, parochial, and private schools and educational facilities, including institutions for higher education not operated for profit.

(4) Churches, houses of worship, convents, cemeteries, parsonages, and other housing for religious personnel.

(5) Essential service and utility buildings and structures, water reservoirs and tanks, telephone exchanges, transformer stations, substations, and distribution facilities, provided all equipment and appurtenances are with in an enclosed structure or screened from view, except for outdoor equipment, appurtenances, or storage, which are accessory to a permitted or conditional use and screened from view from the public right-of-way.

(Code 1991, § 19-261; Ord. No. 118, § 5, 3-12-2007)

Sec. 36-339. - Uses permitted by special use permit.

The city council may authorize following uses by special use permit in the QP district if the general spirit and purpose of the QP district are maintained and the general standards identified in section 36-463 are satisfied:

(1) Wireless communication facilities, including towers.

(2) Utility structures, substations, and distribution facilities where equipment and appurtenances are not within an enclosed structure or screened from view.

(Code 1991, § 19-262; Ord. No. 118, § 5, 3-12-2007)

Sec. 36-340. - Site development requirements.

The following minimum and maximum standards shall apply to all uses and structures in the QP district except as modified by this chapter or special use permit:

(1) *Minimum lot area.* No building or structure shall be established on any parcel less than 5,000 square feet.

(2) *Minimum frontage.* Each parcel shall have continuous frontage of not less than 50 feet along a public thoroughf

(3) *Minimum lot dimensions.* The minimum width shall not be less than 50 feet; and the minimum depth shall not be less than 100 feet.

(4) *Yard setback requirements.*

a. Front yard: 25 feet.

b. Side yards; Ten feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required on the front yard.

c. Rear yard: 35 feet.

(5) *Maximum height requirements.* No structure shall exceed 35 feet from the average finished grade.

(6) *Maximum lot coverage.* 30 percent.

(Code 1991, § 19-263; Ord. No. 118, § 5, 3-12-2007)

Secs. 36-341—36-368. - Reserved.

ARTICLE VI. - OFF-STREET PARKING AND LOADING

Sec. 36-369. - Intent of parking provisions.

It is the intent of this article that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each building and premises constructed, altered or enlarged under the provisions of this chapter. All vehicles shall preferably be stored on the premises occupied by the principal building.

(Code 1991, § 19-281; Ord. No. 83, § 14.01, 4-16-1984)

Sec. 36-370. - Definition.

For the purposes of this article, the term "floor area," as applied to offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public, including those areas occupied for fixtures and equipment used for display or sale of merchandise, but excluding floor areas which are used exclusively for storage, housing of mechanical equipment integral with the building, maintenance facilities, or those areas where customers, patients, clients, salesmen and the general public are denied access. The term "floor area" shall be measured from the exterior faces of exterior walls.

(Code 1991, § 19-282; Ord. No. 83, § 14.01.1, 4-16-1984)

Sec. 36-371. - Fractional space.

When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

(Code 1991, § 19-283; Ord. No. 83, § 14.01.2, 4-16-1984)

Sec. 36-372. - Requirements for use not mentioned.

In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply.

(Code 1991, § 19-284; Ord. No. 83, § 14.01.3, 4-16-1984)

Sec. 36-373. - Use of parking areas.

(a) No commercial repair work, servicing or selling of any kind shall be conducted in any parking area. Parking space shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons.

(b) No sign shall be erected in parking areas except that no more than one directional sign at each point of ingress or egress may be erected which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed 20 square feet in area and shall not project beyond the property line of the premises.

(Code 1991, § 19-285; Ord. No. 83, § 14.01.4, 4-16-1984)

Sec. 36-374. - Building additions or other increases in floor area.

Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any premises' use, additional parking shall be provided and maintained in the proper ratio to the use change increased floor area or capacity.

(Code 1991, § 19-286; Ord. No. 83, § 14.01.5, 4-16-1984)

Sec. 36-375. - Joint use of parking areas.

(a) The joint use of parking facilities by two or more uses may be granted by the board of appeals whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design and construction are met.

(b) In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.

(c) A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the register of deeds of the county. The agreement shall include a guarantee for continued use of the parking facility by each party.

(Code 1991, § 19-287; Ord. No. 83, § 14.01.6, 4-16-1984)

Sec. 36-376. - Parking space requirements.

The number of required off-street parking spaces in the RA-1, RA-2, B-2 and LI districts shall be provided in accordance with the following:

(1) *One- and two-family dwellings.* Two spaces for each family dwelling unit.

(2) *Multiple dwellings.* Two spaces for each dwelling unit.

(3) *Boardinghouses and lodginghouses, fraternities, private clubs.* One space for each bedroom or each two

occupants of the structure, whichever is greater.

(4) *Motels, auto courts, tourist homes.* One space for each sleeping unit plus two spaces for operating personnel.

(5) *Hotels.* One space for each guestroom, plus one additional space for every five employees.

(6) *Mobile home park.* Two spaces for each mobile home site plus one space for each mobile home park employee.

(7) *Convalescent homes, convents or similar uses.* One space for each four beds plus one space for every four employees.

(8) *Hospitals, sanitariums.* One space for each three patient beds plus one space for each staff or visiting doctor plus one space for each four employees.

(9) *Clinics.* Four spaces for each doctor plus one space for each employee.

(10) *Auditoriums (incidental to schools), churches, stadiums, gyms, theaters and buildings of similar use with fixed seats.* One space for each four seats plus one space for every two employees.

(11) *Auditoriums (other than incidental to schools), lodge halls, meeting halls, community centers or buildings of similar use without fixed seats.* One space for every six persons of legal capacity.

(12) *Elementary and middle schools.* One space for every two employees plus one space for every six persons where the school contains an auditorium and/or stadium or gym.

(13) *High schools and colleges.* One space for every employee plus one space for each five students.

(14) *Libraries, museums, post offices.* One space for every 800 square feet of floor area plus one space for every four employees.

(15) *Private golf clubs, swimming pool clubs, tennis clubs or other similar uses.* One space for every two member families or individuals.

(16) *Golf courses open to the public, except miniature or par three courses.* Four spaces for each hole plus one space for each employee.

(17) *Stadiums and sports arenas.* One space for every four seats.

(18) *Dancehalls, pool and billiard rooms, exhibition halls, roller rinks.* One space for each 100 square feet of floor area used for dancing or assembly.

(19) *Bowling alleys.* Five spaces for each alley plus one space for each employee.

(20) *Miniature or par three golf courses.* Three spaces for each hole plus one space for each employee.

(21) *Professional offices and banks.* One space for every 200 square feet of floor area.

(22) *General offices.* One space for every 200 square feet of floor area.

(23) *Clothing, furniture, appliance, hardware, automobile, machinery sales, shoe repair, personal services (other than beauty shops and barbershops), wholesales.* One space for every 200 square feet of floor area.

(24) *Barbershops and beauty parlors.* Two spaces for each beauty and/or barber chair.

(25) *Supermarket, self-service food store.* One space for every 50 square feet of floor area.

(26) *Restaurants, cafeterias, taverns, bars.* One space for every 75 square feet of floor area, or one space for every three seats, whichever is greater (only in B-2 district).

(27) *Automobile service and repair garages; gasoline filling and service stations.* Three spaces for each repair and service stall plus one space for every employee.

(28) *Drive-in restaurants for fast-food establishments.* One space for every five square feet of floor area.

(29) *Drive-in banks, cleaners, car laundries, and similar businesses.* Space for five cars between the sidewalk area and one space for every 200 square feet of floor area.

(30) *Retail stores, except as otherwise specified herein.* One space for every 150 square feet of floor area.

(31) *Funeral homes and mortuaries.* One space for every 25 square feet of floor area of chapels and assembly rooms.

(32) *Warehouses, wholesale stores.* One space for every 800 square feet of floor area.

(33) *Industrial or manufacturing establishments, including research and testing laboratories, creameries, bottling works, printing and engraving shops.* One space for every three employees for industry's largest working shift or one space for every 400 square feet of gross floor area, whichever is greater. No off-street parking spaces shall be required in the B-1 district except that all dwelling units shall be provided with at least one space.

(Code 1991, § 19-288; Ord. No. 83, § 14.02, 4-16-1984)

Sec. 36-377. - Location of parking areas.

All off-street parking areas shall be located on the same lot or on the adjacent premises in the same district as the use they are intended to serve, with the exception of the following:

(1) Uses in B-1, B-2 districts: parking on the premises or within 300 feet.

(2) Uses in LI district: parking on the premises or within 300 feet.

(3) Public and quasi-public buildings, places of assembly, private clubs, associations and institutions: parking on the premises or within 300 feet.

(Code 1991, § 19-289; Ord. No. 83, § 14.03, 4-16-1984)

Sec. 36-378. - Site development requirements.

All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements:

(1) A minimum area of 200 square feet or ten feet by 20 feet shall be provided for each vehicle parking space; each space shall be definitely designated and reserved for parking purposes exclusive of space requirements for adequate ingress and egress.

(2) Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.

(3) Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided:

a. Except for parking space provided for single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than 30 feet wide and so located as to secure the most appropriate development of the individual property.

b. Each entrance to and exit from an off-street parking area shall be at least 25 feet from any adjacent lot within a residential district.

(4) Each parking space within an off-street parking area shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required maneuvering

lanes may vary depending upon the proposed parking pattern, as follows:

a. For right angle parking patterns 75 to 90 degrees, the maneuvering lane width shall be a minimum of 24 feet.

b. For parking patterns 54 to 74 degrees, the maneuvering lane width shall be a minimum of 15 feet.

c. For parking patterns 30 to 53 degrees, the maneuvering lane width shall be a minimum of 12 feet.

d. All maneuvering lane widths shall permit one-way traffic movement, except for the 90-degree pattern which may provide for two-way traffic movement.

(5) Parking areas with a capacity of four or more vehicles shall be surfaced with a material that shall provide a durable, smooth and dustless surface and shall be graded and provided with adequate drainage.

(6) Except for single-family and two-family residential lots, adequate lighting shall be provided throughout the hours when the parking area is in operation. All lighting shall be so arranged as to reflect light away from any residential property adjacent to the parking area and any adjacent road or street.

(7) Where a parking area with a capacity of four or more vehicles adjoins a residential district a landscaped buffer strip at least ten feet wide shall be provided between the parking area and the adjoining property, or a fence, wall or berm no less than four feet in height shall be erected.

(Code 1991, § 19-290; Ord. No. 83, § 14.04, 4-16-1984)

Sec. 36-379. - Reduction, modification, waiver.

The zoning administrator may authorize a reduction, modification or waiver of up to ten percent of any of the off-street parking or loading regulations provided in this article pursuant to the procedure and requirements of section 36-73.

(Code 1991, § 19-291; Ord. No. 83.4, 2-15-1989)

Sec. 36-380. - Loading and unloading space requirements.

(a) *Intent and purpose.* In order to prevent undue interference with public use of streets and alleys, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of vehicles that will be at the premises at the same time on an average day of full use. (This requirement is waived in the B-1 district.)

(b) *Additional parking space.* Loading space required under this section shall be provided as area additional to off-street parking space as required under this article and shall not be considered as supplying off-street parking space.

(c) *Space requirements.* There shall be provided adequate space for standing, loading and unloading service not less than 12 feet in width, 25 feet in length, and 14 feet in height, open or enclosed, for uses listed in the following table, or for similar uses similarly involving the receipt or distribution by vehicles of material or merchandise:

Use	Floor Area (square feet)	Required Space

Commercial uses, such as retail stores, personal services, amusement, automotive service	First 2,000	None
	Next 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
Hotels, offices	First 2,000	None
	Next 50,000 or fraction thereof	1
	Each additional 100,000 or fraction thereof	1
Wholesale and storage, including building and contractor's yards	First 20,000	1
	Each additional 20,000 or fraction thereof	1
Manufacturing uses	First 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
Funeral homes and mortuaries	First 5,000 or fraction thereof	1
	Each additional 10,000 or fraction thereof	1
Hospitals	First 20,000	1,
	Next 100,000 or fraction thereof	1
	Each additional 200,000 or fraction thereof	1
Schools, churches, clubs, public assembly buildings	For each building	1

For similar uses not listed	For each building 5,000 or over	1

(d) *Access.* Access to a truck standing, loading and unloading space shall be provided directly from a public street or alley and such space shall be so arranged to provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley.

(e) *Screening.* All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential properties or public thoroughfares, shall be screened by a vertical screen consisting of structural (fence) or plant materials no less than six feet in height.

(Code 1991, § 19-292; Ord. No. 83, § 14.05, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Secs. 36-381—36-403. - Reserved.

ARTICLE VII. - SIGNS

Footnotes:
*--- (**3**) ---*
***State Law reference—** Highway advertising act, MCL 252.301 et seq.*

Sec. 36-404. - Purpose.

The purpose of this article is to provide a framework within which the identification and informational needs of all land uses can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives. It is a basic tenet of this article that unrestricted signage does not benefit either private enterprise or the community at large.

(1) All portable signs shall be located no closer than one-half the setback distance for a permanent structure, to the street right-of-way line.

(2) Any portable signs shall not exceed 50 square feet in surface display area.

(3) Any portable signage exceeding the requirements in subsections (1) and (2) of this section shall necessitate a special use permit.

(Code 1991, § 19-316; Ord. No. 83, §§ 15.01, 15.06, 4-16-1984)

Sec. 36-405. - Residential districts.

Signs shall be permitted in residential districts subject to the following restrictions:

(1) Signs no larger than ten square feet in area shall be permitted for any of the following purposes:

a. Sale or lease of property (real or personal);

b. Political advertising.

(2) Signs advertising new subdivisions or major developments may be permitted by the planning commission for

no more than one year, provided they do not exceed 25 square feet in area.

(3) Public institutions and churches permitted in residential districts shall comply with regulations for commercial uses.

(Code 1991, § 19-317; Ord. No. 83, § 15.02, 4-16-1984)

Sec. 36-406. - Commercial or industrial districts.

Signs shall be permitted in commercial or industrial districts subject to the following restrictions:

(1) Signs shall pertain exclusively to the business carried on within the building.

(2) Signs shall be placed flat against the main building or parallel to the building on a canopy and may face only the public street or parking areas as part of the development. Signs shall not project above the roof line or cornice.

(3) Signs painted or affixed to building shall not exceed ten percent of the surface area of the building face to which attached.

(4) Signs may be illuminated, but no flashing or moving illumination shall be permitted. The source of illumination shall be shielded from traffic and adjacent properties and shall not be visible beyond the property line of the parcel on which the sign is located.

(5) Freestanding signs shall:

a. Not obstruct a clear view of traffic;

b. Not exceed 25 feet in height;

c. Not exceed one per property, regardless of number of businesses;

d. Set back at least ten feet, measured from the right-of-way line to the leading edge of the sign;

e. Not exceed 25 square feet in area.

(Code 1991, § 19-318; Ord. No. 83, § 15.03, 4-16-1984)

Sec. 36-407. - Moving or revolving signs.

Any sign which revolves or has any visible moving parts, visible revolving parts or visible mechanical movement of any type, or other apparent visible movement achieved by electrical, electronic or mechanical means, excepting those actions associated with time-temperature signs, shall be prohibited.

(Code 1991, § 19-319; Ord. No. 83, § 15.04, 4-16-1984)

Sec. 36-408. - Creation of traffic hazard.

No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop," "look," "danger" or any word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

(Code 1991, § 19-320; Ord. No. 83, § 15.05, 4-16-1984)

Sec. 36-409. - Portable or movable signs.

Any freestanding sign not permanently anchored or secured to either a building or the ground, including but not limited to A-frame, T-frame or inverted T-shaped structures, including those signs mounted on wheeled trailers, shall be permitted only in accordance with the following provisions:

(1) Portable signs are permitted for grand openings, advertising charitable or community-related events and the like.

(2) Being temporary in nature, such portable signs may be permitted for a period not to exceed 90 days.

(Code 1991, § 19-321)

Sec. 36-410. - Outdoor advertising structures.

Outdoor advertising structures and billboards other than those signs which exclusively advertise businesses on the premises on which they are located may be permitted by special use permit in all districts except medium density residential in accordance with the following limitations:

(1) *Location.* Outdoor advertising structures shall be located at least 50 feet from the right-of-way line of the street on which it fronts.

(2) *Illumination.* Outdoor advertising structures may be illuminated provided, however, that the illumination is not visible beyond the property lines of the parcel upon which the structure is located.

(3) *Maintenance.* Outdoor advertising structures shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of structure and preservation of structure with paint or other surface finishing material. If an outdoor advertising structure is not maintained, written notice of any disrepair shall be issued by the zoning administrator to the owner of the structure. If the disrepair is not corrected within 30 days, the structure shall be removed at the owner's expense.

(4) *Size.* No outdoor advertising structure shall exceed 300 square feet in surface display area.

(5) *Spacing.* No outdoor advertising structure shall be located within 500 feet of any other outdoor advertising structure.

(Code 1991, § 19-322; Ord. No. 83, § 15.07, 4-16-1984)

Sec. 36-411. - Existing nonconforming signs.

It is the intent of this section to permit the continuance of a lawful use of any sign or outdoor advertising structure existing on May 6, 1984, although such sign or outdoor advertising structure may not conform with the provisions of this article. It is the intent that nonconforming signs and outdoor advertising structures shall not be enlarged upon, expanded or extended. Further, it is the intent that nonconforming signs and outdoor advertising structures shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The continuance of all nonconforming signs and outdoor advertising structures within the city shall be subject to the following conditions and requirements:

(1) *Structural changes.* The faces, supports or other parts of any nonconforming sign or outdoor advertising structure shall not be structurally changed, altered, substituted or enlarged unless the resultant changed, altered, substituted or enlarged sign or outdoor advertising structure conforms to the provisions of this article for the use it is intended, except as otherwise provided for.

(2) *Repairs, alterations and improvements.* Nothing shall prohibit the repair, reinforcement, alteration,

improvement or modernizing of a lawful nonconforming sign or outdoor advertising structure, provided such repair does not exceed an aggregate cost of 30 percent of the appraised replacement cost as determined by the building inspector, unless the subject sign or outdoor advertising structure is changed by such repair, reinforcement, alteration, improvement or modernizing to a conforming structure. Nothing in this section shall prohibit the periodic change of message on any outdoor advertising structure.

(3) *Restoration of damage.* Any lawful nonconforming sign or outdoor advertising structure damaged by fire, explosion or an act of God, or by other accidental causes, may be restored, rebuilt or repaired, provided that the estimated expense of reconstruction does not exceed 50 percent of the appraised replacement cost as determined by the building inspector.

(4) *Discontinuance or abandonment.* Whenever the activity, business or usage of a premises to which a sign is attached or related has been discontinued for a period of 90 days or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming sign attached or related thereto. At the end of this period of abandonment, the nonconforming sign shall either be removed or altered to conform with the provisions of this article.

(5) *Elimination of nonconforming signs.* The city council may acquire any nonconforming sign or outdoor advertising structure, with or without acquiring the property on which such sign or structure is located, by condemnation or other means, and may remove such sign or structure.

(Code 1991, § 19-323; Ord. No. 83, § 15.08, 4-16-1984)

Secs. 36-412—36-435. - Reserved.

ARTICLE VIII. - SPECIAL USES

Footnotes:
*--- (**4**) ---*
***State Law reference—** Special land uses, MCL 125.3502 et seq.*

DIVISION 1. - GENERALLY

Sec. 36-436. - Purpose and intent.

Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this article to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this zoning chapter, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide controllable and reasonable flexibility, this article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized within certain zone districts by the issuance of a special use permit. By such a procedure, the planning commission and the city council have the opportunity to impose conditions and safeguards upon each use which are deemed necessary for the protection of the public welfare.

(Code 1991, § 19-346; Ord. No. 83, § 16.01, 4-16-1984)

Secs. 36-437—36-455. - Reserved.

DIVISION 2. - SPECIAL USE PERMIT

Sec. 36-456. - Application procedures.

An application for a special use permit for any land use or structure permitted under this article shall be submitted and processed under the following procedures:

(1) *Submission of application.* Any application shall be submitted through the city clerk on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by resolution of the city council from time to time to cover the costs of processing the application.

(2) *Data required.* Every application shall be accompanied by the following information and data:

a. The special form supplied by the city clerk filled out in full by the applicant, including a statement of supporting evidence concerning the required findings specified in section 36-534.

b. Two copies of a site plan, drawn to a readable scale (preferably one inch equals 100 feet) and containing that information specified in section 36-534.

(3) *City clerk actions.*

a. Within five working days of the receipt of the submission of an application, the city clerk shall determine whether it is in proper form, contains all required information, and shows compliance with all applicable provisions.

b. Upon certification by the zoning administrator that the site plan and application form are complete, one copy of the site plan shall be forwarded to the planning commission. The city clerk may also submit one copy of the site plan to each of the following agencies considered to be impacted or affected by the special use permit application:

1. County road commission;
2. County health department;
3. County drain commissioner;
4. City fire department; or
5. City police chief.

(Code 1991, § 19-361; Ord. No. 83, § 16.02, 4-16-1984)

Sec. 36-457. - Planning commission review.

The planning commission shall review the site plan and application for a special use permit at its next scheduled meeting following receipt from the city clerk. After adequate study and review, incorporating information provided by the reviewing agencies listed in section 36-456, the planning commission may conduct a public hearing as required by MCL 125.3502.

(Code 1991, §§ 19-362, 19-363; Ord. No. 83.4, 2-15-1989)

Sec. 36-458. - Planning commission action.

Whether or not a public hearing is held under section 36-457, the planning commission shall review the application for special land use. It may deny, approve or approve with conditions the application for special land use approval. Its decision shall be incorporated in a statement of conclusions relative to the special land use under consideration, and shall specify the basis for the decision and any conditions imposed. In arriving at its decision, the planning commission shall refer to and be guided by those standards set forth in section 36-463. A request for approval of a land use or activity which is in compliance with those standards, other applicable ordinances and state and federal statutes shall be approved.

(Code 1991, § 19-364; Ord. No. 83.4, 2-15-1989)

Sec. 36-459. - Appeal to zoning board of appeals.

An appeal on a special use permit decision may be taken to the zoning board of appeals within ten days following the decision of the planning commission. The zoning board of appeals shall review the decision to determine whether the standards of the ordinance were properly applied and may affirm, reverse or modify with conditions the decision of the planning commission upon findings supporting its conclusion.

(Code 1991, § 19-365; Ord. No. 83.4, 2-15-1989)

Sec. 36-460. - Compliance with permit conditions; revocation.

(a) A special use permit issued under section 36-458 shall be valid for a period of one year from the date of the issuance of the permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, the zoning administrator shall notify the applicant in writing of the expiration or revocation of the permit; provided, however, that the city council may waive or extend the period of time in which the permit is to expire if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction. The planning commission shall review every special use permit and the associated land use prior to the expiration of the permit and shall recommend continuance or discontinuance of the permit based on whether the activities, structures and other site characteristics satisfactorily comply with the conditions stipulated in the special use permit. This determination of the planning commission shall be forwarded to the city council with a recommended action.

(b) The city council shall have the authority to revoke any special use permit following a hearing, after it has been proved that the holder of the permit has failed to comply with any of the applicable conditions specified in the permit. After a revocation notice has been given, the use for which the permit was granted must cease within 60 days.

(Code 1991, § 19-366; Ord. No. 83, § 16.08, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-461. - Reapplication.

No application for a special use permit which has been denied wholly or in part by the city council shall be resubmitted until the expiration of one year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions.

(Code 1991, § 19-367; Ord. No. 83, § 16.09, 4-16-1984)

Sec. 36-462. - Changes in approved site plan.

The site plan, as approved, shall become part of the record of approval, and subsequent actions relative to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this chapter receives the mutual agreement of the landowner and the planning commission.

(Code 1991, § 19-368; Ord. No. 83, § 16.10, 4-16-1984)

Sec. 36-463. - Basis for determination.

The planning commission, before making a recommendation on a special use permit application, and the city council, before acting on a special use permit application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this chapter, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment and the capacities of public services and facilities affected by the land use. The land use or activity shall be consistent with the public health, safety and welfare of the city and shall comply with the following standards:

(1) General standards. The planning commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on its proposed location will:

a. Be harmonious with and in accordance with the general principles and objectives of the master plan of the city.

b. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

c. Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

d. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.

e. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

f. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to ensure compliance with these standards.

g. Ensure that landscaping shall be preserved in its natural state insofar as practicable by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

h. Ensure that special attention shall be given to proper site surface drainage so that removal of stormwaters will not adversely affect neighboring properties.

i. Ensure that all exterior lighting shall be so arranged 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.

(2) The foregoing general standards are basic to all uses authorized by special use permit. The specific and detailed requirements set forth in division 3 of this article relate to particular uses and are requirements which must be those uses in addition to the foregoing general standards and requirements where applicable.

(Code 1991, § 19-369; Ord. No. 83, § 16.11, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Secs. 36-464—36-494. - Reserved.

DIVISION 3. - SPECIAL USE REGULATIONS

Sec. 36-495. - Scope.

The provisions in this division apply to the uses of land listed in article V of this chapter, provided that a specific reference is made to a section in this division. The regulations contained in this division shall not be construed to override or replace any other applicable definition, condition or regulation contained elsewhere in this chapter unless specifically noted.

(Code 1991, § 19-381; Ord. No. 83, § 17(intro.), 4-16-1984)

Sec. 36-496. - Multifamily dwellings, conversions of single-family homes.

The following provisions shall apply to multifamily dwellings and conversions of existing large single-family homes on existing lots:

(1) Conversions of existing homes into multifamily units shall have a minimum of 500 square feet of floor area per dwelling unit. Each unit shall be provided with at least one off-street parking space.

(2) Multifamily dwelling units shall meet the following site development standards:

a. Maximum lot coverage shall be 35 percent.

b. Lot size shall contain 4,000 square feet per dwelling unit.

c. Multifamily dwellings must have an average of 750 square feet per unit. Not more than ten percent of all units in the building shall be efficiency.

(3) All signs and off-street parking shall be in compliance with this chapter.

(Code 1991, § 19-382; Ord. No. 83, § 17.01, 4-16-1984)

Sec. 36-497. - Group housing developments.

(a) *Definition.* The term "group housing development" means residential housing customarily known as garden apartments, terrace apartments, townhouses, row housing units, condominiums and other housing structures of similar character where two or more buildings of similar character are built on one parcel or lot.

(b) *Site development requirements.*

(1) *Minimum site area.* No group housing development shall be authorized with a gross site area of less than one acre.

(2) *Minimum lot area.* No group housing development shall be established on a lot or parcel having a width less than 200 feet. The lot area per family or dwelling unit shall not be less than 5,000 square feet.

(3) *Maximum lot coverage.* Not more than 35 percent of the net area within the property lines within a group housi including accessory buildings, shall be covered by buildings.

(4) *Yards.* The minimum horizontal distance between buildings (front to front, rear to rear or front to rear) shall be 50 feet. The minimum horizontal distance between sides of buildings shall be not less than 20 feet.

(5) *Yard dimensions.* No building shall be closer than 40 feet to any street, 50 feet to any rear property line, or 20 feet to an interior side property line. No building shall be closer than 25 feet to any street right-of-way line.

(6) *Streets and accessways.* All streets and accessways, public or private, shall meet the requirements and specifications of the county road commission.

(7) *Proximity of dwelling to driveways, parking areas.* No dwelling in a group housing development shall be closer to a street access drive or a parking area than 25 feet.

(8) *Signs, off-street parking.* All signs and off-street parking shall be in compliance with this chapter.

(9) *Building height.* Maximum height shall be 35 feet.

(Code 1991, § 19-383; Ord. No. 83, § 17.02, 4-16-1984)

Sec. 36-498. - Mobile home developments.

(a) *Definition.* The term "mobile home development" means a mobile home park or a mobile home condominium development subject to the provisions of Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

(b) *Regulations and conditions.*

(1) Connection to publicly owned sanitary sewer facilities or on-site privately owned and licensed sanitary sewage disposal system is required.

(2) The minimum gross site area shall be five acres.

(3) The site shall be adjacent to and serviced by an all-weather public thoroughfare, as defined in this chapter.

(4) Only the following land and/or building uses may be permitted:

a. Mobile homes as defined in this chapter.

b. One office space for conducting the business of the mobile home park.

c. Utility buildings for laundry facilities and auxiliary storage space for mobile home park tenants.

d. Recreation areas such as community buildings, playgrounds and open space for use by mobile home park tenants.

(5) General development standards. The design and development of mobile home parks shall be subject to all current provisions of the mobile home commission general rules as adopted by the state mobile home commission.

(6) Operating standards.

a. The operation and business practices of mobile home parks shall be subject to all current provisions of the mobile home commission general rules as adopted by the state mobile home commission.

b. No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of mobile home parks.

(7) Home occupations shall be prohibited from mobile home parks.

(8) The keeping of livestock shall be prohibited from mobile home parks.

(9) All signs and off-street parking shall be in compliance with this chapter.

(Code 1991, § 19-384; Ord. No. 83, § 17.03, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-499. - Institutional structures and uses.

(a) *Authorization.* In recognition of the many types of institutional, nonresidential functions that have been found compatible and reasonably harmonious with residential, agricultural and commercial uses, the planning commission and city council may authorize the construction, maintenance and operation in the RA-1 and RA-2 districts of certain institutional uses specified in this section.

(b) *Permitted institutional uses.* Permitted institutional uses are churches, convents, cemeteries, parsonages and other housing for religious personnel, elementary and secondary schools, institutions for higher education, auditoriums and centers for social activity such as lodges and fraternal organizations.

(c) *Site development standards.*

(1) The proposed site shall be at least 40,000 square feet in size.

(2) The proposed site shall be so located as to have at least one property line on an all-weather public thoroughfare. All ingress and egress to the site shall be directly onto the thoroughfare.

(3) No building shall be closer than 50 feet to any street right-of-way or property line.

(4) No more than 35 percent of the gross site area shall be covered by buildings.

(d) *Signs, off-street parking.* All signs and off-street parking shall be in compliance with this chapter.

(Code 1991, § 19-385; Ord. No. 83, § 17.04, 4-16-1984)

Sec. 36-500. - Subdivision regulations and conditions.

(a) All streets and roads shall meet the design and construction specifications of the county road commission and shall be dedicated as public thoroughfares as defined in this chapter.

(b) Minimum lot size shall be 12,000 square feet.

(c) All yards and setback requirements of the district in which the proposed development will be placed shall apply.

(d) In the case where a curvilinear street pattern produces irregularly shaped lots with nonparallel side lot lines, a lesser frontage width at the street line may be permitted, and lot width will be measured at the building line.

(e) All signs and off-street parking shall be in conformance with this chapter.

(Code 1991, § 19-387; Ord. No. 83, § 17.06, 4-16-1984)

Sec. 36-501. - Public and private noncommercial parks or recreation areas.

(a) *Definition.* The term "public or private park" or "commercial recreational area" means a parcel of land used for, but not limited to, playgrounds, sports fields, game courts, beaches, trails and picnicking areas for the pleasure of the general public or private groups on a commercial or noncommercial basis.

(b) *Regulations.*

(1) Minimum lot size shall be 40,000 square feet.

(2) Frontage shall be required on a public thoroughfare.

(3) Minimum frontage shall be 100 feet.

(4) Children's amusement parks such as miniature golf courses and similar uses shall be completely enclosed on al wall or fence four feet in height.

(Code 1991, § 19-388; Ord. No. 83, § 17.07, 4-16-1984)

Sec. 36-502. - Gasoline service stations, parking garages, commercial garages.

(a) *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:

Commercial garage means a building, structure or parcel of land or any portion thereof used for the repairing, cleaning, sewing, equipping, painting or diagnosing of motor vehicles when operated as a business and not necessarily required to be registered as a motor vehicle repair facility pursuant to Public Act No. 300 of 1974 (MCL 257.1301 et seq.).

Gasoline service station means a structure, building or parcel of land or any portion thereof used for the retail dispensing or sale of vehicular fuels or other flammable fuels, and including minor repair services as defined in R257.111, Michigan Administrative Code, as amended.

Parking garage means a structure, building or parcel of land or any portion thereof used for the storage or parking of motor vehicles, or boats operated as a business, and excluding minor or major repair services as defined in R257.111, Michigan Administrative Code, as amended.

(b) *Regulations and conditions.*

(1) Parking or storage of inoperative vehicles shall be completely surrounded by an opaque fence of not less than six feet in height.

(2) Minimum frontage of 100 feet shall be required.

(3) Minimum lot area shall be increased 500 square feet for each fuel pump unit in excess of four, and 1,000 square feet for each service bay in excess of two, and 300 square feet for each parking space intended for the storage of inoperative vehicles.

(4) All buildings and necessary structures including gasoline pumps shall be set back 50 feet from any lot line and 75 feet from any street right-of-way line.

(5) All equipment including hydraulic hoist, pits and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment.

(6) All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.

(7) There shall be no aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases.

(8) All signs and off-street parking and loading shall be in conformance with this chapter.

(Code 1991, § 19-389; Ord. No. 83, § 17.08, 4-16-1984)

Sec. 36-503. - Automobile salvage and private junkyards.

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

Automobile salvage yard means any parcel of land used for the purpose of selling, exchanging or dealing in motor vehicle parts which requires a license from the secretary of state pursuant to Public Act No. 300 of 1949 (MCL 257.1 et seq.), specifically those operating defined as used vehicle parts dealer, a vehicle salvage pool or a vehicle scrap metal processor.

Junkyard means the same as defined in section 36-1.

(b) *Regulations and conditions.*

(1) All uses shall be established and maintained in accordance with all applicable state laws.

(2) The site shall be a minimum of three acres in size.

(3) The site shall have access on a major thoroughfare as defined in this chapter.

(4) A solid fence, wall or earthen berm at least six feet in height shall be provided around the periphery of the site to screen the site from surrounding property. Such fence, wall or berm shall be of sound construction, painted or otherwise finished neatly and inconspicuously. All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the enclosed area.

(5) Industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.

(6) All fenced-in areas shall be set back at least 50 feet from any front street or property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. The spacing and type of plant materials will be determined by the city council after receiving a recommendation from the planning commission.

(7) No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within an area screened from public view.

(8) Whenever the installation abuts upon property within a residential district, a transition strip at least 100 feet in width shall be provided between the fenced-in area and the property within a residential district. Such strip shall contain plant materials, grass and structural screens to effectively minimize the appearance of the installation and to help confine odors therein.

(Code 1991, § 19-390; Ord. No. 83, §§ 17.09, 17.10, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-504. - Slaughterhouses and meat, poultry or food processing plants.

(a) *Definition.* The term "slaughterhouse" or "meat or poultry processing plant" means a facility where livestock, poultry and/or food are brought to be slaughtered, processed and packaged.

(b) *Regulations and conditions.* All regulations and conditions for the LI Light Industrial District shall apply except that:

(1) Access shall be restricted to a city major thoroughfare only.

(2) Minimum lot width shall be 300 feet.

(3) Minimum lot size shall be five acres.

(4) No animal storage facility or holding pen shall be less than 150 feet from any lot line.

(Code 1991, § 19-391)

Secs. 36-505—36-531. - Reserved.

ARTICLE IX. - SITE PLAN REQUIREMENTS

Footnotes:
*--- **(5)** ---*
***State Law reference—** Submission and approval of site plan, MCL 125.3501.*

Sec. 36-532. - Purpose.

It is the purpose of this article to specify standards and data requirements which shall be followed in the preparation of site plans, plot plans or development plans as specified in article V, division 5 of this chapter.

(Code 1991, § 19-416; Ord. No. 83, § 18.01, 4-16-1984)

Sec. 36-533. - Approval required.

Site plan approval is required as follows:

(1) For those uses requiring special use permits as specified.
(2) For all uses within the B-1 Central Business District, B-2 General Business District, and the LI Light Industrial District.
(3) For planned unit developments.

(Code 1991, § 19-417; Ord. No. 83, § 18.02, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-534. - Required data.

The following data is required on site plans and shall be provided on a professional quality drawing of scale one inch equals 100 feet:

(1) Property dimensions and legal description, including angles, lot area and an arrow pointing north.
(2) The intended use, size, shape, location, height and floor area of proposed buildings and finished ground and basement grades.
(3) Natural features such as woodlots, streams, county drains, lakes or ponds, and manmade features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.
(4) Existing public right-of-way and private easements of record.
(5) Proposed streets, driveways, parking spaces, sidewalks, with indication of direction of travel, the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks and the total number of parking spaces, and dimensions of a typical individual parking space and associated aisles.
(6) A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within 300 feet in every direction of the proposed use including land uses on the opposite side of any public thoroughfare.
(7) Location of water supply and the location and design of wastewater systems.
(8) Proposed location of accessory buildings and use, including freestanding signs.

(9) A landscaping plan indicating the locations of planting and screening, fencing and lighting. Also, proposed locati common open spaces, if applicable.

(10) Such other information as is necessary to enable the planning commission to determine whether the proposed site plan will conform to the provisions of this chapter.

(Code 1991, § 19-418; Ord. No. 83, § 18.03, 4-16-1984)

Sec. 36-535. - Approval standards.

Each site plan shall conform with the applicable provisions of this chapter and the standards listed as follows:

(1) Site plans shall fully conform with the published surface water drainage standards of the county drain commission.

(2) Site plans shall fully conform with the driveway and traffic safety standards of the state department of transportation and/or the county road commission.

(3) Site plans shall fully conform with the applicable fire safety and emergency vehicle access requirements of the state construction code.

(4) Site plans shall fully conform with the county soil erosion and sedimentation control ordinance.

(5) Site plans shall fully conform with the requirements of the state department of public health and the district health department.

(6) Site plans shall fully conform with all applicable state and federal statutes.

(Code 1991, § 19-419; Ord. No. 83.4, 2-15-1989)

Secs. 36-536—36-563. - Reserved.

ARTICLE X. - NONCONFORMING USES OF LAND AND STRUCTURES

Footnotes:
*--- (**6**) ---*
***State Law reference—** Nonconforming uses or structures, MCL 125.3208.*

Sec. 36-564. - Intent and purpose.

(a) It is the intent of this article to permit legal nonconforming lots, structures or uses to continue until they are removed, but not to encourage their survival.

(b) It is recognized that there exists within the districts established by this chapter and subsequent amendments, lots, structures and uses of land and structures which were lawful before this chapter was passed or amended, which would be prohibited, regulated or restricted under the terms of this chapter.

(Code 1991, § 19-441; Ord. No. 83, § 19.01, 4-16-1984)

Sec. 36-565. - Nonconforming lots.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on May 6, 1984. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided, that yard dimensions and other requirements not involving area or width, or both, of the lot, shall conform to the regulations for the district in which such lot is located, unless a yard requirement variance is obtained through approval of the zoning board of appeals. However, wherever multiple contiguous lots of record are in single ownership, and each is below the minimum requirements for lot width, or area or both in a district, then the lots shall be combined in the minimum number necessary to meet the lot size requirements of the district in which they are located; in so doing the combined lot shall be considered as a single lot for zoning purposes.

(Code 1991, § 19-442; Ord. No. 83, § 19.02, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-566. - Nonconforming uses of land.

Where, on May 6, 1984, lawful use of land exists that is made no longer permissible under the terms of this article as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on May 6, 1984.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on May 6, 1984.

(Code 1991, § 19-443; Ord. No. 83, § 19.03, 4-16-1984)

Sec. 36-567. - Nonconforming structures.

Where a lawful structure exists on May 6, 1984, that could not be built under the terms of this chapter by reason of restrictions on area lot coverage, height, yards or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the district in which it is located, provided that all such changes are also in conformance with the requirements of the district in which it is located. Furthermore, any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time for adoption or amendment of this article, but no such use shall be extended to occupy any land outside such building.

(2) Should such structure be destroyed by any means to an extent of more than 60 percent of twice its assessed evaluation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this article.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of structure shall eliminate the nonconforming status of the land.

(Code 1991, § 19-444; Ord. No. 83, § 19.04, 4-16-1984)

Sec. 36-568. - Change in nonconforming uses.

Irrespective of other requirements of this article, if no structural alterations are made, any nonconforming use of a structure and premises may be changed to another nonconforming use of the same or a more restricted classification, provided that the board of appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is not less appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this article. Where a nonconforming use of a structure, land or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

(Code 1991, § 19-445; Ord. No. 83, § 19.05, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-569. - Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the assessed value of the building, provided that the cubic content of the building on May 6, 1984, shall not be increased. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Code 1991, § 19-446; Ord. No. 83, § 19.06, 4-16-1984)

Sec. 36-570. - Change of tenancy or ownership.

As long as there is no change in the character or nature of the nonconforming use, a change of tenancy or ownership is allowed.

(Code 1991, § 19-447; Ord. No. 83, § 19.07, 4-16-1984)

Sec. 36-571. - District changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this article shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

(Code 1991, § 19-448; Ord. No. 83, § 19.08, 4-16-1984)

Sec. 36-572. - Hardship cases.

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the zoning board of appeals when the board finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public

currently derives from the property as used in its nonconforming status, except that any approval for structural changes, alteration or enlargement may be granted only with a finding by the board that approval will not have an adverse effect on surrounding property and that it will be the minimum necessary to relieve the hardship.

(Code 1991, § 19-449; Ord. No. 83, § 19.09, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-573. - Illegal nonconforming uses.

Nonconforming uses of structures or land existing on May 6, 1984, that were established without approval of zoning compliance or without a valid building permit or those nonconforming uses which cannot be proved conclusively as existing prior to May 6, 1984, shall be declared illegal nonconforming uses and are not entitled to the status and rights accorded legally established nonconforming uses.

(Code 1991, § 19-450; Ord. No. 83, § 19.10, 4-16-1984)

Secs. 36-574—36-594. - Reserved.

ARTICLE XI. - AMENDMENTS

Footnotes:
--- (7) ---
State Law reference— *Amendment procedure, MCL 125.3401 et seq.*

Sec. 36-595. - Purpose and intent.

The purpose of this article is for establishing and maintaining sound, stable and desirable development within the territorial limits of the city. It is not intended that this chapter be amended except to correct an error in the chapter, or because of changed or changing conditions in a particular area in the city generally or to conform with changes to the master plan and/or other ordinances of the city; to meet public need for new or additional land uses, or to further protect the environment, neighborhoods, public infrastructure or other public investment in the city.

(Code 1991, § 19-471; Ord. No. 83, § 20.01, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-596. - Initiation of amendments.

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

(Code 1991, § 19-472; Ord. No. 83, § 20.02, 4-16-1984)

Sec. 36-597. - Filing fee.

The city council shall establish by resolution a fee to be paid in full at the time of receipt of any application to amend this chapter. The fee shall be collected by the city clerk and no part shall be refundable to the applicant. No fee shall be charged when the applicant is a governmental body.

(Code 1991, § 19-473; Ord. No. 83, § 20.03, 4-16-1984)

Sec. 36-598. - Application procedures.

(a) *Submission of application.* A petitioner shall submit a completed and signed application for ordinance amendment, along with the appropriate fees, to the city clerk. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment.

(b) *Review of application.* The zoning administrator shall review the application form to ensure it is complete. Any application not properly filed or completed shall be returned to the applicant. Complete applications shall be transmitted to the planning commission.

(c) *Notice of hearing.* After transmitting the amendment application to the planning commission, the clerk shall establish a date for a public hearing on the application which will be conducted by the planning commission within 45 days of the date of application receipt. The clerk shall give notice of the public hearing as required by MCL 125.3401.

(Code 1991, § 19-474; Ord. No. 83.4, 2-15-1989)

Sec. 36-599. - Application contents.

The applicant for an amendment to this chapter shall submit a detailed description of the petition to the city clerk. When the petition involves a change in the zoning map, the applicant shall submit the following information:

(1) A legal description of the property;

(2) A scaled map of the property, correlated with the legal description, and clearly showing the property's location;

(3) The name, address, e-mail address and telephone number of the applicant;

(4) The applicant's interest in the property, and if the applicant is not the owner, the name, address, e-mail address and telephone number of the owner;

(5) Date of filing with the city clerk;

(6) Signature of petitioner and owner certifying the accuracy of the required information;

(7) The desired change and reasons for such change.

(Code 1991, § 19-475; Ord. No. 83, § 20.05, 4-16-1984)

Sec. 36-600. - Planning commission recommendations.

(a) *Scope of examination.* In reviewing any application for an amendment to this chapter, the planning commission shall identify and evaluate all factors relevant to the application, and shall report its findings in full along with its recommendations for disposition of the application, to the city council within a period of 60 days. The matters to be considered by the planning commission shall include, but shall not be limited to, the following:

(1) What, if any, identifiable conditions related to the application have changed which justify the proposed amendment?

(2) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?

(3) What is the impact of the amendment on the ability of the city and other governmental agencies to provide

adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?

(4) Does the petitioned district change adversely affect environmental conditions, or the value of the surrounding property?

(5) Does the petitioned district change generally comply with the adopted city master plan?

(6) The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located.

(b) *Findings of fact.* All findings of fact shall be made a part of the public records of the meetings of the planning commission. The planning commission shall transmit its findings of fact and a summary of comments received at the public hearing to the city council.

(c) *Outside agency review.* In determining the findings of fact mentioned in subsection (b) of this section, the planning commission may solicit information and testimony from officials of, but not limited to, the following agencies:

(1) The county health department;

(2) The county road commission;

(3) The county drain commission; and

(4) Any school district affected.

(Code 1991, § 19-476; Ord. No. 83, § 20.06, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-601. - Consideration by city council.

After receiving the recommendations of the planning commission pursuant to this article, the city council, at any regular meeting or at any special meeting called for that purpose, shall consider the findings of fact and recommendations and vote upon the adoption of the proposed amendment. Such action shall be by ordinance, requiring a majority vote of the full membership of the city council. Further it is understood pursuant to Public Act No. 110 of 2006 (MCL 125.3101 et seq.), that the council shall not deviate from the recommendation of the planning commission without first referring the application back to the planning commission, which shall have 30 days from and after such referral in which to make further recommendation of the city council, after which the city council shall take such action as it determines. If an application is referred back to the planning commission, the city council shall make specific mention of its objections to results of the planning commission's findings and recommendations. It is further understood that in order to lessen the possibility of adverse litigation concerning the zoning district decisions of the city council that the council shall make a complete record of the rationale for the action taken on each application for amendment to this chapter.

(Code 1991, § 19-477; Ord. No. 83, § 20.07, 4-16-1984; Ord. No. 83.4, 2-15-1989)

Sec. 36-602. - Publication of notice of amendments.

Following adoption of subsequent amendments to this chapter by the city, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

(1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment;

(2) The effective date of the amended ordinance; and

(3) The place and time where a copy of the amended ordinance may be purchased or inspected.

(Code 1991, § 19-478; Ord. No. 83, § 20.08, 4-16-1984)

Sec. 36-603. - Resubmittal.

No application for a rezoning which has been denied by the city council shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the city council to be valid.

(Code 1991, § 19-479; Ord. No. 83, § 20.09, 4-16-1984)

Sec. 36-604. - Comprehensive review of zoning ordinance.

The planning commission shall, from time to time at intervals of not more than five years, examine the provisions of this chapter and the location of zoning district boundary lines and shall submit a report to the city council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

(Code 1991, § 19-480; Ord. No. 83, § 20.10, 4-16-1984)

Secs. 36-605—36-626. - Reserved.

ARTICLE XII. - SUBDIVISION CONTROL

Footnotes:
*--- (**8**) ---*
State Law reference— *Land division act, MCL 560.101 et seq.*

DIVISION 1. - GENERALLY

Sec. 36-627. - 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:

Developer means the owner of the property being subdivided, or the owner's heirs, executors, administrators, legal representatives or successors. The word shall be deemed to include the plural as well as the singular and may mean either a natural person, association, partnership, corporation or a combination of any of them.

Improvements means street construction and surfacing, curb and gutter, water mains, storm and sanitary sewers, sidewalks, walkways, graded outlawns and bridges or culverts.

Land division act means Public Act No. 288 of 1967 (MCL 560.101 et seq.), the Act, which regulates the subdivision of land in the state.

Local street means a street dedicated to the public and intended to serve and to provide access to neighborhoods or subneighborhoods.

Municipal standards means standards and specifications of construction and installation as established and administered by the city.

Planner means the planner for the city or the planning consultant designated by the city to provide planning services.

Responsibility means the cost of labor and materials for installation.

(Code 1991, § 19-501; Ord. No. 110, § 1, 8-12-2002)

Secs. 36-628—36-657. - Reserved.

DIVISION 2. - STANDARDS AND PROCEDURES

Sec. 36-658. - Procedure by developer for filing plats.

(a) *Step one (developer's option)—Preapplication review meeting.* The developer may wish, at its option, to present a conceptual representation of the entire proposed subdivision to the city for information and feedback. The city is not required to vote to approve or deny, but can give the developer their preliminary recommendations on the proposed subdivision. Recommendations at this stage shall not infer approval at later stages. The following items shall be required if the developer wishes to submit a pre-preliminary plat:

(1) Lot sizes and lot dimensions;

(2) Street layout;

(3) Zoning of the property within the enclosed plat;

(4) Developer's name and address;

(5) Property boundary;

(6) Adjacent property and land use;

(7) Location map;

(8) Proposed phases;

(9) Existing contours;

(10) Existing natural features (wooded areas, floodplain, wetlands, open water, streams, etc.);

(11) Existing easements; and

(12) General proposed utility information.

The developer shall submit ten copies to the city clerk. A preapplication review meeting shall take place not later than 30 days after the written request and concept plan are received.

(b) *Step two—Preliminary plat for tentative approval.*

(1) The purpose of this step is to provide the developer with city approval prior to the effort of obtaining jurisdictional agency approvals. All items required for a final preliminary plat shall be provided at this step, with the exception of the preliminary approvals from other jurisdictional agencies.

(2) Items required on the preliminary plat for tentative approval.

a. All items required for pre-preliminary plat review:
    1. Lot sizes and lot dimensions;
    2. Street layout;
    3. Zoning of the property within the enclosed plat;
    4. Developer's name and address;
    5. Property boundary;
    6. Adjacent property and land use;
    7. Location map;
    8. Proposed phases;
    9. Existing contours;
    10. Existing natural features (wooded areas, floodplain, wet open water, streams, etc.);
    11. Existing easements;
    12. General proposed utility information.
b. Survey of property and legal description.
c. Name of the proposed development.
d. Name, address, e-mail address and phone number of the developer and surveyor or engineer that prepared the plat.
e. Location map of subdivision, including section and range.
f. Utility layout including connections to existing systems, pipe sizes (storm sewer size can be estimated), fire hydrant locations, sufficient sanitary and storm sewer inverts to ensure adequate depth, storm detention/retention areas, storm sewer outlets and any proposed utility easements. Drainage calculations are not required at this stage.
g. Names of abutting subdivisions.
    1. Street names, rights-of-way, right-of-way widths and typical road cross sections.
    2. Proposed drainage should be indicated either by proposed contours or by drainage arrows. Drainage arrows should be sufficient to show preliminary drainage direction of the entire development.
    3. Provide complete language for any and all deed restrictions, or state that there are not any proposed.
    4. Indicate all floodplain areas.
    5. Indicate any wetland areas that are regulated by the state department of environmental quality.
    6. Show required zoning setbacks. On corner lots, indicate where the front of the lot is. Verify that the minimum frontage requirements are met at the setback line.
    7. Date, north arrow and scale.
    8. All parcels of land proposed to be dedicated to public use and conditions of such dedication.

(3) The developer shall submit ten copies of the preliminary plat to the city clerk at least 30 days prior to the next city council meeting. Upon receipt, the city clerk shall submit copies to members of the city council and shall make one copy available to each of the DPW, fire department, and police department, who shall review the preliminary plat and provide written comments to the city council at least two weeks prior to the next meeting.

(4) Public hearing review of tentative preliminary plat.

a. Before making a decision on the preliminary plat, the council shall hold a public hearing, notice of which shall contain the date, time and place of hearing, and shall be sent by certified mail to the developer and owners of land immediately adjacent to the proposed subdivision, at least seven days prior to the hearing date.

b. The preliminary plat and any required accompanying data shall be reviewed by the city council for the purpose of checking its compliance with the master plan, zoning ordinance, other applicable city ordinances, and other specifications of this article, all in accord with sound engineering practice.

(5) City council review of tentative preliminary plat.

a. The city council shall tentatively approve and note its approval on the copy of the preliminary plat, or tentatively approve it subject to conditions and note its approval and conditions on the copy of the preliminary plat, to be returned to the proprietor, or set forth in writing its reasons for rejection and requirements for tentative approval, within the following time period, as applicable:

1. Within 60 days after it was submitted to the clerk, if a preapplication review meeting was conducted.
2. Within 90 days after it was submitted to the clerk, if a preapplication review meeting was not conducted.

(6) The city council shall either:

a. Tentatively approve the preliminary plat; or

b. Deny the preliminary plat, setting forth reasons for not tentatively approving the preliminary plat and the requirements for tentative approval.

City council approval shall be good for a period of one year. The approval can be renewed upon application by the developer and approval by the city council.

(c) *Step three—Final preliminary plat approval.*

(1) This is the final approval stage prior to the developer producing construction drawings and obtaining construction permits. All items required on the preliminary plat for tentative approval are required on the final preliminary plat.

(2) Before the final preliminary plat is placed on the city council agenda, the developer must obtain preliminary approvals from:

a. County road commission (if the proposed subdivision includes or abuts roads under the road commission's jurisdiction).

b. County drain commissioner.

c. The state department of environmental quality (if the land proposed to be subdivided abuts a wetland, floodplain, lake or stream).

d. The developer shall send two copies to the county plat board.

e. The developer must notify all public utilities in the city by certified mail.

f. The developer must submit to the Tri-County Regional Planning Division a list of the proposed streets' names.

(3) City council review of final preliminary plat. The city council shall make a determination on the final preliminary plat within 20 days of their next regularly scheduled meeting. The city council shall either:

a. Tentatively approve the final preliminary plat; or

b. Set forth reasons for not tentatively approving the final preliminary plat and the requirements for final approval.

(4) Final approval of the preliminary plat by city council may be valid for a period of two years. The approval can be renewed upon application by the developer and approval by the city council.

(Code 1991, § 19-515; Ord. No. 110, § 2, 8-12-2002)

State Law reference— Preliminary plats, MCL 560.111 et seq.

Sec. 36-659. - Final plat.

(a) *Filing requirements.* The developer shall file with the city council the following, in compliance with the requirements of Public Act No. 288 of 1967 (MCL 560.101 et seq.), and any other requirements stipulated in this article:

(1) A Mylar copy and five blueprint copies of the final plat.

(2) Certificate of title prepared by an attorney at law.

(3) As-builts of each improvement, including streets, sanitary and storm sewers, and water lines along with inspection and testing reports demonstrating compliance with the standard specifications of the city utility ordinance, adopted city infrastructure standards and this article.

(4) An agreement with the city containing a restriction upon the plat whereby the building inspector will not be permitted to issue a building permit for any structure upon any lot within said subdivision until the improvements as specified have been completed, or satisfactory arrangements have been made with the city for the completion of said improvements. These plat restrictions shall be made a part of all deeds or contracts for any lot within the subdivision.

(5) Plat restrictions, if such are proposed by the developer, shall be submitted with the final plat. Such restrictions shall not be in contradiction to those of the this chapter or any other ordinance of the city. These restrictions shall become a part of the final record plat and shall be recorded along with the plat in the office of the Clinton County Register of Deeds.

(b) *Final plat approval.*

(1) Final record plat approval will be granted only under the following conditions:

a. That the developer has submitted the required number of copies of the final plat.

b. That the developer has submitted necessary engineering drawings, as required by this article, and said drawings have been checked and approved for compliance with engineering standards by the city or other agencies with authority to approve subdivision improvements.

c. That the developer has installed all improvements. The developer may, at the city's option, post a bond in the amount of the cost of installation of all improvements. The bond shall accrue to the city, and shall be in an amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, as estimated by the city council or their engineering consultant. The term length in which the bond is in force shall be for period to be specified by the city council. The bond shall be with a surety company authorized to do business in the State of Michigan and acceptable to the city council. The escrow agreement shall be drawn and furnished by the city.

(2) Approval by the city council:

a. Upon receipt of the final plat and other related material, the council shall take action upon said plat in accordance with the requirements of the Land Division Act, and requirements of this article. In case of disapproval, the reasons for such action shall, by written communication, be transmitted to the developer who shall, within a reasonable time, resubmit to the council any changes or alterations stipulated in the council's action of disapproval.

b. Upon approval of the final record plat, the city clerk shall, in accordance with the land division act and any other applicable requirements, file said plat (eight copies), agreements, restrictions and fees with the office of the county register of deeds.

(Code 1991, § 19-516; Ord. No. 110, § 3, 8-12-2002)

State Law reference— Final plats, MCL 560.131 et seq.

Sec. 36-660. - Construction plans.

(a) No developer proposing to subdivide land within the territorial limits to which these regulations are applicable shall enter into any contract for the sale of, or shall offer to sell said subdivision or any part thereof until final plat approval has been obtained, and the developer has completed construction of all improvements, or has bonded with the city for the cost of the improvements. The developer shall not proceed with any construction work on the proposed subdivision, including grading, until he or it has obtained from the city council the final approval of the preliminary plat of the proposed subdivision.

(b) It shall be the responsibility of the developer of every proposed subdivision to have prepared by a professional engineer registered in the State of Michigan, a complete set of construction plans including: profiles, cross-sections, specifications, and other supporting data, for the required streets, utilities and other facilities. Such construction plans shall be based on preliminary plans which have been approved with the preliminary plat. Construction plans are subject to approval by the responsible public agencies shown. All construction plans shall be prepared in accordance with the standards or specifications contained herein.

(c) Upon completion of the construction of all required streets, utilities and other facilities, the as-built drawings shall be verified by a professional engineer registered in the state and submitted to the city clerk.

(Code 1991, § 19-517; Ord. No. 110, § 4, 8-12-2002)

Sec. 36-661. - Subdivision standards.

(a) *Streets and alleys.*

(1) The subdivision of land or the dedication of land for streets, alleys, highways, parks or other public uses shall conform to the master plan as approved by the city council.

(2) In the preparation of new subdivisions, provisions shall be made for the continuation of existing or platted streets in adjoining or adjacent subdivisions or parcels of land, insofar as they may be necessary for public requirements. The centerlines of such streets shall coincide with the centerlines of existing streets. In general, the streets shall extend to the boundary of the subdivision to provide proper access to the adjoining property and provide for proper connection with the street system for contiguous and adjacent land.

(3) Minimum right-of-way widths shall be as follows:

a. Major thoroughfares, arterial and collector streets and parkways: 80 feet.

b. Local streets: 66 feet.

c. Alleys and service drives: 40 feet.

d. Walkways: Ten feet.

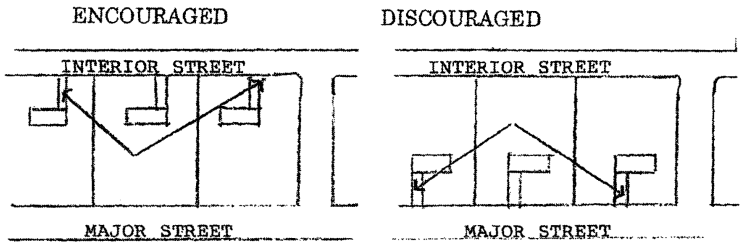
(4) Intersections of streets shall be at an angle of 90 degrees or as close to such an angle as practicable, but in no case less than 60 degrees. Termination of streets at intersections shall be clearly defined.

(5) In case of approval of cul-de-sacs (courts) because of topography or other reasons, a turning area having a minimum radius of 50 feet shall be provided, and in no case shall such a street have a length greater than 500 feet.

(6) Dead-end streets shall be accepted only when the street will be extended in the future.

(7) Where subdivisions are adjacent to a railroad, a street shall parallel the railroad at a distance of not less than 200 feet.

(8) Where subdivisions are adjacent to a major thoroughfare, the subdivision shall be designed to minimize the number of lots fronting onto the major thoroughfare. This is required so as to minimize the number of turning points on the major thoroughfare. For lots which front onto an interior street but back onto a major thoroughfare, driveway access shall be onto the interior street only.



(b) *Utilities.* The developer shall make arrangements for all distribution lines for telephone, electrical, television and other similar services distributed by wire or cable, except for feeder lines for said services, to be placed underground entirely throughout a residential subdivision area, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways, provided that after receiving a written report from the engineer, planner and city council, overhead lines may be permitted by the city council at the time of final plat approval, where it is determined by the city council that overhead lines will not constitute a detriment to the health, safety, general welfare, plat design and character of the subdivision. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission. All drainage and underground utility installations which traverse privately owned property shall be protected by easements granted by the developer.

(c) *Lots.*

(1) All lots shall face upon a public street.

(2) The side lines of lots shall be approximately radial to the street upon which the lots face.

(3) No lot shall be divided by a corporate boundary line. Such boundary line may be the lot line or center line of streets or alleys.

(4) Lot widths, depths and area shall conform to the stipulations as set forth in the zoning ordinance.

(5) Interior through lots shall not be allowed. For lots which front onto an interior street but back onto a major thoroughfare, driveway access shall be onto the interior street only.

(d) *Blocks.*

(1) No block shall be more than 1,000 feet in length. In blocks over 900 feet in length, the city council may require a walkway or easement for public utilities at or near the middle of the block.

(2) The number of intersecting streets along highways and major thoroughfares shall be held to a minimum, wherever practicable. Blocks along such traffic way shall not be less than 1,320 feet in length.

(e) *General requirements.*

(1) In cases where variations and exceptions from the dimensional standards of this chapter are deemed necessary, said variations shall be granted by the zoning board of appeals subject to the procedures and standards outlined in article III of this chapter. Variances from standards contained in article XII of this chapter, subdivision control, shall be granted by the city council.

(2) Every subdivision shall have a dedicated means of ingress and egress.

(Code 1991, § 19-518; Ord. No. 110, § 5, 8-12-2002)

Sec. 36-662. - Improvements; installation.

The minimum installation standards for improvements are as follows:

(1) Streets shall meet the standards for streets adopted by the city.

(2) Sanitary sewer lines shall be installed for all subdivision developments. The sanitary sewer lines shall be so designed and constructed to meet the requirements of the city utility ordinance, city infrastructure standards and the appropriate county, state or other jurisdictional agency. The developer shall be responsible for the installation of sewer lines to adequately serve the proposed development within the subdivision being platted and shall be responsible for any above-normal cost of materials and installation thereof necessarily encountered, as determined by the city.

(3) Water lines shall be installed for all subdivision developments. The water lines shall be so designed and constructed to meet the requirements of the city utility ordinance, this article, city infrastructure standards and the appropriate county, state or other jurisdictional agency. The developer shall be responsible for the installation of water lines to adequately serve the proposed development. Water lines shall be looped where appropriate, when it can be demonstrated that water pressure and water quality would be significantly impacted were the looping not completed.

(4) Sidewalks of five-foot width shall be constructed along both sides of the street right-of-way, within all dedicated street and walkway rights-of-way, of which the entire construction shall be the responsibility of the developer and the expense of the developer. Sidewalks shall be constructed to the standards established in the city infrastructure standard.

(5) Outlawns between each curb and sidewalk shall be graded and seeded, of which the entire construction shall be the responsibility of the developer and at the expense of the developer.

(6) Culverts and bridges shall be constructed when determined to be necessary by the city and shall be entirely the responsibility of the developer and at the expense of the developer. Culverts and bridges shall be constructed to the standards established by the appropriate county and/or state agency.

(7) Storm sewer lines and systems (including, but not limited to, catch basins and manholes) shall be entirely the responsibility of the developer and installed at the expense of the developer. If it is necessary to construct a detention or retention pond as part of a proposed development, it is the responsibility of the developer to

provide the property for such purposes.

(8) In those instances where the city determines that it is necessary to install water, sanitary sewer or storm sewer lines larger than those normally needed to serve the area within the limits of the subdivision being platted, the city will assume the additional cost encountered.

(Code 1991, § 19-519; Ord. No. 110, § 6, 8-12-2002)

Sec. 36-663. - Inspection.

Installation of all improvements shall be inspected by a qualified inspector with applicable certification if required by the city. The inspector shall be selected by the city council. The developer shall be responsible for all inspection costs.

(Code 1991, § 19-520; Ord. No. 110, § 7, 8-12-2002)

Sec. 36-664. - Monumentation.

(a) For every subdivision of land, there shall be a survey complying with the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.). The survey of all subdivisions shall be performed by a professional surveyor registered in the State of Michigan.

(b) All monumentation shall comply with the monumentation requirements of the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.).

(c) If, during the process of the installation of improvements, it is necessary to remove any monuments or benchmarks, the developer or its contractor shall obtain permission to make such removal from the person designated by city council to provide engineering review for the proposed development. All monuments or benchmarks removed, relocated, or destroyed shall be replaced in their proper location, by a professional surveyor registered in the State of Michigan, at the developer's expense.

(Code 1991, § 19-521; Ord. No. 110, § 8, 8-12-2002)

Sec. 36-665. - Fees.

All applicable fees are to be established by resolution of city council.

(Code 1991, § 19-523; Ord. No. 110, § 13, 8-12-2002)

Secs. 36-666—36-688. - Reserved.

ARTICLE XIII. - SEXUALLY-ORIENTED BUSINESSES

Sec. 36-689. - Purpose and intent.

The purpose and intent of the provisions of this article which pertain to the regulation of sexually-oriented businesses is to regulate the location and operation of, but not to exclude, sexually-oriented businesses within the city, and to minimize the negative secondary impacts of such businesses. It is recognized that sexually-oriented businesses, because of their very nature, have serious, objectionable operating characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually-oriented businesses

is necessary to ensure that their negative secondary effects will not cause or contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety, and general welfare of city residents. The provisions of this article are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually-oriented businesses and their products, or to deny sexually-oriented businesses and their products, or to deny sexually-oriented businesses access to their intended market. Nor is it the intent of this article to legitimize activities that are otherwise prohibited by city ordinance, or by state or federal law. If any portion of this article relating to the regulation of sexually-oriented businesses or referenced in those provisions is found to be invalid or unconstitutional by a court of competent jurisdiction, the city intends that such provision or portion should be disregarded, redacted, or revised to the extent necessary so that it is enforceable to the fullest extent permitted by law. The city further states that it would have passed and adopted what remains of any portion or provision of this ordinance that relates to the regulation of sexually-oriented businesses following the removal, redaction, or revision of any portion determined to be invalid or unconstitutional.

(Code 1991, § 19-750; Ord. No. 114, § 1, 1-9-2006)

Sec. 36-690. - 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:

Adult arcade means any place to which the public is permitted or invited wherein coin-operated, slug-operated, electronically controlled, electrically controlled, or mechanically controlled still picture or motion picture machines, projectors, or image-producing or image-projecting devises are maintained to show images to five or fewer persons per machine or device at any time, and where the images so projected, produced or depiction or description of specified sexual activities or specified anatomical areas.

Adult bookstore or *adult video store* means a commercial establishment that, as one of its business purposes or services, offers for sale or rental for any form of consideration, any one or more of the following:

(1) Books, magazines, periodicals computers/internet materials or other printed matter or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations or media which depict or describe specified sexual activities or specified anatomical areas.

(2) Instruments, devices, or paraphernalia that are designed or may be marketed for use in connection with specified sexual activities.

A commercial establishment may have other business purposes or services that do not involve the offering for sale or rental of the material identified in subsection (1) or (2) of this definition, and still be categorized as an adult bookstore or adult video store. The sale or rental of such material shall be deemed to constitute a business purpose or service of an establishment if it comprises 40 percent or more of the establishment's gross revenues, or if such materials occupy 40 percent or more of the floor area, display space, or visible inventory within the establishment.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment hat regularly features:

(1) Persons who appear in a state of nudity;

(2) Live performances that are characterized by the display or exposure of specified anatomical areas or by specified sexual activities;

(3) Films, motion pictures, videocassettes, slides, other phonographic reproductions or visual media that are chara the depiction or description of specified anatomical areas or specified sexual activities; or

(4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interest or titillation of an audience or customers.

Adult motel means a hotel, motel, or similar commercial establishment that:

(1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way that advertises the availability of any of the above;

(2) Offers a sleeping room for rent for a period of time that is less than 12 hours; or

(3) Allows a tenant or occupant of a sleeping room to offer it for rent or other consideration for a period of time that is less than 12 hours.

Adult motion picture theater means a commercial establishment which, for any from consideration, regularly or primarily films, motion picture, videocassettes, slides, other phonographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity, or that regularly features live performances that are characterized by the display or exposure of specified anatomical areas or specified sexual activities.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date of another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its business purposes or services, for a fee, tip, or other consideration.

Nude model studio means any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons, who pay money or any other form of consideration, but does not include an educational institution funded, chartered, or recognized by the state.

Nudity means the knowing or intentional display of any individual's genitals, anus, or a female individual's breast, in a public place, or at any other place for payment or promise of payment by any person. An individual's genitals or anus shall be considered to be displayed if it or they are visible; an individual's genitals or anus shall not be displayed if they are covered by a fully opaque covering. A female individual's breast shall be considered to be displayed if the nipple or areola is visible; a female individual's breast shall not be considered to be displayed if the nipple and areola are covered by a fully opaque covering. Payment or promise of payment includes the payment of, or promise of payment of, any consideration or admission fee. The term "public nudity" does not include any of the following:

(1) The exposure of a woman's breast while breast-feeding a child, whether the nipple or areola is visible during or incidental to the feeding.

(2) Any display of an individual's genitals or anus, or of a female individual's breast, which occurs as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the state.

Sexual encounter center means a business or commercial enterprise that, as one of its business purposes or services, offers for any form of consideration any of the following:

(1) Any physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons, or between persons of the same sex, when one or more of the persons is in a state of nudity.

Sexually-oriented business means a business or commercial enterprise that conducts or engages in any of the activities hereafter defined.

Specified anatomical areas are defined as:

(1) Less than completely an opaquely covered human genitals, pubic region, buttock or anus; or female breast immediately below the top of the areola; or

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

Specified sexual activity is defined as:

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

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

(3) Masturbation, actual or simulated; or

(4) Excretory functions as part of or in connection with any of the activities set forth in subsection (1), (2), or (3) of this definition.

(Code 1991, § 19-751; Ord. No. 114, § 2, 1-9-2006)

Sec. 36-691. - Special exception uses.

In addition to the permitted uses specified in section 36-690, with the approval of the council the following special exception uses may be authorized in a B-2 business district.

(1) Office buildings.

(2) Motor vehicle body and paint shops.

(3) Lumber yards.

(4) Outdoor theaters.

(5) Pet shops and kennels for domestic animals.

(6) Sexually-oriented businesses.

(7) Billboard signs.

(8) Uses similar to the permitted or special exception uses specified in this article which comply with the spirit of this article.

(Code 1991, § 19-752; Ord. No. 114, § 3, 1-9-2006)

Sec. 36-692. - Additional requirements.

In addition to the foregoing requirements of approval of special exception uses, a request for a special exception use to operate a sexually-oriented business shall be subject to the following requirements:

(1) *Licensing.* The council may prescribe the terms and conditions upon which a license shall be granted and may re payment of a reasonable and proper sum for a license. The person receiving the license shall, if required by the an ordinance of the city, before the issuing of the license, execute a bond to the city in a sum prescribed by the with one or more sufficient sureties, conditioned for a faithful performance of the laws relating to the city and tl ordinances of the council, and otherwise conditioned as the council may prescribe. A license is revocable by the a license is revoked for noncompliance with the terms and conditions upon which it was granted, or on account violation of an ordinance or regulation passed or authorized by the council, the person holding the license shall, to any other sanctions imposed, forfeit payments made for the license. The council may provide sanctions for a who, without a license, does something for which a license is required by an ordinance of the council.

(2) *Location.*

a. No sexually-oriented business shall be permitted on a lot or parcel which is within 500 feet (measured from property line to property line) of a principal or accessory structure of another sexually-oriented business.

b. No sexually-oriented business shall be located in any principal or accessory structure which already contains a sexually-oriented business.

c. No sexually-oriented business shall be located within 500 feet (measured from property line to property line) of any parcel which is zoned RA-1 or RA-2.

d. No sexually-oriented business shall be located on a lot or parcel within 500 feet (measures from property line to property line) of a public park, school, child care facility, church, or place of worship.

(3) *Uses.* The proposed use of a sexually-oriented business shall otherwise comply with all requirements of the B-2 business district; with all requirements of this chapter regarding off-street parking, loading, and storage areas; and with all requirements of this chapter pertaining to landscaping.

(4) *Signs.*

a. Any sign or signs proposed for the sexually-oriented business must comply with the requirement of this article, and shall not include photographs, silhouette drawings, or pictorial representations that depict or relate to specified anatomical areas or specified sexual activities of any type, nor include any animated illumination or flashing illumination.

b. Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two inches in height, that read:

1. "Persons under the age of 18 years are not permitted to enter the premises."
2. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

(5) *Display.* No product for sale or gift, nor any picture or other representation of any product for sale or gift that depicts or relates to specified anatomical areas or specified sexual activities, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.

(6) *Parking areas illuminated.* All off-street parking areas shall be illuminated from at least 90 minutes prior to sunset to at least 60 minutes after closing.

(7) *Hours.* No sexually-oriented business shall be open for business prior to 10:00 a.m., nor after 10:00 p.m. However, employees or other agents, or contractors of the business are permitted to be on the premises at

other hours for legitimate business purposes such as maintenance, clean-up, preparation, record keeping, and similar purposes.

(8) *Other requirenents.* Except in the case of an adult motel, any booth, room, or cubicle available for use by a patron of a sexually-oriented business for the purpose of viewing any entertainment characterized by the showing or depiction of specified anatomical areas or specified sexual activity must comply with the following requirements:

a. It must be handicap accessible to the extent required by the Americans with Disabilities Act;

b. It must be unobstructed by any door, lock, or other entrance/exit control devise;

c. It must have at least one side which is totally open to the public and a lighted aisle, so that there is an unobstructed view of any occupant at all times from the adjoining aisle;

d. It must be illuminated to that a person of normal visual acuity could look into the booth, room, or cubicle from its entrance adjoining the public aisle and clearly determine the number of persons within; and

e. It must have no holes or openings in any side or rear walls, unless such holes or openings are for the purpose of providing utilities, ventilation, or temperature control services to the booth, room or cubicle, or unless such holes or openings are otherwise required by state construction code requirements.

(Code 1991, § 19-753; Ord. No. 114, §§ 4, 5, 1-9-2006)

Sec. 36-693. - Penalties.

Minimum penalty. The penalty for any violation of this article shall be a municipal civil infraction, except that the minimum penalty for a first conviction shall be $100.00 plus closing the doors of the business for five days; the minimum penalty for a second conviction within one year shall be $250.00 plus closing the doors of the business for ten days; and the minimum penalty for a subsequent conviction within one year shall be $500.00 and the revoking of the business license.

(Code 1991, § 19-754; Ord. No. 114, § 6, 1-9-2006)

Secs. 36-694—36-714. - Reserved.

ARTICLE XIV. - MEDICAL MARIJUANA

Footnotes:
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***State Law reference—** Michigan medical marihuana act, MCL 333.26421 et seq.; medical marihuana facilities licensing act, MCL 333.27101 et seq.; marihuana tracking act, MCL 333.27901 et seq.*

Sec. 36-715. - Findings.

The city recognizes that the citizens of the state, by initiative, have approved the medical use of marijuana and the possession of marijuana for such purposes by persons suffering from debilitation conditions defined by the Michigan medical marijuana act. In addition, said Act authorizes registered qualified patients to be assisted in such use by registered primary caregivers, and this article is adopted to address such use and activities within the city. However, this article shall not be construed to provide immunity from criminal prosecution for offenses relating to growing, use, sale or possession of marijuana or possession of paraphernalia related thereto, or other activities which may be in violation of the Michigan

medical marijuana act and other statues. In addition, the Michigan medical marijuana act and this article should not be construed to modify or in any way affect the application of Federal law or prosecution or confiscation of property under Federal law for offenses relating to such uses or activities. It is not the intention of this article to regular the growing or use of medical marijuana by a registered qualifying patient solely for his or her own consumption to the extent permitted by the Michigan medical marijuana act, it is not the intention of this article to provide for or authorize dispensaries or "compassion clubs" as permitted land uses in this article.

(Ord. No. 129, 12-9-2013)

Sec. 36-716. - 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:

Compassion club means any entity whose members are comprised of primary caregivers or qualifying patients which is not open to the public and the purpose of which includes use or consumption of marijuana in any form or the facilitation of such use or consumption.

Debilitating medical condition means the conditions and circumstances provided in section 3(b) of the Michigan medical marijuana act (MCL 333.26423(b)).

Dispensary or medical marijuana dispensary means any location at which marijuana is transferred from one person to another, other than transfers of marijuana from a registered primary caregiver to a qualifying patient to who said primary caregiver is connected through the Department of Community Health registration process.

Marijuana (also known as marihuana and cannabis) means the substance defined in Section 7106 of the public health code, Public Act No. 368 of 1978 (MCL 333.7106).

Medical use means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition. The term "transfer," as used herein, shall be limited to a transfer of marijuana from a primary or a registered primary caregiver to a qualifying patient or registered qualifying patient who is connected to the caregiver through the department of community health's registration process.

Primary caregiver or registered primary caregiver means a person who has agreed to assist with a registered qualifying patient's medical use of marijuana and who has a valid registry identification care identifying said person as a primary caregiver.

Qualifying patient or registered qualifying patient means a person who has been diagnosed by a physician as having a debilitating medical condition and who has a valid registry identification card issued by the state department of community health which identifies the person as a registered qualifying patient.

Usual marijuana means the dried leaves and flowers of the marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant.

(Ord. No. 129, 12-9-2013)

Sec. 36-717. - Prohibited land uses.

No land or premises within the city shall be used for any activity not authorized by the laws of this state.

(Ord. No. 129, 12-9-2013)

Sec. 36-718. - Uses permitted by right.

"Medical marijuana growing operation" is a use permitted by right as follows: a registered primary caregiver desiring to grow and harvest medical marijuana for more than one registered qualifying patient may locate the grow operation in the B-2 General Business District, subject to the site development standards set forth in section 36-285, and the following additional conditions:

(1) The grow operation shall be located in a secure, locked, fully enclosed structure outside of a radius of a 1,000 feet from any school, including child daycare facilities, church, or drug rehabilitation facility or other medical marijuana grow facility.

(2) Medical marijuana within the facility shall be limited to the number of plants and the amount of usable marijuana permitted by state law for each registered qualifying patient receiving assistance from the registered primary caregiver, plus an amount which may be legally possessed by the same registered primary caregiver, if said primary caregiver is also a registered qualifying patient.

(3) Marijuana growing facilities shall be subject to mechanical, electrical, fire and police department inspections, and no permit for a growing operation shall issue until satisfactory completion of such inspections.

(4) The structure used for growing medical marijuana shall contain only the marijuana belonging to one registered primary caregiver, and shall not exceed the amount authorized by law.

(5) The grow facility shall at all times be secured and locked and shall be accessible only by the registered primary caregiver.

(6) Lighting utilized for growing shall not be visible from the exterior of the building.

(7) The registered caregiver operating the grow facility shall obtain a certificate of zoning compliance on a confidential basis from the city.

(8) A qualifying patient list shall be kept current by the primary caregiver.

(9) All marijuana shall be locked at all times.

(10) Must be in compliance with state law and local ordinances.

(11) Hours of operation shall be 7:00 a.m. to 7:00 p.m.

(12) Cooperation with all governmental agencies to the extent as provided by law.

(13) No sign on the outside of building, only display address.

(14) Must be 1,000 feet from schools, playgrounds, libraries, child-care facilities and youth centers and 500 feet from other dispensaries.

(15) One caregiver per physical location.

(16) 500 feet from any residential area.

(17) Must be in compliance with state law and local ordinance regarding proper ventilation.

(18) Must be in compliance with state law and local ordinance to include all fire codes adopted by city ordinance.

(19) Penalty more than a civil infraction (i.e., closure of business). See section 36-720 penalty for violation.

(Ord. No. 129, 12-9-2013)

Sec. 36-719. - Confidentiality.

Application for permits submitted by a qualified caregiver, including information regarding the patient's primary caregiver, is confidential.

(Ord. No. 129, 12-9-2013)

Sec. 36-720. - Penalty for violation.

(a) A person violating this article shall be responsible for a municipal civil infraction, with a penalty of $500.00 (or the maximum permitted by law if less than $500.00) for each violation.

(b) In the event of two or more violations within 12 months, such may be grounds for revocation, following a hearing.

(Ord. No. 129, 12-9-2013)