ARTICLE VIII. - ZONING

DIVISION 1. - GENERALLY

Sec. 30-471. - 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:

Accessory and *accessory use* mean a use which is clearly incidental to, customarily found in connection with, and, except in case of accessory off-street parking spaces or loading, located on the same zoning lot as the principal use to which it is related. Any accessory building shall be compatible in design and appearance to the principal use of the zoning lot on which it is located.

Agricultural land means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

Airport means an airport licensed by the Michigan Department Of Transportation, Bureau of Aeronautics under section 86 of the Aeronautics Code of the State Of Michigan, 1945 Public Act No. 327, MCL 259.86.

Airport approach plan and *airport layout plan* means a plan, or an amendment to a plan, filed with the zoning commission under section 151 of the Aeronautics Code of the State of Michigan, 1945 Public Act No. 327, MCL 259.151.

Airport manager means the term as defined in section 10 of the Aeronautics Code of the State of Michigan, 1945 Public Act No. 327, MCL 259.10.

Airport zoning regulations means airport zoning regulations under the Airport Zoning Act, 1950 (Excess) Public Act No. 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this Act.

Alley means a dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

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

Apartment means a suite of rooms in a multiple-family building arranged and intended for a place of residence for a single-family or a group of individuals living together as a single housekeeping unit.

Apartment, efficiency means a dwelling unit in a multiple-family building consisting of not more than one room in addition to a kitchen and necessary sanitary facilities.

Automobile repair, general means the general mechanical repair, including overhaul and reconditioning of motor vehicle engines, transmissions and other mechanical repairs, but not including collision services, such as body, frame and fender straightening and repair, overall painting and undercoating of automobiles.

Automobile repair, major means the general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles and collision services, such as body, frame and fender straightening and repair, overall painting and undercoating of automobiles.

Automobile service station means a place where gasoline or other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale at retail to the public, including the sale of accessories, oiling and light motor service on the premises, but in no case providing general or major vehicle repairs.

Awning and *canopy* means a covered structure made of cloth, metal or other material with supporting frames attached to a building which projects beyond the building wall and/or is carried by a frame supported by the building, ground or sidewalk below.

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

Boardinghouse means a building, other than a hotel or motel, where lodging and/or meals for three or more persons are served for compensation.

Building means a structure erected onsite, a mobile home or mobile structure, a premanufactured or precut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

Building height means the vertical distance measured from the established grade of a building to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs and to the average height between eaves and the ridge for gable, hip and gambrel roofs.

Carwash means a lot on which motor vehicles are washed and waxed, either by the patron or other persons, using machinery specially designed for such purpose.

Childcare center means a facility providing for the care and keeping of displaced children, such as orphans.

Child day care center means a nursery facility intended to provide for the temporary care of children during the day.

Church means a building wherein persons regularly assemble for religious worship, which is used only for such purpose and accessory activities that are customarily associated therewith.

Clinic means an establishment where patients who are not lodged overnight are admitted for examination and treatment by medical specialists practicing as a group.

Club means an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, etc., but which is not operated for profit.

Conservation easement means that term as defined in section 2140 of the Natural Resources and Environmental Protection Act, 1944 Public Act No. 451, MCL 324.2140.

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

Development means the construction of a new building or other structure on a zoning lot, the relocation of an existing building on another lot or the use of open land for a new use.

Development rights means the rights to develop land to the maximum intensity of development authorized by law.

Development rights ordinance means an ordinance which may comprise part of a zoning ordinance adopted under Section 507 of Public Act No. 110 of 2006.

District means a portion of the incorporated area of the city within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this article.

Drive-in means a business establishment developed so that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, or to provide self-service for patrons and food carry-out.

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

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

Family means an individual, or a group of two or more persons related by blood, marriage or adoption, together with not more than three additional persons not related by blood, marriage or adoption, living together as a single housekeeping unit.

Family child-care home and *group child-care home* means those terms as defined in section 1 of 1973 Public Act No. 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child-care home.

Farm means the carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.

Fast-food carryout means a business establishment where food and/or beverages are prepared on the premises to be sold at retail to patrons, provided the food and/or beverages are not intended to be consumed on the premises or within a motor vehicle parked on the site.

Fence means a structure of definite height and location used to serve as a barrier or screen in compliance with the requirements of this article.

Floor area, gross means the sum of gross horizontal areas of the several stories of the building measured from the outside surfaces of the exterior walls or from the centerline of party walls, but shall not include porches, breezeways or garages.

Floor area ratio means the percentage of lot area to the floor area of all buildings, excluding the floor area of garages, carports and breezeways, and excluding the area of any floor more than four feet below average grade where no part of such basement is used for sleeping rooms or quarters.

Floor space means the floor area of all floors, as measured from the inside surfaces of the walls enclosing the part of a building occupied by a single occupant or shared by a distinct group of occupants, excluding common halls, stairwells, sanitary facilities, storage and other areas to which patrons do not have regular access.

Front lot line means a line dividing a lot from any public easement or right-of-way of any public street or highway except a limited or controlled access highway to which the lot has no access. In the case of a corner lot or double frontage lot, the line separating such lot from the same street on which adjacent interior lots face shall be the front lot line.

Garage means a fully-enclosed building used for the storage of motor vehicles, but not including buildings in which fuel is sold or repair or other services are performed. All garages shall be aesthetically compatible in design and appearance to other buildings already located in the same zoning district.

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

Greenbelt means a strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this article.

Greenway means a contiguous or linear open space, including habitats, wildlife corridors, and trails that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

Ground coverage ratio means the percentage of lot area included within the outside lines of the exterior walls of all buildings located on the lot, except garages and carports, and including the area of porches, decks, breezeways, balconies and patios, except patios less than six inches above grade.

Group facility means a building, structure or institution owned or operated by a governmental unit or agency, or a nonprofit corporation or foundation, which is used for the care and treatment of:

(1) Abused persons on a temporary basis not to exceed 30 days; or

(2) Physically, mentally or emotionally impaired persons.

The number of such persons entitled to 24-hour residence in a group facility shall be limited, not including full-time residential staff, to six persons if such persons are physically, mentally or emotionally impaired, or 12 persons if such persons are abused.

Hospital means a building, structure or institution in which sick or injured persons, primarily inpatients, are given medical or surgical treatment and which operates under a license by the state health department.

Home occupation means a use conducted entirely within an enclosed single-family dwelling. Such uses include, but are not limited to, instruction in a craft or fine art, barbershops and beauty shops, dressmaking shops, real estate and insurance sales, bookkeeping and accounting services or the professional offices of physicians, dentists, chiropractors, osteopaths, attorneys, engineers, architects and similar recognized professions.

Hotel means a structure designed, used or offered for residential occupancy for any period less than one month, including tourist homes, resorts and motels, but not including hospitals and nursing homes.

Housing for elderly means a dwelling unit specifically designed for the needs of an elderly person, and conforming to the requirements of the state and/or federal programs providing for the housing for the elderly.

Improvements means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project that is the subject of zoning approval.

Intensity of development means the height, bulk, area, density, setback, use and other similar characteristics of development.

Junkyard means an area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junkyard" includes automobile wrecking yards and any open area of more than 200 square feet, which is used for storage or keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Kennel means any activity involving the permanent or temporary keeping or treatment of animals as a business other than ordinary agricultural operations.

Laundromat means a place where patrons wash, dry or dry clean clothing and other fabrics in machines operated by the patron.

Legislative body means the county board of commissioners of a county, the board of trustees of a township or, the council or other similar [boards or council] of a city or village, or other similar duly elected governing body of a city or village.

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 and unloading merchandise or materials.

Local unit of government means a county, township, city or village.

Lot means the contiguous land in the same ownership which is not divided by a public highway or alley, including any part of such lot subject to an easement for any purpose, other than a public highway or alley, but excluding any part which is severed from another lot where the severance creates a nonconformity of use or structure.

Lot area means the area of land within the boundary of a lot, excluding any part under water.

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

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

Lot line means a line marking the boundary of a lot.

Lot, through means an interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double-frontage lots, all yards of such lots adjacent to streets shall be considered frontage, and front-yard setbacks shall be provided as required.

Mental health center means a hospital or clinic where the primary activity is the treatment and care of persons suffering from mental or emotional disorders.

Mobile home means a movable or portable dwelling constructed to be towed on its own chassis and designed for permanent year-round living as a single-family dwelling. This term shall not include motor homes, campers, recreational vehicles or other transportable structures designed for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and portable water utilities.

Mobile home park means a plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located.

Multiple dwelling means a structure designed or used for residential occupancy by three or more families, with or without common or separate kitchen or dining facilities, including apartment houses, apartment hotels, rooming houses, fraternities, sororities, dormitories, townhouses and similar housing types, but not including hotels, hospitals or nursing homes, and shall conform in all other respects to the standards set forth in this article for single-family dwellings.

Municipality means the City of Gladstone, Michigan.

Nuisance means an offensive, annoying, unpleasant or obnoxious thing or practice, 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; the generation of an excessive or concentrated movement of people or things such as, but not limited to, noise, dust, smoke, odor, glare, fumes, flashes, vibrations, objectionable effluent or the congregation of people, especially at night, passenger traffic or invasion of nonabutting street frontage by traffic.

Nursery and plant materials means a space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants, flowers or related items offered for retail sale on the premises, including products used for gardening or landscaping. The term "nursery," as used in this article, does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

Nursing home means a structure designed or used for residential occupancy that provides limited medical or nursing care on the premises for occupants, but does not include a hospital or mental health center.

Off-street parking lot means a facility providing vehicular parking spaces, with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of vehicles.

Open front store means a business establishment developed so that service to patrons may be extended beyond the walls of the structure, not requiring the patron to enter the structure. This term shall not include automobile repair or gasoline service stations. Such services shall be wholly contained within the parcel and behind the required front-yard setback.

Other eligible land means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

Parking space means an area of definite length and width, which shall be exclusive of drives, aisles or entrances giving access to such parking space and shall be fully accessible for the parking of permitted vehicles.

Person means an individual, partnership, corporation, association, governmental entity or other legal entity.

Population means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glen Steil State Revenue Sharing Act of 1971, 1971 Public Act No. 140, MCL 141.907 whichever is the more recent.

Pre-existing, nonconforming, two-family dwelling means an existing structure in the R-1 district constructed as a two-family building that has off-street parking, a private entrance for both families, separate utilities and separate bathroom facilities.

Principal use means the main use to which the premises are devoted and the principal purpose for which the premises exist.

Public utility means a person, firm or corporation, municipal department, board or commission duly authorized to furnish to the public under federal, state or municipal regulations gas, steam, electricity, sewage disposal, communication, telephone, telegraph, cable television, transportation or water.

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

Recreational vehicle means a vehicle designed or constructed for the transportation of people, primarily for recreational purposes, and which may permit occupancy of such vehicle as a sleeping place, including, but not limited to, motor homes, campers, camper trailers, off-road vehicles, boats and utility trailers.

Restaurant means a lot upon which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises, whether or not entertainment is offered, and includes establishments commonly known as bars, grills, cafes, taverns, nightclubs, drive-ins and any fast-food establishment permitting consumption on the premises.

Schools includes public schools owned and operated by the Gladstone Area Public School District, private and/or parochial educational institutions, when operated primarily for the purpose of giving preparatory education similar in character to that provided in public schools or kindergartens, and public school academies, as defined by MCL 380.501 et seq.

Setback means the distance required to obtain the minimum front, side or rear yard open space provisions of this article.

Side lot line means any lot lines other than the front lot line or rear lot line.

Single-family dwelling means a building containing not more than one dwelling unit designed for residential use that complies with the following standards:

(1) It complies with the minimum square footage requirements of this article for the zoning district in which it is located.

(2) It has a minimum width across any front, side or rear elevation of 20 feet.

(3) It is firmly attached to a permanent foundation constructed on the site.

(4) If such dwelling is a mobile home as defined in this section, such mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have an exposed towing mechanism, undercarriage or chassis.

(5) The dwelling is connected to a public sewer and water supply, or to such private facilities approved by the local health department.

(6) 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 shall be less.

(7) The dwelling is 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 no fewer than two exterior doors with the second door being located 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 such door areas where required by a difference in elevation. 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. Any determination of compatibility shall be based upon the standards set forth in this definition, as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling, where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within such area or, where such area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the city. Such dwellings shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard designed home.

(8) The dwelling contains no additions, rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required in this definition.

The standards set forth in subsections (1)—(8) of this definition shall not apply to a mobile home located in a licensed mobile home park or mobile home subdivision, except to the extent required by state or federal law or otherwise specifically required in the ordinance of the city pertaining to such parks. All construction required in this definition shall be commenced only after a building permit has been obtained. The dwelling shall comply with all pertinent building and fire codes.

Site plan includes the documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes

State-licensed residential facility means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, 1979, Public Act No. 218, MCL 400.701 to 400.737, or 1973 Public Act No. 116, MCL 722.111 to 722.128, and provides residential services for six or fewer individuals under 24-hour supervision or care.

Street means a dedicated public right-of-way, other than an alley, which affords the principal means of access to abutting property.

Structure means any constructed, erected or placed material or combination of materials in or upon the ground, including, but not limited to, buildings, mobile homes, radio towers, satellite dishes or earth stations, sheds, signs, storage bins, but excluding sidewalks and paving on streets, driveways, parking areas and patios.

Swimming pool, private means any artificially constructed, nonportable pool or structure erected in connection with or appurtenant to one or more private residences, either above or below or partly above or partly below grade, located either in part or wholly outside of a permanently-enclosed and roofed building, designed to hold water to a depth greater than 24 inches at any place in the structure when filled to capacity, and intended to be used for swimming or wading.

Temporary building and use means a structure or use permitted by the zoning board of appeals to exist during periods of construction of the main use, or for special events.

Two-family dwelling means a building containing two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in this article for single-family dwellings.

Yard means the open space on the same lot with a main building, as follows:

(1) *Front yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest projection of the main building. In the case of a corner lot, the front yard may be opposite either street frontage.

(2) *Rear yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest projection of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

(3) *Side yard* means an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest projection on the side lot line to the nearest projection of the main building.

Undeveloped state means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or similar use of condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area; children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

Zoning commission means a planning commission exercising the authority of a zoning board as appointed by the legislative body.

Zoning jurisdiction means the area encompassed by the legal boundaries of a city or village or to the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to a township zoning ordinance.

(Code 1976, § 150.02; Ord. No. 453, § 102, 12-8-1986; Ord. No. 459, § 102, 8-8-1988; Ord. No. 462, § 1(150.02), 10-9-1989; Ord. No. 506, § 1, 6-24-1996; Ord. No. 514, § 1, 8-25-1997; Ord. No. 547, § 1(102), 10-27-2003; Ord. No. 564, § 2, 3-26-2007; Ord. No. 574, 10-27-2008)

Cross reference— Definitions generally, § 1-2.

Sec. 30-472. - Application of this article.

The construction, placement or maintenance of any structure and the commencement or continuance of any use of land within the city shall be subject to the provisions of this article. Parcels of land which have been described in a recorded plat or by a recorded deed prior to December 8, 1986, shall be exempt from the lot size and lot width regulations of this article. Where a parcel of land is devoted to a permitted principal use, customary accessory uses and structures shall be allowed if both subordinate and incidental to the principal use and if such use or structure does not alter the character of the district where located. Accessory uses to a residence shall include home occupations as defined herewith.

(Code 1976, § 150.03; Ord. No. 453, § 103, 12-8-1986)

Editor's note— Ord. No. 453, § 103, adopted Dec. 8, 1986, changed the title of § 30-472 from "Applicability" to "Application of this article". This historical notation has been preserved for reference purposes.

Sec. 30-473. - Exemptions.

The location of pipes, wires, poles and generating and transmission equipment of public utilities or railroad tracks regulated by the state or the United States are exempt from regulation under this article.

(Code 1976, § 150.04; Ord. No. 453, § 104, 12-8-1986)

Sec. 30-474. - Relationship to other laws.

Whenever regulations or restrictions imposed by this article are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rules or regulation, the regulations, rules or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this article, no land shall be used and no structure shall be erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

(Code 1976, § 150.43)

Sec. 30-475. - Amendments.

(a) Proposals for amendments to the text or zoning maps of this article shall be presented to the zoning committee, which shall hold a public hearing to discuss the proposals. The zoning committee shall be guided in its decisions by the plan and the provisions and zoning maps of this article. Any decision of the zoning committee relating to proposed amendments shall be set forth in writing and in detail and shall be transferred to the city commission as the recommendation of the zoning committee. The city commission shall, in accordance with the enabling statute, make the final decision regarding proposed amendments. Any amendment shall be set forth as an ordinance amending this article, and all amendments rezoning land shall include legal descriptions of the land involved, provided, however, that an amendment to conform a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the city commission and the notice of the adopted amendment published without referring the amendment to the planning commission or any other board.

(b) After receiving a zoning ordinance or an amendment thereto the city commission may hold a public hearing if it considers it necessary or if otherwise required, as provided in MCL 125.3401.

(c) The city commission shall grant a hearing on a proposed ordinance provision to an interested property owner who requests a hearing by certified mail, addressed to the city clerk. A hearing under this subsection is not subject to the

requirements of section 30-513, except that notice of the hearing shall be given to the interested property owner in the manner required in subsections 30-513(b)(3) and (4).

(Code 1976, § 150.34; Ord. No. 453, § 508, 12-8-1986; Ord. No. 564, § 2, 3-26-2007; Ord. No. 574, 10-27-2008)

State Law reference— Amendments, MCL 125.3202.

Sec. 30-476. - Protest petition.

An amendment to a zoning ordinance is subject to a protest petition as required by this section. If a protest petition is filed, approval of the amendment to the zoning ordinance shall require a two-thirds vote of the city commission, unless a larger vote, not to exceed a three-quarters vote, is required by ordinance or Charter. The protest petition shall be presented to the city commission before final legislative action on the amendment and shall be signed by one or more of the following:

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

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

Publicly-owned land shall be excluded in calculating the 20 percent land area requirement.

(Ord. No. 564, § 2, 3-26-2007)

Secs. 30-477—30-500. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 30-501. - Zoning administrator.

The office of zoning administrator is established. The zoning administrator shall be appointed by the city manager and shall serve at his pleasure. The zoning administrator shall receive compensation as the city commission may, from time to time, determine. The zoning administrator may have additional duties and responsibilities. The zoning administrator shall administer the provisions of this article and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. He shall have no power to vary or waive the requirements set forth in this article. The enforcement of the zoning ordinance shall be carried out by the department of public safety pursuant to MCL. 125.3407.

(Code 1976, § 150.27; Ord. No. 453, § 501, 12-8-1986; Ord. No. 574, 10-27-2008)

Cross reference— Officers and employees, § 2-61 et seq.

Sec. 30-502. - Zoning committee.

The planning commission has carried out the responsibilities of the zoning committee in preparing this article. It is hereby determined that the planning commission shall provide continuing overall direction in the administration of this article and shall be the first city body reviewing actions, including proposed amendments, planned unit developments, conditional use permits, and site plan appeal procedures.

(Code 1976, § 150.32; Ord. No. 453, § 506, 12-8-1986)

Sec. 30-503. - Zoning compliance permits.

(a) Any land use within the city shall not be commenced or changed, and no structure shall be erected or enlarged, until the person conducting such use or erecting or enlarging such structure has obtained a zoning compliance permit from the zoning administrator. The zoning administrator shall issue such permit upon the furnishing in writing, over the signature of the applicant, of such information as may be necessary to establish that the proposed use, structure or addition is in full compliance with all provisions of this article, including site plan review if required, a finding by the zoning administrator that such compliance has been met, and payment of a permit fee, when a fee has been set by the city commission. A zoning compliance permit shall not be issued where it appears that any land area required to conform to any provision of this article is also required as a part of any adjoining property to keep the development or use of such land in conformity with this article, or to keep it from becoming more nonconforming, if such land area was, at any time, subsequent to the commencement of development or use of such adjoining property, in common ownership with such adjoining property, and any zoning compliance permit shall be absolutely void ab initio and shall be revoked. A zoning compliance permit shall not remain valid if the use or structure it authorizes becomes nonconforming.

(b) Performance guarantee.

(1) To ensure compliance with a zoning ordinance and any conditions imposed under a zoning ordinance, the city may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the city covering the estimated cost of improvements be deposited with the clerk of the legislative body to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The city may not require the deposit of the performance guarantee until it is prepared to issue the permit. The city shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.

a. The city may authorize such a rebate of any cash deposit upon certification by the city building inspector that a specified proportion of the required improvements has been completed.

(2) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the Land Division Act, 1967 Public Act No. 288, MCL 560.101 to 560.293 or under section 30-433 of this Code.

(Code 1976, § 150.28; Ord. No. 453, § 502, 12-8-1986; 2006, Act 110; Ord. No. 564, § 2, 3-26-2007; Ord. No. 567, § 1, 6-25-2007)

Sec. 30-504. - Certificate of occupancy.

No permanent certification of occupancy shall be issued under any building code applicable in the city until all requirements of this article have been met. A temporary certificate may be issued under circumstances where expressly permitted by this article.

(Code 1976, § 150.29; Ord. No. 453, § 503, 12-8-1986)

Sec. 30-505. - Special zoning orders book and map.

The zoning administrator shall keep in his office a book to be known as the "special zoning orders book," in which he shall list, with a brief description, all variances, conditional use permits, authorizations for planned unit development designations of class A nonconformance, and any terminations of any of them. Each item shall be assigned a number when entered. The zoning

administrator shall also keep a map, to be known as the "special zoning orders map," on which he shall record the numbers in the special zoning orders book to indicate the locations affected by the items in the book. The special zoning orders book and map shall be open to public inspection.

(Code 1976, § 150.30; Ord. No. 453, § 504, 12-8-1986)

Sec. 30-506. - Interpretation of the zoning map.

Where due to the scale, lack of detail or illegibility of the zoning maps there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, the zoning administrator shall make an interpretation of said map upon request of any person. Any person aggrieved by any such interpretation may appeal such interpretation to the zoning board of appeals. The administrator and the zoning board of appeals, in interpreting the zoning map or deciding any appeal, shall apply the following standards:

(1) Zoning district boundary lines are intended to follow the lot lines, or be parallel or perpendicular thereto, or along the center line of alleys, streets, rights-of-way or watercourses, unless such boundary lines are fixed by dimensions shown on the zoning map.

(2) Where zoning districts' boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.

(3) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.

(4) If, after the application of the foregoing rules uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner considering the history of uses of property and the history of zoning ordinance[s] and amendments in the city as well as all other relevant facts.

(Code 1976, § 150.31; Ord. No. 453, § 505, 12-8-1986)

Sec. 30-507. - Nonconforming uses and structures.

(a) Nonconforming uses and structures within the city are those which do not conform to a zoning provision or requirement of this article VIII, but were lawfully established prior to December 18, 1986, or lawfully established prior to any amendment of this article VIII. Class A nonconforming uses or structures are those which have been designated by this article or the zoning board of appeals, after application by an interested person or the zoning administrator, upon findings that continuance of such use or structure would not be contrary to the public health, safety or welfare, or the spirit of this article; that the use of the structure does not and is not likely to significantly depress the value of nearby properties; that the use or structure was lawful at the time of its inception; and that no useful purpose would be served by strict application of the provisions or requirements of this article with which the use or structure does not conform. All nonconforming uses and structures not designated as class A are class B nonconforming uses or structures.

(b) All residential structures lawfully existing on December 18, 1986, are designated as class A nonconforming uses with the right to alter, enlarge and rebuild within the limits set forth in this article for R-2 zoning districts.

(1) *Procedure for obtaining class A designation; conditions.* A written application shall be filed setting forth the name and address of the applicant, giving a legal description of the property to which the application pertains, and including such other information as may be necessary to enable the zoning board of appeals to make a determination on such designation. The zoning board of appeals may require the furnishing of such additional

information as it considers necessary. The notice and hearing procedure before the zoning board of appeals shall be the same as in the case of an application for variance. The decision on such application shall be in writing and shall set forth the findings and reasons on which such decision is based. Any conditions shall be attached to the notice, including any time limit, where necessary, to assure that the use or structure does not become contrary to the public health, safety or welfare, or the spirit and purpose of this article. A vested interest shall not arise of a class A designation, whether it arises from designation in this article or by action of the zoning board of appeals.

(2) *Revocation of class A designation.* A class A designation shall be revoked, following the same procedure required for designation, upon a finding that, as a result of any change of conditions or circumstances, the use or structure no longer qualifies for a class A designation.

(3) *Regulations for class A nonconforming uses and structures.* A class A nonconforming use shall not be resumed if it has been abandoned or has been changed to a conforming use for any period of time. A class A structure shall not be used, altered or enlarged in violation of any condition imposed in the designation of such structure as a class A nonconforming structure.

(4) *Regulations for class B nonconforming uses and structures.* It is the purpose of this article to eliminate class B nonconforming uses and structures as rapidly as permitted by law without payment of compensation. A class B nonconforming use shall not be resumed if it has been abandoned or has been changed to a conforming use for any period of time, or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure. A class B nonconforming structure shall not be enlarged or structurally altered, nor shall it be repaired or reconstructed if it has been damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure. A class B nonconforming use shall not be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than used at the time of becoming nonconforming.

(c) The legislative body may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures. The legislative body may provide that the cost and expense of acquiring private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in local units of government. Property acquired under this subsection by a city shall not be used for public housing.

(d) The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The legislative body may institute proceedings for condemnation of nonconforming uses and structures under 1911 Public Act No. 149, MCL 213.21 to 213.25.

(Code 1976, § 150.37; Ord. No. 453, § 511, 12-8-1986; Ord. No. 574, 10-27-2008)

State Law reference— Nonconformities, MCL 125.583a.

Sec. 30-508. - Conditional use permits.

A conditional use shall not be established in any zoning district within the city, except upon a permit issued by the zoning committee, which shall be guided by the following and other applicable standards set forth in this article:

(1) Upon receipt of an application for a conditional use permit the zoning administrator shall schedule a public hearing on the application and shall provide notice of the request as required under section MCL 125.3103.

(2) The conditional use shall be designed, constructed, operated and maintained in a manner, which is harmonious wit character of adjacent property and the surrounding area, and shall not interfere with the general enjoyment of adja property.

(3) The conditional use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, odor or fumes.

(4) The conditional use shall be adequately served by essential public facilities and services and shall not place demands on public services and facilities in excess of the current capacity.

(5) The zoning commission may deny, approve, or approve with conditions a request for conditional use approval. The decision on a conditional use shall be incorporated in a statement of findings and conclusions relative to the conditional use, which specifies the basis for the decision and any conditions imposed.

(6) Appeals from a decision on a conditional use permit here under may be taken as provided for in section 30-511.

(Code 1976, § 150.33; Ord. No. 453, § 507, 12-8-1986; Ord. No. 564, § 2, 3-26-2007)

State Law reference— Conditional uses, MCL 125.3502, 125.3604

Sec. 30-509. - Site plan review.

The purpose of the site plan review shall be to determine compliance with the provisions set forth in this article, to promote the orderly development of the city, the stability of values, investments and general welfare, and to help prevent the impairment or depreciation of land values and development by the erection of structures, or additions or alterations to structures, without proper attention to siting and appearance. The following provisions shall apply to all site plans unless otherwise provided in this article and shall be minimum requirements, and additional procedures may be required by this article or the city commission:

(1) A site plan shall be submitted to the zoning administrator for review, and a fee shall be submitted in accordance with the fee schedule approved by the city commission for the following:

a. Any use or development for which the submission of a site plan is required by any provision of this article.

b. Any development, except newly constructed single-family and two-family residential, for which off-street parking areas are provided as set forth in section 30-583.

c. Any use in the multiple residential (R-3), business (B-1, B-2) or industrial (I-1, I-2) districts.

d. Any use, except newly constructed single-family or two-family residential, which lies contiguous to a major thoroughfare or collector street, or across the street from a residential district.

e. All residentially-related conditional uses permitted in single-family districts, including, but not limited to, churches, schools and public facilities.

f. Building additions, modifications, accessory buildings or fences shall require zoning administrator review.

(2) Site plans shall be prepared in a clear and orderly manner and shall include the following information:

a. A scale of not less than one inch equals 50 feet if the subject property is less than three acres, and one inch equals 100 feet if the subject property is three acres or more.

b. Date, north point and scale.

c. The actual dimensions of all lot and property lines (as shown by a licensed surveyor with the survey stakes visible), showing the relationship of the subject property to abutting properties.

d. The location of all existing and proposed structures and utilities on the subject property and all existing structur on land immediately adjacent to the site within 100 feet of the site's parcel lines.

e. The location of all existing and proposed drives and parking areas.

f. The location and right-of-way widths of all abutting streets and alleys.

(3) In the process of reviewing the site plan, the zoning administrator shall consider:

a. The location and design of driveways providing vehicular ingress and egress from the site in relation to streets giving access to the site and in relation to pedestrian traffic.

b. The traffic circulation features within the site and the location of an automobile parking area, and the zoning administrator may make such requirements with respect to any matters, as well as assure:

1. Safety and convenience of both vehicular and pedestrian traffic within the site and in relation to access streets.

2. Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.

(4) The zoning administrator and/or the planning commission may further require landscaping, fences and walls in pursuance of the objectives set forth in this section, and such landscaping, fences and walls shall be provided and maintained as a condition of the establishment and the continuous maintenance of any use to which they are appurtenant.

(5) a. The site plan shall be reviewed by the zoning administrator and if the zoning administrator approves the application as complete it shall be forwarded to the planning commission for approval, disapproval or approval with conditions. If the zoning administrator deems the application incomplete, it shall be disapproved and returned to the applicant for further action. The failure of the zoning administrator to either disapprove the application or to approve it as complete within 45 days after submission of the application shall constitute a decision by the zoning administrator that the application is complete and shall be forwarded to the planning commission for action, unless an extension is agreed upon mutually by the applicant and the zoning administrator.

b. In addition to any specific items of review required by this section, the review of a site plan by the zoning administrator shall include, but not be limited to:

1. That the proposed use conforms to the uses permitted in that zoning district.

2. That the dimensional arrangement of building(s) and structure(s) conform to the required yards, setbacks and height restrictions of the ordinance.

3. That the proposed use conforms to all use and design provisions and requirements (if any) as found in the zoning ordinance for specified uses.

4. That there is a proper relationship between the existing and proposed streets and highways within the vicinity to assure the safety and convenience of pedestrian and vehicular traffic.

5. That the proposed on-site buildings, structures and entryways are situated and designed to minimize adverse effects (upon owners and occupants of adjacent and surrounding properties and members of the public) by providing for adequate design of ingress/egress, interior/exterior traffic flow, storm drainage, erosion, grading, lighting and parking as specified by the zoning ordinance or other county or state law.

6. That natural features of the landscape are retained where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties (used for dissimilar purposes), or where they assist in preserving the general safety, health and appearance of the

neighborhood (e.g. controlling erosion or the discharge of stormwater, etc.).

7. That adverse effect upon adjoining residents or owners of the proposed development and activities are minimized by appropriate screening, fencing, or landscaping (as provided or required in the zoning ordinance).
8. That all buildings and structures are accessible to emergency vehicles.
9. That the site plan as approved is consistent with the intent and purposes of the zoning ordinance and that any special use permits or variances that have been obtained.

(6) The building permit may be revoked by the zoning administrator in any case where the conditions of the site plan, as approved by the planning commission, have not been complied with.

(7) Any structure or use added subsequent to the initial site plan approval must be approved by the planning commission. Incidental and minor variations of the approved site plan, with written approval of the zoning administrator and agreed to by the landowner, shall not invalidate prior site plan approval.

(8) If a new use is proposed for a premise for which a site plan was previously approved, and no new structures are to be erected and/or no structural additions or alterations are to be made to existing structures, then the following provisions shall be applied by the zoning administrator:

(a) Site plan review shall not be required if the zoning administrator determines that the new use does not have a material adverse impact on the conditions set forth in this section 30-509 which conditions the zoning administrator is required to consider in a site plan review.

(b) Site plan review shall be required if the zoning administrator determines that the new use does have a material impact on one or more of the conditions which are required to be considered in a site plan review; however the site plan review process shall be required as to the condition or conditions impacted only, and if approved by the planning commission shall be considered as a modification of the previously approved site plan for the premises.

(c) The zoning administrator's authority under this subsection shall apply only to uses which are permitted uses under the applicable zoning provisions.

(Code 1976, § 150.21; Ord. No. 453, § 307, 12-8-1986; Ord. No. 547, § 1(307), 10-27-2003; Ord. No. 564, § 2, 3-26-2007; Ord. No. 567, § 1, 6-25-2007; Ord. No. 574, 10-27-2008; Ord. No. 594, 3-10-2014)

State Law reference— Site plans, MCL 125.3501.

Sec. 30-510. - Zoning board of appeals.

(a) *Establishment.* There is established a zoning board of appeals (ZBA), which shall perform its duties and exercise its powers as provided in PA 110 of 2006, MCL 125.3101 et seq.

(b) *Jurisdiction.* The board shall have the following powers and authority:

(1) To hear and decide questions that arise in the administration of the city Code zoning provisions, including the interpretation of zoning maps.

(2) To hear and decide matters referred to the ZBA or upon which the ZBA is required to pass under the city Code zoning provisions.

(3) To hear and decide appeals from any administrative order, requirement, decision or determination made by an administrative official or body charged with enforcement of the city Code zoning provisions.

(4) If so provided in the city Code, appeals from special land use and planned unit development decisions.

(5) To subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of b papers, files and other evidence pertinent to any matter before the ZBA.

(6) The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may issue or direct the issuance of a permit.

(c) *Membership.* The board shall consist of five members who shall be appointed by the mayor, subject to approval of the city commission.

(d) *Makeup of board.* The five regular members of the board shall be made up as follows:

(1) One regular member shall be a member of the Gladstone Planning Commission; such member to be appointed in the regular manner upon recommendation to the mayor by the chairperson of the planning commission.

(2) The remaining members and any alternate members shall be selected from the electors of Gladstone residing within the city and shall be representative of the population distribution and the various interests present in the city.

(e) *Alternate members.* The mayor may appoint, subject to the approval of the city commission, not more than two alternate members for the same term as regular members.

(1) An alternate member may be called to serve as a member of the board in the absence of a regular member, if the regular member will be unable to attend one or more meetings.

(2) An alternate member may be called to serve as a member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. In such event the alternate member shall serve in the case until a final decision is made.

(3) An alternate member serving on the board has the same voting rights as a regular member.

(f) *Disqualification for appointment.* An elected official, employee or contractor of the city shall not be eligible to serve as a member of the zoning board of appeals.

(g) *Removal of member.* A member of the board may be removed by the city commission for misfeasance, malfeasance, or non-feasance in office upon written charges and after a public hearing.

(h) *Conflict of interest.* A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Conflict of interest shall be defined in a rule of procedure as adopted by the zoning board of appeals. A member of the board who is also a member of the planning commission shall not participate in a public hearing, or vote on the same matter the member voted on as a member of the planning commission. However, the member may consider and vote on other unrelated matters involving the same property. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(i) *Terms.* The terms of office for board members shall be for three years; however, the office of the member appointed from the planning commission shall be considered vacant if before the three year term expires such member is no longer a member of the planning commission. Upon initial appointment of the board members, some appointments may be for fewer than three years to provide for staggered terms.

(j) *Filling vacancies.* A vacancy on the board shall be filled for the remainder of the unexpired term, if any, in the same manner as the original appointment. A successor shall be appointed not more than one month after the term of the preceding member has expired, or otherwise ended.

(k) *Quorum.* The board shall not conduct business unless a majority of the regular members of the board are present. Alternates shall not be counted in determining a quorum.

(l) *Meetings.* Meetings of the board shall be held at the call of the chairperson and at other times as the board may specify in its rules of procedure. The chairperson, or acting chairperson, may administer oaths and compel the

attendance of witnesses.

(m) *Other powers and duties.* The board shall have such other powers and duties as are provided for in P.A. 110 of 2006, as amended; MCL 125.3101 et seq.

(Code 1976, § 150.35; Ord. No. 453, § 509, 12-8-1986; Ord. No. 564, § 2, 3-26-2007; Ord. No. 574, 10-27-2008; Ord. No. 584, § 1, 8-22-2011)

Editor's note— Ord. No. 584, § 1, adopted Aug. 22, 2011, retitled § 30-510 from "Board of zoning appeals" to "Zoning board of appeals."

Cross reference— Boards, commissions and authorities, § 2-251 et seq.

State Law reference— Board of appeals, MCL 125.3601, 125.3602, 125.3603.

Sec. 30-511. - Appeals.

(a) An appeal may be taken to the board of appeals by any person aggrieved, or by an officer, department, board of bureau of the city.

(b) An appeal under this section shall be taken within the time prescribed by the board of appeals by general rule by filing, with the officer or body from whom the appeal is taken and with the board, a notice of appeal specifying the grounds for the appeal. The officer or body from whom the appeal is taken shall immediately transmit to the board all of the papers constituting the record upon which the action appealed from was taken.

(c) An appeal under this section stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the board of appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the board or the circuit court, on application, on notice to the officer or body from whom the appeal is taken and on due cause shown.

(d) The board of appeals shall fix a reasonable time for the hearing of the appeal and shall give notice of the appeal as provided in section 30-513 of this Code.

(e) The board of appeals shall decide the appeal within a reasonable time. The board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make an order, requirement, decision or determination as in the board's opinion should be made in the premises and, to that end, shall have all of the powers of the officer or body from whom the appeal is taken. The Zoning Board of Appeals shall state the grounds of any determination made by the board.

(f) The board of appeals may impose conditions upon an affirmative decision as provided in Michigan Zoning Enabling Act, MCL 125.3604(7).

(g) The decision of the board of appeals shall be final.

(1) Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:

a. Complies with the constitution and laws of the state.

b. Is based upon proper procedure.

c. Is supported by competent, material, and substantial evidence on the record.

d. Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

(2) If the court finds the record inadequate to make the review required by this section or finds that additional materia exists that with good reason was not presented, the court shall order further proceedings on conditions that the co considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedi affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affi or modify the decision.

(3) An appeal under this section shall be filed within 30 days after the zoning board of appeals certifies its decision in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals.

(Code 1976, § 150.35(C); Ord. No. 564, § 2, 3-26-2007)

State Law reference— Similar provisions, MCL 125.3604, 125.3605, 125.3606, 125.3607.

Sec. 30-512. - Variances.

The appeals board shall base its decisions on variances from the strict requirements of this Code so that the spirit of the Code is observed, public safety secured, and substantial justice done based on the following standards:

(1) *Standards for variance decisions by the appeals board.*

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

1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography, and is not due to the applicants personal or economic difficulty.
2. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
4. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or district.

(2) *Use variances.* Under no circumstances shall the appeals board grant a variance to allow a use not permissible under the terms of this Code in the district involved, or any use expressly or by implication prohibited by the terms of this Code in said district.

(Code 1976, § 150.36; Ord. No. 453, § 510, 12-8-1986; Ord. No. 507, § 2, 9-9-1996; Ord. No. 564, § 2, 3-26-2007; Ord. No. 574, 10-27-2008)

State Law reference— Variances, MCL 125.3604.

Sec. 30-513. - Administrative standards and procedures.

(a) *Administrative decisions.* Whenever, in the course of administration and enforcement of this article, it is necessary or

desirable to make an administrative decision, the board of appeals or zoning committee shall make the decision in accordance with the standards set forth in this article.

(b) *Public hearings.* When a public hearing is required in the administration of this article, the zoning board of appeals or the zoning committee shall:

(1) Base their decision upon facts presented at a public hearing preceded by a notice in a newspaper of general circulation. Any changes in this article shall follow the provisions set forth in chapter V of the Charter;

(2) Notice of the public hearing shall be given as provided in subsection (b)(3) to the owners of property for which approval is being considered and to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning district. The notice shall be given not less than 15 days before the hearing, if the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct special area owned or leased by different persons, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(3) The notice under subsection (2) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service.

(4) A notice shall do all of the following:

a. Specify in all notices of a public hearing, the time, date and place of the hearing and the nature of the request.

b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses other means of identification may be used. Indicate when and where written comments will be received concerning the request.

c. Indicate when and where written comments will be received concerning the request.

(5) For any group of adjacent property numbering 11 or more that is proposed for rezoning, the requirements of subsection (b)(2), above, and the requirement of [subsection] (b)(3)b. that street addresses be listed do not apply to that group of adjacent properties.

(6) A party may appear in person or by agent or attorney to present or rebut information either supporting or opposing the zoning action under consideration;

(7) Prepare a comprehensive summary record of the hearing, including an exact record of motions, votes and other official actions;

(8) Set forth in writing and in detail any denial, approval, conditional approval or order and the facts supporting such decision which shall indicate the requirements and standards of this article which were relied upon for such decision; and

(9) File the record, written testimony or documents submitted with regard to the hearings and the decision with the city clerk, which records and documents shall be open to public inspection.

(c) *Filing of administrative guides or rules.* All administrative guides or rules developed to assist the board of appeals or the zoning committee in the administration of this article shall be filed with the city clerk and shall be open to public inspection.

(Code 1976, § 150.38; Ord. No. 453, § 512, 12-8-1986; Ord. No. 507, § 1, 9-9-1996; Ord. No. 564, § 2, 3-26-2007; Ord. No. 574, 10-27-2008)

State Law reference— MCL 125.3103, 125.3602(2), 125.3603, 125.3604.

Sec. 30-514. - Fees.

The city commission may, by resolution, establish a schedule of fees to be paid for zoning compliance permits and for the consideration of conditional use permits, variances, fence permits, planned unit development, class A designations, or amendments to this article. Fees, if any, should be collected by the zoning administrator to be used to defray the cost of zoning administration.

(Code 1976, § 150.41; Ord. No. 453, § 602, 12-8-1986)

Secs. 30-515—30-540. - Reserved.

DIVISION 3. - DISTRICTS AND DISTRICT REGULATIONS

Sec. 30-541. - Establishment of districts.

The city is divided into zoning districts which are set forth in this division. The boundaries of such zoning districts are established as shown on the city zoning map as set forth in section 30-505. Conditional uses which are set forth in this division shall also meet the standards set forth in section 30-508.

(Code 1976, § 150.05; Ord. No. 453, § 201, 12-8-1986; Ord. No. 564, § 2, 3-26-2007)

Sec. 30-542. - R-1 district.

(a) *Scope and intent.* This section applies to district R-1. The intent of the R-1 district is to establish and preserve quite neighborhoods for single-family homes within the city as desired by a large number of people, free from other uses except uses which are both compatible with and convenient to the residents of such district.

(b) *Permitted principal uses.* Permitted principal uses in the R-1 district shall be detached single-family dwellings and a state-licensed residential facility approved to receive six or fewer individuals and a family childcare home approved to receive six or fewer minor children other than a facility for the care and treatment of individuals released from or assigned to adult correctional institution.

(c) *Conditional uses.* Conditional uses in the R-1 district shall be schools, churches, group childcare homes, unlighted golf courses, except miniature golf courses, private parks, swimming pools and similar recreation facilities. Conditional uses in the R-1 district shall be located, site planned and designed to avoid undue noise, nuisances and dangers.

(Code 1976, § 150.06; Ord. No. 453, § 202, 12-8-1986; Ord. No. 459, 8-8-1988; Ord. No. 462, § 1(150.06), 10-9-1989; Ord. No. 467, § 2, 5-28-1991; Ord. No. 506, § 2, 6-24-1996; Ord. No. 513, § 1, 8-25-1997; Ord. No. 564, § 2, 3-26-2007; Ord. No. 574, 10-27-2008)

State Law reference— Mandatory permitted uses, MCL 125.3206.

Sec. 30-543. - R-1A district.

(a) *Scope and intent.* This section applies to the R-1A district. The intent of the R-1 district is to establish and preserve quiet neighborhoods for single-family homes within the city as desired by a large number of people, free from other uses exc such uses which are both compatible with and convenient to the residents of such district.

(b) *Permitted principal uses.* The permitted principal use within the R-1A district shall be detached single-family dwellings.

(c) *Conditional uses.* The only conditional use allowed within the R-1A district shall be private parks. Conditional uses in R-1A district shall be located, site planned and designed to avoid undue noise and other nuisances and dangers.

(d) *Minimum home size.* The minimum size for homes located in the R-1A district shall be as follows:

(1) One-story homes, 1,500 square feet measured on the first floor and which shall not include any garage floor space.

(2) Bi-level and tri-level homes, 2,000 square feet calculated by adding the sums of the square footage on the lower and upper levels in the case of a bi-level home, or by adding the sums of the lower, upper and ground floor levels in the case of a tri-level home and which does not include any garage floor space.

(Ord. No. 498, 5-22-1995; Ord. No. 499, § 202-A, 10-23-1995)

State Law reference— Mandatory permitted uses, MCL 125.583b, 125.583c.

Sec. 30-544. - R-2 district.

(a) *Scope and intent.* This section applies to the R-2 district. The intent of the R-2 district is to establish and preserve quiet single-family and two-family home neighborhoods within the city, free from other uses except such uses, which are both compatible with and convenient to the residents of such district.

(b) *Permitted principal uses.* Permitted principal uses within the R-2 district shall be detached single-family dwellings and two-family dwellings.

(c) *Conditional uses.* Conditional uses in the R-2 district are the same conditional uses as permitted in the R-1 district as well as adult foster care small group homes and shall be subject to the same conditions.

(Code 1976, § 150.07; Ord. No. 453, § 203, 12-8-1986; Ord. No. 564, § 2, 3-26-2007)

State Law reference— Mandatory permitted uses, MCL 125.3204, 125.3206.

Sec. 30-545. - R-3 district.

(a) *Scope and intent.* This section applies to the R-3 multiple dwelling district. The R-3 district is established and designed to permit a more intensive residential use of land within the city. Various types and sizes of residential accommodations for ownership or rental would thereby be provided to meet the needs of the different age and family groups in the city.

(b) *Permitted principal uses.* Permitted principal uses within the R-3 district shall include any use permitted in the R-2 district, as well as multiple dwellings, lodging houses, boardinghouses.

(c) *Conditional uses.* Conditional uses in the R-3 district shall be the same as permitted in R-1 district, subject to the same conditions, as well as hospitals, adult foster care large group home, day care centers, multiple-family low-rent family public housing and multiple-family low-rent senior citizen public housing.

(Code 1976, § 150.08; Ord. No. 453, § 204, 12-8-1986; Ord. No. 506, § 3, 6-24-1996; Ord. No. 564, § 2, 3-26-2007)

State Law reference— Mandatory permitted uses, MCL 125.3204, 125.3206.

Sec. 30-546. - R-4 district.

(a) *Intent.* To establish and preserve quiet single- and two-family-homes neighborhoods free from other uses except those which are both compatible with and convenient to the residents of the district.

(b) *Permitted principal uses.* Detached single-family dwellings and two-family dwellings and mobile homes.

(c) *Conditional uses.* The same conditional uses as permitted in district R-1, subject to the same conditions.

(Code 1976, § 150.09; Ord. No. 453, § 205, 12-8-1986)

State Law reference— Mandatory permitted uses, MCL 125.583b, 125.583c.

Sec. 30-547. - B-1 district.

(a) *Intent.* To establish and preserve a district for residential and commercial uses such as small stores and service establishments which serve primarily the people of the immediate neighborhood and which can thrive without drawing patrons from a large part of the city and creating traffic congestion which results therefrom.

(b) *Permitted principal uses.* The same uses permitted in the R-2 district and restaurants (except drive-in and fast food), taverns, cocktail lounges, branch banks, offices, self-service laundromats and dry cleaning pick-up stations, bakeries, catering and delicatessen ships [shops], greenhouses and flower shops, shoe repair and other repair shops, studious [studios], convenience grocery stores, and other retail and service establishments primarily serving the immediate neighborhood. No commercial establishment shall occupy a floor area exceeding 3,000 square feet.

(c) *Conditional uses.* The same conditional uses as permitted in the R-3 district and gasoline service stations.

(Code 1976, § 150.10; Ord. No. 453, § 206, 12-8-1986)

Cross reference— Businesses, ch. 10.

State Law reference— Mandatory permitted uses, MCL 125.583b, 125.583c.

Sec. 30-548. - B-2 district.

(a) *Scope and intent.* This section applies to the B-2 district. The intent of the B-2 district is to establish and preserve general commercial areas within the city that are convenient and attractive for a wide range of retail uses and business, government and professional offices. The intent of this district is to encourage the concentration of commercial business to the mutual advantage of both the consumers and merchants and thereby promote the best use of land at certain strategic locations.

(b) *Permitted principal uses.* Permitted principal uses within the B-2 district shall include retail establishments selling gifts, hardware, clothing, drugs, groceries, sporting goods, antiques, baked goods, arts and crafts, studios, beauty shops and barbershops, banks, restaurants, cocktail lounges, offices, clinics, personal service establishments, hotels, motels, funeral homes, theaters (except drive-in), and gas stations. Residential occupancy shall be permitted above the ground floor in the district.

(c) *Conditional uses.* Conditional uses within the B-2 district shall include open-air business uses, such as sales and rental establishments for trailers, mobile homes, boats, farm equipment, automobile dealers for new or used cars, and the same conditional uses as permitted in the R-3 district.

(d) *Prohibited uses.* Prohibited uses within the B-2 district shall include junkyards.

(Code 1976, § 150.11; Ord. No. 453, § 207, 12-8-1986; Ord. No. 503, § 207, 2-26-1996)

Cross reference— Businesses, ch. 10.

State Law reference— Mandatory permitted uses, MCL 125.583b, 125.583c.

Sec. 30-549. - O-S office service district.

(a) *Intent.* To establish and preserve areas for employment activity and service to the public such as offices, banks, clinics, and personal services which do not materially detract from nearby residential uses.

(b) *Principle permitted uses.* Offices of business, professional, financial, medical offices, clinics, facilities for human care such as hospitals, sanitariums, and rest and convalescent homes.

(c) *Conditional uses.* An accessory use customarily related to a principal use authorized by this section such as, but not limited to, a pharmacy or apothecary shop, stores limited to corrective garments or bandages, or optical service, may be permitted. Business, professional and private schools, other than trade or manual arts schools, operated for profit. Examples of private schools permitted herein include, but [are] not limited to, the following: dance studios, music and voice schools, art studios, beauty schools, and professional training.

(Code 1976, § 150.12; Ord. No. 453, § 208, 12-8-1986)

Cross reference— Businesses, ch. 10.

Sec. 30-550. - I-1 light industrial district.

(a) *Scope and intent.* This section applies to the I-1 light industrial district. The I-1 district is designed to primarily accommodate wholesale activities, warehouses and industrial operations whose external physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts.

(b) *Principal permitted uses.* Principal permitted uses in the I-1 district shall include any use permitted in the B-2 district; warehousing and wholesale establishments; trucking facilities; the compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food projects, hardware and tool and dye; the manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials; automobile sales for new and used cars; sales and rentals of trailers, mobile homes, boats and farm equipment; planing mills; lumberyards; gas stations; dry cleaning plants and laboratories.

(c) *Conditional uses.* Conditional uses within the I-1 district shall include drive-in theaters, but only where such theaters are designed so that patron entrance and exit drives lead only to streets having a paved surface of at least 44 feet in width for a distance of at least 200 feet on either side of the intersection between the street and driveway and where the theater screen is not visible from any R-1, R-2 or R-3 district.

(d) *Prohibited uses.* Prohibited uses within the I-1 district shall include junkyards.

(Code 1976, § 150.13; Ord. No. 453, § 209, 12-8-1986; Ord. No. 503, § 209, 2-26-1996)

Cross reference— Businesses, ch. 10.

Sec. 30-551. - I-2 industrial district.

(a) *Scope and intent.* This section applies to the I-2 industrial district. The Intent of the I-2 district is to permit certain industrial uses to locate in desirable areas of the city, which uses are primarily of a manufacturing, assembling and fabricating character, including large-scale or specialized industrial operations requiring good access by road and/or railroad, needing special sites of public utility services, and whose external physical effects will be felt to some degree by surrounding districts. The I-2 district is structured to permit the manufacturing, processing and compounding of semi-finished products from raw materials as well as from previously prepared materials.

(b) *Permitted principal uses.* Permitted uses within the I-2 district shall Include manufacturing, processing and compoundir semi-finished or finished products from raw materials or previously prepared materials and junkyards, any use permitt the I-1 district, except uses identified as businesses in the B-2 district.

(c) *Conditional uses.* Conditional uses within the I-2 district shall include kennels as defined in chapter 6, animals.

(Code 1976, § 150.14; Ord. No. 453, § 210, 12-8-1986; Ord. No. 503, § 210, 2-26-1996; Ord. No. 564, § 2, 3-26-2007; Ord. No. 569, § 1, 8-13-2007)

Cross reference— Businesses, Ch. 10.

Sec. 30-552. - Height and placement regulations.

Except as otherwise specifically provided in this article, no structure shall be erected or maintained within the city between any lot line and the pertinent setback distance, and no structure shall be erected or maintained which exceeds the height limit set forth in the following table:

		Side Setback (feet)	
District	Front Setback (feet)	Minimum	Total Both Sides
R-1	25	5	12
R-1A	75	10	20
R-2	25	5	12
R-3	25	5	12
R-4	25	5	12
B-1	20	0 [1]	0 [1]
B-2	20	0	0
O-S	30	10	20
I-1	25	10	20
I-2	25	10	20

[1] There shall be a minimum setback of five feet and total of 14 feet for residential dwellings.

District	Rear Setback (feet)	Height Limit (feet)
R-1	35	30
R-1A	30	30
R-2	30	35
R-3	30	40
R-4	30	35
B-1	25	30
B-2	10	40
O-S	35	40
I-1	20	40
I-2	20	40

(Code 1976, § 150.15; Ord. No. 453, § 301, 12-8-1986; Ord. No. 498, § 301, 5-22-1995; Ord. No. 564, § 2, 3-26-2007)

Sec. 30-553. - Additional height and placement regulations.

(a) Where the average of the then existing front setbacks on the lots adjoining and on either side of a lot to be developed on the same street within the city is more or less than the setback required by section 30-552, then such average, rather than the distance specified in such section, shall apply.

(b) In the R-1, R-2 and R-3, R-4 districts, garages and other necessary outbuildings, if detached from any other buildings and located at least ten feet from such buildings, may be located in, or partially in, the area to the rear of the rear setback line, provided that such garages and outbuildings do not occupy more than 30 percent of such area, are not located closer than five feet from any lot line and do not exceed 15 feet in height. In the R-1 and R-2, R-4 districts, garages and other accessory buildings shall not exceed 1,040 square feet.

(c) No buildings, including accessory buildings, shall be constructed closer than five feet to any dedicated public street or alley right-of-way.

(d) Chimneys, church steeples and radio and television antennas may exceed otherwise established height limits by not more than 25 feet. Elevator housing and cooling equipment may exceed otherwise established height limits by not more than ten feet. In the I-2 district, the height of a structure may exceed the otherwise established height limit, provided that the height of such structure does not exceed its distance to the nearest property line.

(e) Terraces, patios and porches which are uncovered and unenclosed and stoops may project up to three feet beyond a si setback line, six feet beyond a front setback line and 15 feet beyond a rear setback line, provided that they are not mor three feet above grade. Roof overhangs, bay windows and awnings or canopies may project up to two feet, six inches b any setback line; provided, however, that awnings or canopies located in B-1, B-2, and O-3 districts may project from th to which it is attached to within two feet of and shall be at least eight feet above the curb line or edge of the street whe is no curb. This subsection shall not authorize the erection or maintenance of any structure, or part thereof, over any p street or alley.

(f) Where a lot fronts on two streets at their intersection, the required front setback shall be on one of the streets, whichever is selected by the owner, or as defined by section 30-471.

(g) In the B-1, B-2, I-1 and I-2 districts, structures shall not be erected or maintained within 30 feet of the boundary line of any R-1, R-2 or R-3, R-4 district.

(Code 1976, § 150.16; Ord. No. 453, § 302, 12-8-1986; Ord. No. 521, § 1, 12-28-1998; Ord. No. 564, § 2, 3-26-2007; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-554. - Land use and density and intensity regulations.

Except as otherwise specifically provided in this article, no development, use or structure within the city shall exceed the density and intensity limits set forth in the following table:

District	Minimum Lot [6] Area (square feet)	Minimum Lot [5,6] Width (feet)	Maximum Ground Coverage Ratio
R-1	9,000 [1]	80	30
R-1A	One acre	See Note [7]	25
R-2	5,000 [1]	50	35
R-3	9,000 [1,2]	50 [4]	35 [4]
R-4	5,000 [1]	50	35
B-1	4,000 [3]	40	50
B-2	0	0	60
O-S	0	50	60
I-1	0	0	70
I-2	0	0	70

Notes:

[1] Per dwelling unit.

[2] For the first dwelling unit, 2,500 for the second dwelling unit and 1,500 for each additional dwelling unit. Each additional building constitutes a separate calculation for minimum lot area.

[3] Per dwelling unit. There shall be no minimum for nonresidential use.

[4] Applies only to residential use.

[5] Measured at front setback line.

[6] On lots held under separate and distinct ownership on December 18, 1986, a single-family dwelling may be built, provided that the setback, side and rear yard requirements are met.

[7] Lot fronting on a curvilinear right-of-way shall have a minimum lot width of 75 feet (chord measurement) as measured along the right-of-way and having a minimum lot width of 100 feet at the front setback line.

[8] Lots having 35 percent or less of their width along a curvilinear right-of-way shall have a minimum lot width of 150 feet measured along the right-of-way line.

(Code 1976, § 150.17; Ord. No. 453, § 303, 12-8-1986; Ord. No. 498, § 303, 5-22-1995; Ord. No. 564, § 2, 3-26-2007)

Sec. 30-555. - Planned unit development.

(a) *Established.* A district known as the "planned unit development district," also referred to as the "PUD district," is established and as used in this section, "planned unit development" includes such terms as cluster zoning, planned development, community unit plan, and planned residential development and other terminology denoting zoning requirements designed to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(b) *Purpose.* The purpose of the planned unit development district is to permit flexibility in the regulation of land development; encourage innovation in land use and variety and design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources and the provision of public services and utilities; provide adequate housing, additional commercial establishments and new employment or maintain current employment; encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts do not provide adequate protection and safeguards for the site or its surrounding areas; encourage the provision of open spaces and the development of recreational facilities in a location within reasonable distance of planned living units; and minimize the adverse impact that new development may have on the natural environment or public facilities, such as drainage systems, sewage disposal systems, water systems and other publicly provided systems, services and facilities. All such development shall be consistent with the public health, safety, convenience and welfare.

(c) *Principal permitted uses.* Principal permitted uses within the planned unit development district shall be all residential uses, including multiple-family apartments, or a mixture of single-family and multiple-family units on a planned basis, through the use of cluster homes, row houses, townhouses and/or apartment houses; all business, service and professional offices; all manufacturing or industrial uses; all commercial uses; or any combination of such uses.

(d) *Permitted accessory uses.* Accessory uses permitted in the planned unit development district shall include any

accessory uses, which are permitted in any residential, commercial, office and/or industrial district in accordance with the regulations set forth in this article.

(e) *Site plan submission.* All owners, or the holders of a lawful option, within the planned unit development district shall file with the zoning administrator a proposed site plan and detailed description of the structures to be erected, the other facilities of the project and the land uses involved. In addition, such owners, or the holders of a lawful option, shall furnish such other information as the zoning administrator and/or the zoning commission may reasonably require, consistent with the purposes set forth in subsection (b) of this section.

(f) *Applicability of section.* The provisions of this section may be applied, upon application of a proper person, to any parcel exceeding one-half acre in size, except where the parcel is located in the R-1 district.

(g) *Approval standards.* Based upon the standards set forth in this subsection, the zoning committee may recommend denial, approval or approval with conditions, and the city commission may deny, approve or approve with conditions a proposed planned unit development. In making such a decision, the zoning committee shall rely upon the following standards:

(1) The uses proposed within the planned unit development will have a beneficial effect, in terms of public health, safety, welfare or convenience, on present and future potential land uses. The uses shall not adversely affect, in a material manner, the public utility and circulation system, surrounding properties or the environment.

(2) Off-street parking within the planned unit development shall be sufficient to meet the minimum parking required by section 30-583; however, if it is deemed necessary in order to achieve the purposes set forth in subsection (b) of this section, the zoning committee may require more or less parking than that required by such section.

(3) All streets and parking areas within the planned unit development shall meet the minimum requirements set forth in city ordinances, unless modified by the zoning committee to achieve the purposes set forth in subsection (b) of this section.

(4) Landscaping or screening shall be provided, if necessary, within the planned unit development in order to ensure that the proposed uses will be adequately buffered from one another and from surrounding public and private property.

(5) Effort shall be made to ensure the preservation of natural and architectural features, trees, hedge rows, wood lots and the integrity of the land within the planned unit development.

(6) The site for the planned unit development shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material.

(7) Public water, sewer and electrical facilities shall be available within the planned unit development or shall be provided by the developer as part of the site development.

(8) The proposed density, setbacks and heights of the planned unit development shall be no different than the density, setbacks and heights which would be required for each of the component uses of the development. However, if it is deemed necessary in order to achieve the purposes set forth in subsection (b) of this section, the zoning committee may require greater or lesser density, setbacks or heights within such planned unit development than those required by this article.

(9) Traffic and accessory conditions regulations shall be as follows:

a. Safe, convenient, uncongested and well defined vehicular and pedestrian circulation within and to the planned unit development district shall be provided.

b. Drives and streets shall not be laid out so as to encourage outside traffic to traverse the planned unit development, nor to create unnecessary fragmentation of the development into small blocks.

c. No material impediment to the visibility of automotive traffic, cyclists or pedestrians shall be created or

maintained.

(10) All buildings shall conform to city codes and ordinances.

(h) *Procedural requirements.* Upon receipt of a planned unit development application and site plan, the zoning administrator shall transmit the application and plan to the zoning committee. The zoning committee shall hold a public hearing in the same manner and give notice of such hearing as required for zoning amendments under section 30-475.

(i) *Rezoning of parcel.* Approval of the planned unit development by the zoning committee shall be a recommendation to the city commission to rezone the property to a planned unit development zoning classification for the uses as shown on the planned unit development application and site plan.

(j) *Time for completion of development.* Within 18 months of the approval of an application and site plan for a proposed planned unit development, or for a phase of such development, all proposed buildings, parking spaces, landscaping, usable open spaces and amenities included in the site plan shall be started or the planned unit development district will revert to its previous zoning. Work shall be continued in a reasonably diligent manner and completed within three years of the approval by the city commission. Such 18-month and three-year periods may be extended if applied for by the applicant and granted by the city commission in writing following a public notice and public hearing. Failure on the part of the owner to secure the applicable written extension shall result in a stoppage of all construction.

(k) *Consequences of approval.* After approval of a planned unit development, the parcel to which it pertains shall be developed and used in its entirety only as authorized and described in the resolution approving the planned unit development.

(l) *Changes.* Minor changes to a previously approved planned unit development site plan may be approved without the necessity of action by the zoning committee or city commission if the zoning administrator certifies in writing that the proposed revision does not alter the basic design, nor any specified conditions of the site plan as approved by the city commission. Any changes or alterations, other than minor changes as set forth in this section, may be made only by following the same procedures as required for the adoption of a planned unit development in the first instance.

(m) *Appeal.* A party aggrieved by the decision of the city commission may appeal to the circuit court for the county in which the property is located as provided under subsection 30-511(g) of this Code.

(Code 1976, § 150.22; Ord. No. 453, § 308, 12-8-1986; Ord. No. 470, § 2, 5-28-1991; Ord. No. 564, § 2, 3-26-2007)

State Law reference— Planned unit developments, MCL 125.3503.

Sec. 30-556. - Site condominiums.

(a) A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the platting provisions of the Land Division Act, Public Act No. 288 of 1967, as amended.

(b) A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed on it and uses conducted within it as allowed in its zoning district, provided the unit meets the development requirements for the zoning district in which it is located.

(c) Site plan approval.

(1) A site plan, including the condominium documents required for the establishment of a condominium, shall be reviewed and approved in accordance with section 30-509.

(2) Approval of a preliminary site plan shall for a period of two years confer upon the proprietor approval of lot

sizes, lot orientations, and street layouts.

(3) Three separate one-year extensions may be granted by the city commission if applied for in writing prior to the date of expiration of approval of the preliminary site plan.

(4) After a period of two years from approval, unless extensions as provided for in this chapter have been granted, the preliminary site plan approval shall become null and void if substantial construction has been commenced and proceeded in a meaningful manner.

(d) Monuments shall be set at all boundary corners and deflection points and at all street right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.

(e) The city engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year from the date of approval by the city commission, on condition that the developer deposit with the city clerk cash, a certified check, or an irrevocable bank letter of credit running to the city, whichever the developer selects, in an amount as determined from tine to time by resolution of the city commission.

(1) The deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required within the time specified.

(2) If the developer defaults, the city commission shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan at the developer's expense.

(f) All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.

(1) The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.

(2) The developer shall dedicate to the city all easements for utilities, water, sewer, and electrical easements may be placed within streets, subject to the approval of the city engineer and fee standards of the city.

(3) All streets proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of the city.

(Ord. No. 547, § 1(309), 10-27-2003)

Sec. 30-557. - Wireless telecommunications facility.

(a) *Purpose.* In recognition of the requirements of the Federal Telecommunications Act of 1996, this section is designed and intended to balance the interests of the residents of Gladstone, telecommunications providers, and telecommunications customers in the siting of telecommunication facilities within the city so as to ensure coordinated development of communication infrastructure while preserving the health, safety and welfare of the city and its residents. This section establishes general guidelines for the siting of wireless telecommunication towers; and antennas to enhance and fulfill the following:

(1) Preserve the authority of the city to provide for reasonable opportunity for the siting of telecommunications services and to provide such services to the community effectively and efficiently;

(2) Minimize the visual impact of such facilities as viewed from other vantage points;

(3) Encourage the location of wireless communication facilities onto existing structures to reduce the number of new communication towers needed within the city;

(4) Encourage co-location and site sharing of new and existing wireless communication facilities;

(5) Control the type of tower facility constructed when towers are permitted;

(6) Establish adequate development and design criteria to enhance the ability of providers of telecommunications serv provide service to the community quickly, effectively, and efficiently;

(7) Enhance prosperity through protection of property values; and reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors and scenic corridors from the uncontrolled development of wireless communications facilities by requiring reasonable siting conditions;

(8) Ensure the harmonious and orderly development of wireless communication facilities within the city;

(9) Provide development standards for the development of wireless communication facilities which are consistent with the requirements of the Federal Telecommunications Act of 1996 and in the best interest of the future of the city;

(10) Provide clear performance standards addressing the siting of wireless communication facilities;

(11) Provide for the removal of abandoned facilities, and provide a mechanism for the city to remove these abandoned towers.

(b) *Construction of other code sections.* To the extent these development standards conflict with other provisions of the city Code, these standards shall control.

(c) *Definitions.* For the purposes of this section, the following definitions shall apply.

(1) *Antenna array.* An antenna array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the support structure.

(2) *Attached wireless communication facility.* An attached wireless communication facility is an antenna array that is attached to an existing building or structure (attachment structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (attachment device) which attaches the antenna array to the existing building or structure and associated connection cables, and an equipment facility which may be located either inside or outside of the attachment structure.

(3) *Buffer zone.* An area of land specifically designed to separate one zoning use from another, such as separating a residential neighborhood from an commercial or industrial use.

(4) *Co-location/site sharing.* Co-location/site sharing shall mean use of a common wireless communication facility or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and/or placement of an antenna array on a structure owned or operated by a utility or other public entity.

(5) *Accessory structure.* An accessory structure is any structure used to contain ancillary equipment for a wireless communication facility, which includes cabinets, shelters, and any addition of an existing structure, pedestals or other similar structures.

(6) *Guy wire.* A cable used to secure and steady a tower.

(7) *Height.* When referring to a wireless communication facility, height shall mean the vertical distance measured from ground level to the highest point on the wireless communication facility, including the antenna array and other attachments.

(8) *Monopole.* Any tower consisting of a single pole, constructed without guy wires or ground anchors.

(9) *Pre-existing towers and antennas* . Any tower or antenna lawfully constructed or permitted prior to the adoption of this section as well as the replacement of any such towers and antennas.

(10) *Tower/support structure* . A structure that is designed and constructed primarily for the purpose of supporting

one or more antennas, and may include self-supporting lattice towers, guy towers, monopole towers and other similar structures. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, digital communication towers, alternative tower structures and the like; but shall not include radio and TV reception antennas referred to in code section 30-553. Any device (attachment devi[c]e) which is used to attach an attached wireless communication facility to an existing building or structure (attachment structure) shall be excluded from the definition of and regulations applicable to support structures.

(11) *Setback.* Setback shall mean the required distance from the property line of the parcel on which the wireless communication facility is located to the base of the support structure and equipment shelter or cabinet where applicable, or, in the case of guy-wire supports, the guy anchors.

(12) *Temporary wireless communication facility* . Temporary wireless communication facility shall mean a wireless communication facility to be placed in use for 90 or fewer days.

(13) *Tower and antenna use application (TAA).* A form provided to the applicant by the city for the applicant to specify the location, construction, use and compliance with the development standards of a proposed wireless communications facility.

(14) *Wireless communication* . Wireless communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services.

(15) *Wireless communications facility.* A wireless communication facility is any un-staffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation.

(d) *Location and site requirements.*

(1) Communication towers are prohibited in all zoning districts except in the Industrial District (I-1 and I-2) and residential districts.

(2) In residential districts the tower shall be set back from all property lines a distance equal to its height.

(3) In industrial districts the tower shall be set back from all property lines a distance equal to its height, unless a registered structural engineer certifies the plan of tower construction and the likelihood of a tower failure is minimal. The applicant shall incur all costs associated with engineering reviews and plans.

(4) No part of the tower or support structure shall be constructed or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the tower and support structure is to be located.

(5) The wireless communication facility shall be enclosed by a fence at least six feet in height, constructed of wood, vinyl or metal, and otherwise in compliance with section 30-582.

(e) *Special performance standards.* A proposal for a new wireless communication facility shall not be approved by the planning commission unless the proposal meets the standards for a conditional use permit as set forth in code section 30-508 and, in addition, meets the special standards set forth below:

(1) The proposal shall not be approved unless the planning commission finds that the equipment planned for the proposed tower cannot be accommodated on existing or approved towers, buildings or alternative structures within a radius of two miles of the proposed tower because of one or more of the following reasons:

a. The planned equipment would exceed the structural capacity of the existing or approved tower, building or structures, as documented by a qualified and licensed State of Michigan professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to

accommodate planned or equivalent equipment at reasonable cost.

b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower, building or other structure as documented by intermodulation study prepared by qualified personnel and the interference cannot be prevented at a reasonable cost.

c. Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified personnel and supported with radio frequency propagation studies.

d. The fees, costs or contractual provisions required by the owner in order to share an existing tower or other structure to adapt an existing tower or other structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

e. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(2) The allowable height of a tower shall be determined on a case-by-case basis as part of the conditional use permit process for compliance with all the provisions of section 30-508, and this section 30-557, with particular emphasis on compliance with the special performance standards in subsection (e).

(3) Equipment facilities, in residential districts are limited to uses associated with the operation of the tower and may not be located any closer to property lines (front or side) than 30 feet.

(4) Equipment facilities shall not exceed a size that is reasonable to support the structure.

(5) All buffer zone requirements for locations that adjoin residential areas within this zoning ordinance shall be met.

(6) All towers shall be equipped with anti-climbing devices to prevent unauthorized access.

(7) A registered structural engineer shall certify the plan of the tower construction and submit plans with the building permit.

(8) The applicant shall provide verification that the antenna mounts and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.

(9) All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.

(10) Communication towers in excess of 100 feet in height above grade level shall be prohibited within a two mile radius of a public airport or a ½ mile radius of a helipad.

(11) Metal towers shall be constructed of, or treated with, corrosive-resistant material.

(12) Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with applicable local statutes, regulations and standards.

(13) Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the Michigan Building Code Section 3108.

(14) All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

(15) Towers shall be located and operated so that they do not interfere with television, radio and other communication device's reception in nearby residential areas.

(16) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and/or leased by the applicant.

(17) The base of the tower shall occupy no more than 500 square feet.

(18) Towers shall not be artificially lighted unless required by the Federal Aviation Administration. Security and safety lighting of accessory structures is allowed if such lighting is down shielded to keep light within the boundaries of the site.

(19) There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except a small message containing provider identification and emergency contact information, and such other information as may be required by law or regulation.

(20) Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform, within a reasonable time to the extent required by such standard or the conditional use approval will be subject to revocation by the city commission. Cost for testing and verification of compliance shall be borne by the operator of the antenna.

(21) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.

(22) All parking and drive areas must meet the requirements set forth in the Code, section 30-583.

(23) Where the property adjoins any residentially zoned property or land use, the developer shall create a buffer zone by planting evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted with a maximum spacing of five feet. Plants shall be at least three gallon container plants or 24 inches tall at the time of planting. Trees planted must be maintained and/or replaced to insure continued compliance of this requirement.

a. All plants and trees shall be indigenous to the City of Gladstone and Delta County and be drought resistant.

b. Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided however, that vegetation that causes interference with the antennas or inhibits access to the facility may be trimmed or removed.

c. Existing vegetation on a facility site may be used in lieu of required landscaping where approved by the zoning administrator or designee.

d. Grading for the facility shall be minimized and limited only to the area necessary for the new facility.

(24) Attached wireless communication facilities shall not add more than 25 feet to the height of the existing building or structure to which it is attached (attachment structure). However, antenna attachments to existing wireless communication facilities with support structures shall not increase the height of the support structure above the maximum original permitted height of that support structure.

(25) All towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission and any other agency of the federal government with the authority to regulate towers and antennas. Failure to bring towers and antennas into compliance with revised standards and regulation within six months of their effective date shall be deemed abandonment and shall constitute grounds for the removal of the tower or antenna in accordance with the requirements of subsection (g) of this section 30-557.

(f) *Co-location requirements.*

(1) Wireless communication facilities with support structures shall be constructed to the Electronic Industries Association/Telecommunication Industries Association (EIS/TIA) 222 Revision F Standard entitle[d] "Structural Standards for Steel Antennas Towers and Antenna Support Structures" (or equivalent), as it may be updated and amended. Each support structure shall be capable of supporting multiple antenna arrays.

(2) All wireless communication facilities with a support structure up to a height of 150 feet shall be engineered and

constructed to accommodate at least three separate antenna arrays. All wireless communication facilities with a support structure greater than 150 feet shall be engineered and constructed to accommodate at least four separate antenna arrays.

(3) All applicants for wireless communications facilities are required to submit a statement with the application agreeing to allow and reasonably market co-location opportunities to other wireless communications facility users. The statement shall include the applicant's policy regarding co-location of other providers and the methodology to be used by the applicant to determine reasonable rates to be charged to other providers. The collocation agreement shall be considered a condition of issuance of a conditional use permit.

(g) *Removal of abandoned support structure.*

(1) Any support structure that is not operated for a continuous period of 12 months shall be considered abandoned and the city at its discretion may require the support structure owner(s) to remove the support structure within 90 days after notice from the city to remove the support structure. If there are two or more users of a single support structure, this provision shall not become effective until all providers cease to use the support structure. If the owner(s) of an abandoned support structure cannot be located or is no longer in business the requirements of this subsection shall be the responsibility of the landowner(s) on the property of which the support is located.

(2) If a tower is not in compliance with the provisions of subsection (e)(25) of this section 30-557 and deemed to be abandoned, the city in its discretion may require the support structure owner(s) to remove the support structure. If the owner(s) cannot be located or are no longer in business, the requirements of the subsection shall be the responsibility of the landowner of the property on which the support structure is located.

(h) *Nonconforming existing facilities.* Wireless communication facilities in existence on the effective date of this section 30-557 which do not comply with the requirements of this section are subject to the following provisions:

(1) Nonconforming facilities may continue in use for the purpose now used, but may not be expanded without complying with this section, except as further provided in this subsection (h).

(2) A facility which is nonconforming only because it does not meet requirements in section (d) location and site requirements may add additional antennas (belonging to the same provider or other providers) by means of an administrative approval issued pursuant to the provisions of this section and subsection (i).

(3) Nonconforming wireless communications facilities which become damaged due to any reason or cause may be repaired and restored to its former use, location and physical dimensions. Provided, however, that if the damage to the wireless communication facility exceeds 50 percent of replacement cost, said wireless communication facility may only be reconstructed or repaired in compliance with this section 30-557.

(4) Any nonconforming wireless communications facility not in use for six months shall be deemed abandoned and all rights as a nonconforming use shall cease and be subject to removal under the provision of subsection (g).

(i) *Administrative approval.* Attached wireless communications facilities and/or antenna array attachments onto existing structures that meet the development criteria may be permitted by the city manager, after an administrative review. If the development criteria are not met the city manager shall deny the request. All other proposed wireless communication facilities shall be subject to the conditional use permit process.

(j) *Approval process.* All applications for a conditional use permit regardless of the type of wireless communication facility shall include the following:

(1) A sealed complete set of drawings prepared by a licensed architect or engineer that will include a site plan, elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the wireless communications facility and all improvements associated therewith, including

information concerning specifications, antenna locations, equipment-facility and shelters, landscaping, parking, access, fencing and if relevant as determined by staff, topography, adjacent uses and existing vegetation. Radio frequency propagation maps shall be required for all new tower applications, showing the extent and strength of proposed coverage from the proposed tower, and shall also include the coverage afforded by adjoining existing wireless communication facility sites. To the extent possible, the site plan shall comply with the provisions of section 30-509.

(2) The application shall be submitted on forms prescribed by the city. The application shall be accompanied by a site plan containing the information described above. The wireless communication facility shall not be operated in any capacity until the applicant provides a copy of its FCC license providing authorization for the applicant to operate, receive and transmit wireless communication services for the facility.

(3) All applicable fees shall accompany each application.

(4) In the course of its consideration of an application, the city may deem it necessary to employ an engineer(s) or other consultant(s) qualified in the design and installation of wireless communication facilities to assist the city in the technical aspects of the application. In such cases, any additional reasonable cost incurred by the city not to exceed $2,000.00 for the technical review and recommendation shall be reimbursed by the applicant prior to the final hearing on the application. The city may also require additional review fees, as necessary, including but not limited to, intermodulation and propagation map studies. These fees shall be reimbursed, at cost, by the applicant.

(5) The planning commission, in accordance with the purposes and intent of this section, may approve the application with conditions, additional development criteria, or restrictions as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the wireless communication facility with the surrounding property; provided that the conditions, additional development criteria, or restrictions are reasonable and capable of being accomplished, and are specifically included in a motion for approval of the application.

(k) *Finding of fact.* The conditional use permit shall be granted when each of the following findings of fact have been made by the planning commission:

(1) The wireless communication facility will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;

(2) The wireless communication facility meets all required conditions, specifications and development standards of this section;

(3) The wireless communication facility will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;

(4) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the area and its environs;

(5) If applicable, additional development conditions are based upon the purpose and goals of this section; and

(6) If applicable, additional development conditions are reasonable and capable of being accomplished.

(l) *Exception to this section.*

(1) The provisions of this section 30-557 shall not apply to the following systems:

a. Automatic meter reading which enables one-way or two-way communication between electric meters, heat meters, gas meters and water meters to allow the collection and transmission of data between the meter and a central database to facilitate the measuring, billing, troubleshooting and analysis of usage data.

i. Such systems may utilize handheld, mobile and network technologies based on telephony platforms (wired
frequency or power line transmissions.

ii. Equipment for such systems which is mounted on utility poles shall be of a minimal size required to operate the systems in order to minimize the visual impact of such equipment and not be a distraction or sight obstruction to nearby vehicle traffic.

(Ord. No. 581, § 1, 4-11-2011; Ord. No. 587, § 1, 4-23-2012)

Editor's note— Ord. No. 581, § 1, adopted Apr. 11, 2011, enacted new provisions to read as § 30-556. Seeing as provisions have already been set out as § 30-556, these provisions were herein incorporated as a new § 30-557, at the discretion of the editor.

Secs. 30-558—30-580. - Reserved.

DIVISION 4. - SUPPLEMENTAL REGULATIONS

Sec. 30-581. - Accessory uses and structures.

Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized, except as prohibited specifically or by necessary implication in this [article] or any other ordinance. The following special rules are applicable:

(1) Customary home occupations are permitted as an accessory conditional use to residential use or occupancy but only to the extent authorized by the definitions of these terms in this article.

(2) Accessory uses to a gas station are limited to lubrication, changing oil and filters, changing and repairing of tires and tubes, engine tune-up, hand washing and polishing without automatic equipment, and replacement of light bulbs, windshield wiper blades and other small parts, and do not include steam cleaning, body repairs, painting, or transmission or chassis repairs except as listed above.

(Code 1976, § 150.39; Ord. No. 453, § 513, 12-8-1986)

Sec. 30-582. - Fences and hedges.

(a) *Intent.* It is the intent of the city commission to promote the general welfare of the city by following regulations relating to fences and hedges.

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

Building line means the line established by law, beyond which a building shall not extend, except as specifically provided by law.

Fence means any construction, barrier or erection, which wholly or partially encircles any given area.

Hedge means a bush or shrub, or any living green fence of any nature, which wholly or partially encircles any given area.

Protective measures fence means a fence erected for the express purpose of the protection of the enclosed area and its contents in all areas other than residential areas. When such protective measures fence employs barbed wire along the uppermost edge of such fence, the minimum height for such fence below the barbed wire extension shall be six feet.

Sidewalk line means the edge of the established sidewalk nearest the established lot line of any property within the city.

(c) *Permit required.* It shall be unlawful for any person to construct, or cause to be constructed, any fence or hedge upon a property within the city without first having obtained a permit therefore in the manner provided for in this section.

(d) *Permit application.* Any person desiring to build or to cause to be built a fence or to grow a hedge or cause a hedge to be grown upon property owned in the city shall first apply to the building inspector for a permit. Such application shall contain all information required by the building inspector necessary for the determination of whether the erection of such fence or growing of such hedge will violate any ordinance of the city or law of the state.

(e) *Height.*

(1) *Front yard.* In residential and local business zones, fences and hedges in the front yard area shall not exceed four feet in height.

(2) *Side and rear yard.* In residential and local business zones, fences and hedges in the side and rear yard areas shall not exceed six feet in height.

(3) *Corner lots.* On corner lots in residential and local business zones, fences and hedges nearer the street than the established building line shall not exceed four feet in height.

(f) *Extensions restricted.*

(1) A partition fence or hedge shall not extend towards the street beyond two feet from the established lot line, nor shall any fence or hedge, or portion thereof, be erected in any area on or parallel to the lot line, unless it shall be located a minimum of two feet behind the inside edge of the established sidewalk line. It shall be unlawful for any person to plant or cause to have planted any shrub or bush outside of the established sidewalk line.

(2) Nothing in this section shall be construed to allow any hedge growth to extend toward the street beyond two feet from the established lot line.

(3) Nothing in this section shall be construed to allow a fence or hedge growth to be erected less than three feet from an alley property lot line in a residential or local business zoned area.

(g) *Type of fences restricted.*

(1) No person who is the owner, lessee, occupant or agent of any building in the city shall erect, cause to be erected or maintain on or about the walk or stairway to the entrance of such building any railing, fence, guard or other projection on which there shall be affixed or placed, or in any manner attached, any barbed wire construction; nor shall there be maintained, either partially or wholly, around any street or sidewalk in the front lane or public way, or in or along any street or sidewalk in front or adjacent to any public space or place, nor nailed or caused to be nailed or fastened in any form, shape or manner, upon any partition form, any such barbed wire construction; nor shall any electrical current be charged through any fence.

(2) A permit granted by the city building inspector shall be required for any person wishing to erect a protective measures fence. Such permit shall be granted only after demonstration of the need of such fence. The owner, or his agent, of a protective measures fence shall be granted permission to erect necessary and reasonable barriers along the uppermost edge of such protective measures fence that he deems reasonable for the protection of property within the enclosed area.

(h) *Owner's liability.* Any person within the corporate limits of the city who erects or maintains a fence or hedge between the edge of the established lot line and the inside edge of the sidewalk, or where any sidewalk would normally be, shall be fully responsible for the care and maintenance of such fence or hedge, and shall assume full responsibility for any damage arising due to the erection of such fence or hedge.

(i) *Waiver.* Upon complaint in writing by any person directly or adversely affected, the planning commission may, after a public hearing in accordance with the established procedure of the commission, in its sound discretion and in the interest of the public health, safety and welfare of the inhabitants of the city, reduce or remit the requirements of

this section in individual cases coming before the commission. Provided however, the provisions of subsection (e) (3) regarding corner lots shall not be subject to waiver under this provision.

(j) *Nonconforming uses.* The lawful erection of a fence or hedge growth existing on December 18, 1986, may be continued although such erection or growth does not conform to the provisions of this section, but if such nonconforming use is discontinued for a period in excess of 90 days, the future erection of a fence or hedge growth shall be in conformity with the provisions of this section.

(Code 1976, § 150.18; Ord. No. 453, § 304, 12-8-1986; Ord. No. 563, § 2, 11-27-2006)

Sec. 30-583. - Off-street parking.

(a) Off-street parking shall be provided within the city for motor vehicles. The minimum number of parking spaces, which shall be provided, are as follows:

Use	Spaces Required
Apartments and townhouses	2 per dwelling unit or floor area in square feet divided by 440, whichever is greater
Banks	1 per 150 square feet of floor space
Barbershops and beauty parlors	2 plus 1.5 per chair
Bed and breakfasts	1 per sleeping room
Bowling alleys	5 per lane in addition to spaces required for restaurant facilities
Churches, theaters, facilities for spectator sports, auditoriums, concert halls	0.35 times the seating capacity
Doctor and dentist offices	1 per 100 square feet of waiting room area, plus 1 per doctor or dentist
Fast food take-out establishments and drive-in restaurants	0.10 times the floor area in square feet
Funeral parlors	1 per 50 square feet of floor space
Furniture; appliance, household equipment, carpet and hardware stores; repair shops, including shoe repair; contractors' showrooms, etc., and museums and galleries	1.2 per 100 square feet of floor space

Gas stations	1 per pump, plus 2 per lift (in addition to stopping places adjacent to pumps)
Golf courses	7 per hole
Hotels and motels	1.2 per room in addition to spaces required for restaurant facilities
Laundromats	0.5 per machine
Mobile home subdivisions and parks	2 per mobile home
Offices	1 per 300 square feet of floor space
Restaurants, except drive-ins	1.2 per 100 square feet of floor space
Retail stores and service establishments	1 per 150 square feet of floor space and outdoor sales space
Roominghouses, fraternities, sororities, dormitories, adult foster care facilities, family or group day care homes	0.4 times the maximum number of occupants
Single-family and two-family dwellings	2 per dwelling unit
Warehouses	1 per 500 square feet of floor space
Other businesses and industrial uses	0.75 times the maximum number of employees on the premises at any one time

(b) Where calculation of off-street parking space in accordance with the table set forth in subsection (a) of this section results in requiring a fractional space, any fraction of a space less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

(c) Required off-street parking shall be provided on the lot to which it pertains.

(d) The use of any required off-street parking space for the storage of a motor vehicle for sale, or for any other purpose other than the parking of motor vehicles, shall be prohibited.

(e) The zoning administrator may permit a modification of the required location of off-street parking facilities and/or the amount of off-street parking facilities required if, after investigation, he finds that such modification is necessary to secure an appropriate development of a specific parcel of land, provided that such modification will not be inconsistent with the spirit and purpose of this section, public safety and substantial justice.

(f) The following minimum design standards shall be observed in laying out off-street parking facilities:

Parking Angle (degrees)	Stall Width (feet)	Aisle Width (feet)	Stall Length (feet)	Curb to Curb (feet)
0—15	9	12	23	30
16—37	10	11	19	47
38—57	10	13	19	54
58—74	10	18	19	61
75—90	10	24	19	63

(g) Landscaping of off-street parking lots.

(1) *Purpose.* The purpose of this Code section is to promote the general welfare of the city by requiring landscaping for off-street parking lots, as defined herein, intended to promote pedestrian safety through better traffic control; reduce air and water pollution; reduce stormwater impacts; to shade and cool parking areas; provide a buffer between adjoining land uses; and enhance the appearance of parking lots and their visual impact from public sidewalks and streets.

(2) *Definitions.*

a. *Parking lot* means off-street surface parking lots and other areas used for the parking, service sale or storage of vehicles, where such parking lot or area consists of more than 10,000 square feet.

b. *Perimeter parking lot landscaping* means landscaping located inside the area used for the parking, service, sale, and storage and maneuvering vehicles.

c. *Interior parking lot landscaping* means landscaping located inside the area used for the parking, service, sale, and storage and maneuvering of vehicle.

d. *Trees* means deciduous shade trees or coniferous trees as shown on an approved list prepared by the city forester.

(3) *Development standards.*

a. Landscaping shall be required for all parking lots as defined herein. A landscaping plan shall be included as part of the required site plan and subject to the same approval process. Minor modifications to the landscaping requirements may be approved where the circumstances of the site require it.

b. Perimeter parking lot landscaping. These requirements shall apply to all parking lots as defined herein. The perimeter of the parking lot shall be bordered by a landscaped strip of soil not less than five feet wide and consisting only of the following:

1. A mix of deciduous shade trees and/or coniferous trees uniformly distributed and spaced not more than 35 feet apart; and

2. Ground cover covering 100 percent of the exposed soil which cover shall consist of:

i. Low-growing ground plantings such as grass or flowers; and/or

ii. A planting of shrubs not more than 48 inches in height.

iii. No loose mulch shall be allowed as ground cover except under the canopy of shrubs and within two feet of the base of trees.

iv. In addition to the above, decorative landscaping stone may be used as ground cover to the extent that it does not make up more than 30 percent of the total ground cover.

3. Provided that further, that where the perimeter parking lot landscaping areas abut a structure or where the parking lot access is shared with an adjoining parcel, such areas shall be landscaped as described above, or, at the discretion of the parking lot owner or operator, with paved sidewalks not less than six feet wide and planted with trees spaced not more than 35 feet apart in three feet by five feet tree wells.

4. Where a parking lot abuts a residential district, the landscaping as required above shall include a wall, a sight-obscuring fence or sight-obscuring landscaping not less than six feet in height.

(4) *Interior parking lot landscaping.* These requirements shall apply to all parking lots as defined herein except those used for the service, sale or storage of vehicles. In addition to the perimeter parking lot landscaping requirements, parking lots shall have not less than ten percent of the gross area of the interior of the parking lot devoted to landscaping. Pedestrian walkways shall not be included as part of such ten percent requirement. Such interior landscaping shall consist of:

a. Not less than one tree for each ten parking spaces; and

b. Ground cover covering 100 percent of the exposed ground which cover shall consist of:

1. Ground plantings such as grass or flowers; and/or

2. A planting of shrubs not more than 48 inches in height.

3. No loose mulch shall be allowed as ground cover except under the canopy of shrubs and within two feet of the base of trees.

4. Where there are more than 12 contiguous parking spaces in a row, there shall be a landscaped strip created separating each 12 spaces from the next contiguous space. Such landscaped strip shall be at least six feet in width and contain shade trees and/or ground cover as described in subsection (3)b.2. above.

(5) *Tree requirements.* The trees used in the landscaping requirements hereunder may already exist on the site or may be planted. Not less than one-half of the total number of trees shall be of a type characterized by moderate growth and expected to reach a mature height of more than 30 feet. At the time of approval of the site plan, trees used for landscaping hereunder, whether existing on the site or planted, shall be not less than ten feet in height and have a trunk diameter of not less than two and one-half inches caliper size six inches above the ground.

(6) *Protective requirements for landscaping.* All landscaping hereunder shall be provided with suitable curbing, which may consist of landscaping timbers, cast-in-place concrete or pre-cast concrete, for the purpose of protecting landscaped areas from damage by vehicles, snow removal operations or other activities on the site.

(7) *Maintenance of landscaping.* In addition to the requirements of any other applicable ordinance or statute, the parking lot owner and/or operator shall be responsible for maintaining the landscaping required hereunder, which maintenance shall include:

a. Any necessary cutting or trimming of shrubs to insure continued compliance with the requirements hereunder, such as height or spacing requirements.

b. Any replacement of trees, shrubs or ground cover, which are dead or dying or otherwise, removed and which ar continued compliance with the requirements hereunder.

c. Any other replacement or repair necessary to insure continued compliance with the requirements hereunder.

(8) Applicability of this section.

a. The landscaping requirements hereunder shall apply to:

1. Any parking lot as defined herein constructed on or after the effective date of this section.

2. Any existing parking lot as defined herein to which substantial changes or improvements are made or after the effective date of this section, such as:

i. Enlarging the area of the parking lot by more than 25 percent, or

ii. Removing and replacing the surface of a paved lot or changing a gravel surface to a paved surface, where either action involves 50 percent or more of the area of the parking lot.

(Code 1976, § 150.19; Ord. No. 453, § 305, 12-8-1986; Ord. No. 468, § 2, 5-28-1991; Ord. No. 558, §§ 1—7, 2005; Ord. No. 564, § 2, 3-26-2007; Ord. No. 577, § 2, 5-11-2009)

Cross reference— Parking, § 54-101 et seq.

Sec. 30-584. - Required off-street loading spaces.

Loading spaces required under this section shall be at least 50 feet long and 12 feet wide. Every lot used for business or industrial purposes and having a building or buildings with a total floor area of at least 10,000 square feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least 20,000 square feet shall be provided with off-street loading space. An additional off-street loading space shall be required for lots used for business or industrial purposes where the floor area of all buildings exceeds 100,000 square feet.

(Code 1976, § 150.20; Ord. No. 453, § 306, 12-8-1986)

Sec. 30-585. - Bed and breakfast facilities.

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

Bed and breakfast facility means a facility which is subordinate to a dwelling unit and in which transient guests are provided sleeping rooms and breakfast only, in return for payment.

(b) *License; fees; exceptions; transferability.* It shall be unlawful for any person within the city to operate a bed and breakfast facility as defined in subsection (a) of this section without first obtaining a license. The annual fee for such license shall be $100.00 for the whole or any part of the year and shall be paid at the office of the city clerk. This section shall not apply to hotels, motels or boardinghouses doing business within the city. Bed and breakfast licenses shall be renewed on an annual basis in January of each year and are not transferable to another location or another operator.

(c) *Dwelling unit and operator requirements.* Bed and breakfast facilities shall be confined to a single-family dwelling unit which is the principal dwelling unit on the property. The dwelling unit in which the bed and breakfast facility takes place shall be the principal residence of the operator, and the operator shall live on the premises during any time that the bed and breakfast facility is active.

(d) *Guest register.* Each bed and breakfast facility operator shall keep a list of names of all persons staying at the bed

and breakfast facility. Such list shall be available for inspection by city officials at any reasonable time.

(e) *Length of stay.* The maximum stay for any occupant of a bed and breakfast facility shall be 14 consecutive days.

(f) *License application.* Applicants for a license to operate a bed and breakfast facility within the city shall submit the following for review:

(1) A floor plan of the single-family dwelling unit illustrating that the proposed use will comply with the provisions of this article and other applicable provisions of this Code within the terms of this section.

(2) A site plan showing the dimensions of the property, the size and location of the buildings and the proposed parking.

(g) *Exits; minimum size; smoke detectors; lavatories and bathing facilities.* A premises shall not be utilized as a bed and breakfast facility unless there are at least two exits to the outdoors from such premises. Rooms utilized for sleeping purposes shall have a minimum size of 100 square feet for two occupants, with an additional 30 square feet for additional occupants, to a maximum of four occupants per room. The minimum size of a dwelling unit for a bed and breakfast facility shall be 2,000 square feet of normal residential space, not including garages and storage sheds. A maximum of four guests shall be allowed to stay in any one bed and breakfast facility sleeping room. Each sleeping room used for a bed and breakfast facility use shall have a separate smoke detector alarm. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast facility unit.

(h) *Parking.* A bed and breakfast facility shall provide parking in accordance with the requirements set forth in section 30-583.

(i) *Signage.* One sign, not exceeding two square feet, with only internal lighting shall be permitted in the front of the dwelling unit on the property of the applicant.

(j) *Number permitted.* There shall be no more than two bed and breakfast facility uses permitted within a 750-foot radius of each other.

(k) *Food and beverages.* Food and beverages shall be served within a bed and breakfast facility only to registered guests or personal guests of the owner/operator.

(l) *Public nuisance violations.* Bed and breakfast facility operations shall not be permitted and shall cease whenever the operations shall become a nuisance to adjoining residents by reason of noise, smoke, odor, lighting, unreasonable traffic congestion or when such conditions interfere with the safety or rights of others. The impact of a bed and breakfast facility operation shall not be greater than that of a private home with guests.

(m) *Retail sales.* Retail sales of any kind shall not be permitted on the premises of a bed and breakfast facility.

(n) *Authority for license denial.* The floor and site plans for a bed and breakfast facility use shall be reviewed by the building inspector and/or zoning administrator for compliance with all city, state and federal codes and ordinances. If the building inspector, zoning administrator or city clerk find that an applicant cannot meet a particular requirement, they shall have authority to deny the applicant a license. The denial may be appealed to the zoning board of appeals, who may then weigh the facts of the case and make a final decision on such appeal.

(o) *License suspension, revocation and renewal.* The city clerk shall have the authority to refuse to renew a bed and breakfast facility license or to suspend or revoke such license for continued and repeated violations of the provisions of this section. A decision to deny a license may be appealed by the applicant to the zoning board of appeals. Any license issued under the provisions of this section may be revoked by the zoning board of appeals for good cause shown after investigation and opportunity to the holder of such license to be heard in opposition to such revocation. In such investigation, the compliance or noncompliance with state law and local ordinances, the conduct of the licensee in regard to the public and other considerations shall be weighed in the determination of such license revocation.

(p) *Application of other ordinances.* The regulation and license of bed and breakfast facilities shall be deemed to be additic and not to the exclusion of, the requirements of a conditional use as defined and regulated in this article.

(Ord. No. 469, § 1, 5-28-1991)

Sec. 30-586. - State-licensed residential facilities; child care homes and centers.

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

(1) *State-licensed residential facility* means one of the following facilities as more fully defined by state law (MCL 400.701 et seq. and MCL 722.111 et seq.):

a. Adult foster care family home approved to receive six or fewer adults to be provided foster care.

b. Adult foster care small group home approved to receive 12 or fewer adults to be provided foster care.

c. Adult foster care large group home approved to receive at least 13 but not more than 20 adults to be provided foster care.

d. Foster family home approved to receive four or fewer minor children to be provided foster care.

e. Foster family group home approved to receive more than four but fewer than seven minor children to be provided foster care.

(2) *Family child care home* means a private home providing day care for six or fewer minor children, as more fully defined in state law (MCL 722.111 et seq.).

(3) *Group child care home* means a private home providing day care for more than six but not more than 12 minor children, as more fully defined in state law (MCL 722.111 et seq.).

(4) *Day care center* means a facility other than a private residence providing day care for one or more preschool or school-age children, as more fully define in state law (MCL 722.111 et seq.).

(b) *Standards.* A conditional use permit may be issued for a state licensed residential facility, if required or family or group child-care homes or child care center if, in addition to the general standards for conditional uses set forth in section 30-508 of this Code, all of the following specific standards are met.

(1) The facility or home is not located closer than 1,500 feet to any of the following:

The distance required under this section shall be measured along a road, street, or place maintained by the state or city and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.

a. Another licensed group child care home or child care center.

b. Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, 1979 Public Act No. 218, MCL 400.701 to 400.737.

c. A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under article 6 of the Public Health Code, 1978 Public Act No. 368, MCL 333.6101 to 333.6523.

d. A community correction center, resident home, halfway house, or other similar facility, which houses an inmate population under the jurisdiction of the department of corrections.

(2) Has appropriate fencing for the safety of the children in the group child care home or center in compliance with section 30-582, fences and hedges.

(3) Maintains the property consistent with the visible characteristics of the neighborhood.

(4) Group child care homes and child care centers shall be in operation only between the hours of 6:00 a.m. to 10:00

p.m.

(5) Meets the requirements of chapter 30, division 5 of this Code governing signs used by the facility to identify itself.

(6) Meets the requirements of section 30-583 regarding off-street parking requirements.

(Ord. No. 564, § 2, 3-26-2007; Ord. No. 574, 10-27-2008)

Editor's note— Ord. No. 574, adopted Oct. 27, 2008, changed the title of § 30-586 from "State licensed residential facilities; day-care homes and centers" to "State-licensed residential facilities; child care homes and centers". This historical notation has been preserved for reference purposes.

Sec. 30-587. - Home occupations.

Home occupations as defined herein shall be subject to the following regulations:

(1) Such use shall be registered with the zoning administrator.

(2) The use shall employ only the inhabitants of the dwelling.

(3) Such use shall not change the character of the dwelling by creating noise, vibrations, glare, fumes, odors, electrical interferences nor become a nuisance.

(4) Such use shall not require delivery of goods or visits of customers before 8:00 a.m. and after 8:00 p.m.

(5) Such use shall not be pursued in an accessory building or structure on the premises.

(6) Such use shall not occupy more than 25 percent of the dwelling's floor space.

(7) There shall be no external indication of such use nor any change of appearance of the building or premises except that one nonilluminated sign not exceeding two square feet and not extending more than 12 inches from the exterior face of the wall may be attached on a wall of the dwelling to advertise such activity.

(Ord. No. 564, § 2, 3-26-2007)

Secs. 30-588—30-600. - Reserved.

DIVISION 5. - SIGNS

Sec. 30-601. - Definitions.

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

Awning means a retractable or fixed shelter constructed of nonrigid materials on a supporting framework that project from the exterior wall of a building.

Awning and canopy signs means a sign attached to the surface of an awning or canopy, or painted or printed upon the surface of an awning or canopy.

Balloon sign means a sign composed of a nonporous bag of material filled with air.

Banner sign means a fabric, plastic or other sign made of nonrigid material without an enclosing structural framework.

Billboard means any structure, including the wall of a building, on which lettered, figured or pictorial matter is displayed for the purpose of advertising a business, service or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.

Business center means any two or more businesses (other than within the C-2 district), which are located on a single parcel of property; are connected by common walls, partitions, canopies or other structural members to form a continuous building or group of buildings; share a common parking area; or otherwise present the appearance of a single, contiguous business area.

Business center sign means a freestanding sign which identifies the name of a business center and/or one or more individual businesses within the center.

Canopy means a fixed shelter constructed of rigid materials on a supporting framework that project from the exterior wall of the building.

Construction sign means a temporary sign which identifies the owners, financiers, contractors, architects and engineers of a project under construction.

Directional sign means a sign which gives directions, instructions or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.

Freestanding sign means a sign, not attached to a building or wall, supported on poles or supports, with a minimum ground clearance of eight feet to permit an unobstructed view for motorists and pedestrians.

Government sign means a temporary or permanent sign erected by the city.

Ground sign means a sign, the bottom of which is no more than 24 inches from the ground and not more than five feet above grade, which rests directly on the ground or is supported by short poles or a base and is not attached to a building or a wall.

Highway sign means a temporary or permanent sign erected by the city or federal government within or adjacent to the road right-of-way for the purpose of directing or controlling traffic on a public street, road or highway.

Institutional identification sign/bulletin board means a ground sign upon which is displayed the name of a church, school, library, community center or similar public or quasi-public institution located on the property and which may contain a space for a reader board in order to announce the services, events or activities of such institution.

Marquee means a permanent structure constructed of rigid materials that projects from the exterior wall of a building.

Marquee sign means a sign affixed flat against the surface of a marquee.

Memorial sign means a nonilluminated sign, table or plaque, which commemorates a person, event, structure or site.

Mural means a design or representation painted or drawn on a wall which does not advertise an establishment, product, service or activity.

Off-premises sign means a sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment which is not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located, including, but not limited to, billboards.

Placard means a sign not exceeding two square feet which provides notices of a public nature, such as "No Trespassing," "No Hunting," "Closed," or "Open" signs.

Political sign means a temporary sign used in connection with an official local government, school district, county, state or federal election or referendum.

Political sign means a double-faced sign attached to a building or wall that extends more than 12 inches, but not more than 48 inches, from the face of the building or wall.

Projecting sign means any sign other than a wall, awning, canopy or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted.

Reader board means a portion of a sign on which copy is changed manually.

Real estate sign means nonilluminated, temporary sign pertaining to the sale, rent or lease of the property upon which the sign is located.

Residential subdivision sign means a permanent ground sign identifying a recognized platted subdivision, site condominium project, multifamily development or other residential development, which has been approved by the city.

Roof sign means a sign erected above the roofline of a building.

Roofline means the highest point of a flat roof and the lowest point of a pitched roof, excluding any cupolas, chimneys or other minor projections.

Sidewalk sign means a portable sign of A-frame construction used during hours a business is open and stored inside when not in use.

Sign means any display, figure, painting, drawing, placard, poster or other device visible from the public way which is designed, intended or used to convey a message, advertise, inform or direct attention to a person, institution, organization, activity, place, object or product. A sign may be a structure, or part thereof, painted on or attached directly or indirectly to a structure.

Special event sign means a temporary sign containing a public message concerning a special event sponsored by a governmental agency or nonprofit organization.

Temporary sign means a display, informational sign, banner or other advertising device, with or without a structural frame, which is intended for a limited period of display, including seasonal produce sales, decorative displays for holidays or public demonstrations.

Wall sign means a sign painted or attached directly to and parallel to the exterior wall of a building and extending no greater than 12 inches from the exterior face of the wall to which it is attached.

Window sign means a sign installed inside a window and intended to be viewed from the outside.

(Ord. No. 556, § 1, 5-14-2005; Ord. No. 570, § 1, 2-25-2008)

Editor's note— Ord. No. 535, § 1, adopted Jan. 8, 2001, repealed § 30-601 in its entirety. The former § 30-601 pertained to definitions pertaining to signs and derived from Ord. No. 453, § 401, adopted Dec. 8, 1986; Ord. No. 534, § II, adopted Nov. 27, 2000.

Cross reference— Definitions generally, § 1-2; Streets, sidewalks and other public places, ch. 46.

Sec. 30-602. - Intent.

The sign regulations set forth in this division are intended to protect and further the health, safety and welfare of the residents of the city; to maintain and improve the appearance of the city; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location and number of signs. It is further determined that to allow signs of excessive

number and size in the city would unduly distract pedestrians and motorists, create a traffic hazard and reduce the effectiveness of signs needed to direct the public. The regulations set forth in this division are intended to serve as a means of advertising.

(Ord. No. 534, § I, 11-27-2000; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-603. - General requirements.

(a) No sign shall be placed in, upon or over any public right-of-way, alley or other public place within the city, except for permitted highway and government signs and signs permitted in the B-2 district, which may project from a building wall over a public way.

(b) No light pole, utility pole or other supporting member shall be used for the placement of any sign unless it is specifically designed and approved for such use.

(c) No sign shall be erected in any place where it may, by reason of its position, shape, color or other characteristic, interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device, or constitutes a nuisance.

(d) No commercial vehicle which, in the opinion of the zoning administrator, has the intended function of acting as a sign, shall be parked in any area abutting a street unless no other parking area is available.

(e) No sign shall contain any moving or animated parts, nor have the appearance of having any moving or animated parts, except as provided within this division.

(f) All ground, freestanding and wall signs may contain reader boards within the maximum size limits permitted for the sign.

(g) No wall sign shall extend beyond the edge of the wall to which it is affixed, nor extend above the roofline of the building to which it is attached.

(h) Subject to constitutional limitations, all signs shall pertain only to the business or activity conducted on the premises, except political signs, special event signs and billboards.

(i) Nonilluminated real estate signs shall be permitted in any zoning district within the city but shall be removed within 30 days after completion of the sale or lease of the property.

(j) Construction signs shall be permitted within any zoning district within the city subject to the following regulations:

(1) Such signs shall not be larger than 32 square feet, shall be located no closer than ten feet from the street right-of-way line and shall not be higher than ten feet.

(2) In residential developments, any construction sign shall be removed when a permanent subdivision sign is erected, final plat approval is obtained or a certificate of occupancy is issued for any dwelling in the development, whichever comes first.

(3) In nonresidential developments, any construction sign shall be removed upon issuance of a certificate of occupancy for the building.

(4) Such signs shall be erected no more than 45 days prior to the issuance of a building permit. If the construction project does not commence by the forty-fifth day, the sign permit may be revoked by the city. It will then be the responsibility of the permit holder to promptly remove the construction sign.

(k) Community special event signs are permitted in any zoning district within the city, subject to the following restrictions:

(1) Such signs may be located either on or off the lot on which the special events are held.

(2) The display of community special event signs shall be limited to the ten days immediately preceding the special eve being advertised.

(3) Such signs shall have a maximum size of 32 square feet in area, and a maximum height above ground level of six feet and shall be set back a minimum of two feet from any property line.

(4) Such signs shall be removed within 48 hours of the conclusion of the special event which is being advertised.

(l) Directional signs are permitted in any zoning district within the city subject to the following restrictions:

(1) Such signs shall not exceed two square feet in area, or exceed three feet in height, and shall be set back at least two feet from any property line.

(2) Such signs may contain a commercial logo or trademark not exceeding one-third of the sign's size but shall not contain a business name or commercial message.

(m) Temporary signs shall be permitted in any zoning district within the city subject to the following restrictions:

(1) Such signs shall only be displayed upon receipt of a permit issued by the zoning administrator, unless such sign is exempted from the permit requirement under section 30-604.

(2) Such signs shall not be displayed on any lot or parcel for more than 30 consecutive days for any one permit, and not more than two permits shall be issued for any lot or parcel during any calendar year.

(3) Upon expiration of a temporary sign permit, the permit holder shall remove such sign.

(4) Such signs shall not exceed 32 square feet in area.

(5) Only one temporary sign shall be permitted on a lot or parcel.

(6) Such signs shall not be closer than five feet from any property line fronting on a public street.

(7) All temporary signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of area.

(n) Lighted signs shall be inspected by the zoning administrator for proper and adequate electrical connections. If deemed necessary by the zoning administrator, an electrical code permit will be required for a lighted sign.

(Ord. No. 534 § III, 11-27-2000; Ord. No. 556, § 2, 5-14-2005; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-604. - Exemptions.

The following signs shall not require a sign permit but shall be subject to all other applicable general requirements of this division:

(1) Government signs.

(2) Placards.

(3) Temporary sale signs which are four square feet or less in size.

(4) Window signs provided the total area of all signs within one foot of the window shall not obscure more than 50 percent of the window area.

(5) Current political signs.

(6) Historical markers.

(7) Memorial signs or tablets.

(8) Murals.

(9) Signs which are not visible from any street.

(10) Essential services signs.

(11) Signs containing the address and owner's or occupant's name, which signs are up to one square foot in area and ar to a mailbox, light fixture or exterior wall.

(12) Flags or insignias of a nation, state, local governments, community organization or educational institution.

(Ord. No. 534, § IV, 11-27-2000; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-605. - Prohibited signs.

All signs not specifically allowed under this division, unless exempted by this section, shall be prohibited in the city. The following types of signs shall be expressly prohibited:

(1) Balloons, balloon signs, strings of light bulbs, pennants, streamers, banners or flags, except flags of a noncommercial nature not used for the purposes of commercial advertisement.

(2) Any sign, including window signs, which have flashing, moving or oscillating lights, excluding time and temperature signs.

(3) Roof signs.

(4) Off-premises signs, except for noncommercial signs, community special event signs and billboards.

(Ord. No. 534, § V, 11-27-2000; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-606. - Measurements.

(a) The area of a sign within the city shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

(b) The area of a freestanding, ground or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back, are of equal size and are no more than two feet apart at any point, the area of the two back-to-back faces shall be counted as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.

(c) The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.

(d) The sign areas for wall signs, projecting signs and awning signs for buildings with multiple tenants shall be determined by taking the portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

(Ord. No. 534, § VI, 11-27-2000; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-607. - Maintenance.

(a) Signs within the city shall be maintained free of peeling paint or paper, fading, staining, rust or other condition, which impairs legibility or intelligibility.

(b) Sign supports, braces, guys and anchors shall be maintained in such a manner as not cause a hazard.

(c) If signs are not properly maintained and pose a threat to the public health, safety and welfare, the city shall have the right to remove the sign, and the city shall pass on all removal costs to the sign owner.

(Ord. No. 453, § 403, 12-8-1986; Ord. No. 534, § VII, 11-27-2000; Ord. No. 535, § 1, 1-8-2001; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-608. - Signs permitted by district.

The following signs are permitted in combination, unless otherwise noted, in each district, subject to the requirements set forth in the tables and other applicable regulations of this division:

(1) *R-1, R-2, R-3 and R-4 residential districts.*

a. *Residential subdivision signs (freestanding signs shall not be permitted).*

1. *Number:* One per entrance road to the development, not exceeding two such signs per development.
2. *Size:* Not greater than 24 square feet.
3. *Location:* Minimum of 15 feet from the street right-of-way line.
4. *Height:* Not more than four feet above grade.

b. *Institutional identification signs/bulletin boards.*

1. *Number:* One per lot or parcel.
2. *Size:* Not greater than 32 square feet.
3. *Location:* Minimum of 15 feet from the street right-of-way.
4. *Height:* Not more than five feet above grade.

c. *Wall signs for home occupations.*

1. *Number:* One per lot or parcel.
2. *Size:* Not greater than two square feet.
3. *Location:* Mounted flat against the wall and nonilluminated.

d. *Wall signs for nonresidential uses.*

1. *Number:* One per street frontage.
2. *Size:* For public and quasi-public facilities, such as schools, churches and similar institutional uses, no sign shall be greater than five percent of the wall area to which it is affixed, not to exceed 50 square feet. For private offices, no such sign shall be greater than six square feet.
3. *Location:* Mounted flat against the wall facing the street.

(2) *B-1, B-2 and O-S business districts.*

a. *Ground or freestanding signs.*

1. *Number:* One per street frontage, but not more than two signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least 50 feet in order to have a second sign.
2. *Size:* Not greater than 48 square feet for ground signs, or 60 square feet for freestanding signs.
3. *Location:* Minimum of two feet from the property line.
4. *Height:* Not more than five feet above grade for ground signs, or 25 feet for freestanding signs with a minimum of eight feet ground clearance to permit an unobstructed view for motorists and pedestrians.
5. *Illumination:* No illumination shall be allowed if the property is adjacent to a residential district.

b. *Wall signs.*

1. *Number:* One per business, provided that any business which has frontage on more than one street shall be permitted to have one wall sign per street frontage, subject to the size restriction set forth in

subsection (2)b.2 of this section.

2. *Size:* Not greater than ten percent of the wall area to which it is affixed and which is occupied by the respective business, not to exceed 60 square feet.
3. *Location:* Mounted flat against the wall facing the street.

c. *Projecting signs.*

1. *Number:* One per street frontage.
2. *Size:*
3. *Location:* The edge of the sign nearest the building wall shall not extend more than two feet from the wall and the outermost edge of the sign including the structure supporting the sign shall be set back at least two feet from the curb edge of the street or from the edge of the street where there is no curb.
4. *Height:* The bottom edge of the sign, including the structure supporting the sign shall be at least eight feet above the sidewalk or ground level where there is no sidewalk.
5. *Variances:* May be granted through the zoning board of appeals (city commission).

d. *Awning, canopy and marquee signs.*

1. *Number:* One per street frontage.
2. *Location:* Shall not be placed upon an awning or canopy or marquee unless such awning, canopy or marquee:
   i. Is set back at least two feet from the curb edge of the street or from the edge of the street where there is no curb.
   ii. The bottom edge of which is at least eight feet above the sidewalk or ground level where there is no sidewalk.
   iii. The top edge of which does not extend above the roofline of the building to which it is attached.
3. *Variances:* Variances from the dimensional limitations of this section shall not be granted.

e. *Business center signs.*

1. *Number:* One per street frontage, but not more than two signs, provided that lots with two street frontages shall have a minimum width at each right-of-way of at least 50 feet in order to have a second sign. Freestanding signs shall not be permitted for individual businesses within any business center.
2. *Size:* Not greater than 80 square feet.
3. *Location:* Minimum of two feet from the property line.
4. *Height:* Not more than 25 feet.

f. *Billboards (if approved as a special exception use).*

1. *Size:* Not greater than 300 square feet.
2. *Location:* Shall be set back a minimum of 75 feet from the road right-of-way line, no closer than 50 feet to any other property line, and no closer than 300 feet to any other billboard on the same or opposite side of the street.
3. *Height:* Not more than 30 feet.
4. *Lighting:* Illumination shall be permitted provided such illumination is concentrated on the surface of the sign and is located so as to avoid glare or reflection onto any portion of the adjacent street or highway, the path of oncoming vehicles or any adjacent premises. In no event shall any billboard have flashing of intermittent lights, or shall the light be permitted to rotate or oscillate.

g. *Sidewalk signs.*

1. *Size:* Sidewalk signs shall be of A-frame construction with a minimum base spread of two feet. Each surface of A-frame construction shall not exceed six square feet.
2. *Location:* Sidewalk signs shall be permitted during the hours a business is open to the public and must be removed at the end of business each day. A minimum of six feet of unobstructed sidewalk must remain between the sign and adjacent buildings.
3. *Height:* The maximum height shall be five feet.
4. *Lighting and copy:* The surfaces of sidewalk signs shall be durable and the copy may be painted or printed on the surface. Loose paper faces shall not be permitted. Sidewalk signs shall not be illuminated.

(3) *I-1 and I-2 industrial districts.*

a. *Ground signs.*

1. *Number:* One per street frontage but not more than two signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least 50 feet in order to have a second sign.
2. *Size:* Not greater than 48 square feet for one sign, and if there are two signs, the second sign shall be no greater than 24 square feet.
3. *Location:* Minimum of two feet from the property line.
4. *Height:* Not more than five feet above grade.

b. *Freestanding signs.*

1. *Number:* One per street frontage, but not more than two signs, provided that lots with two street frontages shall have a minimum width at each right-of-way line of at least 50 feet in order to have a second sign.
2. *Size:* Not greater than 100 square feet for one sign, and if there are two signs, the second sign shall be no greater than 32 square feet.
3. *Location:* Minimum of two feet from the property line.
4. *Height:* Not more than 30 feet above grade.

c. *Wall signs.*

1. *Number:* One per street frontage.
2. *Size:* Not greater than five percent of the wall area to which the sign is affixed, not to exceed 100 square feet.
3. *Location:* Mounted flat on the wall facing the street.

d. *Billboards (if approved as a conditional use).*

1. *Number:* See business center as set forth in subsection (2)e. of this section.
2. *Size:* Not greater than 300 square feet.
3. *Location:* Shall be set back a minimum of 75 feet from the road right-of-way line, not closer than 50 feet to any other property line and not closer than 300 feet to any other billboard on the same or opposite side of the street.
4. *Height:* Not more than 30 feet.
5. *Lighting:* See business center as set forth in subsection (2)e. of this section.

(Ord. No. 453, § 402, 12-8-1986; Ord. No. 534, § IX, 11-27-2000; Ord. No. 535, § 1, 1-8-2001; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-609. - Nonconforming signs.

(a) Every permanent sign which was erected legally and which lawfully existed within the city on the effective date of this amending Ordinance No. 570 [March 11, 2008], but which does not conform to the height, size, area or location requirements of this article as [of] such date is deemed to be a nonconforming sign. Such nonconforming status shall not be granted to any temporary sign, banner, placard or other nonpermanent sign.

(b) Nonconforming signs may not be altered, expanded, enlarged or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.

(c) For the purposes of this article, a nonconforming sign may be diminished in size or dimension without jeopardizing the privilege of nonconforming use. The copy of the sign may not be amended or changed, unless specifically designed to be changed periodically as for a reader board, without bringing such sign into compliance with the requirements of this article.

(d) Any nonconforming sign which is damaged by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than 50 percent of the value of the sign on the date of loss.

(e) Any sign which, for a period of one year or more, no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure or property upon which such sign is located within 30 days of receipt of written notice by the zoning administrator to remove such sign.

(f) A sign which is accessory to a nonconforming sign may be erected in the city in accordance with the sign regulations for the district in which the property is located.

(Ord. No. 453, § 404, 12-8-1986; Ord. No. 534, § X, 11-27-2000; Ord. No. 535, § 1, 1-8-2001; Ord. No. 570, § 1, 2-25-2008)

Sec. 30-610. - Permits.

It shall be unlawful for any person to erect, alter, place, or permit to be placed, or replace any sign within the city without first obtaining a sign and/or building permit, unless such sign is specifically exempted as provide in this article.

(Ord. No. 534, § XI, 11-27-2000; Ord. No. 570, § 1, 2-25-2008)