

CHAPTER 82: ZONING

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Cross reference:

Administration, see Chapter 2;

Buildings and building regulation, see Chapter 14;

Community development, see Chapter 22;

Fire prevention and protection, see Chapter 30;

Planning, see Chapter 42;

Streets, sidewalks and other public places, see Chapter 58;

Subdivision regulations, see Chapter 62;

Vegetation, see Chapter 70;

Utilities, see Chapter 68

ARTICLE I. IN GENERAL

§ 82-1 SHORT TITLE.

This chapter shall be known and may be cited as the "City Zoning Ordinance."

(1993 Code, § 82-1) (Ord. passed 10-12-1992)

§ 82-2 PURPOSE.

This chapter is adopted pursuant to the authority conferred by the Public Acts of the state in such case, made and provided and for the purpose of promoting, and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the city by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; securing the most appropriate use of land; preventing overcrowding of the land and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation and other public requirements, and by other means, all in accordance with a Comprehensive Plan, and further in accord with the provisions of the Urban Services District adopted by the Townships of Eaton and Carmel and the city.

(1993 Code, § 82-2) (Ord. passed 10-12-1992)

§ 82-3 CONSTRUCTION OF LANGUAGE.

The following rules of construction apply to the text of this chapter.

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) The word "building" or "structure" includes any part thereof.
- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."
- (7) The word "person" includes an individual, a corporation, a partnership, an unincorporated association, or any other similar entity.
- (8) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions or events connected by the conjunction "and," "or," or "either ... or," the conjunction shall be interpreted as follows:
 - (a) "And" indicates that all the connected items, conditions, provisions or events shall apply;
 - (b) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination;
 - (c) "Either ... or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (9) Terms not defined in this article shall have the meaning customarily assigned to them.

(1993 Code, § 82-3) (Ord. passed 10-12-1992)

Cross reference:

Definitions and rules of construction generally, see § 1-2

§ 82-4 DEFINITIONS.

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

ACCESSORY USE or ACCESSORY. A use which is clearly incidental to, customarily found in connection with, and located on the same zoning lot, unless otherwise specified, as the principal use to which it is related. When **ACCESSORY** is used in this text, it shall have the same meaning as **ACCESSORY USE**. An **ACCESSORY USE** includes, but is not limited to, the following:

- (1) Residential accommodations for servants and/or caretakers;
- (2) Outdoor swimming pools, hot tubs and saunas for the use of the occupants of a residence or their guests;
- (3) Domestic or agricultural storage in a barn, shed, tool room or similar accessory building or other structure;
- (4) A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays;
- (5) Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations;
- (6) Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations;
- (7) Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located;
- (8) Uses clearly incidental to a main use, such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex;
- (9) Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located;
- (10) Accessory signs, subject to the sign regulations for the district in which the zoning lot is located;
- (11) Common household gardening in a residential district when located only in the rear yard and/or nonrequired side yard areas;
- (12) Solar panels, wind generators, television reception antennas, satellite dish antennas and air conditioning units.

ADULT ENTERTAINMENT BUSINESS. One or a combination of more than one of the following types of businesses: adult bookstore, adult cabaret, or adult motion picture theater.

- (1) **ADULT BOOKSTORE.** An establishment as defined in § 15-26 of this Code.
- (2) **ADULT CABARET.** An establishment as defined in § 15-26 of this Code.
- (3) **ADULT MOTION PICTURE THEATER.** An establishment as defined in § 15-26 of this Code.
- (4) **SUBSTANTIAL PORTION.** A use or activity accounts for more than 20% of any one or more of the following: stock-in-trade, display space, floor space, or viewing time, movie display time, or entertainment time measured per month.
- (5) **SPECIFIED ANATOMICAL AREAS.** Any one or more of the following:
 - (a) Less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
 - (b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- (6) **SPECIFIED SEXUAL ACTIVITIES.** Any one or more of the following:
 - (a) The fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (b) Human sex acts, normal or perverted, actual or simulated, including but not limited to, intercourse, oral copulation, and sodomy;
 - (c) Human masturbation, actual or simulated;
 - (d) Human excretory functions, as part of or as related to, any of the activities described above; and
 - (e) Physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to, any of the activities described above.

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

ALTERATIONS. Any change, addition or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as **ALTERED** or **RECONSTRUCTED**.

APARTMENT, EFFICIENCY. A dwelling unit consisting of not more than one room in addition to kitchen, dining and necessary sanitary facilities.

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

ARCADE. A building or structure, or any part thereof, which is devoted to the commercial use of amusement devices, pinball machines, electronic tables featuring pool, billiards, bowling, basketball, football, or the like, or electronic games of

skill or dexterity utilizing video tapes or video screen or T.V. adaptations, and the like, automatic sport devices or tables or similar activities for hire, or for amusement.

ARCHITECTURAL FEATURES. Steps, window sills, belt courses, brick and/or wrought iron wing walls, chimneys, architraves or pediments.

AUTOMOBILE REPAIR, MAJOR. The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; and painting of automobiles.

AUTOMOBILE REPAIR, MINOR. Repairs other than major repair, including engine tune-up, muffler shops, shock absorber replacement shops, undercoating shops and tire stores.

BASEMENT. That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A **BASEMENT** shall not be counted as a story. (See Appendix A).

BED AND BREAKFAST OPERATIONS. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit, and a use in which transient guests are provided a sleeping room and board in return for payment.

BERM, OBSCURING. An earthen mound of definite height and location to serve as an obscuring device in carrying out the requirements of this chapter.

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

BOARD. The Zoning Board of Appeals as established under this chapter.

BUILDING. Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

BUILDING HEIGHT. The vertical distance from the established sidewalk grade at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line for a mansard roof, and the mean height between the eaves and the ridge for gable, hip and gambrel roofs. Penthouses, towers, cupolas, steeples, antennas and other roof structures used only for mechanical operation of the building shall not be included as the height of the building. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall. (See Appendix A.)

BUILDING LINE. A line formed by the face of the building, and for the purposes of this chapter, a minimum building line is the same as a front setback line. (See Appendix A.)

BUILDING, MAIN OR PRINCIPAL. A building in which is conducted the principal use of the lot on which it is situated.

CLUB. An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like, but not operated for profit.

CONDOMINIUM DEFINITIONS. The following definitions are related to condominiums.

(1) **CONDOMINIUM ACT.** Public Act 59 of 1978, being M.C.L.A. §§ 559.101 *et seq.*, as amended.

(2) **CONDOMINIUM DOCUMENTS.** The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

(3) **CONDOMINIUM SUBDIVISION PLAN.** The drawings and information prepared in accordance with § 66 of the Condominium Act.

(4) **CONDOMINIUM UNIT.** The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

(5) **CONSOLIDATING MASTER DEED.** The final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

(6) **CONTRACTIBLE CONDOMINIUM.** A condominium project from which any portion of the submitted land or buildings may be withdrawn in accordance with this chapter and the Condominium Act.

(7) **CONVERSION CONDOMINIUM.** A condominium project containing condominium units, some or all of which were occupied before the filing of a notice of taking reservations under § 7 of the Condominium Act.

(8) **EXPANDABLE CONDOMINIUM.** A condominium project to which additional land may be added in accordance with this chapter and the Condominium Act.

(9) **MASTER DEED.** The condominium document recording the condominium project, to which are attached as exhibits and incorporated by reference, the bylaws for the project and the condominium subdivision plan for the project, and all other information required by § 8 of the Condominium Act.

(10) **NOTICE OF PROPOSED ACTION.** The notice required by § 71 of the Condominium Act, to be filed with the city and other agencies.

(11) **SITE CONDOMINIUM.** A development concept for a condominium development containing residential, commercial, office, industrial or other structures for uses permitted in the zoning district in which it is located, in which each co-owner owns exclusive rights in a condominium unit, as described in the master deed.

(12) **YARDS, CONDOMINIUM SUBDIVISIONS.**

(a) **FRONT YARD SETBACK.** Equal to the distance between the front yard area line and the condominium dwelling.

(b) **REAR YARD SETBACK.** Equal to the distance between the rear yard area line and the condominium dwelling.

(c) **SIDE YARD SETBACK.** Equal to the distance between the side yard area line and the condominium dwelling.

CONDOMINIUM SUBDIVISION. A method of subdivision where land ownership of sites is regulated by the Condominium Act, as opposed to the Subdivision Control Act of 1967 (M.C.L.A. §§ 560.101 *et seq.*). **CONDOMINIUM SUBDIVISION** shall be equivalent to the term **SUBDIVISION** as used in this zoning chapter and the city subdivision regulations.

CONDOMINIUM SUBDIVISION PLAN. The site, survey and utility plans; floor plans; and sections, as appropriate, showing the existing and proposed structures and improvements, including the location thereof on the land.

CONVALESCENT OR NURSING HOME. A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.

DAY CARE CENTER. A group facility for more than six children which gives care to children away from their homes.

DAY CARE HOME (FAMILY). A one-family dwelling which receives not more than six children for care during the day.

DAY CARE HOME FOR ELDERLY ADULTS. A one-family dwelling which receives not more than six elderly or infirmed adults, for care during the day.

DAY CARE HOME (GROUP). A one-family dwelling which receives not more than 12 children for care during the day.

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

DISTRICT. A portion of the incorporated area of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DRIVE-IN. An establishment where food, frozen desserts or beverages are sold to the customers in a ready-to-consume state and where the customer consumes food, frozen desserts or beverages in an automobile parked upon the premises or at other facilities provided for customers which are located outside the building.

DRIVE-THROUGH. An establishment so developed that some portion of its retail or service character is dependent upon providing a driveway approach and staging area specifically designed for motor vehicles so as to serve patrons while in their motor vehicles, rather than within a building or structure, for carrying out and consumption or use after the vehicle is removed from the premises.

DWELLING, MULTIPLE-FAMILY. A building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

DWELLING, ONE-FAMILY. A building designed exclusively for and occupied exclusively by one family.

DWELLING, TWO-FAMILY. A building designed exclusively for occupancy by two families living independently of each other.

DWELLING UNIT. A building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.

ERECTED. Built, constructed, altered, reconstructed or moved upon. Any physical operations on the premises which are required for construction, excavation, fill, drainage and the like shall be considered a part of erection.

ESSENTIAL SERVICES. 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 alarm and police call boxes, traffic signals and hydrants in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

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

FAMILY. Either of the following:

(1) A domestic family, that is, one or more persons living together and related by the bonds of consanguinity, marriage or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling;

(2) The functional equivalent of the domestic family, that is, persons living together in a dwelling unit whose relationship

is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single, nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforceable by the Building Official in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six. Such presumption may be rebutted by application to the Planning Commission for a special land use based upon the applicable standards in this chapter.

FARM. The carrying on of any agricultural activity and the raising of livestock or small animals as a source of income.

FENCE. A manmade structure constructed for the purpose of or to have the effect of enclosing the area it is constructed upon.

FENCE, ORNAMENTAL. A manmade structure, the surface area of which is more than 50% open. Ornamental fences do not include chainlink fences or fences of wire construction. (See Appendix A).

FLOOR AREA, USABLE. For the purposes of computing parking, that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways or for utilities or sanitary facilities shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. (See Appendix A).

GARAGE, PRIVATE. An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles and such other lawn and home care equipment owned and used by the occupant of the building to which it is accessory.

GARAGE SALE. Any sale of personal effects, jewelry or household items, furnishings and equipment belonging to the owner or occupant of the property held in any district by the owner, occupant or his personal representative.

GASOLINE SERVICE STATION. A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

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

GREENBELT. A planting of trees and shrubs to serve as a screening device between abutting land uses.

GUARANTEE. A cash deposit, certified check, irrevocable bank letter of credit or such other instrument acceptable to the city.

HARDSHIP. Situations created by circumstances unique to an individual property that do not generally occur to land or buildings in the neighborhood or zoning district of the property in question and which circumstances make the use of such property infeasible under conditions imposed by this chapter. **HARDSHIP** shall not include personal or financial hardship or economic disadvantage nor shall it constitute circumstances that are self-created.

HOME OCCUPATION. An occupation carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

HOSPICE. A lodging place for the ill where persons are housed and furnished meals and attendant care.

HOTEL. A building or part of a building, with a common entrance, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk service, and bellboy service. A **HOTEL** may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

IMPROVEMENTS. Those features and actions associated with a project which are considered necessary by the municipality to protect natural resources or the health, safety and welfare of the residents of the city, and future users or inhabitants of the proposed project or project area, including parking areas, landscaping, roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project which is subject to zoning approval.

JUNKYARD. 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. **JUNKYARD** includes automobile wrecking yards and includes any open area of more than 200 square feet for storage, keeping or abandonment of junk.

KENNEL, COMMERCIAL. Any lot or premises on which three or more dogs, cats or other household pets are either permanently or temporarily boarded or bred and raised for remuneration.

LOADING SPACE. 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.

LOT. A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A **LOT** may or may not be specifically designated as such on public records. **LOT** shall mean the same as homesite and condominium unit in site condominium developments.

LOT AREA. The total horizontal area within the lot lines of the lot. (See Appendix A.)

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

LOT COVERAGE. The part or percent of the lot occupied by buildings, including accessory buildings and pools, but excluding porches, patios and decks.

LOT DEPTH. The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

LOT, INTERIOR. Any lot other than a corner lot.

LOT LINES. The lines bounding a lot as defined in divisions (1) through (3) following.

(1) **FRONT LOT LINE.** In the case of an interior lot, means that line separating the lot from the street. In the case of a through lot, **FRONT LOT LINE** means that line separating the lot from either street.

(2) **REAR LOT LINE.** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the **REAR LOT LINE** shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line and wholly within the lot.

(3) **SIDE LOT LINE.** Any lot line other than the front lot line or rear lot line. **ASIDE LOT LINE** separating a lot from a street is a side street lot line. A **SIDE LOT LINE** separating a lot from another lot is an interior side lot line. **ASIDE LOT LINE** separating a lot from a street is an exterior lot line.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by city or county officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

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

LOT WIDTH. The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines. (See Appendix A.)

LOT, ZONING. A single tract of land, located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A **ZONING LOT** shall satisfy this chapter with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A **ZONING LOT**, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record. (See Appendix A.)

MAIN BUILDING. A building in which is conducted the principal use of the lot upon which it is situated.

MAIN USE. The principal use to which the premises are devoted and the principal purpose for which the premises exist.

MAJOR THOROUGHFARE. An arterial street which is intended to serve as a large volume traffic- way for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, parkway, freeway, expressway or equivalent term on the Major Thoroughfare Plan to identify those streets comprising the basic structure of the Major Thoroughfare Plan.

MASTER PLAN. The comprehensive community plan, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

MECHANICAL AMUSEMENT DEVICE. Any machine or device which, upon the insertion of a coin, currency, slug, token, plate or disc, operates or may be operated as a game of contest of skill or amusement when the element of skill in such operation predominates over chance or luck. It shall include mechanical, electrical or electronic video games, mechanical grabbing devices, pinball games, mechanical, electrical or electronic baseball, football, basketball, hockey and similar sports-type games, mechanical, electrical or electronic card games, shooting games, target games, or any other machine, device or apparatus which may be used as a game of skill and wherein the player initiates, employs or directs any force generated by such machine.

MEZZANINE. An intermediate floor in any story occupying not less than one third of the floor area of such story.

MINI STORAGE UNITS. Storage buildings for lease to the general public for storage of personal and household effects and for dry storage of office or business effects, not including the warehousing of products or supplies.

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

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

MOTEL. A series of attached, semi-detached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle. This definition does not include apartments.

MUNICIPALITY. The City of Charlotte, Michigan.

NONCONFORMING LOT. A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

NONCONFORMING STRUCTURE. A structure or portion thereof lawfully existing at the effective date of this chapter, or amendments thereto, and that does not conform to the provisions of this chapter in the district in which it is located.

NONCONFORMING USE. A use which lawfully occupied a building or land at the effective date of this chapter, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

NONCONFORMING USE OR STRUCTURE - CLASS A. A nonconforming use or structure which has been designated to be allowed to be perpetuated and improved under the provisions of this chapter.

NONCONFORMING USE OR STRUCTURE - CLASS B. A nonconforming use or structure which has been designated to be allowed to be continued within the restricted provisions of this chapter.

NUISANCE FACTORS. An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to:

- (1) Noise;
- (2) Dust;
- (3) Smoke;
- (4) Odor;
- (5) Glare;
- (6) Fumes;
- (7) Flashes;
- (8) Vibration;
- (9) Shock waves;
- (10) Heat;
- (11) Electronic or atomic radiation;
- (12) Objectionable effluent;
- (13) Noise of congregation of people, particularly at night;
- (14) Passenger traffic;
- (15) Invasion of nonabutting street frontage by traffic;
- (16) A burned structure;
- (17) A condemned structure.

NURSERY, PLANT MATERIALS. A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of **NURSERY** within the meaning of this chapter does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

NURSERY SCHOOL. A daytime facility which has as its main objective a development program for preschool children and whose staff meets the educational requirements established by the state.

NURSING HOME. A structure with sleeping rooms where persons are housed or lodged and are furnished with meals, nursing and medical care.

OFF-STREET PARKING LOT. A facility providing off-street vehicular parking spaces and drives or aisles for the parking of more than three vehicles.

OPEN STORAGE. The storage of any materials or objects outside the confines of a building.

PARKING SPACE. An area of definite length and width; such area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

PERFORMANCE STANDARDS. Criteria developed to control nuisance factors.

POOL OR BILLIARD HALL. A commercial establishment which provides two or more pool and/or billiard tables for use by patrons.

PRINCIPAL USE. The main use to which the premises are devoted and the principal purpose for which the premises exist.

PUBLIC UTILITY. A person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public gas, steam, electricity, sewage disposal, communications, telegraph, transportation or water.

RECREATIONAL EQUIPMENT. Trailer coaches, travel trailers, utility trailers, pick-up campers or coaches, motorized dwellings, tent trailers, boats, and boat trailers, snowmobiles, horse trailers, dune buggies, race cars, demolition derby cars and other similar equipment and conveyances.

ROOM. For the purpose of determining lot area requirements and density in a Multiple-Family District, means a living room, dining room or bedroom, equal to at least 80 square feet in area. A room shall not include the area in kitchens, sanitary facilities, utility provisions, corridors, hallways and storage areas. Plans presented showing one, two or three bedroom units and including a den, library or other extra room shall count such extra room as a bedroom for the purpose of computing density.

SATELLITE DISH ANTENNA. A structure designed, intended or used to receive communications or other signals from geostationary, communications satellites or other extraterrestrial sources.

SETBACK. The distance required to obtain minimum front, side or rear yard open space provisions of this chapter. Setbacks for buildings shall be measured from the foundation wall.

SHOPPING CENTER/SHOPPING PLAZA. A privately owned commercial area having four or more stores that share a common parking lot or common driveways.

SIGN DEFINITIONS. The following definitions are related to signs. (See Appendix A.)

(1) **SIGN.** Any announcement, declaration, display, billboard, illustration and insignia, when designed and placed so as to attract general public attention. Such shall be deemed to be a single sign whenever the proximity, design, content or continuity reasonably suggest a single unit, notwithstanding any physical separation between parts. Sign shall include any banner, bulbs or other lighting devices, streamer, pennant, inflated or deflated membrane device, propeller, flag (other than the official flag of any nation or state) and any similar device of any type or kind, whether bearing lettering or not.

(2) **ACCESSORY SIGN.** A sign which pertains to the principal use of the premises.

(3) **BANNER SIGN.** A portable sign of fabric, plastic, or other non-rigid material without an enclosing structural framework.

(4) **BILLBOARD.** A sign which advertises an establishment, product, service or activity not available or not conducted on the lot on which the sign is located.

(5) **CHANGEABLE COPY, READER BOARD SIGN.**

(a) *Manual.* A sign on which a copy is changed manually, such as reader boards with changeable letters or pictorials.

(b) *Automatic.* An electronically controlled sign, where different copy changes are shown on the same unexposed lamp bank or rotating portion of the face of the sign, used as a message center reader board.

(6) **COMMERCIAL ESTABLISHMENT.** A business operating independent of any other business located in a freestanding building; in a strip mall, a business completely separated from other businesses by walls from the ground up and with a door which may regularly be used by the public for exclusive ingress and egress to that business; in an enclosed structure with a shared climate controlled area, a business completely separated from other businesses by walls from the ground up, and with a door or entrance which may regularly be used by the public for exclusive ingress and egress to that business, and which may be closed to the public even while the common area is open to the public; and in an office building, a business holding itself out to the public as a single entity, independent of other businesses or persons.

(7) **COMMUNITY EVENT SIGN.** A sign erected within the city, which is used to call attention to special events of interest to the general public, which may be sponsored by government agencies, schools, service clubs, civic or religious organizations, or other groups which are non-profit and whose purpose is charitable, philanthropic, religious or benevolent.

(8) **CONSTRUCTION SIGN.** A sign which identifies the owners, financiers, contractors, architects, and engineers of a

project under construction.

(9) **CONTINUED READABILITY.** Continuing to be read easily, with all letters, images and other aspects of the sign face remaining as initially depicted and displayed, ordinary wear and tear excepted.

(10) **DIRECTIONAL SIGN, ON-SITE.** A sign which gives directions, instructions, or facility information for the use of the lot on which the sign is located, such as parking or exit and entrance signs.

(11) **ESSENTIAL SERVICES SIGN.** A sign which identifies an essential service use as defined in the City Zoning Ordinance.

(12) **FLAG SIGN.** A flag which is attached to a pole and which contains the name, logo or other symbol of a business, company, corporation or agency of a commercial nature.

(13) **FLASHING SIGN.** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use.

(14) **FREESTANDING SIGN.** A sign that is not attached to a building or wall, and is supported by one or more poles or braces, which are less than 50% of the width of the sign, or that rests on the ground or on a foundation resting on the ground.

(15) **GOVERNMENT SIGN.** A sign erected, or required to be erected, by the City of Charlotte, Eaton County, state or Federal government, or any agency thereof.

(16) **GROUND SIGN.** A freestanding sign supported by a base which rests directly on the ground. The width of the base shall be at least 50% of the width of the sign in order to be a ground sign.

(17) **INCIDENTAL SIGN.** A small sign, emblem or decal informing the public of facilities or services available on the premises, for example, a building entrance sign, a credit card sign, or restroom sign or sign indicating hours of business.

(18) **MANSARD.** A sloped roof or roof-like facade architecturally comparable to a building wall.

(19) **MARQUEE/CANOPY/AWNING SIGN.** A sign painted on, attached to, or consisting of an interchangeable copy reader, on a permanent overhanging shelter which projects from the face of the building.

(20) **MEMORIAL SIGN.** A sign, tablet, or plaque memorializing a person, event, structure or site.

(21) **MURAL.** A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.

(22) **NAMEPLATE.** A non-illuminated, on-premise sign, giving only the name, address and/or occupation of an occupant or group of occupants.

(23) **NON-ACCESSORY SIGN.** A sign structure advertising a service, establishment, merchandise, or entertainment which is not sold, produced, manufactured or furnished at the property on which said sign is located.

(24) **NON-COMMERCIAL SIGN.** A sign, either portable or non-portable, not advertising commerce, trade or location, and not otherwise defined herein. A political sign is a noncommercial sign.

(25) **PLACARD.** A sign not exceeding two square feet which provides notices of a public nature, such as "No Trespassing," "No Hunting," or "Gas Mains" signs.

(26) **PORTABLE OR TEMPORARY SIGN.** A sign and sign structure designed to facilitate the movement of the sign from one zoning lot to another. The sign may or may not have wheels, changeable lettering and/or hitches for towing.

(27) **PROJECTING SIGN.** A display sign attached directly to the building wall, extending more than 12 inches from the face of the wall, and projecting in such a way that its message is not parallel to the wall to which it is attached.

(28) **REAL ESTATE SIGN.** A temporary sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.

(29) **RESIDENTIAL IDENTIFICATION SIGN.** A sign identifying or recognizing a platted subdivision, site condominium, multi-family or other residential development.

(30) **ROOF LINE.** The top of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

(31) **ROOF SIGN.** A sign erected above the roof line of a building.

(32) **SIDEWALK SIGN.** An A-frame sign which is portable and designed to be placed on the sidewalk in front of the use it advertises.

(33) **SIGN AREA.** The area of a sign 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. 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 and are of equal size, and are not 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 faces shall be counted as the one face.

(34) **SIGN HEIGHT.** The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign.

(35) **SPECIAL EVENT SIGN.** A sign for a sale or grand opening.

(36) **VEHICLE SIGN.** A vehicle primarily located or used to serve as a sign rather than as transportation. This includes trailers either attached or detached from a vehicle.

(37) **WALL SIGN.** A sign painted or attached directly to and parallel to the exterior wall of a building, extending no greater than 12 inches from the exterior face of a wall to which it is attached, and located below the roof line. This includes signs attached to a mansard.

(38) **WINDOW SIGN.** A sign installed inside a window and intended to be viewed from the outside.

SPOT ZONING. Rezoning a lot or parcel of land for a use incompatible with surrounding uses.

STORY. That part of a building, except a mezzanine, as defined in this section, included between the surface of one floor and the surface of the next floor, or, if there is no floor above, then the ceiling next above. A basement shall not be counted as a story. (See Appendix A.)

STORY, HALF. An uppermost story lying under a sloping roof, at least 200 square feet in area, with a clear ceiling height of seven feet, six inches. For the purposes of this chapter, the usable floor area is only that area having at least five feet clear height between floor and ceiling.

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

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

SUBDIVISION. The partitioning or dividing of a parcel or tract of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of the sale or lease for more than one year, or of building development, where the act of division creates five or more parcels of land, each of which is ten acres or less in area; or where five or more parcels of land, each of which is ten acres or less in area, are created by successive divisions within a period of ten years.

TEMPORARY USE OR BUILDING. A use or building permitted to exist during a specified period of time.

TRANSITION or TRANSITIONAL. A zoning district which may serve as a district of transition, i.e., a buffer zone between various land use districts or land use types. (See Appendix A.)

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

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

YARDS. The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter and as defined below.

(1) **FRONT YARD.** 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 point of the main building.

(2) **REAR YARD.** 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 point of the main building. In the case of a corner lot, the rear yard shall be the yard opposite the street address.

(3) **SIDE YARD.** 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 point on the side lot line to the nearest point of the main building.

(4) **SIDE YARD, EXTERIOR.** A side yard abutting a street.

(5) **SIDE YARD, INTERIOR.** A side yard abutting a yard on another lot or parcel. (See Appendix A.)

(1993 Code, § 82-4) (Ord. passed 10-12-1992; Ord. passed 7-24-1995; Ord. passed 2-12-1996; Ord. passed 5-11-1998; Ord. passed 10-12-1998; Ord. passed 3-11-2002(3); Ord. passed 7-12-2004; Ord. passed 12-8-2008; Ord. 2015-01, passed 4-13- 2015)

Cross-reference:

Definitions and rules of construction generally, see §1-2;

Definitions, see § 15-26;

Regulations to prevent blight, see § 82-459(b)

§ 82-5 AMENDMENTS.

The City Council may from time to time, on recommendation from the Planning Commission or on petition, amend, supplement or change the district boundaries or the regulations in this chapter, or subsequently established in this chapter pursuant to the authority and procedure established in Public Act 110 of 2006, being M.C.L.A §§ 125.3101 *et seq.*

(1993 Code, § 82-5) (Ord. passed 10-12-1992; Ord. passed 3-12-2007)

§ 82-6 ZONING COMMISSION.

The Planning Commission is designated as the Commission specified in Public Act 207 of 1921, § 4, being M.C.L.A. § 125.584, to shall perform the zoning duties of such Commission as provided in the statute in connection with the amendment of this chapter prior to adoption of Public Act 110 of 2006, pursuant to § 301 of said act, the Zoning Commission and the Planning Commission shall perform all duties of a Zoning Commission specified in § 301 of Public Act 110 of 2006.

(1993 Code, § 82-6) (Ord. passed 10-12-1992; Ord. passed 3-12-2007)

§ 82-7 INTERPRETATION.

In their interpretation and application, the provisions of the chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law, or ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this chapter imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this chapter shall control.

(1993 Code, § 82-7) (Ord. passed 10-12-1992)

§ 82-8 VESTED RIGHTS.

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

(1993 Code, § 82-8) (Ord. passed 10-12-1992)

§§ 82-9 -- 82-25 RESERVED.

ARTICLE II. ADMINISTRATION

§ 82-26 VIOLATIONS OF CHAPTER.

(A) *Municipal civil infraction.* Any person violating any of the provisions of this chapter shall be responsible for a municipal civil infraction.

(B) *Public nuisance per se.* Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this chapter and in violation of any of the provisions of this chapter, is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.

(C) *Fines, imprisonment.* The owner of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or shall be created, who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines herein provided.

(D) *Each day a separate offense.* A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(E) *Rights and remedies cumulative.* The rights and remedies provided in this section are cumulative and in addition to any other remedies provided by law.

(1993 Code, § 82-26) (Ord. passed 10-12-1992; Ord. passed 2-26-1996)

§ 82-27 ENFORCEMENT.

The provisions of this chapter shall be administered and enforced by the Building Official or by such deputies of his department as the Building Official may delegate to enforce the provisions of this chapter exclusive of the provisions of the Mobile Home Commission Act, Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 *et seq.*, as amended, which are under the jurisdiction of the state.

(1993 Code, § 82-27) (Ord. passed 10-12-1992; Ord. 3-12-2007)

§ 82-28 DUTIES OF BUILDING OFFICIAL.

(A) The Building Official shall have the power to grant zoning compliance and occupancy permits and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. It shall be unlawful for the Building Official to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this chapter.

(B) The Building Official, and/or such other officers or departments as shall be designated by the City Manager, shall record in duplicate, 1 copy of which shall be filed with the City Clerk, all nonconforming uses of structures and land existing at the effective date of this chapter for the purpose of carrying out the provisions of § 82-453 of this chapter.

(C) The Building Official is under no circumstances permitted to make changes to this chapter nor to vary the terms of this chapter in carrying out his duties as Building Official.

(D) The Building Official shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of the permit.

(1993 Code, § 82-28) (Ord. passed 10-12-1992)

§ 82-29 PLOT PLAN.

(A) The Building Official shall require that all applications for building permits for uses not covered in §82-471 shall be accompanied by plans and specifications, including a plot plan, in duplicate, drawn to scale, showing the following:

- (1) The actual shape, location and dimensions of the lot;
- (2) The shape, size and location of all buildings or other structures to be erected, altered or moved, and of any building or other structures already on the lot;
- (3) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate;
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(B) One copy of the plans shall be returned to the applicant by the Building Official, after he shall have marked such copy either as approved or disapproved. The second copy shall be retained in the office of the Building Official.

(1993 Code, § 82-29) (Ord. passed 10-12-1992)

§ 82-30 PERMITS.

The following shall apply in the issuance of any permit.

(1) *Permits not to be issued.* No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this chapter.

(2) *Permits for new use of land.* No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

(3) *Permits for new use of building.* No building, structure, or part thereof shall be changed to or occupied by a use of a different class or type unless a building permit is first obtained for the new or different use.

(4) *Permits required.* No building, structure, or part thereof shall be hereafter erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of ingress and egress, or other changes affecting or regulated by the City Building Code, Housing Law of Michigan, or this chapter, except for minor repairs or changes not involving any of the aforesaid features.

(5) *Deposit of guarantee.* Any guarantee required by this chapter shall be deposited with the City Clerk prior to the issuance of permits.

(1993 Code, § 82-30) (Ord. passed 10-12-1992)

§ 82-31 CERTIFICATE OF OCCUPANCY.

(A) No land, building, structure, or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such new use. The following shall apply in the issuance of any certificate.

(1) *Certificates not to be issued.* No certificates of occupancy shall be issued for any building, structure, or part thereof, or for the use of any land, which is not in accordance with all the provisions of this chapter.

(2) *Certificates required.* No building, structure, or part thereof, which is hereafter erected or altered shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building, structure, or part thereof.

(3) *Certificates including zoning.* Certificates of occupancy as required by the building code for new buildings,

structures, or part thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this chapter.

(4) *Certificates for existing buildings.* Certificates of occupancy shall be issued for existing buildings, structures, or part thereof, or existing uses of land, if, after inspection, it is found that such buildings, structures, or part thereof, or such use of land, are in conformity with the provisions of this chapter. Certificates of occupancy may be issued for buildings in B-1, B-2, B-3 and CBD zones existing at the effective date of this chapter which change occupancy and which do not provide sufficient parking as required under § 82-455, provided there is no decrease in the number of spaces existing at the effective date of this chapter.

(5) *Temporary certificates.* Nothing in this chapter shall prevent the issuance of a temporary certificate of occupancy for a portion of a building or structure in the process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of 6 months, and provided further that such portion of the building, structure or premises is in conformity with the provisions of this chapter.

(6) *Records of certificates.* A record of all certificates issued shall be kept on file in the office of the Building Official and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(7) *Certificates for dwelling accessory buildings.* Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwelling.

(8) *Applications for certificates.* Application for certificates of occupancy shall be made in writing to the Building Official on forms furnished by the Department, and such certificates shall be issued within 10 days after receipt of such application if it is found that the building, structure, or part thereof, or the use of land, is in accordance with the provisions of this chapter.

(B) If such certificate is refused for cause, the applicant shall be notified in writing of such refusal and cause thereof, within the 10 day period.

(1993 Code, § 82-31) (Ord. passed 10-12-1992)

§ 82-32 FINAL INSPECTION.

The holder of every building permit for the construction, erection, alteration, repair or moving of any building, structure, or part thereof shall notify the Building Official immediately upon the completion of the work authorized by such permit, for a final inspection.

(1993 Code, § 82-32) (Ord. passed 10-12-1992)

§ 82-33 FEES.

(A) Fees for rezoning application, site plan review inspection and the issuance of permits or certificates or copies thereof, required or issued under the provisions of this chapter, may be collected by the Building Official in advance of issuance. The amount of such fees shall be established by resolution of the City Council and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(B) Land areas of ten (10) acres or more in use districts RM-1, RM-2, MH, B-2, B-3, IRO, I-1, I-2, PDD:

(1) Escrow funds. Where Planning Commission approval of a site plan or PDD plan is required, and where it is reviewed by an outside consultant, those charges shall be borne by the applicant, in addition to the basic application fee. Planning Commission may, after its formal review, determine that outside consultation is required regardless of size limitations.

(2) A minimum of \$500 in escrow funds shall be collected by the city and placed in escrow, to be administered by the City Treasurer. Escrow will be replenished if necessary and any excess funds remaining in the escrow account after the application has been processed and a final decision rendered regarding the project, will be refunded to the applicant with no interest on the funds. If the cost of the review exceeds the amount remaining in escrow, a statement shall be sent to the applicant for the additional costs. No permits shall be issued until the balance is paid. If unpaid for more than 14 days, the City Building Official may take legal action to halt work on the project and take legal action to collect the fees.

(1993 Code, § 82-33) (Ord. passed 10-12-1992; Ord. passed 3-11-2002(2))

§ 82-33A NOTICE.

(A) Except as otherwise provided under this chapter, if the city is required to provide notice and hearing under this chapter, the city shall publish notice of the request in a newspaper of general circulation in the city;

(B) Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered and the applicant if different than the owners. Notice shall also be sent 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 city.

(C) The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do the following.

(1) Describe the nature of the request.

(2) 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.

(3) State when and where the request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

(Ord. passed 3-12-2007)

§ 82-34 PLANNING COMMISSION.

(A) *Powers and duties.* The Planning Commission is designated the Commission, as specified in Public Act 285 of 1931, § 3, being M.C.L.A. § 125.33, as amended, and in Public Act 110 of 2006, § 4, being M.C.L.A. § 125.3101, and shall perform the duties of such Commission as provided in these acts, as amended, together with such other powers and duties as are given to such Commission by the provisions of this chapter, including authority to act on all matters requiring approval or recommendation of such Commission.

(B) *Authority to approve uses.* Whenever in this chapter the lawful exercise or existence of a use requires the approval of the Planning Commission, such Commission is hereby authorized and directed to investigate the matter requiring such approval, to conduct a hearing thereon, to make a determination, to either grant or refuse the approval and to do all things reasonably necessary to the making of such investigation and determination, subject to the provisions of subsections (B) through (G) of this section, inclusive. With respect to the authority granted Planning Commission members in this chapter, a members in this chapter, a member of the Planning Commission may be removed for misfeasance, malfeasance, or nonfeasance in office by the City Council upon written charges after a public hearing.

(C) *Hearing; notice.*

(1) The Planning Commission shall hold a minimum of 2 regular meetings annually, giving notice of the time and place by publication in a newspaper of general circulation in the city. Notice shall be given not less than 15 days before the meeting. The Planning Commission is subject to the Open Meetings Act, 1976 PA 267, M.C.L.A. §§ 15.261 to 15.275.

(2) Upon receipt of an application for a special land use approval, a conditional use approval, a planned residential development approval, a site plan approval of a Class A nonconforming use approval or any other land use approval which requires a decision on discretionary grounds, 1 notice that a request has been received shall be given as provided in § 82-33(A). Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, 1 occupant of each unit or spatial areas shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

(D) *Surveys and plans.* Where the Planning Commission is empowered to approve certain uses of premises under the provisions of this chapter or in cases where the Commission is required to make an investigation, the applicant shall furnish such surveys, plans or other information as may be reasonably required by the Commission for the proper evaluation and consideration of the matter.

(E) *Hearings; matters to be considered* In making any recommendations or approvals on special land uses, conditional uses, planned residential districts, site plans or other matters authorized by law, the Planning Commission and the City Council, where its approval is also required, shall consider and apply the following standards.

(1) Whether or not the use involved is consistent with and promotes the intent and purpose of this chapter.

(2) Whether or not the use involved is compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

(3) Whether or not the use involved is consistent with the public health, safety and welfare of the city.

(F) *Conditions for approval.*

(1) Reasonable conditions may be required in conjunction with the approval of a special land use, conditional use, planned residential district or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:

(a) Be designed to protect natural resources, and the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;

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

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

(2) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.

(1993 Code, § 82-34) (Ord. passed 10-12-1992; Ord. passed 3-12-2007)

§ 82-35 CHANGES AND AMENDMENTS.

(A) The City Council may, from time to time, on its own motion, on recommendation of the Planning Commission or on petition, after public notice, hearing and report by the Planning Commission as provided by law, amend, supplement or change the boundaries or regulations in this chapter or subsequently established pursuant to the authority and procedure established in Public Act 110 of 2006, § 4.202, being M.C.L.A. § 125.3306, as amended. At least 1 public hearing shall be held by the Planning Commission, and a report made thereon, before the City Council shall adopt any amendment to this chapter or the maps adopted under this chapter. If an individual property or 10 or fewer adjacent properties are proposed for rezoning, the Planning Commission shall give a notice of the proposed rezoning in the same manner as required under § 82-33A. If 11 or more adjacent properties are proposed for rezoning, the Planning Commission shall give a notice of the proposed rezoning in the same manner as required under § 82-33A, except for the requirement of §82-33A(B) and except that no individual addresses of properties are required to be listed under § 82-33A. Not less than 15 days notice of the time and place of the public hearing shall first be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the districts or zones affected that registers its name and mailing address with the City Clerk for the purpose of receiving such notice. An affidavit of mailing shall be maintained. A hearing shall be granted a person interested at the time and place specified on the notice. A summary of the comments submitted at the public hearing shall be transmitted with the report if the Planning Commission and the proposed zoning ordinance, including any maps, to the City Council. The City Council may hold additional public hearings if it considers them necessary. After receipt of the Planning Commission's report, the City Council may adopt the proposed amendment, with or without amendments, by a majority vote of the members or refer the proposed amendment again to the Planning Commission for a further report. If an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given as provided in this section. City Council shall grant a hearing to a property owner who requests a hearing by certified mail addressed to the Clerk.

(1) A zoning ordinance shall take effect upon the expiration of 7 days after publication as required by this section or at such later date after publication as may be specified by the legislative body.

(2) Following adoption of a zoning ordinance and any subsequent amendments by the legislative body, the zoning ordinance or subsequent amendments shall be filed with the City Clerk and a notice of ordinance adoption shall be published in a newspaper of general circulation in the local unit of government within 15 days after adoption.

(3) A copy of the notice required under subsection (2) shall be mailed to the airport manager of an airport entitled to notice under § 82-34.

(4) The notice required under this section shall include all of the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement:

"A zoning ordinance regulating the development and use of land has been adopted by the City of Charlotte."

(b) In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance or amendment.

(d) The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

(5) The filing and publication requirements under this section supersede any other statutory requirements relating to the filing and publication of city ordinances.

(B) Upon presentation of a protest petition meeting the requirements set forth in this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a 2/3 vote of the City Council. The protest petition shall be presented to the City Council before final legislative action on the amendment and shall be signed by one of the following:

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

(2) The owners of at least 20% 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 this 20% land area requirement.

(1993 Code, § 82-35) (Ord. passed 10-12-1992; Ord. passed 3-12-2007)

§ 82-36 CONDITIONAL REZONING.

(A) An owner of land may voluntarily offer in writing, and the City Council may approve, certain use and development of

the land as a condition to a rezoning of the land or an amendment to a zoning map.

(B) In approving the conditions under subsection (A), the City Council may establish a time period during which the conditions apply to the land. Except for an extension under subsection (D), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(C) The City Council shall not add to or alter the conditions approved under subsection (A) during the time period specified under subsection (B) of this section.

(D) The time period specified under subsection (B) may be extended upon the application of the landowner and approval of the City Council.

(E) The City Council shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (A) shall not otherwise affect a landowner's rights under Act of the Public Acts of Michigan of 2006, the ordinances of the city, or any other laws of this state.

(Ord. passed 3-12-2007)

§§ 82-37 -- 82-55 RESERVED.

ARTICLE III. BOARD OF APPEALS

§ 82-56 CREATION; MEMBERSHIP.

(A) There is hereby established a Board of Zoning Appeals, which shall perform its duties and exercise its powers as provided in Article VI of Public Act 110 of 2006, being M.C.L.A. §§ 125.3601 through 125.3607, as amended, in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done. The City Council shall act as the Board of Zoning Appeals.

(B) A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. 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.

(C) The Mayor and Mayor Pro-Tem shall act as the Chairperson and Vice-Chairperson. The City Clerk shall serve as the Secretary of the Zoning Board of Appeals.

(D) The City Council may also, if it so desires, appoint not more than two alternate members for the same term as regular members of the Board of Appeals. An alternate member may be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board of Appeals.

(1993 Code, § 82-56) (Ord. passed 10-12-1992; Ord. passed 1-8-1996(2); Ord. passed 12-14-1998; Ord. passed 3-12-2007; Ord. 2014-05, passed 9-8-2014)

§ 82-57 MEETINGS.

(A) All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such times as such Board may determine. All meetings conducted by said Board shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its hearings and other official actions. Four members of the Board shall constitute a quorum for the conduct of its business.

(B) The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(1993 Code, § 82-57) (Ord. passed 10-12-1992)

§ 82-58 APPEAL.

(A) An appeal may be taken to the Board of Appeals by any person, firm or corporation, or by an officer, department, board or bureau affected by a decision of the Building Inspector. Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the Building Official and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

(B) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Official certifies to the Board of Appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the Building Official and on due cause shown.

(C) The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof as provided in § 82-61 and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by a duly authorized agent or attorney.

(D) The City Council shall, from time to time, determine by resolution the fee which shall be paid to the Secretary of the Board of Appeals at the time that notice of appeals is filed, which the Secretary shall forthwith pay over to the City Treasurer to the credit of the General Fund of the city.

(1993 Code, § 82-58) (Ord. passed 10-12-1992; Ord. passed 3-12-2007)

§ 82-59 JURISDICTION.

(A) The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have power to act on those matters where this chapter provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined in this section and laws of the state. These powers include the following.

(1) *Administrative review.* To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision or refusal made by the Building Official or any other administrative official in carrying out or enforcing any provisions of this chapter.

(2) *Variance.* To authorize, upon an appeal, a nonuse variance from the strict application of the provisions of this chapter where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this chapter or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. In granting a variance, the Board shall state the grounds upon which it justifies the granting of a variance.

(3) *Exceptions and special approvals.* To hear and decide, in accordance with the provisions of this chapter, requests for exceptions, for interpretations of the zoning map, and for decisions on special approval situations on which this chapter specifically authorizes the Board to pass. Any exception or special approval shall be subject to such conditions as the Board may require to preserve and promote the character of the zoning district in question and otherwise promote the purpose of this chapter, including the following:

(a) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street layout as shown on the zoning map;

(b) Permit the erection and use of a building or use of premises for public utility purposes, upon recommendation of the Planning Commission;

(c) Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements;

(d) Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification;

(e) Permit temporary uses for periods not to exceed 2 years in undeveloped sections of the city and for periods not to exceed 6 months in developed sections;

(f) Permit temporary carport and storage structures. The Board shall consider the placement of such structures with regard to size, anchoring, type of construction, and appropriate setbacks of the zoning districts. The Zoning Board shall determine the length of time the temporary building may be allowed and may attach reasonable conditions of approval.

(g) Permit, upon proper application, the following character of temporary use, not otherwise permitted in any district, not to exceed 12 months with the granting of 12-month extensions being permissible: uses which do not require the erection of any capital improvement of a structural nature.

(B) The Board of Appeals, in granting permits for temporary uses pursuant to subsections (A)(3)(e) and (A)(3)(f) of this section, shall do so under the following conditions:

(1) The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted;

(2) The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit;

(3) All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the city shall be made at the discretion of the Board of Appeals;

(4) In classifying uses as not requiring capital improvement, the Board of Appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to, golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections;

(5) The use shall be in harmony with the general character of the district;

(6) No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this chapter. Further, the Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.

(C) In consideration of all appeals and all proposed variations to this chapter, the Board shall, before making any variations from the chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Official, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the Mayor and the City Council in the manner provided by law.

(1993 Code, § 82-59) (Ord. passed 10-12-1992; Ord. passed 1-13-2003(2); Ord. passed 3-12-2007)

§ 82-60 ORDERS.

In exercising the powers provided in §82-59, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Building Official from whom the appeal is taken.

(1993 Code, § 82-60) (Ord. passed 10-12-1992)

§ 82-61 NOTICE.

(A) Upon written request concerning a request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing and give notice as provided in § 82-34(C)(1).

(B) Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the city and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

(1993 Code, § 82-61) (Ord. passed 10-12-1992; Ord. passed 3-12-2007)

§ 82-62 EXPIRATION OF ORDERS.

(A) No order of the Board permitting the erection of a building shall be valid for a period longer than 1 year, unless a building permit for such erection or alteration is obtained within the 1 year period and such erection or alteration is started and proceeds to completion in accordance with the terms of the permit.

(B) No order of the Board permitting a use of a building or premises shall be valid for a period longer than 1 year unless such use is established within the 1 year period; provided, however, that where the permitted use is dependent upon the erection or alteration of a building such order shall continue in force and effect if a building permit for the erection or alteration is obtained within the 1 year period and the erection or alteration is started and proceeds to completion in accordance with the terms of the permit.

(1993 Code, § 82-62) (Ord. passed 10-12-1992)

§§ 82-63 -- 82-80 RESERVED.

ARTICLE IV. ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONE MAP

§ 82-81 OFFICIAL ZONING MAP.

The city is hereby divided into districts or zones, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

(1) The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bear the seal of the city under the following words:

"This is to certify that this is the OFFICIAL ZONING MAP referred to in ARTICLE IV, § 5.15 of the Zoning Ordinance of the City of Charlotte, Michigan,"

together with the date of the adoption of this chapter. The Official Zoning Map shall be deposited in the City Clerk's vault when not in actual use.

(2) If, in accordance with the provisions of this chapter and the laws of the state, changes are made in district

boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved by the City Council, together with an entry on the Official Zoning Map as follows:

On _____ (date) _____, by official action of the City Council, the following (change) changes were made in the Official Zoning Map, (brief description of the nature of the change) which entry shall be signed by the Mayor and attested by the City Clerk. No amendment to this chapter which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on such map.

(3) No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the provisions set forth in this chapter. Any unauthorized change of whatsoever kind by any person shall be considered in violation of this chapter and punishable as provided in this chapter.

(4) Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map above described and deposited in the vault of the City Clerk shall be the final authority.

(5) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.

(6) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, or the centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map. If no such distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.

(7) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries.

(8) Where the boundary of a district follows a stream, lake or other body of water, such boundary line shall be deemed to be located midway between opposite shores.

(9) Where the boundary of a district follows a subdivision boundary line, such boundary line shall be construed to be the district boundary line.

(10) Where unzoned property may exist, or where, due to the scale, lack of detail or illegibility of the zoning map on file in the office of the City Clerk, there is any uncertainty, contradiction or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, or upon its own motion, by the Board of Appeals.

(1993 Code, § 82-81) (Ord. passed 10-12-1992; Ord. passed 3-12-2006)

§ 82-82 INTERPRETATION OF TEXT.

Where uncertainty exists with respect to uses permitted in any district, or any condition set forth in this chapter, the following rules shall apply.

(1) No use of land shall be permitted in any use district except those uses specifically set forth in the district.

(2) Uses or structures not specifically permitted in a zoning district shall be prohibited in such district.

(3) Unless otherwise provided for in this chapter where uses of yard areas are indicated as being permitted, the use of any other yard area for such use shall be prohibited.

(1993 Code, § 82-82) (Ord. passed 10-12-1992)

§ 82-83 ZONING OF VACATED AREAS.

Whenever any street, alley or other public way within the municipality shall be vacated, such street, alley or other public way, or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

(1993 Code, § 82-83) (Ord. passed 10-12-1992)

§ 82-84 ZONING OF ANNEXED AREAS.

Whenever any area is annexed to the city, 1 of the following conditions will apply.

(1) Land that is zoned previous to annexation shall be classified as being in whichever district of this chapter that is recommended by the Planning Commission to the City Council and that is approved by the City Council.

(2) Land not zoned prior to annexation shall be automatically classified as an R-2 District until a zoning map for such area has been adopted by the City Council. The Planning Commission shall recommend the appropriate zoning districts for such area within 3 months after the matter is referred to it by the City Council.

(1993 Code, § 82-84) (Ord. passed 10-12-1992)

§ 82-85 DISTRICTS.

For the purpose of this chapter, the city is hereby divided into the following zoning districts.

RESIDENTIAL DISTRICTS

R-1 One-Family Residential District

R-2 One-Family Residential District

RT Two-Family Residential District

RM-1 Multiple-Family Residential District

RM-2 Multiple-Family Residential District

MH Mobile Home Residential District

NONRESIDENTIAL DISTRICTS

OS-1 Office-Service District

B-1 Local Business District

B-2 Community Business District

B-3 General Business District

CBD Central Business District

C Conservancy

IRO Industrial Research Office District

I-1 Light Industrial District

I-2 General Industrial District

P-1 Vehicular Parking District

(1993 Code, § 82-85) (Ord. passed 10-12-1992)

§ 82-86 DISTRICT REQUIREMENTS.

All buildings and uses in any district shall be subject to the provisions of §§82-426*et seq.*, schedule of regulations; §§82-451*et seq.*, general provisions; and §§82-491*et seq.*, general exceptions.

(1993 Code, § 82-86) (Ord. passed 10-12-1992)

§§ 82-87 -- 82-105 RESERVED.

ARTICLE V. R-1 AND R-2 ONE-FAMILY RESIDENTIAL DISTRICTS

§ 82-106 INTENT.

The R-1 and R-2 One-Family Residential Districts are designed to be composed of low density residential home development. The regulations are intended to stabilize, protect and encourage the residential character of the district and prohibit activities not compatible with a residential neighborhood. Development is limited to single-family dwellings, plus such other uses as schools, parks, churches and certain public facilities which serve the residents.

(1993 Code, § 82-106) (Ord. passed 10-12-1992)

§ 82-107 PRINCIPAL PERMITTED USES.

In One-Family Residential Districts, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses, unless otherwise provided in this chapter:

(1) One-family detached dwellings;

(2) Farms on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than 5 acres, all subject to the health and sanitation provisions of the city, and provided further that no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of 1 year immediately prior thereto, and for the use and consumption by persons residing on the premises;

(3) Publicly owned and operated libraries, parks, parkways and recreational facilities;

(4) Home occupation, subject to the following:

(a) No home occupation shall be permitted that:

1. Changes the outside appearance of the dwelling or is visible from the street;
2. Generates traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood;
3. Creates noise, vibration, glare, fumes, or odors or results in electrical interference or becomes a nuisance;
4. Results in outside storage or display of anything;
5. Requires the employment of anyone in the home other than the dwelling occupants;
6. Requires exterior building alterations to accommodate the occupation;
7. Occupies more than 25% of the ground floor area of the dwelling, or 50% of a detached garage;
8. Requires parking for customers that cannot be accommodated on the site and/or at curb side on the street;
9. Requires the delivery of goods or the visit of customers before 6:00 a.m. and after 8:00 p.m.

(b) The following are permitted home occupations provided they do not violate any of the provisions of subsection (4) (a) of this section:

1. Dressmaking, sewing and tailoring;
2. Painting, sculpturing or writing;
3. Telephone answering;
4. Home crafts, such as model making, rug weaving and lapidary work;
5. Tutoring, limited to 4 students at a time;
6. Computer programming;
7. Salesperson's office or home office of a professional person, not including treatment of patients or the visit of clients;
8. Laundering and ironing;
9. Repair of clocks, instruments or other small appliances which do not create a nuisance;
10. a. No services other than home hair care shall be provided. For the purposes of this section, home hair care shall include: the cutting, styling, and general maintenance of hair.
 - b. No more than 1 chair for customers to sit in while receiving hair care shall exist on the premises.
 - c. No goods shall be sold or offered for sale as part of the home hair care.
 - d. No signs or displays on the property may advertise the home hair care services on site, except for lettering on the 1 permitted nameplate as described in § 82-461(B).
 - e. The home hair care facility shall be licensed when necessary by the State of Michigan.
 - f. Parking for customers shall be provided on a paved surface. The location of customer parking shall be approved by the Planning Commission.
 - g. A conditional use permit shall be secured for the home hair care, using §82-34(F)(1) through (3) as evaluating criteria, and § 82-34(G)(1)(a) through (c) to place conditions as warranted.

(c) The following are prohibited as home occupations:

1. Barber shops and beauty parlors;
2. Dance studios;
3. Private clubs;
4. Restaurants;
5. Stables or kennels;
6. Tourist homes;
7. Automobile repair or paint shops.

(d) Any proposed home occupation that is neither specifically permitted by subsection (4)(b) of this section nor specifically prohibited by subsection (4)(c) of this section shall be considered a conditional use and be granted or denied upon consideration of those standards contained in subsection (4)(a) of this section and under the procedures specified in § 82-108.

(e) Home occupation permits shall be limited to the applicant who legally resides in the residence.

(f) Home occupation shall be based on a 2 year permit for such home occupation.

- (5) State registered family day care homes for children.
- (6) Day care homes for elderly adults subject to the following conditions:
 - (a) Not more than 6 persons other than the full-time occupants of the dwelling may be cared for in any 1 dwelling;
 - (b) No overnight accommodations shall be provided;
 - (c) Such facility shall not provide nursing or medical care.
- (7) Municipal office buildings when in character with the neighborhood.
- (8) Cemeteries which lawfully occupied land at the time of adoption of this chapter.
- (9) Public, parochial and other private elementary schools offering courses in general education and not operated for profit.
- (10) Accessory buildings and uses, customarily incident to any of the permitted uses listed in this section.

(1993 code, § 82-107) (Ord. passed 10-12-1992; Ord. passed 8-11-1997; Ord. passed 4-9-2007(3))

§ 82-108 CONDITIONAL USES.

The following uses may be permitted in One- Family Residential Districts upon the granting of a permit for such use by the Planning Commission subject to the conditions imposed in this section for each use and subject further to such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

(1) The limit upon the number of persons who may reside as a functional equivalent of the domestic family may be increased or enlarged upon a demonstration by the applicant of all of the following:

- (a) There are adequate provisions on the subject property for off-street parking for each adult proposed to reside on the premises, and adequate storage for each person proposed to reside on the premises;
- (b) The extent of increase or enlargement of the limit upon the number of persons shall not be considered cumulatively with existing and reasonably projected population concentration in the area, or place an unreasonable burden upon public services, facilities and/or schools;
- (c) There shall be a minimum of 125 square feet of usable floor space per person on the premises.

If the Planning Commission grants an application under this provision, the determination shall include the specific maximum number of persons authorized to reside on the property and any minimum parking or storage requirements to be maintained.

(2) Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with § 82-470.

(3) Utility and public service buildings and uses, without storage yards, when operating requirements necessitate the locating of such building within the district in order to serve the immediate vicinity.

(4) State-licensed day care home (group), all in accord with Public Act 116 of 1973, being M.C.L.A. §§ 722.11 *et seq.*, as amended, for not more than 12 children for care during the day; provided that for each child so cared for there is provided and maintained an outdoor play area. Such play space shall have a total minimum area of 1,000 square feet plus 100 square feet for each child. Such play area shall be fenced and screened with planting from any adjoining residential land.

(5) Private noncommercial recreational areas, institutional or community recreation centers, nonprofit swimming pool clubs, all subject to the following conditions:

(a) The proposed site for any of the uses permitted in this subsection (5) of this section which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least 1 property line abutting a major thoroughfare as designated on the Major Thoroughfare Plan, and the site shall be so planned as to provide all access in accordance with § 82-470;

(b) Front, side and rear yards shall be at least 80 feet wide and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts;

(c) Off-street parking shall be provided so as to accommodate not less than one-half of the member families and/or individual members. The Planning Commission may modify the off-street parking requirements in those instances wherein it is specifically determined that the users will originate from the immediately adjacent areas and will therefore be pedestrian. Prior to the issuance of a building permit or zoning compliance permit, bylaws of the organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases wherein the proposed use or organization does not have bylaws or formal members, the off-street parking requirement shall be determined by the Planning Commission on the basis of usage.

(d) Whenever a swimming pool is constructed under this chapter, the pool area shall be provided with a protective fence, 6 feet in height, and entry shall be provided by means of a controlled gate.

(6) Golf courses, which may or may not be operated for profit, subject to the following conditions:

(a) The site shall be so planned as to provide all access in accordance with §82-470;

(b) The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways and parking areas which will encourage pedestrian and vehicular traffic safety;

(c) Development features including the principal and accessory buildings and structures shall be so located and related as to minimize the possibilities of any adverse effects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than 200 feet from any property line abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.

(7) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical, or religious education and not operated for profit, all subject to the following conditions.

(a) Any use permitted herein shall be developed only on sites of at least 40 acres in area and shall not be permitted on any portion of a recorded subdivision plat.

(b) All access to the site shall be in accordance with §82-470.

(c) No building shall be closer than 80 feet to any property line.

(8) Churches and other facilities normally incidental thereto, subject to the following conditions.

(a) The site shall be so located as to provide for ingress and egress from the site directly onto a thoroughfare having an existing or planned street designated as a major or secondary thoroughfare.

(b) The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than 15 feet.

(c) Buildings of greater than the maximum height allowed in §§82-426*et seq.* may be allowed, provided front, side and rear yards are increased above the minimum requirements by 1 foot for each foot of building that exceeds the maximum height allowed.

(9) Public buildings, such as, but not limited to, courthouses, health facilities, jails, and the like. Access to the site shall be in accord with § 82-470.

(10) Accessory buildings and uses customarily incident to any of the permitted uses listed in this section.

(11) Group homes for children and/or adults subject to the following:

(a) That the exterior of the principal building and accessory buildings be constructed in a manner to appear as though it is a single-family dwelling;

(b) The setback requirements of §§82-426 and 82-427(B) and (C) shall apply, however, the minimum side yard setback shall be not less than 25 feet;

(c) In the event that use of outdoor areas is planned, the outdoor areas shall be screened by landscaping;

(d) That the total maximum number of residents (not including those who provide care) shall not exceed 12;

(e) The group home will be hooked up to public water and sanitary sewer facilities;

(f) In the judgment of the Planning Commission, the group home will not change the essential character of the area for which it is proposed, and that the group home will not be disturbing to existing or future neighboring uses.

(g) The group home shall not be used for any of the following purposes:

1. As a correctional facility as defined in Public Act 415 of 1982, § 2(b), being M.C.L.A. § 791.502(b);

2. As a facility which houses juveniles as defined in Public Act 73 of 1988, § 2(b), being M.C.L.A. § 803.222(b);

3. As a facility which houses persons deemed incompetent to stand trial under the provisions of Public Act 258 of 1974, §§ 1031 and 1032, being M.C.L.A. §§ 330.2031 and 330.2032;

4. As a facility which houses persons acquitted of a criminal charge by reason of insanity and committed according to the provisions of Public Act 258 of 1974, § 1050, being M.C.L.A. § 330.2050.

5. As a facility which houses prisoners as a community correction center or a community residential home, as those terms are defined in Public Act 68 of 1974, as amended, being M.C.L.A. § 791.265a.

(h) Parking shall be provided in accordance with §82-455(14)(a)1, and shall otherwise comply with §82-455. Parking located closer than 10 feet from any property line shall be screened.

(i) The group home must be a state-licensed residential facility and comply with all applicable laws and regulations of the same.

(j) The group home must be a single-family, owner-occupied dwelling. In lieu of this requirement, an assigned resident

manager or owner representative living on the premises may be permitted by the Planning Commission.

(k) The minimum lot size for a group home shall be 3 acres.

(l) The Planning Commission may place or require any conditions it deems necessary to insure compliance with the provisions listed above.

(m) The maximum lot coverage by all buildings shall be 25%.

(1993 Code, § 82-108) (Ord. passed 10-12-1992; Ord. passed 1-13-1997(1); Ord. No. 2009-01, passed 2-9-2009)

§ 82-109 REQUIRED CONDITIONS.

(A) All dwelling units in one-family residential districts shall be reviewed by the Building Official subject to the following conditions.

(1) Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.

(2) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.

(3) Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(4) Dwelling units shall be provided with roof designs and roofing materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(5) Dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed 3 to 1, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.

(6) The dwelling shall contain storage capability 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 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(B) The Building Official may request a review by the Planning Commission of any dwelling unit with respect to subsections (A)(3), (A)(4) and (A)(5) of this section. The Building Official or Planning Commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large. In reviewing any such proposed dwelling unit, the Building Official may require the applicant to furnish such plans, elevations and similar documentation as he deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling areas, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, then the nearest 25 similar type dwellings shall be considered.

(1993 Code, § 82-109) (Ord. passed 10-12-1992)

§ 82-110 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setback requirements.

(1993 Code, § 82-110) (Ord. passed 10-12-1992)

§§ 82-111 -- 82-125 RESERVED.

ARTICLE VI. RT TWO-FAMILY RESIDENTIAL DISTRICT

§ 82-126 INTENT.

The RT Two-Family Residential District is designed to provide sites for two-family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and the lower density one-family residential districts.

(1993 Code, § 82-126) (Ord. passed 10-12-1992)

§ 82-127 PRINCIPAL PERMITTED USES.

In a Two-Family Residential District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses unless otherwise provided in this chapter.

(1) All uses permitted and all conditional uses and as regulated in the One-Family Residential Districts. The standards

of the schedule of regulations applicable to the R-1 One-Family Residential District shall apply as minimum standards when one-family detached dwellings are erected.

(2) Two-family dwellings.

(3) Accessory buildings and uses, customarily incident to any of the above permitted uses.

(1993 Code, § 82-127) (Ord. passed 10-12-1992)

§ 82-128 CONDITIONAL USES.

The following uses may be permitted in a Two-Family Residential District upon the granting of a permit for such use by the Planning Commission subject to the conditions imposed in this section for each use and subject further to such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

(1) All special condition uses permitted in the R-1 and R-2 One-Family Residential Districts and subject to the regulations of that district.

(2) Funeral homes (mortuaries).

(a) Freestanding signs shall not exceed 6 feet in height and 20 square feet in area and such sign shall be set back one-half the depth of the front yard.

(b) Signs when lighted shall be shielded from abutting residences.

(c) All height provisions and yard setback requirements as required for residences in the district in which such use is located shall be complied with.

(d) All yard, parking lot, service drive and exterior building lighting shall be shielded from abutting residences.

(e) All parking areas and service areas for such use shall be screened from view of abutting residential properties through the provision of screen planting not less than 5 feet in height and/or through the provision of a completely obscuring wall or fence not less than 5 feet in height.

(3) Bed and breakfast dwellings subject to the following conditions.

(a) Such dwelling units shall conform to all applicable city codes and ordinances.

(b) Such dwellings shall be located on state truckline routes.

(c) Such dwellings shall be limited to one per city block.

(d) Not more than 49% of the total floor space of the dwelling unit may be used for leasable sleeping rooms.

(e) The leasable sleeping rooms shall have a minimum size of 100 square feet for each 2 occupants with an additional 30 square feet for each additional occupant, not to exceed a maximum of 4 occupants per room.

(f) Each leasable sleeping room must have a separate operating smoke detector alarm.

(g) Lavatory and bathing facilities must be available to all persons using any leasable sleeping room.

(h) There will be no separate cooking facilities available to persons using any leasable sleeping room.

(i) There will be at least 2 exits from each level of the dwelling units.

(j) The maximum length of stay for any person using any leasable sleeping room is 14 consecutive days.

(k) Every operator of such dwelling unit must keep a list of the names and addresses of all persons staying at the dwelling unit. The guest register must be available for inspection by city officials at any time.

(l) The operations of the dwelling unit will not be permitted to endanger, offend or otherwise interfere with the safety or rights of others so as to constitute a public nuisance.

(1993 Code, § 82-128) (Ord. passed 10-12-1992)

§ 82-129 REQUIRED CONDITIONS.

(A) All dwelling units in a Two-Family Residential District shall be reviewed by the Building Official subject to the following conditions.

(1) Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.

(2) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.

(3) Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(4) Dwelling units shall be provided with roof designs and roofing materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(5) Dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed 3 to 1, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.

(6) The dwelling shall contain storage capability 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 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(B) The Building Official may request a review by the Planning Commission of any dwelling unit with respect to subsections (A)(3), (A)(4) and (A)(5) of this section. The Building Official or Planning Commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large. In reviewing any such proposed dwelling unit, the Building Official may require the applicant to furnish such plans, elevations and similar documentation as he deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling areas, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, then the nearest 25 similar type dwellings shall be considered.

(1993 Code, § 82-129) (Ord. passed 10-12-1992)

§ 82-130 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and maximum density permitted.

(1993 Code, § 82-130) (Ord. passed 10-12-1992)

§§ 82-131 -- 82-145 RESERVED.

ARTICLE VII. RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

§ 82-146 INTENT.

The RM-1 Multiple-Family Residential Districts are designed to provide sites for low-rise multiple-family dwelling structures which are similar in terms of use and structural character to single-family dwellings and which will generally serve as zones of transition between the nonresidential districts and the lower density one-family residential districts. The multiple-family districts are further provided to serve the limited needs for the apartment type of unit in an otherwise low density, single-family community. (1993 Code, § 82-146) (Ord. passed 10-12-1992)

§ 82-147 PRINCIPAL PERMITTED USES.

In a multiple-family district, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses unless otherwise provided in this chapter.

(1) All principal uses permitted and all conditional uses as regulated in the one-family and two-family residential districts with the lot area, yards, and floor area requirements for single-family dwellings equal to at least the requirements of the immediately abutting residential district of least density.

(2) Multiple-family dwellings subject to the conditions herein imposed:

(a) Each dwelling unit shall have 1 floor at ground level.

(b) No more than 4 dwelling units shall be attached in any construction group or contained in any single structure, except that where the roof ridge lines and building facades of any 4 consecutive units are staggered or offset by at least 10 feet, then a maximum of 8 units may be permitted.

(c) The site plan shall be so planned as to provide ingress and egress directly onto a major or secondary thoroughfare, except when the Planning Commission finds, upon review of the site plan, that ingress and egress directly onto an adjacent minor street will not be detrimental to the harmonious development of adjacent property. Where feasible, the Planning Commission may require that ingress and egress to parking facilities be provided from adjacent alleys so as to minimize curb cuts directly onto the major or secondary thoroughfares.

(d) The site plan shall be so planned as to recognize yard and general development relationships with adjacent land uses. The Planning Commission may recommend physical features to be provided which will insure harmony in these relationships.

(3) Accessory buildings, structures and uses customarily incident to any of the permitted uses listed in this section.

(1993 Code, § 82-147) (Ord. passed 10-12-1992)

§ 82-148 CONDITIONAL USES.

The following uses may be permitted in an RM-1 Multiple-Family Residential District upon the granting of a permit for such use by the Planning Commission, subject to the conditions imposed in this section for each use and subject further to such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

(1) General hospitals, except those for criminals and those solely for the treatment of persons who are mentally ill or have contagious disease, not to exceed 4 stories, when the following conditions are met:

(a) All such hospitals shall be developed only on sites consisting of at least 5 acres in area, and shall not be permitted on a lot of record;

(b) The proposed site shall have at least 1 property line abutting a major thoroughfare;

(c) The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 40 feet for front, rear and side yards for all 2 story structures. For every story above 2, the minimum yard distance shall be increased by at least 10 feet;

(d) Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence 6 feet in height. Ingress and egress to the site shall be directly from a major thoroughfare;

(e) All ingress and egress to the off-street parking area, for guests, employees, staff, as well as any other uses of the facilities, shall be directly from a major thoroughfare.

(2) State-licensed day care centers for children, subject to the following conditions:

(a) Such facility shall have received a state license to operate prior to seeking a special use permit under this chapter;

(b) Not less than 400 square feet of outdoor play area per child, as authorized by the license issued to the applicant by the Department of Children and Family Services allowed to occupy such home, shall be provided on the site;

(c) Screening and fencing of outdoor play area shall be provided as required by the Planning Commission;

(d) Parking shall be provided to allow for direct drop-off and pick-up of children without requiring children to cross public streets.

(3) Convalescent homes or nursing homes not to exceed a height of 2 stories, when the following conditions are met:

(a) The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one bed in the convalescent home there shall be provided not less than 1,500 square feet of open space. The 1,500 square feet of land area per bed shall provide for landscape setting, off-street parking, service drives, loading space, yard requirements, employee facilities and any space required for accessory uses. The 1,500 square foot requirement is over and above the building coverage area;

(b) No building shall be closer than 40 feet to any property line.

(4) Group homes for children subject to the following.

(a) The setback requirements of §§82-426 and 82-427(E) and (F) shall apply; however, the minimum side yard setback be not less than 25 feet.

(b) In the event that use of outdoor areas is planned, the outdoor areas shall be screened by landscaping.

(c) That the total maximum number of residents shall not exceed 20, not including those providing care.

(d) The group home will be hooked up to public water and sanitary sewer facilities.

(e) The group home shall not be used for any of the following purposes:

1. As a correctional facility as defined in Public Act 415 of 1982, § 2(b), being M.C.L.A. § 791.502(b);

2. As a facility which houses juveniles as defined in Public Act 73 of 1988, § 2(b), being M.C.L.A. § 803.222(b);

3. As a facility which houses persons deemed incompetent to stand trial under the provisions of Public Act 258 of 1974, §§ 1031 and 1032, being M.C.L.A. §§ 330.2031 and 330.2032;

4. As a facility which houses persons acquitted of a criminal charge by reason of insanity and committed according to the provisions of Public Act 258 of 1974, § 1050, being M.C.L.A. § 330.2050.

(f) Parking shall be provided in accordance with §82-455(14)(a)1 and shall otherwise comply with §82-455. Parking located closer than 10 feet from any property line shall be screened.

(g) The maximum lot area coverage by all buildings not to exceed 25%.

(h) That all group homes shall be located on an improved (paved) street.

(i) The Planning Commission may place or require any conditions it deems necessary to insure compliance with the provisions listed above.

(j) The group home must be a state licensed residential facility and comply with all applicable laws and regulations of the same.

(k) The site for which a group home is proposed shall be at least 1 acre in size.

(1993 Code, § 82-148) (Ord. passed 10-12-1992; Ord. passed 1-13-1997(2))

§ 82-149 REQUIRED CONDITIONS.

(A) All dwelling units in an RM-1 Multiple-Family Residential District shall be subject to the following conditions.

(1) Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.

(2) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.

(3) Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(4) Dwelling units shall be provided with roof designs and roofing materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(5) Dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed 3 to 1, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.

(6) The dwelling shall contain storage capability 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 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(B) The Building Official may request a review by the Planning Commission of any dwelling unit with respect to subsections (A)(2), (A)(3) and (A)(4) of this section. The Building Official or Planning Commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large. In reviewing any such proposed dwelling unit, the Building Official may require the applicant to furnish such plans, elevations and similar documentation as he deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling areas, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, then the nearest 25 similar type dwellings shall be considered.

(1993 Code, § 82-149) (Ord. passed 10-12-1992)

§ 82-150 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use and the maximum density permitted.

(1993 Code, § 82-150) (Ord. passed 10-12-1992)

§§ 82-151 -- 82-165 RESERVED.

ARTICLE VIII. RM-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

§ 82-166 INTENT.

The RM-2 Multiple-Family Residential Districts are designed to provide sites for higher density multiple-family dwelling structures, and related uses, which will be located in the proximity of the central downtown business district of the city. The RM-2 districts are further provided to serve the limited needs of the apartment type of unit in an otherwise low density, single-family community.

(1993 Code, § 82-166) (Ord. passed 10-12-1992)

§ 82-167 PRINCIPAL PERMITTED USES.

In an RM-2 Multiple-Family Residential District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses, unless otherwise provided in this chapter.

(1) All principal uses permitted and all conditional uses as regulated in the one-family and two-family residential districts, with lot area, yards and floor area requirements for single-family dwellings equal to at least the requirements of the immediately abutting residential district of least density.

(2) Multiple-family dwellings.

(3) Accessory buildings and uses customarily incidental to any of the permitted uses listed in this section.

(1993 Code, § 82-167) (Ord. passed 10-12-1992)

§ 82-168 CONDITIONAL USES.

The following uses may be permitted in an RM-2 Multiple-Family Residential District upon the granting of a permit for such use by the Planning Commission: all conditional uses permitted and as regulated in the RM-1 Multiple-Family Residential District.

(1993 Code, § 82-168) (Ord. passed 10-12-1992)

§ 82-169 REQUIRED CONDITIONS.

(A) All dwelling units in an RM-2 Multiple-Family Residential District shall be reviewed by the Building Official subject to the following conditions.

(1) Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.

(2) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.

(3) Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(4) Dwelling units shall be provided with roof designs and roofing materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(5) Dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed 3 to 1, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.

(6) The dwelling shall contain storage capability 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 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

(B) The Building Official may request a review by the Planning Commission of any dwelling unit with respect to subsections (A)(3), (a)(4) and (a)(5) of this section. The Building Official or Planning Commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large. In reviewing any such proposed dwelling unit, the Building Official may require the applicant to furnish such plans, elevations and similar documentation as it deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling areas, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, then the nearest 25 similar type dwellings shall be considered.

(1993 Code, § 82-169) (Ord. passed 10-12-1992)

§ 82-170 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and the maximum density permitted.

(1993 Code, § 82-170) (Ord. passed 10-12-1992)

§§ 82-171 -- 82-185 RESERVED.

ARTICLE IX. MH MOBILE HOME RESIDENTIAL DISTRICT

§ 82-186 INTENT.

The purpose of the MH Mobile Home Residential District is to encourage a suitable environment for persons and families that by preference choose to live in a mobile home rather than a conventional single-family structure. In keeping with the occupancy characteristics of contemporary mobile homes, this article establishes moderately low density standards and permitted uses that reflect the needs of residents in the district. Development is limited to mobile homes when located in a subdivision designed for that purpose or a mobile home park and recreation facilities, churches, schools and necessary public utility buildings.

(1993 Code, § 82-186) (Ord. passed 10-12-1992)

§ 82-187 PRINCIPAL PERMITTED USES.

Principal permitted uses in an MH Mobile Home Residential District are as follows.

- (1) Mobile homes.
- (2) Mobile home parks.
- (3) Mobile home subdivisions.
- (4) State-registered family day care homes for children.
- (5) Publicly owned and operated parks, playfields, playgrounds and other recreational facilities.
- (6) Public, parochial or other private elementary, intermediate, and/or high schools offering courses in general education, not operated for profit.
- (7) Accessory buildings and uses customarily incidental to the permitted principal uses listed in this section.

(1993 Code, § 82-187) (Ord. passed 10-12-1992)

§ 82-188 CONDITIONAL USES.

The following uses may be permitted in an MH Mobile Home Residential District upon the granting of a permit for such use by the Planning Commission, subject to the conditions imposed in this section for each use and subject further to such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

- (1) Churches and other facilities incidental thereto subject to the following:
 - (a) The site shall be adjacent to a city major thoroughfare and all ingress and egress shall be limited to and directly upon the thoroughfare;
 - (b) Buildings exceeding 25 feet in height shall be permitted, providing the front, side and rear yard setbacks are increased 1 foot for each foot the building exceeds 25 feet;
 - (c) A continuous, uninterrupted obscuring screening of suitable material of at least 4 feet in height but not more than 6 feet in height shall be provided along sides of the off-street parking area when adjacent properties are zoned residential;
 - (d) A minimum of 3 acres shall be provided;
 - (e) The front setback area shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials or vehicle access drives.
- (2) Public utility buildings and uses, but not including service and storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity.
- (3) Nursery schools, state-licensed group day care homes and day care centers (not including dormitories); provided that for each child so cared for, there shall be provided and maintained a minimum of 150 square feet of outdoor play area. Such play space shall have a total minimum area of not less than 5,000 square feet and shall be screened from any adjoining lot in any residential district.
- (4) Temporary buildings for use incidental to construction work for a period not to exceed 1 year.
- (5) Golf courses, public or private. If a golf course is a course open to persons other than those who reside in the mobile home park, it cannot be used as part of the overall permitted density.

(1993 Code, § 82-188) (Ord. passed 10-12-1992)

§ 82-189 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS.

- (A) The requirements for mobile home parks in the MH Mobile Home Residential District are:
 - (1) The park shall be a minimum of 10 acres in area;
 - (2) All buildings within the park shall be less than 2 stories or 25 feet;
 - (3) Mobile home parks shall be landscaped as follows:
 - (a) If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development;
 - (b) If the park abuts a nonresidential development, the park need not provide screening;
 - (c) In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

The landscaping shall consist of evergreen trees or shrubs, a minimum of 3 feet in height, which are spaced to provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.

- (4) Open space requirements are as follows:

(a) A mobile home park that contains 50 or more mobile home sites shall have at least 1 easily accessible open space area containing not less than 25,000 square feet;

(b) The total of the land dedicated for open space shall not be less than 2% of the park's gross acreage that is approved for construction pursuant to a permit to construct, but not less than 25,000 square feet.

(B) Site size requirements are as follows.

(1) The mobile park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any 1 site may be reduced by 20%, provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space and distance requirements be less than that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.

(2) Mobile homes shall be placed at least 10 feet from the pavement of the internal road serving the mobile home unit.

(3) Mobile homes shall be at least 20 feet from the front, side or rear of the nearest mobile home. In those instances when the mobile home is adjacent to a structure which is not used for living purposes such distance shall be not less than 10 feet.

(C) The following provisions relate to accessory buildings and uses.

(1) The provisions of § 82-454 relating to accessory building location and spacing shall not apply to mobile home parks. Accessory buildings in mobile home parks shall be subject to Mobile Home Rule 941.

(2) The provision of § 82-454(9) shall not apply to mobile home parks. The following shall apply.

(a) *Storage areas.* No personal property shall be stored outside or under any mobile home. Storage sheds may be used to store property but need not be supplied by the owner of the mobile home development.

(b) *Storage/parking.* If boats, boat trailers and utility trailers are permitted to be parked within the mobile home park, adequate parking spaces for such vehicles in a central or collective parking area shall be provided. This area shall be in addition to the automobile parking requirements of this chapter and shall be adequately locked, fenced and permanently buffered.

(D) The requirements for mobile home subdivisions, in addition to the requirements contained in the Michigan Subdivision Control Act of 1967 and Chapter 62 of this Code, relating to subdivisions, are:

(1) *Minimum lot size:* single area, 5,000 sq. ft.; single width, 45 feet; double-wide area, 7,200 square feet; double-wide width, 60 feet;

(2) *Maximum building height:* 25 feet;

(3) *Minimum yard setback:* front, 25 feet; side, 10 feet; rear, 25 feet;

(4) *Maximum lot coverage by all buildings:* 30%;

(5) In a mobile home subdivision, a corner lot which abuts upon a street on the same side of which other residential lots front in the same block, any building shall have a minimum side setback equal to the front setback of the district in which it is located.

(1993 Code, § 82-189) (Ord. passed 10-12-1992)

§§ 82-190 -- 82-205 RESERVED.

ARTICLE X. OS-1 OFFICE-SERVICE DISTRICT

§ 82-206 INTENT.

The OS-1 Office-Service Districts are designed to accommodate uses such as offices, banks and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.

(1993 Code, § 82-206) (Ord. passed 10-12-1992)

§ 82-207 PRINCIPAL PERMITTED USES.

In an Office-Service District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses, unless otherwise provided in this chapter.

(1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained in § 82-209, relating to required conditions.

(2) Medical office, including clinics.

(3) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.

(4) Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.

- (5) Personal service establishments, including barber shops, beauty shops and health salons.
- (6) Off-street parking lots.
- (7) Churches.
- (8) Business schools or private schools operated for profit.
- (9) Day care centers and nursery schools.
- (10) Municipal buildings.
- (11) Other uses similar to the uses listed in this section.
- (12) Accessory structures and uses customarily incident to the permitted uses listed in this section.

(1993 Code, § 82-207) (Ord. passed 10-12-1992)

§ 82-208 CONDITIONAL USES.

The following uses may be permitted in an OS-1 Office-Service District upon the granting of a permit for such use by the Planning Commission subject to the conditions imposed in this section for each use and subject further to such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

(1) *Funeral homes.* The site plan shall provide for adequate off-street assembly area for vehicles to be used in funeral processions, provided further that such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the building of mortuary establishments.

(2) *Public utility and service buildings.* Public utility and service buildings and uses, including telephone exchange buildings (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity.

(3) *Bed and breakfast dwellings.* Bed and breakfast dwellings subject to the following conditions.

- (a) Such dwelling units shall conform to all applicable city codes and ordinances.
- (b) Such dwellings shall be located on state truckline routes.
- (c) Such dwellings shall be limited to 1 per city block.
- (d) Not more than 49% of the total floor space of the dwelling unit may be used for leasable sleeping rooms.
- (e) The leasable sleeping rooms shall have a minimum size of 100 square feet for each 2 occupants with an additional 30 square feet for each additional occupant, not to exceed a maximum of 4 occupants per room.
- (f) Each leasable sleeping room must have a separate operating smoke detector alarm.
- (g) Lavatory and bathing facilities must be available to all persons using any leasable sleeping room.
- (h) There will be no separate cooking facilities available to persons using any leasable sleeping room.
- (i) There will be at least 2 exits from each level of the dwelling units.
- (j) The maximum length of stay for any person using any leasable sleeping room is 14 consecutive days.
- (k) Every operator of such dwelling unit must keep a list of the names and addresses of all persons staying at the dwelling unit. The guest register must be available for inspection by city officials at any time.
- (l) The operations of the dwelling unit will not be permitted to endanger, offend or otherwise interfere with the safety or rights of others so as to constitute a public nuisance.

(1993 Code, § 82-208) (Ord. passed 10-12-1992)

§ 82-209 REQUIRED CONDITIONS.

Required conditions in the OS-1 Office-Service District are as follows.

- (1) No interior display shall be visible from the exterior of the building.
- (2) The outdoor storage of goods or material shall be prohibited.
- (3) Warehousing or indoor storage of goods or material, beyond that normally incident to the above permitted uses, shall be prohibited.

(1993 Code, § 82-209) (Ord. passed 10-12-1992)

§ 82-210 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by

permitted land use, and provided minimum yard setback requirements.

(1993 Code, § 82-210) (Ord. passed 10-12-1992)

§§ 82-211 -- 82-225 RESERVED.

ARTICLE XI. B-1 LOCAL BUSINESS DISTRICT

§ 82-226 INTENT.

The B-1 Local Business Districts, as established in this article, are designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas.

(1993 Code, § 82-226) (Ord. passed 10-12-1992)

§ 82-227 PRINCIPAL PERMITTED USES.

In a Local Business District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses, unless otherwise provided in this chapter.

- (1) All uses permitted and all conditional uses permitted in the OS-1 Office-Service Districts.
- (2) Generally recognized retail businesses which supply commodities on the premises, such as but not limited to groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.
- (3) Personal service establishments which perform services on the premises, such as but not limited to repair shops (watches, radio, television, shoe, and the like), tailor shops, beauty parlors or barber shops, photographic studios, and self-service laundries and drycleaners.
- (4) Dry cleaning establishments, or pick-up stations, dealing directly with the consumer. Central dry cleaning plants serving more than 1 retail outlet shall be prohibited.
- (5) Post office and similar governmental office buildings, serving only persons living in the adjacent residential area.
- (6) Off-street parking lots.
- (7) Other uses similar to the above uses.
- (8) Accessory structures and uses customarily incident to the permitted uses listed in this section.

(1993 Code, § 82-227) (Ord. passed 10-12-1992)

§ 82-228 REQUIRED CONDITIONS.

Required conditions in a Local Business District are as follows.

- (1) All business establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at retail on the premises where produced.
- (2) All business, servicing, processing and storage of goods, except for off-street parking or loading, shall be conducted within a completely enclosed building.

(1993 Code, § 82-228) (Ord. passed 10-12-1992)

§ 82-229 CONDITIONAL USES.

The following uses may be permitted in a Local Business District upon the granting of a permit for such use by the Planning Commission subject to the conditions imposed in this section for each use and subject further to such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

- (1) Automobile service station for sale of gasoline and oil, and not including repair other than incidental service and subject to the following:
 - (a) The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 25 feet from a street intersection, measured from the roadway, or from adjacent residential property and subject to other ordinances of the city;
 - (b) The minimum lot area shall be 10,000 square feet, and so arranged that ample space is available for motor vehicles which are required to wait;
 - (c) There shall be provided, on those sides abutting or adjacent to a residential district, a 4 foot, 6 inch, completely obscuring wall or fence. The height of the wall or fence shall be measured from the surface of the ground.
 - (d) All lighting shall be shielded from adjacent residential districts and from abutting streets.
 - (e) All restroom doors shall be shielded from adjoining residential property.

(2) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, regular service stations with service yards but without storage yards, and water and sewage pumping stations.

(3) Restaurants, including drive-through restaurants, subject to the following:

(a) Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare;

(b) Access to the site shall not be by way of a residential street;

(c) Trash receptacles shall be screened from public view and shall be covered to prevent debris from being a nuisance to abutting properties;

(d) Outdoor lighting of buildings or parking areas shall be shielded from abutting residential areas;

(e) All loading and unloading and parking shall be provided off-street;

(f) A 6 foot-high, completely obscuring wall shall be provided when abutting or adjacent districts are zoned for R, RT, RM, MH or OS-1 Districts. The height of the wall shall be measured from the surface of the ground. Such wall shall further meet the requirements of §§ 82-451 *et seq.*, general provisions.

(4) Accessory structures and uses customarily incident to the uses listed in this section.

(1993 Code, § 82-229) (Ord. passed 10-12-1992)

§ 82-230 AREA AND BULK REQUIREMENTS.

See §§ 82-426 *et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(1993 Code, § 82-230) (Ord. passed 10-12-1992)

§§ 82-231 -- 82-245 RESERVED.

ARTICLE XII. B-2 COMMUNITY BUSINESS DISTRICT

§ 82-246 INTENT.

The B-2 Community Business Districts are designed to cater to the needs of a larger consumer population than is served by the Local Business Districts, and are generally characterized by an integrated or planned cluster of establishments served by a common parking area and generating large volumes of vehicular and pedestrian traffic.

(1993 Code, § 82-246) (Ord. passed 10-12-1992)

§ 82-247 PRINCIPAL PERMITTED USES.

In a Community Business District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses, unless otherwise provided in this chapter.

(1) All uses permitted and all conditional uses permitted in the B-1 Districts except gasoline service stations, subject to the regulations applicable in this article.

(2) All retail business, service establishments or processing uses as follows:

(a) Any retail business whose principal activity is the sale of merchandise in an enclosed building;

(b) Any service establishment of an office, showroom or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer or an establishment doing radio or home appliance repair, photographic reproduction, and similar service establishments that require a retail adjunct;

(c) Private clubs, fraternal organizations, and lodge halls;

(d) Restaurants or other places serving food or beverage, except those having the character of a drive-in;

(e) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings;

(f) Business schools and colleges or private schools operated for profit;

(g) Other uses similar to the above uses;

(h) Accessory structures and uses customarily incident to the permitted uses listed in this section.

(1993 Code, § 82-247) (Ord. passed 10-12-1992)

§ 82-248 REQUIRED CONDITIONS.

Required conditions in a Community Business District are as follows.

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

(2) All business, servicing or processing, except for off-street parking, loading and those open air uses indicated as being subject to special conditions in § 82-249 shall be conducted within completely enclosed buildings.

(1993 Code, § 82-248) (Ord. passed 10-12-1992)

§ 82-249 CONDITIONAL USES.

The following uses may be permitted in a Community Business District upon the granting of a permit for such use by the Planning Commission subject to the conditions imposed in this section for each use and subject further to such other reasonable conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

(1) Open air business uses when developed in planned relationship with the B-2 District as follows.

(a) Retail sales of plant material not grown on the site, and sales of lawn furniture, playground equipment and garden supplies, provided further that such uses shall be located at the exterior end of the building mass located in a B-2 District.

(b) Recreational space providing children's amusement park and other similar recreation when part of a planned development, provided further that such use be located at the exterior end of the building mass located in a B-2 District, but not at the intersection of 2 major thoroughfares. Such recreation space shall be fenced on all sides with a 4 foot chainlink type fence.

(2) Bowling alley, billiard hall, indoor archery range, indoor tennis courts, indoor skating rinks or similar forms of indoor commercial recreation when located at least 100 feet from any front, rear, or side yard of any residential lot in an adjacent residential district.

(1993 Code, § 82-249) (Ord. passed 10-12-1992)

§ 82-250 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(1993 Code, § 82-250) (Ord. passed 10-12-1992)

§§ 82-251 -- 82-255 RESERVED.

ARTICLE XI.A. MARGINAL SERVICE ROADS

§ 82-256 RESERVED.

(1993 Code, § 82-256)

Editor's note:

Ord. of May 14, 2001 renumbered §§ 82-256 and 82-257 as §§ 82-408 and 82-409 respectively. At the discretion of the editor, said sections have been renamed to better fit the format of the Code.

§ 82-257 RESERVED.

(1993 Code, § 82-257)

Editor's note:

Ord. of May 14, 2001 renumbered §§ 82-256 and 82-257 as §§ 82-408 and 82-409 respectively. At the discretion of the editor, said sections have been renamed to better fit the format of the Code.

§§ 82-258 -- 82-265 RESERVED.

ARTICLE XIII. B-3 GENERAL BUSINESS DISTRICT

§ 82-266 INTENT.

The B-3 General Business Districts are designed to provide for more diversified business types which would often be incompatible with the pedestrian movement in the Local Business District or the Community Business District.

(1993 Code, § 82-266) (Ord. passed 10-12-1992)

§ 82-267 PRINCIPAL PERMITTED USES.

In a General Business District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses unless otherwise provided in this chapter.

(1) All uses permitted and all conditional uses permitted in B-1 and B-2 Districts.

- (2) Bus passenger stations.
- (3) New and used car salesroom, showroom, office or associated service facilities.
- (4) Other uses similar to the above uses.
- (5) Accessory structures and uses customarily incident to the permitted uses listed in this section.

(1993 Code, § 82-267) (Ord. passed 10-12-1992)

§ 82-268 REQUIRED CONDITIONS.

Required conditions in a General Business District are as follows.

- (1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods provided on the premises shall be sold at retail on the premises where produced.
- (2) All business, servicing or processing, except for off-street parking, loading and those open air uses indicated as being subject to special conditions in § 82-269 shall be conducted within completely enclosed buildings.

(1993 Code, § 82-268) (Ord. passed 10-12-1992)

§ 82-269 CONDITIONAL USES.

The following uses may be permitted in a General Business District upon the granting of a permit for such use by the Planning Commission subject to the conditions imposed in this section for each use and subject further to such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

- (1) Outdoor sales space for exclusive sale of new or secondhand automobiles, house trailers, or rental trailers and/or automobiles, all subject to the following.
 - (a) The lot or area shall be provided with a permanent, durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
 - (b) Access to the outdoor sales area shall be at least 60 feet from the intersection of any 2 streets.
 - (c) No major repair or major refinishing shall be done on the lot.
 - (d) All lighting shall be shielded from adjacent residential districts.
- (2) Hotel and motel, subject to the following conditions.
 - (a) Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
 - (b) Each unit shall contain not less than 250 square feet of floor area.
 - (c) No guest shall establish permanent residence at a motel for more than 30 days within any calendar year.
- (3) Business in the character of a drive-in or open front store, subject to the following conditions.
 - (a) A setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
 - (b) Access points shall be located at least 60 feet from the intersection of any 2 streets.
 - (c) All lighting shall be shielded from adjacent residential districts.
 - (d) A 6-foot-high, completely obscuring wall shall be provided when abutting or adjacent districts are zoned for R, OS-1, B-1, B-2, B-3 or FS Districts. The height of the wall shall be measured from the surface of the ground. Such wall shall further meet the requirements of §§ 82-451 *et seq.*, general provisions.
- (4) Veterinary hospitals or clinics, provided all activities are conducted within a totally enclosed main building, and provided further that all buildings are set back at least 200 feet from abutting residential districts on the same side of the street.
- (5) Plant materials nursery for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment and garden supplies, subject to the following conditions.
 - (a) The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
 - (b) All loading and parking shall be provided off-street.
 - (c) The storage of any soil, fertilizer or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses.
- (6) Automobile car wash subject to the following.
 - (a) All buildings shall have a front yard setback of not less than 50 feet.

(b) All washing facilities shall be within a completely enclosed building.

(c) Vacuuming and drying areas may be located outside the building, but shall not be in the required front yard, and shall not be closer than 25 feet from any residential district.

(d) All cars required to wait for access to the facilities shall be provided space off the street right-of-way, and parking shall be provided in accordance with §§ 82-455 and 82-456.

(e) Ingress and egress points shall be located at least 60 feet from the intersection of any 2 streets.

(f) All off-street parking and waiting areas shall be paved with Portland cement or asphaltic concrete.

(g) All lighting shall be shielded and directed away from adjacent residential districts.

(h) A completely obscuring wall, 4 feet, 6 inches in height, shall be provided where abutting to a residential district.

(7) Amusement arcades which provide space for patrons to engage in playing of mechanical amusement devices or similar activities, subject to the following.

(a) Locations for any such establishment shall be confined to major business streets and shall have the entrance to both the business and parking area for such establishment on the business street. Access from a side or residential street shall be prohibited.

(b) Locations for any such facility shall be no closer than 500 feet to the property line of any elementary, intermediate or high school.

(c) No such business shall be located within 500 feet of the property line of a similar business.

(d) No such business building shall be located within 500 feet of any front, rear or side yard line of any residential lot in a residential district.

(e) Off-street parking areas shall be developed in accord with all of the standards of §§ 82-455 and 82-456.

(8) Minor automotive repair businesses, such as muffler shops, shock absorber replacement shops, tire stores, undercoating shops and minor engine repair shops, subject to the following conditions.

(a) Access to such use shall be directly to a major or collector street or shall be to a minor street which has direct access to an abutting major or collector street.

(b) Access to and from such use shall not be cause for traffic to utilize residential streets.

(c) Outdoor storage of parts or materials shall be prohibited unless such storage is within a fenced and obscured area which meets all setback requirements.

(d) Vehicles shall not be allowed to be stored outside the building for more than 24 hours.

(e) Areas for off-street parking required for customer use shall not be utilized for the storage of vehicles awaiting repair.

(f) All vehicle servicing or repair, except minor repairs such as, but not limited to, tire changing and headlight changing, shall be conducted within a building.

(g) Suitable containers shall be provided and utilized for the disposal of used parts and such containers shall be screened from public view.

(h) A 6-foot-high obscuring wall shall be provided and maintained on those property lines adjacent to or abutting a residential district.

(9) Small engine repair and equipment repair such as lawn mower repair and servicing, subject to the following conditions.

(a) Access to such use shall be directly to a major or collector street or shall be to a minor street which has direct access to an abutting major or collector street.

(b) Access to and from such use shall not be cause for traffic to utilize residential streets.

(c) Outdoor storage of parts or materials shall be prohibited unless such storage is within an obscured area which meets all setback requirements.

(d) Areas for off-street parking required for customer use shall not be utilized for the storage of equipment awaiting repair.

(e) All vehicle servicing or repair shall be conducted within a building.

(f) Suitable containers shall be provided and utilized for the disposal of used parts and such containers shall be screened from public view.

(10) An adult entertainment business may be permitted in the B-3 (General Business) Zoning District as a conditional use under the following procedures and conditions.

(a) No adult entertainment business shall be permitted within a 400-foot radius of any residential zone. Measurement of the 400-foot radius shall be made from the outermost boundary of the lot or parcel upon which the proposed adult use will be situated to the outermost residential district boundary.

(b) No adult entertainment business shall be permitted within a 400-foot radius of a school, library, park, playground, or church. Measurement of the 400-foot radius shall be made from the outermost boundary of the lot or parcel upon which the proposed adult use will be situated to the school, library, park, playground, or church.

(c) The site shall include a diagram that shows all land use zoning districts and any school, library, park, playground, or church located within 500 feet of the proposed adult use. The diagram shall be drawn to a scale of not greater than 1 inch equals 20 feet.

(d) No adult entertainment business shall be located within a 400-foot radius of any other adult entertainment business.

(e) Off-street parking shall be provided in accordance with §82-455 and screened on all sides. The screening of the off-street parking areas shall be a solid fence, wall or evergreen planting that is at least 6 feet high.

(f) If employees or patrons of an adult entertainment business violate any of the provisions of Article II of Chapter 15 of the City Code, the conditional use permit may be suspended or revoked. No criminal charge need be brought for suspension or revocation of the conditional use permit to occur. The acts described in this subsection may be shown to have occurred by a preponderance of the evidence.

(11) Stand-alone drive-up automated teller machine kiosks, subject to the following conditions:

(a) A nonsealed site plan shall be submitted for Planning Commission approval;

(b) The kiosk shall comply with the provisions of §82-454 of this chapter;

(c) When the kiosk is to be located within 150 feet of a residential district, an obscuring wall or similar structure 6 feet in height shall be provided to protect residences from noise and glare;

(d) Drives shall be constructed or marked so as to provide a by-pass lane and a minimum of 3 stacking spaces. Stacking spaces may not be located within any required yard;

(e) Access points shall be located at least 60 feet from the intersection of any 2 streets;

(f) Signage shall be limited to that installed on the kiosk and directional signs not exceeding 3 square feet in display area or 5 feet in height.

(1993 Code, § 82-269) (Ord. passed 10-12-1992; Ord. passed 5-11-1998; Ord. passed 12-8-2008; Ord. 2012-03, passed 10-8-2012)

§ 82-270 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(1993 Code, § 82-270) (Ord. passed 10-12-1992)

§§ 82-271 -- 82-285 RESERVED.

ARTICLE XIV. CBD CENTRAL BUSINESS DISTRICT

§ 82-286 INTENT.

The CBD Central Business District is intended to permit those uses which provide for a variety of retail stores and related activities, and for office buildings and service establishments which occupy the prime frontages in the Central Business District and which serve the consumer population beyond the corporate boundaries of the city. The district regulations are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive related services and nonretail uses which tend to break up such continuity.

(1993 Code, § 82-286) (Ord. passed 10-12-1992)

§ 82-287 PRINCIPAL PERMITTED USES.

In a CBD Central Business District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses, unless otherwise provided in this chapter.

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

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to, repair shops (watches, radio, television, shoe, and the like), tailor shops, beauty parlors, barber shops, interior decorators, photographers and dry cleaners.

(3) Restaurants and taverns where the patrons are served while seated within a building occupied by such

establishment, and wherein the establishment does not extend as an integral part of, or accessory thereto, any service of a drive-in or open front store.

- (4) Offices and office buildings of an executive, administrative or professional nature.
- (5) Banks, with drive-in facilities permitted, when such drive-in facilities are incidental to the principal function.
- (6) Public and quasi-public buildings such as, but not restricted to:
 - (a) Churches;
 - (b) Municipal offices;
 - (c) Municipal off-street parking lots;
 - (d) Libraries;
 - (e) Museums;
 - (f) Fraternal organizations.
- (7) Commercial recreation facilities such as bowling alleys, theaters and similar uses.

(8) Offices and showrooms of plumbers, electricians, decorators or similar trades, of which not more than 25% of the floor area of the building or part of the building occupied by the establishment is used for making, assembling, remodeling, repairing, altering, furnishing or refinishing its products or merchandise, and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by such establishment.

(9) Business schools or private schools operated for profit; examples of private schools permitted include, but are not limited to, the following: dance schools, music and voice schools and art studios.

(10) Newspaper offices and printing plants.

(11) Storage facilities when incident to and physically connected with any principal use permitted, provided that such facility be within the confines of the building or part thereof occupied by the establishment.

(12) Hotels and motels.

(13) Bus passenger stations.

(14) Other uses which are similar to the above and subject to the following restrictions.

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

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

(c) Outdoor storage of commodities shall be expressly prohibited.

(15) Sidewalk or outdoor cafes. One-year permits must be obtained from the City Manager. Rules governing sidewalk or outdoor café permits shall be adopted by Council resolution.

(16) Accessory structures customarily incident to the permitted uses listed in this section.

(1993 Code, § 82-287) (Ord. passed 10-12-1992; Ord. passed 6-13-2005)

§ 82-288 CONDITIONAL USES.

The following uses may be permitted in the CBD Central Business District subject to the conditions imposed in this section for each use.

(1) Dwelling units within an existing commercial building subject to the following conditions.

(a) It is the intent of subsection (1) to provide for the conversion of the upper floors of existing commercial buildings and to extend their economic life by permitting the construction of one-, two- and multiple family residential dwelling units.

(b) Dwelling units shall not be located below the second floor.

(c) Off-street parking shall be provided at the ratio of not less than one and one-half parking spaces per dwelling unit.

(2) Multiple-family dwellings subject to the following conditions.

(a) Multiple-family dwellings shall be in structures designed and built for this use on a site of not less than one and three-quarters acres in size.

(b) Off-street parking shall be provided at the ratio of not less than one and one-half parking spaces per dwelling unit.

(c) A greenbelt conforming to the requirements of § 82-460 shall be required where a parking lot abuts a public

thoroughfare and/or where the site abuts a residential district.

(d) Multiple-family dwellings are permitted upon the granting of a permit for such use by the Planning Commission subject to such other conditions which, in the opinion of the Planning Commission, are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing held pursuant to § 82-34(C). (1993 Code, § 82-288) (Ord. passed 10-12-1992; Ord. passed 10-12-1998; Ord. passed 6-13-2005; Ord. 2017-02, passed 3-13-2017; Ord. 2018-05, passed 9-10-2018)

§ 82-289 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted and providing minimum yard setback requirements.

(1993 Code, § 82-289) (Ord. passed 10-12-1992)

§§ 82-290 -- 82-305 RESERVED.

ARTICLE XV. C CONSERVANCY DISTRICT

§ 82-306 PURPOSE.

(A) It is the purpose of the Conservancy District to protect the natural resources of the city by application of special regulations for the use of land which may be subject to periodic inundation at predictable intervals, which may be subject to soil erosion, or which may be particularly suited to provide for the impoundment of waters for the purpose of stormwater control or groundwater recharge. Regulations, while permitting reasonable economic use of such land, will help to protect the public health, public safety and general welfare, and will reduce the financial burdens imposed upon the community which may result from the improper use of land. All lands included in the district shall be subject to the terms imposed in this article addition to the terms imposed by any other district in which such lands may be located.

(B) Areas having excessively high water table or valuable impoundment potential shall be determined by the City Council upon the advice of an engineer or any other professional retained by the city who is competent in the field of water resources or hydrology.

(1993 Code, § 82-306) (Ord. passed 10-12-1992)

§ 82-307 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.

CUT. A portion of land surface or area from which earth has been removed or will be removed by excavation **CUT** also means the depth below original ground surface to excavated surface.

DEBRIS BASIN. A barrier or dam built across a waterway or other suitable locations to retain rock, sand, gravel or silt or other materials.

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

DIVERSION. A channel with or without a supporting ridge on the lower side constructed across or at the bottom of a slope.

EMBANKMENT. A manmade deposit of soil, rock or other materials.

EROSION. The wearing away of the land surface by the action of wind, water or gravity.

FLOODPLAIN. For the purpose of this chapter, means all the land which was or would be inundated during the intermediate regional flood as designated by the Federal Emergency Management Agency with maps under community panel numbers 260065-0001 and -0002, or by the State Water Resources Commission.

GRADING. Any stripping, cutting, filling, or stockpiling, or any combination thereof, and shall include the land in its cut or filled condition.

GRADING PERMIT. A permit issued to authorize grading under the City Building Code.

GRASSED WATERWAY. A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site features.

MULCHING. The application of plant or other suitable materials on the soil surface to conserve moisture, hold soil in place, and aid in establishing plant cover.

NATURAL GROUND SURFACE. The ground surface in its original state before any grading, excavation or filling.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discourage the base flood without cumulatively increasing the water surface elevation more than a designated height.

SEDIMENT. Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SEDIMENT POOL. The reservoir space allotted to the accumulation of submerged sediment during the life of the debris basin.

SLOPE. The degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

SOIL. All unconsolidated material and organic material of whatever origin that overlies bedrock which can be readily excavated.

SOIL ENGINEER. A professional engineer who is qualified by education and experience to practice applied soil mechanics and foundation engineering.

STRIPPING. Any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

STRUCTURAL ROCK FILLS. Fills constructed predominantly of rock materials for the purpose of supporting structures.

TEMPORARY PROTECTION. Stabilization of erosive or sediment producing areas.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover; or
- (3) Sodding, producing areas covered with a turf of perennial sod-forming grass.

WATERCOURSE. Any natural or artificial watercourse, stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

(1993 Code, § 82-307) (Ord. passed 10-12-1992)

Cross reference:

Definitions generally, see § 1.2;

Zoning definitions, see § 82-4

§ 82-308 USES PERMITTED BY RIGHT IN FLOODPLAIN AREAS OR GROUNDWATER RECHARGE AREAS.

The following uses are permitted by right in floodplain or groundwater recharge areas.

(1) *Recreation uses.* Parks, playgrounds, playfields, bridle paths, nature trails, natural wildlife preserves, and similar uses. Land owned by the developer of multiple housing or of a planned unit development in the conservancy district may be used to provide the necessary open space required under the provisions of this chapter.

(2) *Golf courses.* In accordance with the requirements of §82-108(6) of this chapter.

(3) *Agricultural operations.* In accordance with the requirements of §82-107(2) of this chapter.

(4) *Utilities, roads, railroads, dams, structures for recreation uses.* When designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety or welfare.

(1993 Code, § 82-308) (Ord. passed 10-12-1992)

§ 82-309 USES PERMITTED BY RIGHT.

In all areas, except floodplain or groundwater recharge areas, uses permitted shall be regulated by the requirements of the particular zoning district affecting the property. Any other requirements of the Conservancy District, including those regarding soil erosion, shall apply.

(1993 Code, § 82-309) (Ord. passed 10-12-1992)

§ 82-310 USES PERMITTED BY SPECIAL USE PERMIT IN FLOODPLAIN OR GROUNDWATER RECHARGE AREAS.

Provided such uses shall not in the opinion of the Planning Commission be adverse to the purpose of this section or damaging to the public health, safety or welfare, or impose a financial burden upon the community, the following uses may be permitted by issuance of a special use permit in accordance with §§ 82-56*et seq.*, and any other requirements stipulated in this chapter. In no case, however, shall encroachments in the floodway be allowed which would cause any increase in base flood elevations.

(1) *Dumping or backfilling with any material in any manner* In the case where a floodplain area has no groundwater recharge or impoundment, potential filling may occur through compensating excavation and shaping of the floodplain in such a way so as to maintain or improve the flow or natural impoundment capacity of the floodplain. In no case shall the flow

or impoundment capacity of the floodplain be reduced.

(2) Uses permitted in the zoning district in which the property is located, except cemeteries, provided that any building constructed in the floodplain shall have a minimum ground floor elevation including basement of not less than 1 foot above the elevation of the floodplain and provided that construction shall not impede the flow in the watercourse.

(1993 Code, § 82-310) (Ord. passed 10-12-1992)

§ 82-311 REQUIREMENTS FOR SPECIAL USE PERMITS FOR USES IN FLOODPLAIN OR GROUNDWATER RECHARGE AREAS.

In addition to the requirements of §§82-56*et seq.*, the applicant for a special use permit in the C Conservancy District shall submit the following.

- (1) A letter of approval from the State Water Resources Commission if the floodplain is affected.
- (2) A location map, including existing topographic data at 2-foot interval contours.
- (3) A map showing proposed grading and drainage plans, including the location of all public drainage easements, the limits and extent of the proposed fill, excavation and occupation.
- (4) A statement from the County Drain Commissioner indicating that he has reviewed and approved the plans.
- (5) A statement from the County Health Department indicating that it has reviewed and approved the plans.
- (6) A statement from an engineer of the city's choice concerning feasibility of the plans and his approval.
- (7) Any other information requested by the Planning Commission.

(1993 Code, § 82-311) (Ord. passed 10-12-1992)

§ 82-312 SETBACKS FROM WATERCOURSES.

In no case shall any permanent structure be erected closer than 50 feet to the bank of Battle Creek or Butternut Creek River or to the center of any county or township drain. The bank of the Battle Creek or Butternut Creek River shall be determined by legal survey. The center of public drainage ways shall be determined from legal descriptions which are of public record.

(1993 Code, § 82-312) (Ord. passed 10-12-1992)

§ 82-313 PLANS FOR CONTROL OF SOIL EROSION.

Any development in the city shall comply with the standards and specifications for soil erosion and sediment control as adopted by the Thornapple Grand Soil Conservation District on April 15, 1974.

(1) *Compliance.* No site plan, except for single-family residential structures which must meet standards approved for the plat, shall be approved unless it includes soil erosion and sediment control measures in accordance with the technical standards of the Thornapple Grand Soil Conservation District. No certificate of occupancy of any building may be granted unless and until all needed erosion control measures have been completed or substantially provided for in accordance with this chapter and the standards and specifications of the Thornapple Grand Soil Conservation District. The developer shall bear the full responsibility for the installation and construction of all required erosion control measures according to the provisions of this chapter and to the standards and specifications of the Thornapple Grand Soil Conservation District.

(2) *Data required.* The developer must submit the following for the entire tract of land, whether or not the tract will be developed in stages:

- (a) A boundary line survey of the site on which the work is to be performed;
- (b) Description of the features, existing and proposed, surrounding the site of importance to the proposed development;
- (c) General soil conditions on the site available from the City Building Department or the Thornapple Grand Soil Conservation District;
- (d) Location and description of existing and future manmade features of importance to the proposed development;
- (e) Plans and specifications of soil erosion and sedimentation control measures in accordance with standards and specifications of the Thornapple Grand Soil Conservation District;
- (f) A timing schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.

(3) *Grading permit.* A grading permit valid for no more than 6 months unless extended by new application as provided for in the City Building Code shall be required for each development. This permit may not be issued without the approval of both the Public Works Director and the Building Official.

- (4) *General design principles.* Practical combinations of the following general principles will provide effective erosion

and sediment control when properly planned and applied.

- (a) The development plan shall be fitted to the topography and soils so as to create the least erosion potential.
- (b) Permanent vegetation and improvements such as streets, storm sewers or other features of the development, capable of carrying storm runoff in a safe manner, shall be scheduled for installation to the greatest extent possible before removing the vegetative cover from an area.
- (c) Wherever feasible, natural vegetation shall be retained and protected.
- (d) Where inadequate vegetation exists, temporary or permanent vegetation shall be established.
- (e) The smallest practical area of land shall be exposed at any 1 time during development.
- (f) When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
- (g) Critical areas exposed during construction shall be protected with temporary vegetation and/or mulching.
- (h) Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained to remove sediment from runoff waters from land undergoing development.
- (i) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. The permanent final vegetation and structures shall be installed as soon as practical in the development.

(5) *Development standards.* All development plans, specifications and timing schedules, including extensions of previously approved plans, shall include provisions for erosion and sediment control in accordance with the standards and specifications established by the Thornapple Grand Soil Conservation District. Technical standards for the design and installation of erosion and sediment control measures are on file at the Thornapple Grand Soil Conservation District office in the city and with the City Building Department.

(6) *Maintenance.* Individuals or developers carrying out soil erosion and sediment control measures under this chapter, and all subsequent owners of property on which such measures have been installed, shall adequately maintain all permanent erosion control measures, devices and plantings in effective working condition.

(1993 Code, § 82-313) (Ord. passed 10-12-1992)

§ 82-314 FLOOD INSURANCE STUDY.

The flood insurance study prepared under the guidance of the Federal Emergency Management Agency and dated January 2, 1981, and the floodway boundary and floodway map of the city, Community Panel Number 260065-0001 and 260065-0002, and the map index and profiles are hereby adopted by reference and hereby made a part of this chapter. In the event any portion of this chapter is inconsistent with the provisions of the flood insurance study, floodway boundaries, floodway maps and profiles as described, such sections of this chapter shall be subject to the flood insurance study, maps and profiles and no amendment to this chapter shall be required to make this section effective.

(1993 Code, § 82-314) (Ord. passed 10-12-1992)

§ 82-315 SEWAGE DISPOSAL SYSTEMS.

Within flood prone areas:

(1) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters; and

(2) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flood as certified by a registered professional engineer.

(1993 Code, § 82-315) (Ord. passed 10-12-1992)

§ 82-316 ELEVATION AND FLOODPROOFING RECORDS.

For the purpose of the determination of applicable flood insurance risk premium rates within zone A on a community's FHBM, the city shall:

(A) Obtain the elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new or substantially improved structures, and whether or not such structures contain a basement;

(B) Obtain, if the structure has been floodproofed, the elevation, in relation to mean sea level, to which the structure was floodproofed; and

(C) Maintain a record of all such information with the official designated by the community under 44 C.F.R. 59.22(a)(9) (iii).

(1993 Code, § 82-316) (Ord. passed 10-12-1992)

§ 82-317 NEW CONSTRUCTION.

All new construction and substantial improvements of nonresidential structures within zones A1-30 on the city's FIRM shall have the lowest floor, including basement, elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(1993 Code, § 82-317) (Ord. passed 10-12-1992)

§ 82-318 FLOODPROOFING.

Where floodproofing is utilized for a particular structure in accordance with 44 C.F.R. 59, § 60.3 (c)(3) and (c)(8) or § 60.6(b)(3) either:

(A) A registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and a record of such certificates indicating the specific elevation, in relation to mean sea level, to which such structures are floodproofed shall be maintained with the official designated by the city under 44 C.F.R. 59.22(a)(9)(iii); or

(B) A certified copy of a local regulation containing detailed floodproofing specifications which satisfy the watertight performance standards of 44 C.F.R. 60.3(c)(3) or of 44 C.F.R. 60.6(b)(3) shall be submitted to the Federal Insurance Administrator for approval.

(1993 Code, § 82-318) (Ord. passed 10-12-1992)

§§ 82-319 -- 82-335 RESERVED.

ARTICLE XVI. IRO INDUSTRIAL RESEARCH OFFICE DISTRICT

§ 82-336 INTENT.

The IRO Industrial Research Office Districts are designed to provide for uses which are office or research type or industrial uses which have limited impact outside of the industrial building. The District is intended to encourage uses which have a high value per acre of land that will supplement the city's tax base. Certain businesses are permitted within office buildings as secondary uses.

(1993 Code, § 82-336) (Ord. passed 10-12-1992)

§ 82-337 PRINCIPAL PERMITTED USES.

In an IRO Industrial Research Office District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses unless otherwise provided in this chapter.

- (A) Any use charged with the principal function of basic research, design and pilot or experimental product development.
- (B) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales.
- (C) Data processing and computer centers, including service and maintenance of electronic data processing equipment.
- (D) Banks, credit unions, savings and loan associations.
- (E) Hospitals, clinics and medical offices; medical laboratories.
- (F) Motels or hotels.
- (G) Assembly halls, display halls, convention centers or similar places of assembly when conducted completely within enclosed buildings.
- (H) Other uses similar to the above uses.
- (I) Municipal buildings and uses.
- (J) Accessory structures and uses customarily incident to the permitted uses listed in this section.

(1993 Code, § 82-337) (Ord. passed 10-12-1992)

§ 82-338 CONDITIONAL USES.

The following uses may be permitted in an IRO Industrial Research Office District upon the granting of a permit for such by the Planning Commission subject to the conditions imposed in this section for each use and subject further to other conditions which, in the opinion of the Commission, are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing held in accord with § 82-34(C).

- (1) Any of the following industrial uses when conducted wholly within a completely enclosed building:
 - (a) The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge and machine shops;

(b) The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding large stamping such as automobile fenders or bodies), shell, textiles, tobacco, wax, wire, wood (excluding saw and planing mills) and yarns;

(c) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas;

(d) Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other small molded rubber products;

(e) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs;

(f) Laboratories: experimental, film or testing.

(2) Retail and service uses shall be permitted in buildings which exceed 1 story in height as secondary uses to the principal permitted office uses included in § 82-337(1)-(5):

(a) Retail businesses or service establishments;

(b) Personal service establishments, such as but not limited to repair shops (watches, radio, television, shoe, and the like), tailor shops, beauty parlors or barber shops, laundries or dry cleaners, printing or photographic reproduction, photographic, art or interior decorating studios;

(c) Theaters, bowling alleys, billiard halls, health salons or similar forms of indoor recreation;

(d) Restaurants or other places serving food and beverage, but not including drive-in, fast food, carry-out or drive through restaurants and subject further to the following conditions.

1. Such uses shall be located within an office structure or motel building or shall be located in a freestanding building within the IRO District so as to be adjacent to a use designated as being allowed in § 82-337(2)-(7).

2. Such use shall be planned as a part of an overall plan for development of not less than 30 acres and shall be part of a service establishment complex for such development.

3. Such uses shall comprise not more than 20% of the land area of an overall development.

4. The location of such uses shall be established at the time of site plan review and approval for the total development complex.

(1993 Code, § 82-338) (Ord. passed 10-12-1992)

§ 82-339 REQUIRED CONDITIONS.

Required conditions in an IRO Industrial Research Office District.

(A) The outdoor storage of goods or materials shall be prohibited.

(B) Any use established in the IRO District shall be operated so as to comply with the performance standards set forth in § 82-472.

(C) All uses shall receive site plan review and approval by the Planning Commission prior to the issuance of any building permit.

(D) Off-street loading shall be provided in accordance with the following schedule.

(1) For office buildings of less than 100,000 square feet in gross floor area, at least 1 loading space, separate from off-street parking, shall be provided in the rear or side yard only.

(2) For office buildings of 100,000 square feet or more in gross floor area, at least 1 loading space with a dimension of at least 10 by 50 feet or 500 square feet in area, with clearance of at least 14 feet in height, in the rear or side yard only.

(3) For principal uses permitted subject to special conditions, 1 separate space, in addition to spaces required for offices, shall be provided for each service entrance to the secondary uses in the rear or side yard only.

(4) For industrial buildings, off-street loading shall be provided in accordance with §82-457.

(5) All loading and unloading shall be provided off-street in the rear yard or in the interior side yard, and in no instance shall be permitted in a front yard. All loading and unloading areas shall be screened from public view.

(E) All buildings shall be provided with finished materials on all sides. Pole barn types of structures shall not be permitted.

(1993 Code, § 82-339) (Ord. passed 10-12-1992)

§ 82-340 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use and providing minimum yard setback requirements.

(1993 Code, § 82-340) (Ord. passed 10-12-1992)

§§ 82-341 -- 82-355 RESERVED.

ARTICLE XVII. I-1 LIGHT INDUSTRIAL DISTRICT

§ 82-356 INTENT.

(A) The I-1 Light Industrial Districts are designed so as 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. The I-1 District is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semifinished products from previously prepared material. It is further intended that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, not be permitted.

(B) The general goals of this use District include, among others, the following specific purposes:

(1) To provide sufficient space, in appropriate locations, to meet the needs of the municipality's expected future economy for all types of manufacturing and related uses;

(2) To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development;

(3) To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences;

(4) To protect the most desirable use of land in accordance with a well considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other objectionable influences.

(1993 Code, § 82-356) (Ord. passed 10-12-1992)

§ 82-357 PRINCIPAL PERMITTED USES.

In a Light Industrial District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses unless otherwise provided in this chapter:

(1) Any use charged with the principal function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building;

(2) Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding, or processing shall be totally obscured by a wall on those sides abutting R-1 through R-2, R-T, RM-1, RM-2, MH, OS-1, B-1, B-2, B-3, and CBD Districts and on any front yard abutting a public thoroughfare except as otherwise provided in § 82-467. In I-1 Districts, the extent of such a wall may be determined by the Planning Commission on the basis of usage. Such a wall shall not be less than 4 feet 6 inches in height and may, depending upon land usage, be required to be 8 feet in height, and shall be subject further to the requirements of §§ 82-451 *et seq.*, general provisions. A chainlink fence, with intense evergreen shrub planting, shall be considered an obscuring wall. The height shall be determined in the same manner as the wall height as set forth in this subsection.

(a) Warehousing, mini storage facilities and wholesale establishments, and trucking facilities.

(b) The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge, and machine shops.

(c) The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns.

(d) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.

(e) Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.

(f) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.

(g) Laboratories: experimental, film or testing.

(h) Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.

(i) Central dry cleaning plants or laundries, provided that such plants shall not deal directly with consumers at retail.

(j) All public utilities, including buildings, necessary structures, storage yards and other related uses.

(3) Warehouse, storage and transfer and electric and gas service buildings and yards; public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations; water supply and sewage disposal plants; water and gas tank holders; railroad transfer and storage tracks; railroad rights-of-way; freight terminals;

(4) Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all residential or business districts, and on any yard abutting a public thoroughfare. In any I-1 District the extent of such fence or wall may be determined by the Planning Commission on the basis of usage. Such fence or wall shall not be less than 5 feet in height, and may, depending on land usage, be required to be 8 feet in height. A chainlink type fence, with dense evergreen shrubbery inside of the fence, shall be considered to be an obscuring fence.

(5) Commercial kennels.

(6) Greenhouses.

(7) Trade or industrial schools.

(8) Other uses of a similar and no more objectionable character than the uses listed in this section.

(9) Accessory buildings and uses customarily incidental to any of the permitted uses listed in this section.

(1993 Code, § 82-357) (Ord. passed 10-12-1992; Ord. passed 1-13-2003(2))

§ 82-358 CONDITIONAL USES.

The following uses may be permitted in a Light Industrial District upon the granting of a permit for such use by the Planning Commission subject to the conditions imposed in this section for each use and subject further to such other conditions which, in the opinion of the Planning Commission, are necessary to provide adequate protection to the neighborhood and to abutting properties and subject further to a public hearing in accord with § 82-34(C).

(1) Auto engine and body repair shops when completely enclosed in a building and provided any outdoor storage is completely obscured from public view.

(2) Lumber and planing mills when completely enclosed and when located in the interior of the District so that no property line shall form the exterior boundary of the I-1 District.

(3) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.

(4) Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities, such as, but not limited to, lumber yard, building materials outlet, upholsterer, cabinet maker, outdoor sales of boats, house trailers, automobile garages, or agricultural implements, or serve convenience needs of the Industrial District, such as, but not limited to, eating and drinking establishments, bank, savings and loan association, credit union, automobile service station, motel or bowling alley, trade or industrial school or industrial clinic.

(5) Other uses of a similar character to the uses listed in this section.

(1993 Code, § 82-358) (Ord. passed 10-12-1992)

§ 82-359 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use and the minimum yard setback requirements.

(1993 Code, § 82-359) (Ord. passed 10-12-1992)

§§ 82-360 -- 82-375 RESERVED.

ARTICLE XVIII. I-2 GENERAL INDUSTRIAL DISTRICT

§ 82-376 INTENT.

General Industrial Districts are designed primarily for manufacturing, assembling and fabrication activities, including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts. The I-2 District is so structured as to permit the manufacturing, processing and compounding of semifinished or finished products from raw materials as well as from previously prepared material.

(1993 Code, § 82-376) (Ord. passed 10-12-1992)

§ 82-377 PRINCIPAL PERMITTED USES.

In a General Industrial District, no building or land shall be used and no building shall be erected except for 1 or more of the following specified uses unless otherwise provided in this chapter.

(1) Any use first permitted and as regulated in an I-1 District.

(2) Heating and electric power generating plants.

(3) Any of the following production or manufacturing uses, not including storage of finished products, provided that they are located not less than 800 feet distant from any residential district and not less than 300 feet distant from any other district:

- (a) Junk yards, provided such are entirely enclosed within a building or within an eight-foot obscuring wall;
- (b) Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant;
- (c) Blast furnace, steel furnace, blooming or rolling mill;
- (d) Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris;
- (e) Petroleum or other inflammable liquids; production, refining or storage;
- (f) Smelting of copper, iron or zinc ore.

(4) Any other use which shall be determined by the city, after recommendation from the Planning Commission, to be of the same general character as the above permitted uses in § 82-377. The city may impose any required setback and/or performance standards so as to insure public health, safety and general welfare.

(5) Accessory buildings and uses customarily incidental to any of the permitted uses listed in this section.

(1993 Code, § 82-377) (Ord. passed 10-12-1992)

§ 82-378 AREA AND BULK REQUIREMENTS.

See §§ 82-426*et seq.*, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use and the minimum yard setback requirements.

(1993 Code, § 82-378) (Ord. passed 10-12-1992)

§§ 82-379 -- 82-395 RESERVED.

ARTICLE XIX. P-1 VEHICULAR PARKING DISTRICT

§ 82-396 INTENT.

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

(1993 Code, § 82-396) (Ord. passed 10-12-1992)

§ 82-397 PRINCIPAL PERMITTED USES.

Premises in Vehicular Parking Districts shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to such regulations as are provided in this article.

(1993 Code, § 82-397) (Ord. passed 10-12-1992)

§ 82-398 REQUIRED CONDITIONS.

Required conditions in Vehicular Parking Districts are:

(1) The parking area shall be accessory to, and for use in connection with 1 or more businesses, or industrial establishments, located in adjoining business or industrial districts, or in connection with 1 or more existing professional or institutional office buildings or institutions;

(2) Such parking lots shall be contiguous to an RT, RM-1, RM-2 or nonresidential district. Parking areas may be approved when adjacent to such districts, or on the end of a block where such areas front on a street which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P-1 District and above listed districts;

(3) Parking area shall be used solely for parking of private passenger vehicles, for periods of less than 1 day and shall not be used as an off-street loading area;

(4) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area;

(5) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area;

(6) No building other than those for shelter of attendants shall be erected upon the premises and they shall not exceed 15 feet in height;

(7) Applications for P-1 District rezoning shall be made by submitting a dimensional layout of the area requested showing the intended parking plans in accordance with § 82-400.

(1993 Code, § 82-398) (Ord. passed 10-12-1992)

§ 82-399 MINIMUM DISTANCES AND SETBACKS.

Minimum distances and setbacks in a P-1 Vehicular Parking District are as follows.

(1) *Side and rear yards.* Where the P-1 District is contiguous to the side and/or rear lot lines of premises within a residentially zoned district, the required wall shall be located along the lot line.

(2) *Front yards.* Where the P-1 District is contiguous to a residentially zoned district which has a common frontage in the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for the residential district, or a minimum of 25 feet, or whichever is the greater. The required wall shall be located on this minimum setback line unless, under unusual circumstances, the Planning Commission finds that no good purpose would be served. The land between the setback and street right-of-way line shall be kept free from refuse and debris and shall be planted with shrubs, trees, or lawn and shall be maintained in a healthy growing condition, neat and orderly in appearance.

(1993 Code, § 82-399) (Ord. passed 10-12-1992)

§ 82-400 PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE.

Off-street parking lots in a P-1 Vehicular Parking District shall be laid out, constructed and maintained in accordance with the following standards and regulations. (See Appendix B for figure.)

(1) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements.

<i>Parking Pattern (degrees)</i>	<i>Maneuvering Land Width (feet)</i>	<i>Parking Space Width (feet)</i>	<i>Parking Space Length (feet)</i>	<i>Total Width of 1 Tier of Parking Spaces Plus Maneuvering Lane (feet)</i>	<i>Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)</i>
0 (parallel parking)	12	8	20	20	28
45	12	8-1/2	20	32	55
60	15	8-1/2	20	36-1/2	58
90	20	9	20	40	60

(2) All maneuvering lane widths shall permit one-way traffic movement, with the exception of the 90-degree pattern and parallel parking where two-way movement may be permitted.

(3) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.

(4) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.

(5) Each entrance and exit to and from such parking lot shall be at least 20 feet distant from any adjacent property located in any residential district except in the instance of parallel parking where 8 feet may be allowed.

(6) Ingress and egress to a parking lot or any other part of a property in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

(1993 Code, § 82-400) (Ord. passed 10-12-1992; Ord. passed 12-12-1994)

§ 82-401 SIDE YARDS.

Where the P-1 District is contiguous to side lot lines of premises within a residentially zoned district, a screening wall shall be located on the property line as provided in § 82-467.

(1993 Code, § 82-401) (Ord. passed 10-12-1992)

§ 82-402 FRONT YARDS.

Where the P-1 District is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for the residential district. The required wall as provided in § 82-467 shall be located on this minimum setback line.

(1993 Code, § 82-402) (Ord. passed 10-12-1992)

§ 82-403 SCREENING AND LANDSCAPING.

Screening and landscaping requirements in a P-1 Vehicular Parking District are as follows.

(1) The parking area shall be provided with a continuous and completely obscuring wood or masonry wall or fence 4 feet 6 inches in height measured from the surface of the parking area. This wall or fence shall be provided on all sides where the next zoning district is designated as a residential district except in the instance where such residential district is across a street such wall or fence may be provided as a landscaped screening planting area. Whenever such wall is required, all land between the wall and boundaries of the P-1 District shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. Ornamental trees shall be planted at 30-foot intervals, 6 feet from the wall. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

(2) All planting plans shall be in accordance with the provisions of subsection (1) of this section and in accordance with § 82-460.

(1993 Code, § 82-403) (Ord. passed 10-12-1992)

§ 82-404 SURFACE OF PARKING AREA.

The entire parking area, including parking spaces and maneuvering lanes, required under this section, shall have portland cement or asphaltic concrete surfacing in accordance with specifications approved by the Director of Public Works or his designee. Such facilities shall be drained so as to dispose of all surface water accumulated in the parking area. The parking area shall be surfaced within 1 year of the date of rezoning for P-1 vehicular parking use if the parking area is to serve an existing use.

(1993 Code, § 82-404) (Ord. passed 10-12-1992)

§ 82-405 LIGHTING.

All lighting used to illuminate any P-1 District off-street parking area shall be so installed as to be directed on the parking area only.

(1993 Code, § 82-405) (Ord. passed 10-12-1992)

§ 82-406 APPROVAL AND MODIFICATIONS.

(A) The Planning Commission, upon application by the property owner of the parking area, may modify the yard and wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this article.

(B) In all cases where a wall extends to an alley which is a means of ingress and egress to a parking area, it shall be permissible to end the wall not more than 10 feet from such alley line in order to permit a wider means of access to the parking area.

(C) In addition to the requirements in this article, such parking area shall comply with such further requirements or conditions as may be prescribed by the Planning Commission for the protection of the residential district abutting such parcel in which the parking area is to be located.

(1993 Code, § 82-406) (Ord. passed 10-12-1992)

§ 82-407 ACCESS MANAGEMENT STANDARDS.

(A) *Intent.*

(1) The intent of this section is to establish roadway access standards inclusive of driveways, shared drives, frontage and rear access and road related roadway geometric improvements and access control features.

(2) The compliance standards of this section are intended to minimize potentially hazardous traffic movements and related traffic conflicts, provide effective spacing standards between driveways and between driveways and intersections and to ensure reasonable access to properties within desired public safety standards. The provisions of this section shall apply during the site plan review process before Planning Commission approval.

(B) *Driveway spacing.*

(1) *Definitions.* For the purposes of this section, a **COMMERCIAL DRIVEWAY** is defined as any vehicular access, except those serving single family or two family residences or serving an essential public service structure.

(2) *Minimum spacing (commercial).* Minimum spacing between 2 commercial driveways on the same side of the roadway shall be determined based upon the posted speed limit along the parcel frontage. The minimum spacings indicated below are measured from centerline to centerline.

Posted Speed Limit (MPH)	Minimum Driveway Spacing (Feet)
25	130
30	185

35	245
40	300
45	350
50	455

(3) *Left-turn conflicts.* To reduce left turn conflicts, new commercial driveways shall be aligned with existing driveways across the roadway where possible. If alignment is not possible, driveways should be offset a minimum of 150 feet from existing driveways, measured centerline to centerline, on the opposite side of the roadway.

(4) *Minimum spacing.* Minimum spacing between proposed driveways and street intersections shall be subject to the following requirements. The following measurements are from the nearest edge of the driveway throat to the nearest edge of the intersection.

Location of Driveway	Minimum Spacing for Full Movement Driveway (Feet)	Minimum Spacing for a Channelized Right-Turn-In, Right-Turn-Out Driveway (Feet)
On a major thoroughfare, intersecting street is a major thoroughfare	250	125
On a major thoroughfare, intersecting street is not a major thoroughfare	200	125
On a secondary thoroughfare	125	75
On a collector street	75	75

(5) *Number of commercial driveways.*

(a) The number of commercial driveways serving a property shall be the minimum number necessary to provide reasonable access and access for emergency vehicles, while preserving traffic operations and safety along the public roadway.

(b) Access shall be provided for each separately owned parcel. This access may be an individual driveway, shared driveway, or via a service drive. Additional driveways may be permitted for the property only as follows: 1 additional driveway may be allowed for properties with continuous frontage over 300 feet, and 1 additional driveway for each additional 300 feet of frontage, if the Planning Commission determines additional access is justified without compromising traffic operations along the public street. The applicant shall submit a traffic impact study if additional access is sought. All driveways shall comply with the spacing requirements set forth in this section.

(c) In making its determination on whether additional access is justified, the Planning Commission may refer to the following list of developments, that generate enough traffic to warrant consideration of additional access. Where possible, additional access points should be located on a side street, shared with adjacent uses, or designed for right-turn-in, right-turn-out only movements.

1. Multiple family developments with over 500 units.
2. Grocery store of over 30,000 square feet (GFA).
3. Shopping center with over 40,000 square feet (GFA).
4. Hotel or motel with over 400 rooms.
5. Industrial developments with over 300,000 square feet (GFA) or 350 employees, although a secondary entrance for trucks should be allowed.
6. Warehouses of over 750,000 square feet (GFA) or 350 employees.
7. Mobile home park with over 600 units.
8. General office building of 150,000 square feet (GFA) or 500 employees.
9. Medical office building of 60,000 square feet (GFA) or 200 employees.
10. Fast food restaurant of over 6,000 square feet (GFA).
11. Sit down restaurant of over 20,000 square feet (GFA).

(6) *Shared driveways and service roads.*

(a) Where the Planning Commission determines that reducing the number of access points may have a beneficial impact on traffic operations and safety while preserving the property owner's right to reasonable access, a shared driveway or service drive connecting 2 or more properties or uses may be required. In particular, service drives may be required where recommended in the Master Plan or corridor plan, near existing traffic signals or near locations having traffic volumes and along segments of roadway with a relatively high number of accidents or limited sight distance.

(b) Shared driveways and service drives shall be within a recorded access easement.

(c) The Planning Commission may allow temporary access where the service road is not completed if a performance bond or other financial guarantee is provided which assures the elimination of the temporary access upon completion of the service road. Occupancy permits shall not be issued until such financial guarantee has been submitted to the city.

(7) *Driveway Width.* The following standards shall apply unless engineering judgement determines that another dimension is more suitable for a particular site.

(a) The standard two-way commercial driveway design shall include 1 ingress lane and 1 egress lane with a combined width of 30 feet, measured from face of curb to face of curb.

(b) Where exit volumes are expected to exceed 1,000 vehicles per day, 100 during peak hours, or in areas where it is determined that undesirable motorist delays will occur, 2 egress lanes may be required. Such driveways shall include 1 15-foot wide ingress lane and 2 11.5-foot wide egress lanes (1 marked exclusively for left turns). In areas where significant pedestrian/bicycle travel is expected, the egress and ingress lanes shall be separated by a 6 to 10 foot wide median with a pedestrian refuge area.

(c) Where driveways are to be located on a road segment having a high accident rate or significant traffic congestion/delays, or where left run access is available through alternative means of access, the Planning Commission may require driveway design and signing which prohibits certain turning movements.

(d) For access arrangements which include 2 one-way driveways, such as a right-turn-in and right-turn-out only arrangements, each driveway shall be 16 feet wide, measured perpendicular to the curb, and angled to minimize the disruption of traffic flow.

(8) *Engineering judgement.* Engineering judgement shall be utilized to determine the necessary throat length, but in no case shall it be less than 25 feet.

(9) *Angle of commercial driveways.* Commercial driveways shall be on a 90 degree angle with roadway unless physical modification and/or directional signs are used to enforce intended one-way operations or restricted movements.

(10) Deceleration and acceleration lanes and tapers. Deceleration and acceleration lanes and tapers where warranted by either through traffic conditions or expected high driveway volumes shall be used to avoid the disruption in the flow of traffic.

(1993 Code, § 82-407) (Ord. passed 2-12-2001; Ord. passed 9-10-2001(3))

Editor's note:

Ord. of Feb. 12, 2001, § 82-474, set out provisions intended for use as § 82-471. At the City Clerk's request, these provisions have been included as § 82-407.

§ 82-408 MARGINAL SERVICE ROADS; INTENT.

Marginal service roads may be required by the Planning Commission, after consultation with the traffic engineer, when it is determined by the Commission that an excessive number of ingress and egress roads may occur with relation to a major or secondary thoroughfare and that reducing the number of points of access to the thoroughfare is in the best interest of the city. Unless the property owner demonstrates that an alternative design would be in the public interest, as determined by the Planning Commission, marginal service roads may be required.

(1993 Code, § 82-408) (Ord. passed 2-25-1991; Ord. passed 5-14-2001; Ord. passed 3-11-2002(1))

§ 82-409 MARGINAL SERVICE ROADS; REQUIRED CONDITIONS.

Uses permitted in this chapter shall be subject to the following conditions.

(1) In those instances where the Planning Commission finds that an excessive number of ingress or egress points may occur with relation to major or secondary thoroughfares, the Commission may require marginal service roads and, to assure adequate traffic circulation on the site, may require the development of parking so that contiguous lots on abutting properties will allow traffic circulation from 1 property to another without re-entering the public thoroughfare.

(2) The pavement of the marginal service road shall be located 10 feet from the future right-of-way line of the thoroughfare and shall be at least 24 feet wide except in the situation where existing adjacent parking lots are to be connected by way of a common maneuvering lane and a greater width cannot be provided, the such service road shall be at least 22 feet in width. Said service road shall be an easement which will permit the use of the service road for traffic circulation from 1 property to another. Said easement shall be in a written form acceptable to the City Council prior to the issuance of a building permit and shall run with the land and benefit/burden the heirs, assigns and transferees of the properties to be served by the drives. No permanent structures shall be permitted within the easements. Each property

owner shall be responsible for maintenance of the easement so that it remains usable as a means of getting from 1 property to another. The Street Administrator will cause the service road to be maintained if the property owner fails in his responsibility, and all costs will be charged to the property and added to the taxes if not paid. The easement shall be recorded with the County Register of Deeds.

(3) Building permits for the property to be served by the marginal service roads shall not be issued unless and until such drives have been completed, or a performance guarantee has been posted with the city for such purposes.

(4) When marginal service roads are required, the Planning Commission shall require that the entire 24 foot area be paved up to the abutting properties. Backing from parking spaces onto the marginal service shall not be permitted. The site plan shall indicate the proposed elevation of the marginal access service road at the property line and the Street Administrator shall maintain a record of all marginal service road elevations so that their grades can be coordinated. Marginal service road elevations shall conform to elevations established by the Council or, if not so established, be not more than 1 foot above the elevation of the adjoining property. Marginal service roads shall meet construction specifications set by the Street Administrator based on current engineering practices and principals for the construction of base, pavement and draining facilities, and the like.

(5) The 10 foot setback area between the future road right-of-way and the service road shall be kept in grass and landscaped in accordance with plans approved by the Planning Commission.

(6) Temporary entrances and exits may be approved for individual sites provided money is placed in escrow to assure elimination of temporary entrances and exits. Building permits shall not be issued until monies have been deposited with the city.

(7) In determining which entrances and exits will be permanent and which will be temporary, the Planning Commission shall generally be guided by the requirements of § 82-407, access management standards.

(1993 Code, § 82-409) (Ord. passed 2-25-1991; Ord. passed 5-14-2001; Ord. passed 3-11-2002(I))

§§ 82-410 – 82-425 RESERVED.

ARTICLE XX. SCHEDULE OF REGULATIONS

§ 82-426 SCHEDULE LIMITING HEIGHT, BULK, DENSITY AND AREA BY ZONING DISTRICT.

This schedule gives limits for height, bulk, density and area by zoning district. Letters in parentheses refer to notes in §2-427.

Zoning District	Minimum Zoning Lot Size per Dwelling Unit		Maximum Height of Structures		Minimum Yard Setback (per lot in feet)			Maximum % Lot Area Covered by All Buildings
	Area in sq. ft.	Width in feet	in stories	in feet	front	each side	rear	
Zoning District	Minimum Zoning Lot Size per Dwelling Unit		Maximum Height of Structures		Minimum Yard Setback (per lot in feet)			Maximum % Lot Area Covered by All Buildings
	Area in sq. ft.	Width in feet	in stories	in feet	front	each side	rear	
R-1 One Family Residential	8,400(a)	70(a)	2	25	25(b)	8 & 12(b, c)	35(b)	30
R-2 One Family Residential	12,000(a)	85(a)	2	25	30(b)	10 & 12(b, c)	35(b)	30
RT Two Family Residential	4,000	40	2	25	25(b)	8 & 12(b, c)	35(b)	30
RM-1 Restricted Multiple Family Residential	(d)	(d)	2	25	25(e, f)	15 & 15(e)	35(e)	50
RM-2 Multiple Family Residential	(d)	(d)	3	30	30(e)	30 & 30(e)	30(e)	25

MH Mobile Home Residential	See §§ 82-186 <i>et seq.</i> for development standards							
OS-1 Office Service District	—	—	—	30	20(g)	15(h)	20(h, i)	—
B-1 Local Business	—	—	—	30	25(g)	(h, k)	20(h, i)	—
B-2 Community Business	—	—	—	30	40(g, i, j)	(i, j)	(h, i, j)	—
B-3 General Business	—	—	—	30	30(g)	(h)	20(h)	—
CBD Central Business	—	—	No maximum		None	(h)	—	—
IRO Industrial Research Office	—	—	—	40	40(l, k)	20(j)	40	—
I-1 Light Industrial	—	—	—	40	40(l, k)	20(j)	40(m, n)	—
I-2 General Industrial	—	—	—	60	60(i, l, k)	30(i, j)	(i, m., n, l)	—

(Ord. passed 10-12-1992; Ord. passed 11-12-2002(2))

§ 82-427 NOTES TO SCHEDULE.

(A) See § 82-428, averaged lot size, and § 82-429, subdivision open space plan, regarding flexibility allowances.

(B) For all uses permitted other than single family residential, the setback shall equal the height of the main building or the setback required in § 82-108 or § 82-426, whichever is greater. For all lots of record having less than 70 feet of lot width, the minimum required side yards shall be 5 feet and 10 feet.

(C) In the case of a rear yard abutting a side yard, the side yard setback abutting a street shall not be less than the minimum front yard setback of the district in which located and all regulations applicable to a front yard shall apply.

(D) In an RM-2 Multiple Family District, the total number of rooms, not including kitchen, dining and sanitary facilities, shall not be more than the area of the parcel, in square feet, divided by 1,200. All units shall have at least 1 living room and 1 bedroom, except that not more than 10% of the units may be of an efficiency apartment type. For the purpose of computing the permitted number of dwelling units per acre, the following room assignments shall control:

- Efficiency = 1 room
- One bedroom = 2 rooms
- Two bedroom = 3 rooms
- Three bedroom = 4 rooms
- Four bedroom = 5 rooms

Plans presented showing 1, 2 or 3 bedroom units and including a den, library or other extra room shall count such extra room as a bedroom for the purpose of computing density. The area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads. For the RM-1 District a minimum of 4,000 square feet of lot or site area shall be provided for each dwelling unit.

(E) In all RM-1 and RM-2 Multiple Family Residential Districts, the minimum distance between any 2 buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than 30 feet. Parking may be permitted within a required side or rear yard but shall not cover more than 30% of the area of any required yard or any minimum distance between buildings. The formula regulating the required minimum distance between 2 buildings in all RM Districts is as follows:

$$L_A + L_B + 2(H_A + H_B)$$

$$S = \frac{\quad}{\quad}$$

Where:

S = Required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.

L_A = Total length of building A. The total length of building A is the length of that portion of a wall of building A from which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.

L_B = Total length of building B. The total length of building B is the length of that portion of a wall of building B from which, when viewed directly from above, the lines drawn perpendicular to building B will intersect any wall of building A.

H_A = Height of building A. The height of building A at any given level is the height above natural grade level of any portion of a wall along the length of building A. Natural grade level shall be the mean level of the ground immediately adjoining the portion of the wall along the total length of the building.

H_B = Height of building B. The height of building B at any given level is the height above natural grade level of any portion of a wall along the length of building B. Natural grade level shall be the mean level of the ground immediately adjoining the portion of the wall along the total length of the building.

(F) The distance from the front lot line to the nearest point of a principal building shall not be less than 25 feet, except that where an entire block frontage is developed at one time, under single ownership or control, then the minimum setback may be reduced to 20 feet, provided that the average setback for all structures shall not be less than 25 feet.

(G) Off-street parking shall be permitted to occupy a portion of the required front yard, provided that there shall be maintained a minimum unobstructed and landscaped setback of 10 feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line as indicated on the Thoroughfare Plan of the Master Plan of Future Land Use.

(H) No side yards are required along the interior side lot lines of the district, except as otherwise specified in the Building Code, provided that if walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than 10 feet shall be provided. On a corner lot which has a common rear lot line with a residential district, there shall be provided a setback of not less than 10 feet on the side bordering the residential district or street.

(I) Off-street loading space shall be provided in the rear yard in the ratio of at least 1 space for each establishment and shall be provided in addition to any required off-street parking area. Off-street loading space shall further meet the requirements of § 82-457. This provision shall not apply in the CBD District. In those instances where properties abut an alley, such alley may be substituted for off-street loading requirements in business districts. In office districts off-street loading may take place in undesignated places in parking lots, provided such loading is of a short-term nature.

(J) No building shall be closer than 75 feet to any adjacent residential district or to any major thoroughfare.

(K) Off-street parking shall be permitted in a required side yard setback.

(L) Off-street parking may be permitted within the required front yard, provided that such off-street parking is not located within 20 feet of the front lot line.

(M) No building shall be located closer than 50 feet or the height of the building, whichever is the greater, to the outer perimeter (property line) of such district when the property line abuts any residential district.

(N) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than 6 feet high, or with a chainlink type fence and a greenbelt planting so as to obscure all view from any adjacent residential, office, or business district or from a public street.

(1993 Code, § 82-427) (Ord. passed 10-12-1992)

Cross reference:

Distance spacing for multiple dwellings; side yards abutting a street, see Appendix C

§ 82-428 AVERAGED LOT SIZE.

The intent of this section is to permit the subdivider or developer to vary lot sizes and lot widths so as to average the minimum size of lot per unit as required in the schedule of regulations in this article for each one-family residential district. If this option is selected, the following conditions shall be met.

(1) In meeting the average minimum lot size, the subdivision shall be so designed as not to create lots having an area or width greater than 10% below that area or width required in the schedule of regulations and shall not create an attendant increase in the number of lots.

(2) Each final plat submitted as part of a preliminary plat shall average the minimum required for the district in which it is located.

(3) All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.

(1993 Code, § 82-428) (Ord. passed 10-12-1992)

§ 82-429 SUBDIVISION OPEN SPACE PLAN.

(A) The intent of the subdivision open space plan is to promote the following objectives:

- (1) Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets;
- (2) Encourage developers to use a more creative approach in the development of residential areas;
- (3) Encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and allowing the developer to by-pass natural obstacles on the site;
- (4) Encourage the provision of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreational facilities.

(B) Modifications to the standards as outlined in the schedule of regulations in this article may be made in the one-family residential districts when the following conditions are met.

(1) The lot area in all one-family residential districts, which are served by a public sanitary sewer system, may be reduced up to 20%. In the R-1 District, this reduction may be accomplished in part by reducing lot widths up to 5 feet. In the R-2 Districts, this reduction may be accomplished in part by reducing lot widths up to 10 feet. These lot area reductions shall be permitted provided that the dwelling unit density shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required for each one-family district under the schedule of regulations in this article. All calculations shall be predicated upon the one-family districts having the following gross densities (including roads):

R-1 = 3.8 dwelling units per acre.

R-2 = 2.7 dwelling units per acre.

(2) Rear yards may be reduced to 30 feet when such lots border on land dedicated for park, recreation and/or open space purposes, provided that the width of the dedicated land shall not be less than 100 feet measured at the point at which it abuts the rear yard of the adjacent lot.

(3) Under the provisions of subsection (B)(1) of this section, for each square foot of land gained within a residential subdivision through the reduction of lot size below the minimum requirements as outlined in the schedule of regulations, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision in a manner approved by the municipality.

(4) The area to be dedicated for subdivision open space purposes shall in no instance be less than 4 acres and shall be in a location and shape approved by the Planning Commission.

(5) The land area necessary to meet the minimum requirements of this section shall not include bodies of water, swamps or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. The entire area may, however, be located in a floodplain.

(6) This plan, for reduced lot sizes, shall be permitted only if it is mutually agreeable to the City Council and the subdivider or developer.

(7) This plan, for reduced sizes, shall be started within 6 months after having received approval of the final plat and must be completed in a reasonable time. Failure to start within this period shall void all previous approval.

(8) Under this planned unit approach, the developer or subdivider shall dedicate the total park area (see subsection (B) (1) of this section) at the time of filing of the final plat or any portion of the plat.

(1993 Code, § 82-429) (Ord. passed 10-12-1992)

§ 82-430 SINGLE-FAMILY CLUSTERING OPTION.

The intent of this section is to permit the development of single-family residential patterns which, through design innovation, will introduce flexibility so as to provide for the sound physical handling of site plans in situations where the normal subdivision approach would otherwise be unnecessarily restrictive. To accomplish this, the following modifications to the single-family residential standards shall be permitted subject to the conditions herein imposed.

(1) Under this section, the attaching of single family homes will be permitted when the homes are attached through a common party wall which does not have over 60% of its area in common with an abutting dwelling wall; by means of an architectural wall detail which does not form interior room space; or through a common party wall in only the garage portion of adjacent structures, there being no common party wall relationship permitted through any other portion of the residential unit.

(2) The number of units attached in the above manner shall not exceed 4.

(3) Yard requirements may be modified as follows.

(a) Yards abutting a street may be reduced to not less than 25 feet.

(b) Spacing between groups of attached units or individual units shall be at least 20 feet in the R-1 District and 15 feet in the R-2 District.

(c) That side of a cluster adjacent to a service drive or private land shall not be nearer to said drive or land than 10 feet.

(4) In all single-family residential districts on parcels of land meeting certain criteria, densities in a cluster development may be increased to the following maximum (including street right-of-way):

R-1 District = 4.5 dwelling units/acre.

R-2 District = 3.7 dwelling units/acre.

(5) The Planning Commission may approve the clustering or attaching of buildings on parcels of land, under single ownership and control, which, in the opinion of the Planning Commission, have characteristics which would make sound physical development under the normal subdivision approach impractical because of parcel size, shape or dimension or because of steep topography, soil problems or similar natural conditions. In approving an area for cluster development at the densities permitted in subsection (4) of this section, the Planning Commission shall find at least 1 of the following conditions to exist.

(a) The parcel to be developed is generally parallel to, and generally does not exceed 400 feet in depth, on those unsubdivided parcels of land abutting a major thoroughfare or freeway of at least 120 feet of right-of-way width so as to provide transition between the major thoroughfare and adjacent single-family detached housing.

(b) The parcel contains major topographic problems which, in the opinion of the Planning Commission, would make sound physical development under the normal subdivision approach impractical. In approving these areas for single-family cluster development, the Planning Commission shall find that:

1. Slopes within the site in excess of 10% appear as a typical feature of the site rather than an exceptional or infrequent feature of the site;

2. The achieving of the road grades of less than 10% is impossible unless the site was mass graded. The providing of one-family clusters will, in the opinion of the Planning Commission, allow a greater preservation of the natural setting.

(c) A small parcel which is shaped in such a way that it contains acute angles which would make a normal subdivision difficult to achieve and has frontage on a major or secondary thoroughfare.

(d) A substantial part of the parcel's perimeter is bordered by a major thoroughfare which would result in a substantial proportion of the lots of the development abutting the major thoroughfare.

(e) The parcel contains a floodplain or poor soil conditions which result in a substantial portion of the total area of the parcel being unbuildable. Soil test borings, floodplain maps or other documented evidence must be submitted to the Planning Commission in order to substantiate the parcel's qualification for cluster development.

(f) The parcel contains natural assets which could be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, unusual topographic features, or other natural assets which, in the opinion of the Planning Commission, should be preserved. Requests for qualification under these conditions must be supported by documented evidence which indicates that the natural assets would qualify the parcel under this option.

(6) The area in open space accomplished through the use of one-family clusters shall represent at least 15% of the horizontal development area of a one-family cluster development.

(7) In order to provide an orderly transition where the project proposed for use as a cluster development abuts a one-family residential district, the Planning Commission shall determine that the abutting one family district is effectively buffered by means of 1 of the following within the cluster development: single-family lots subject to the standards of the schedule of regulations, open or recreation space, changes in topography which provides an effective buffer, a major or secondary thoroughfare, some other similar means of providing a transition.

(8) Any area to be dedicated for park, recreation or open space purposes as a result of the application of this section shall be subject to review and approval of the Planning Commission for minimum size, shape, location, access, the character of any improvement and assurance of the permanence of the open space and its continued maintenance.

(9) In submitting a proposed layout under this section, the sponsor of the development shall include, along with the site plan, the proposed building elevations and typical floor plans, an indication of existing and proposed public easements, soil information or data sufficient to determine the buildability of the site, topography drawn at a 2 foot contour interval, all computation relative to acreage and density, and any other details which will assist in reviewing the proposed plan.

(10) Approval of a site plan under this section shall be effective for a period of 1 year. Development not started in this period shall be considered as abandoned and authorization shall expire requiring that any proposed development thereafter shall be reviewed and approved by the Planning Commission. Any proposed change in site plan or building plans, after approval has been received, shall require review and approval by the Planning Commission prior to effecting the change.

(11) Application of this option shall only be permitted when the site plan has been reviewed and approved by the Planning Commission.

(1993 Code, § 82-430) (Ord. passed 10-12-1992)

Cross reference:

Cluster example, see Appendix D

§ 82-431 CONDOMINIUM SUBDIVISION.

(A) The intent of this section is to permit the development of single-family detached dwellings by site planning the layout of individual dwellings, streets and open space. To accomplish development under this option, the following conditions shall apply. In the one-family residential districts, the site planning of individual single-family dwellings may be permitted after review of a site plan by the Planning Commission in accordance with the public hearing requirements set forth and regulated in § 82-34(C).

(B) The Planning Commission in making its review shall find that the following minimum standards are fully met.

(1) The maximum number of individual single family dwellings per acre, throughout the entire site, shall not exceed the dwelling unit density level of the one-family district in which the site is located. These densities, including roads, are as follows:

(a) R-1 One-Family Residential Districts = 3.8 dwellings/acre.

(b) R-2 One-Family Residential Districts = 2.7 dwellings/acre.

(2) An area equal to the minimum land area requirement of the district shall be provided for each dwelling unit, including the building envelope.

(3) Setbacks shall be provided for each building envelope equal to the minimum setback requirements of the district as set forth below.

(a) Front setback shall be measured from the street right-of-way, or from the similar line of a private street easement, to the front of the building envelope.

(b) Side setback shall be measured from building envelope to building envelope and shall be at least equal to the total minimum side yard setback requirement of the district between 2 single family detached dwellings.

(c) Rear setback shall be measured from the rear line of the building envelope to the rear property line or to the nearest common space area.

(4) All streets shall be built to public street standards and may be dedicated to the city as public streets or remain as private streets. All public streets shall be located within an appropriate right-of-way as set forth in the city's Master Plan. Private streets shall be located within an easement equal in width to the appropriate street right-of-way.

(5) All streets, utilities and improvements required for subdivision shall be installed to applicable city standards.

(6) The condominium subdivision plan shall include all necessary easements granted to the city for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including conveyance of sewage, water and stormwater run-off across, through and under the property subject to the easement, and excavating and refilling ditches and trenches necessary for the location of the structures.

(7) The maximum number of stories and building height restrictions of the district shall be met as shall the minimum floor area requirements of the district. Any detached accessory uses shall comply with the applicable standards of this chapter for such uses. Setbacks required for such uses shall be measured from the outer perimeter of the land area boundaries as required in this section for each individual single-family detached dwelling.

(1993 Code, § 82-431) (Ord. passed 10-12-1992)

Cross reference:

Condominium subdivision terminology, see Appendix E

§§ 82-432 – 82-450 RESERVED.

ARTICLE XXI. SUPPLEMENTARY REGULATIONS

§ 82-451 CONFLICTING REGULATIONS.

Whenever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such law or ordinance shall govern. This provision shall not apply to mobile home parks which are regulated in accord with Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 *et seq.*, as amended.

(1993 Code, § 82-451) (Ord. passed 10-12-1992)

§ 82-452 SCOPE.

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

provisions of this chapter.

(1993 Code, § 82-452) (Ord. passed 10-12-1992)

§ 82-453 NONCONFORMING LOTS, USES OF LAND, STRUCTURES, AND USES OF STRUCTURES AND PREMISES.

(A) Intent.

(1) Within the districts established by this chapter or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment.

(2) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(3) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

(4) It is further recognized that certain nonconforming uses and structures do not significantly depress the value of nearby properties and are not contrary to the public health, safety and welfare and that such use or structure was lawful at the time of its inception and that no useful purpose would be served by the strict applications of requirements for nonconformities under this chapter and, therefore, 2 classes of nonconforming use and structure are designated, being class A and class B.

(5) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved and provided further that all work shall be done pursuant to a valid permit.

(B) Class A nonconforming uses or structures. Those nonconforming uses or structures which have been designated by the Planning Commission, after hearing, as class A, providing findings that the following conditions exist with respect to the use or structure.

(1) The use or structure was lawful at its inception.

(2) Continuance of the use or structure does not significantly depress property values of nearby properties.

(3) Continuance of the use or structure would not be contrary to the public health, safety or welfare or the spirit of this chapter.

(4) An improvement to an existing nonconforming condition will result.

(5) No useful purpose would be served by strict application of the provisions of this chapter with which the use or structure does not conform.

(C) Class A conditions. The decision to grant a class A designation shall be made in writing, setting forth the findings and reasons on which it is based. Conditions may be attached, including time limits where deemed necessary to assure the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this chapter and further to assure that at least the following standards are met.

(1) Screening and landscaping should be provided in keeping with community standards to provide compatibility with adjacent uses.

(2) Effects which may have a negative impact such as lighting, noise or visual impact should be minimized.

(3) Where such use is in close proximity to homes, parking should not be permitted to utilize curb side parking to an extent greater than the immediate property frontage of the nonconforming use.

(4) New signage should meet zoning district requirements. Existing nonconforming signs may be required to be eliminated or reduced in size and number as the Commission may, in its judgment, determine.

(5) The exterior building materials utilized in any alteration to the building shall be harmonious with materials on abutting properties whenever practical.

(6) Enlargement of a building may be allowed provided such enlargement does not create a more nonconforming yard setback condition which would impact on conforming properties in the immediate vicinity.

(7) The Commission may require such other safeguards and improvements as it may deem necessary to protect conforming uses in the surrounding area.

No class A nonconforming use or structure shall be resumed if it has been discontinued for 6 consecutive months or 18 months in any 3-year period. No class A nonconforming use or structure shall be used, altered or enlarged in violation of any condition imposed in its designation.

(D) *Revocation of class A designation.* Any 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 class A designation.

(E) *Class B nonconforming uses or structures.* All nonconforming uses or structures, not designated class A, shall be class B nonconforming uses or structures. Class B nonconforming uses and structures shall comply with all the provisions of this chapter relative to nonconforming uses and structures. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(F) *Reactivation of discontinued nonconforming use or structure.* A nonconforming use of land or structure which is discontinued or ceases to exist as specified in subsections (H)(3) and (J)(5) of this section may be reinstated as a class A nonconforming use or structure by the Planning Commission after hearing and after finding that the following conditions exist or will be met with respect to the use or structure.

(1) The proposed use will be the same type of use as the previous use which occupied the property or a new use which is no more intensive than the previous use. Example: In a residential zone a business use allowed in a B-1 Local Business District exists, such use may be replaced by another B-1 use or a higher use such as an OS-1 or RM use but shall not be replaced by a more intense use such as those allowed in a B-2, B-3, CBD or Industrial District.

(2) That conditions specified in subsections (B)(2) through (4) of this section will be complied with.

(3) A determination shall be made by the Planning Commission that the use or structure will be a blighting influence on the neighborhood if not allowed to be occupied.

(G) *Nonconforming lots.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance to yard requirements may be obtained through the Board of Appeals.

(H) *Non conforming uses of land.* Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions.

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(3) If such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(I) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(1) No such structure may be enlarged or altered in a way which increases its nonconformity. Such structure may be enlarged or altered in a way which does not increase its nonconformity.

(2) Should such structure be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(4) Should such structure be a pre-existing porch or deck, and provided that the structure's footprint remains the same or is made smaller, it may be replaced due to age or structural issues.

(J) *Nonconforming uses of structures and land.* If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions.

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification, provided the use is equally appropriate or more appropriate to the district than the existing nonconforming use. Where a nonconforming use of a structure, land, or structure and land in combination is changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for 6 consecutive months or for 18 months during any 3 year period, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(K) *Repairs and maintenance.* On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50% of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(1) *Uses under exception provisions not nonconforming uses.* Any use for which a general exception or conditional use approval is required as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

(M) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures or structures and land in combination.

(N) *Applications for temporary use permits.* Businesses located in OS-1, B-I, B-2, B-3 and CBD Districts and churches, wherever located, within the corporate limits of the city, may make applications for temporary use permits where they desire to promote business sales which would normally be prohibited in their zoning district. Such application may only be made where the sales promotion bears a reasonable relationship to the business normally permitted in that district. The Planning Commission shall determine whether the lawful business bears a reasonable relationship to the prohibited business for which a special use permit is sought. Where the Planning Commission decides that such a reasonable relationship exists, it may grant a temporary use permit, provided:

- (1) The principal use has previously been granted site plan approval;
- (2) The principal use is in compliance with all current city zoning regulations;
- (3) The temporary use does not create a public safety problem as determined by the Police Department;
- (4) The temporary use does not exceed 30 days;
- (5) Commitment is made to restore any lawn areas where temporary use may have taken place;
- (6) Adequate parking would remain available for the building for the principal use;
- (7) A zoning officer finds the application would not impair the health, safety, and welfare of the general public.

In conjunction with a temporary use permit, 1 sign not to exceed 20 square feet will be allowed and may be placed on the front or side yard setback, provided that it does not interfere with public safety as determined by the Police Department. Upon approval of the Planning Commission and the applicant meeting all of the conditions of approval, the Building Official is authorized to execute a temporary use permit.

(1993 Code, § 82-453) (Ord. passed 10-12-1992; Ord. passed 1-11-1999(1); Ord. passed 4-9-2007(1))

§ 82-454 ACCESSORY BUILDINGS AND USES.

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

(A) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all yard regulations of this chapter applicable to main buildings.

(B) Accessory buildings shall not be erected in any minimum side or front yard setback.

(C) A building accessory to a residential building may occupy not more than 25% of required rear yard, provided that in no instance shall the accessory building exceed 100% of the ground floor area of the main building. On a corner lot all of the land to the rear of the house may be utilized in the computation of percent of lot coverage for accessory buildings.

(D) A detached building accessory to a residential building shall not be located closer than ten feet to any main building nor shall it be located closer than five feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall be no closer than one foot to such rear lot line. In no instance shall an accessory structure be located within a dedicated easement right-of-way.

(E) No detached accessory structures in the R-1, R-2, RT, RM-1, RM-2, MH, OS-I, B-1 and P-1 Districts shall exceed 18 feet in height; provided, however, when the detached accessory building is located in a rear yard with a ground elevation lower than that of surrounding the primary residential structure, the height of the accessory building may be measured from a plane parallel to the first floor of the primary residential structure. Accessory structures in all other districts may be constructed to equal the permitted maximum height of structures in such districts.

(F) In no case shall a residential accessory structure have a flat, level roof. All accessory structure roofs must be sloped to allow water drainage.

(G) Temporary carport and storage structures, whether manufactured or home-built, shall adhere to all requirements of § 82-545 for detached accessory structures. Permits for temporary carports and storage structures are limited to a period of two years, and said temporary carport or storage structure shall be removed upon expiration. Temporary carport and storage structures shall be securely fastened to ground in a manner sufficient to prevent its detachment due to wind or weather.

(H) When a building accessory to a residential building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, such building shall not project beyond the front yard line required on the lot in the rear of such corner lot. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, such building shall not project beyond the side yard line of the lot in the rear of such corner lot. In no instance shall a building accessory to a residential building be located nearer than ten feet to a street right-of-way line.

(I) Accessory buildings and structures shall be designed and constructed to be compatible with the design and construction of the principal building on the site. Design elements that should be considered in determining compatibility include: exterior building material (which need not be identical to the principal building but compatible in appearance), roof style and pitch, architectural style, and color.

(J) The provisions concerning the size and height in this section shall not apply to accessory buildings on a farm (such as barns and silos).

(K) Wireless transmission antennas and towers are subject to the following the requirements of §82-459.

(1) A maximum height limit of 60 feet for towers and antennas is permitted in residential districts.

(2) No maximum height limit is required in nonresidential districts.

(3) In all districts a tower or antenna shall be located on the parcel or lot in such manner that the base of the tower or antenna is set back from all property lines not less than the height of the tower or antenna.

(L) Recreational equipment owned by residents of the city may be stored on their individual lots in accordance with the provisions of this section.

(1) All recreational equipment parked or stored shall not be connected to sanitary facilities; and shall not be occupied, except as provided in subsection (a) of this section.

(a) In any residential district it shall be lawful for only nonpaying guests at a residence to occupy a single recreational vehicle for a period not exceeding 72 hours. The total number of days during which recreational vehicles may be occupied under this subsection shall not exceed 10 in any calendar year on the premises of a dwelling unit.

(2) Recreational equipment shall be maintained in a clean, well-kept state so as not to detract from the appearance of the surrounding area. A suitable, securely fastened weatherproof cover shall be placed on all boats whenever stored outside. In lieu of a cover, canoes and rowboats may be stored such that they do not collect and retain rainwater. Snowmobiles, ATV's, personal watercraft and similar vehicles shall be stored under a suitable, securely fastened weatherproof cover, or stored within an enclosed trailer.

(3) Recreational equipment shall be operable and shall have a current license or registration when applicable.

(4) Recreational equipment stored on residential lots may be parked in the following manner:

(a) Inside any enclosed structure.

(b) Outside in the rear yard on an improved surface (gravel, asphalt or concrete), no closer than five feet to any side or rear lot line, and no closer than ten feet to the primary residential structure.

(c) Outside in the side yard on an improved surface (gravel, asphalt or concrete), no closer than five feet to any side

or rear lot line, and no closer than ten feet to the primary residential structure, and provided such parking shall be behind the front face of the primary residential structure.

(d) Outside on the front driveway or improved surface directly adjacent to the front driveway, provided that the vehicle is no closer than 15 feet to the front lot line. The provisions of § 82-454(L)(4)(c) do not apply to recreational equipment stored under the provisions of this section.

(e) Notwithstanding the provisions of this section, a recreational vehicle may be parked anywhere on the premises, or within a public right-of-way area where street parking is permitted, during active loading or unloading.

(f) The combined area covered by the dwelling, accessory structures, and the area covered by the outside storage of such units shall not exceed 40% of the net lot area.

(5) The provisions of this section shall not apply to recreational equipment officially designated for barrier-free use in accordance with state law, and used as the regular means of transportation by or for a handicapped person.

(M) A resident of a dwelling unit may have not more than one motorized vehicle for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of vehicles. A resident may conduct minor automobile repairs of vehicles of the resident such as oil changes and tune ups between the hours from sunrise to sunset on the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicle of other than a resident of the dwelling unit on such property. The sale of vehicles from a residential property shall not exceed two vehicles in any one year for a period not to exceed two weeks in any one year.

(N) Freestanding solar panels shall be considered an accessory building and shall be subject to the requirements for such, together with all other applicable building codes and ordinances.

(O) Wind generators may be permitted in rear yards when the following conditions are met.

(1) The highest point of any portion of the generator shall not exceed 35 feet above the average grade of the lot.

(2) The generator device shall be placed no closer to any side or rear lot line than the total distance between the grade of the lot at the base of the tower and the highest point of any portion of the generator.

(3) The maximum diameter formed by a circle encompassing the outermost portions of the blades or other wind activated surfaces shall not exceed 30% of the distance between the ground and the highest point of any portion of the wind generator. The generator shall be so located that no portion of the structure would penetrate the vertical plane of any adjacent property line if it were to topple over in its normally assembled configuration.

(4) The construction of the tower, blades, base structure, accessory building and wiring shall meet all applicable local building codes and ordinances.

(P) In all office, service and business districts, rooftop equipment and apparatus shall be screened from ground level by being housed in a penthouse or structure constructed of the same type of building materials used in the principal structure or by building design.

(1993 Code, § 82-454) (Ord. passed 10-12-1992; Ord. passed 3-13-2000; Ord. passed 11-12-2002(2); Ord. passed 1-13-2003(2); Ord. 2014-04, passed 9-8-2014; Ord. 2018-01, passed 10-8-2018)

§ 82-455 PARKING REQUIREMENTS.

There shall be provided in all districts, at the time of erection or enlargement of any main building or structure, automobile off-street parking space, with adequate access to all spaces. The number of off-street parking spaces in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as prescribed in this section.

(1) The provisions of this section shall not apply to mobile home parks. Mobile Home Commission Rules 920, 925 and 926 shall apply to all mobile home courts.

(2) Off-street parking spaces may be located within a rear yard or within a side yard which is in excess of the minimum side yard setback unless otherwise provided in this chapter. Off-street parking shall not be permitted within a front yard nor within a minimum side yard setback unless otherwise provided in this chapter.

(3) Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.

(4) Residential off-street parking spaces shall consist of parking strip, driveway, garage, or a combination thereof and shall be located on the premises they are intended to serve. In R-1, R-2 and R-T residential zones, parking is not permitted in a front yard except on an improved driveway with a concrete, asphalt, gravel or stone surface. Such driveway shall not utilize more than 35% of the front yard.

(5) In all districts except the CBD Central Business District, any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

(6) In all districts except the CBD Central Business District, off-street parking existing at the effective date of this chapter in connection with the operation of an existing building or use shall not be reduced to an amount less than required in this section for a similar new building or use.

(7) Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

(8) In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Board of Appeals may grant an exception.

(9) The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited except as otherwise provided in this chapter.

(10) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is similar in type.

(11) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require 1 parking space.

(12) The requirements of subsection (13) of this section shall not be applicable to those uses located in the CBD Central Business District. Parking for CBD uses is provided in common parking lots intended to serve all activities of the Central Business District.

(13) For the purpose of computing the number of parking spaces required, useable floor area as defined in §2-4 shall govern unless otherwise specified.

(14) Parking shall be provided in accordance with the number of spaces required in this section. Parking shall not exceed nor be less than the required space per unit of measure for new uses. In accordance with this section, the Planning Commission may approve additional or fewer spaces, provided the applicant demonstrates that adequate parking will be provided, excessive parking will be avoided and snow storage is accommodated.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule.

Use	Number of Minimum Parking Spaces per Unit of Measure
Use	Number of Minimum Parking Spaces per Unit of Measure
Residential	
Housing for the elderly	1 for each 3 units and 1 for each employee; should units revert to general occupancy, then 2 spaces per unit shall be provided
Residential, one family	2 for each dwelling unit
Residential, two family and multiple family	2 for each dwelling unit
Mobile home	2 for each mobile home plus 1 for each employee of a mobile home park
Bed and breakfast establishments	1 for the owner/operator and 1 for each guest room
Institutional	
Churches and temples	1 for each 3 seats or 6 feet of pews in the main unit of worship
Hospitals/health care centers	2 for each 1 bed
Convalescent homes and nursing homes	1 for each 4 persons in residence and 1 space for each 2 employees in the largest work shift
Elementary and junior high schools	1 for each 1 teacher, employee or administrator, plus the requirements for the auditorium or stadium
High schools	1 for each 1 teachers, employee or administrator and 1 for each 10 students, plus the requirements for the auditorium or stadium
Private clubs or lodges	1 for each 3 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes
Private golf clubs, swim clubs, tennis clubs or other similar uses	1 for each 2 member families or individuals, plus spaces required for restaurant or bar which is open to the public
Golf courses open to the general public except miniature courses	4 for each 1 golf hold and 1 for each employee, plus spaces required for each accessory use such as a restaurant or bar

Stadium and sports arena or similar place of outdoor assembly	1 for each 4 seats or 8 feet of benches
Theaters and auditoriums	1 space for each 3 seats, plus 1 for each 2 employees
Library, museum or post office	1 for each 150 square feet of usable floor space
Nursery schools, group day care homes and day care centers	1 for each care giver or teacher, plus off-street loading space for children entering and leaving the facility
Commercial	
Auto wash (automatic)	1 for each 1 employee; in addition, reservoir parking spaces equal in number to 5 times the maximum capacity of the auto wash; maximum capacity of the auto wash shall mean the greatest number of automobiles possible under ground some phase of washing at the same time, which shall be determined by dividing the length of feet of each wash line by 20
Auto wash (self-washing service or coin operated)	3 for each stall in addition to the stall itself
Beauty parlor or barber shop	2 spaces for each of the first 2 chairs, and 1-1/2 spaces for each additional chair
Bowling alleys	5 for each bowling lane plus parking for accessory uses
Dance halls, roller rinks, exhibition halls, and assembly halls without fixed seats	1 for each 3 persons allowed within the maximum occupancy load as established by the Fire Marshal
Drive-in restaurant	1 for each employee and 1 for each 25 square feet of usable floor area
Drive-through	1 for each employee and 5 stack-up spaces for each drive-through window or station
Carry-out (with no eating on premises)	1 for each employee and 1 for each 60 square feet of usable floor area with a minimum of 4 spaces
Establishments for sale and consumption, on the premises, of beverages, food or refreshments	1 for each 100 square feet of useable floor area or 1 for each 2 persons allowed within the maximum occupancy load as established by local, county or state fire, building, or health codes, whichever is greater
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses	1 for each 800 square feet of useable floor area (for that floor area used in processing, 1 additional space shall be provided for each 2 persons employed therein)
Gasoline service stations (full service)	2 for each lubrication stall, rack or pit; and 1 for each gasoline pump island; and 1 for each vehicle used as part of the equipment of the gasoline service station; no spaces are required for self-service pumps; additional parking shall be provided for any accessory retail use as required for such use
Gasoline filling stations (self service)	1 space plus 1 space for each employee on the largest working shift; but not less than 3 spaces in any instance; additional parking shall be provided for any accessory retail use as required for such use
Ice skating or roller rink	1 for each seat or 6 feet of benches, or 1 for each 150 square feet of skating area, whichever is the greater
Laundromats and coin operated dry cleaners	1 for each 2 machines
Miniature golf courses	2 spaces per hold plus 3 spaces for employees
Golf driving range	1 space for each driving tee plus 3 spaces for employees
Mini storage rental units	1 space for each employee and 1 space for each additional 50 storage rental units
Mortuary establishments	1 for each 50 square feet of assembly rooms, parlors, and slumber rooms useable floor space

Motel	1 for each rental unit, plus 2 additional spaces for management and/or service personnel
Motor vehicle sales and service establishments	1 for each 200 square feet of useable floor area of sales room and 1 for each 1 auto service stall in the service room
Pool hall or club	1 for each 3 persons allowed within the maximum occupancy load as established by the Fire Marshal
Retail stores except as otherwise specified herein	1 for each 150 square feet of useable floor area
Planned commercial or shopping center	Applicant shall demonstrate parking demand, but not less than 1 space per 300 square feet of gross floor area
Amusement arcade	1 for each 1 game table and 1 for each amusement device
Athletic clubs, exercise establishments, health studios, sauna baths, judo clubs and other similar uses	1 parking space for each 3 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health clubs plus 1 space per employee; in those instances where memberships are provided for, not less than 1 space per each 5 memberships shall be provided plus 1 space per employee or 1 space for each 2 clothing lockers, plus 1 space per employee, whichever is the larger
Establishments for adult entertainment	1 for each 100 square feet of useable floor area or 1 for each 2 persons allowed within the maximum occupancy load as established by local, county or state fire, building, or health codes, whichever is greater

Offices

Banks	1 for each 100 square feet of useable floor area
Banks (drive-in)	1 for each employee; in addition, reservoir waiting spaces at each service window or station shall be provided at the rate of 5 for each service window or station; each waiting space shall measure not less than 20 feet in length
Business offices or professional offices except as indicated in the following item	1 for each 300 square feet of useable floor area
Professional offices of doctors, dentists or similar professions	1 for each 75 square feet of useable floor area in waiting rooms, and 1 space for each examining room, dental chair or similar use area

Industrial

Industrial or research establishments	1 space on site for every 2 employees in the largest working shift or 1 for each 450 square feet of useable floor area in those instances where shift size is unknown; space on the site shall also be provided for all construction workers during periods of plant construction
Wholesale establishments	1 for every 1 employee in the largest work shift, or 1 for every 1,700 square feet of useable floor space, whichever is greater
Warehouses	1 for every employee in the largest work shift

Parking for Handicapped (All Districts)

Shall comply with the provisions of the Americans With Disabilities Act (ADA). The number and layout of spaces required shall comply with ADA accessibility guidelines, including the following.

<i>Accessible Parking Spaces* (required minimum)</i>	<i>Accessible Spaces</i>	<i>Guideline for Layout of Spaces</i>
<i>Total Parking Spaces in Lot</i>		
1 - 25	1	PU Diagram
26 - 50	2	
51 - 75	3	
76 - 100	4	
101 - 150	5	
151 - 200	6	
201 - 300	7	
301 - 400	8	
401 - 500	9	

501 - 1,000	2**	
1,001 and over	20**	

* Accessible spaces are required to be 8'0" wide, with an adjacent access aisle 5'0" wide. One in every 8 accessible spaces shall have an access aisle 8'8" wide (rather than 5') and shall be signed "van accessible."

** Percent of total.

*** Plus 1 space for each 100 over 1,000.

(1993 Code, § 82-455) (Ord. passed 10-12-1992; Ord. passed 9-14-1998(2); Ord. 2012-01, passed 6-11-2012)

§ 82-456 OFF-STREET PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE.

Whenever the off-street parking requirements in §82-455 require the building of an off-street parking facility, or where P-1 vehicular parking districts are provided, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations.

(A) No parking lot shall be constructed unless and until a permit therefor is issued by the building official. Applications for a permit shall be submitted to the city in such form as may be determined to the city in such form as may be determined by the building official and shall be accompanied with two sets of plans for the development and construction of the parking lot showing the provisions of this section will be fully complied with.

(B) Adequate ingress and egress to the parking lot shall be provided and approved by the city engineer who shall have full power to regulate and determine the places of ingress and egress so that traffic on the streets and highways of the city shall be controlled, regulated and coordinated and to require the installation and maintenance of suitable barriers to insure the safety of pedestrians passing any such parking lot, in order to provide for the greatest possible public safety and welfare. Such necessary directional signs and controls as are required by the city shall be established and maintained by the owner or lessee of the parking lot. All drives and parking shall be surfaced in a manner equivalent to that which is provided for the parking areas under § 82-404.

(C) All spaces shall be provided adequate access by means of maneuvering lanes.

(D) All drives shall be surfaced in a manner equivalent to that which is provided for the parking areas under §82-404. Screening and landscaping and lighting shall be provided in keeping with the requirements of §§ 82-403 and 82-405. Plans for the layout of a parking lot shall show a total dimension across two tiers of spaces and one aisle (maneuvering lane) of at least the standards as required in § 82-400.

(E) Off-street parking areas shall be provided with a continuous and completely obscuring wall or fence in accordance with the specifications of § 82-403, on all sides where the next zoning district is designated as a residential district.

(F) The parking area shall be so designed as to provide a landscape plan in accord with §82-403 and § 82-460.

(Ord. passed 10-10-1992)

§ 82-457 OFF-STREET LOADING AND UNLOADING.

On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated streets or alleys. Such space shall be provided as follows:

(A) All spaces in OS-1, B-1, B-2 and B-3 districts shall be provided in the ratio required in §§2-426*et seq.*, under minimum rear yard.

(B) All spaces shall be laid out in the dimensions of at least ten by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent durable and dustless surface. All spaces in I and IRO districts shall be provided in the following ration of spaces to usable floor area.

Gross floor area (in Square feet)	Loading and unloading spaces required in terms of square feet of usable floor area
0—20,000	One space
20,000—100,000	One space plus one space for each 20,000 square feet in excess of 20,001 square feet
100,000—500,000	Five spaces plus one space for each 40,000 square feet in excess of 100,001 square feet

(Ord. passed 10-12-1992)

§ 82-458 USES NOT OTHERWISE INCLUDED WITHIN A SPECIFIC USE DISTRICT.

Because the uses referred to in this section possess unique characteristics making it impractical to include them in a specific use district classification, they may be permitted by the city council after review by the planning commission under the conditions specified, and after public hearing. In every case, the uses hereinafter referred to in this section shall be specifically prohibited from all residential districts. These uses require special residential districts. These uses require special consideration since they service an area larger than the city and require sizable land areas, creating problems of control with reference to abutting use districts. Reference to those uses failing specifically within the intent of this section is as follows:

(A) *Outdoor theaters.* Because outdoor theaters possess the unique characteristic of being used only after darkness and since they develop a concentration of vehicular traffic in terms of ingress and egress from their parking area, they may be permitted in I-1 districts. Outdoor theaters shall further be subject to the following conditions:

(1) The proposed internal design shall receive approval from the building official and the city engineer as to adequacy of drainage, lighting and other technical aspects.

(2) Points of ingress and egress shall be available to the outdoor theater from abutting major thoroughfares (86-foot right-of-way or greater), and shall not be available from any residential street.

(3) All vehicles waiting or standing to enter the facility shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.

(4) The area shall be so laid out as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares. All lighting used to illuminate the area shall be so installed as to be confined within, and directed onto the premises of the outdoor theater site.

(B) *Commercial television and radio towers, public utility microwaves, cellular transmissions towers and public utility TV transmitting towers.* Radio and television towers, public utility microwave and public utility TV transmitting towers, and their attendant facilities, shall be permitted in I-1 districts provided such use shall be located centrally on a continuous parcel of not less than one times the height of the tower to all points on each property line. The site shall in no instance be used for the storage of vehicles or any material not required for the principal use. Outdoor storage of any kind shall be expressly prohibited.

(C) *Airports and landing fields.* Airports and landing fields, including structures accessory to such facilities and for the operation of an airport, may be permitted in an area zoned for industrial purposes, provided access directly to the site is from an abutting major thoroughfare, provided that land under runway approaches shall not be put to any use which might later serve as a basis for an effective argument that the space above should not be used by aircraft, and provided by the Civil Aeronautics Administration be submitted with the request for use.

(Ord. passed 10-12-1992)

§ 82-459 RESERVED.

(1993 Code, § 82-459)

Editor's note:

Ord. passed 9-14-1998(3) repealed § 82-459 in its entirety. Former § 82-459 pertained to regulations to prevent blight and derived from Ord. passed 10-12-1992, § 5.183, and from Ord. passed 3-23-1998.

§ 82-460 PLANT MATERIALS AND LANDSCAPING REQUIREMENTS.

(A) *Greenbelt requirements.* Whenever in this chapter a greenbelt or planting is required, it shall be planted to completion within 180 days of occupancy of the building or structure unless a longer period is permitted in writing by the Zoning Official. Planting shall thereafter be reasonably maintained, including permanence and health of plant materials to provide a screen to abutting properties and including the absence of weeds and refuse. Withered and/or dead plant materials shall be replaced within a reasonable period of time, but no longer than one growing season.

(B) *Minimum standards.* The landscape standards of this article are considered the minimum necessary. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of their property.

(C) *Landscaping commission review.* For existing and proposed uses that require site plan approval to either expand or be built, landscaping should be installed insofar as practical. The planning commission in its review of the site plan has the authority to increase, decrease or otherwise modify the landscaping and screening requirements of this article. In doing so, the commission shall consider the following criteria:

- (1) The amount of space on the site available for landscaping.
- (2) Existing landscaping on the site and on adjacent property.
- (3) The type of use on the site and size of the development.
- (4) Existing and proposed adjacent land uses.
- (5) The effect the required landscaping would have on the operation of the existing or proposed land use.

(D) *Plant material size.*

- (1) Plant material shall not be located within 4 feet of the property line.
- (2) Where plant materials are placed in 2 or more rows, plantings shall be staggered in rows.
- (3) Evergreen trees shall not be less than 7 feet in height.
- (4) Narrow evergreen trees shall not be less than 5 feet in height when used as screening.
- (5) Large shrubs shall be a minimum of a #5 container (18" to 24").
- (6) Small shrubs shall be a minimum of a #3 container (15" to 18").
- (7) Larger deciduous trees shall not be less than 2-2 1/2 inches in caliper measured one foot above ground level.
- (8) Ornamental trees shall not be less than 1 3/4" – 2 1/2" in caliper measured 1 foot above ground level.

SUGGESTED PLANT MATERIALS LIST

LARGER TREES		
Norway Maple - Acer platanoides	Red Maple - Acer rubra	Sugar Maple - Acer saccharum
Beech - Fagus	Honeylocust - Gleditsia - thornless	Dawn Redwood - Metasequoia glyptostroboides
Bloodgood London Planetree-Platanus x acerifoli	Oak - Quercus	Linden - Tilia

ORNAMENTAL TREES		
Serviceberry - Aelanchier	Crabapple - Disease Resistant - Malus	Canada Red Chokecherry - Prunus
Ornamental Pearl - Pyrus calleryana		

EVERGREEN TREES		
Fir	Pine	Spruce

NARROW EVERGREENS		
Arborvitae	Upright Junipers	Upright Yews

LARGE DECIDUOUS		
Barberry	Buckthorn	Border Privet
Burning Bush	Forsythia	Lilac
Viburnums		

SMALLER DECIDUOUS		
Cottoneaster	Dwarf Lilac	Potentilla
Spirea	Viburnum	Weigela

LARGE SHRUBS		
<i>Deciduous</i>		
Honeysuckle	Lilac	Forsythia
Border privet	Buckthorn	Sumac
Pyracantha	Barberry	Flowering quince
Sargent crabapple	Dogwood (Red Osier, Grey)	

Cotoneaster (Pekin, Spreading)		
<i>Evergreen</i>		
Irish yew	Hicks yew	Mugo pine
Pfitzer juniper	Savin juniper	

SMALL SHRUBS		
<i>Deciduous</i>		
Regal privet	Fragrant sumac	Japanese quince
Potentilla	Compact burning bus	Cotoneaster (Cranberry, Rockspray)
<i>Evergreen</i>		
Dwarf mugo pine	Big leaf winter creeper	Arborvitae
Low spreading junipers (Andora, Hughes, Tamarak, and the like)		
Spreading yews (Dense, Brown's, Ward, and the like)		

TREES NOT SUGGESTED		
Silver Maple - Acer saccharium	Boxelder - Acer nugundo	Honeylocust - Gleditsia - thorned
Mulberry - fruiting - Morus	Poplar - Populus speciers	Black Locust - Robinia species
Willow - Salix species		

(2) *Mixture required.* A mixture of plant materials (evergreen and deciduous trees and shrubs) is required in all landscape plants as a protective measure against disease and insect infestation.

(3) *Parking lot landscaping and screening.*

(a) Parking lots of greater than 5,000 square feet in area shall meet the following landscaping requirements for the interior of the parking lot:

1. One canopy tree for every 20 parking spaces, with a minimum of two trees, shall be planted in end islands within the parking area;
2. Each interior landscaped area shall have at least 150 square feet;
3. Required parking lot landscaping areas shall be covered with turf, shredded bark, stone, or living ground cover plants;
4. Each interior landscaped area shall be protected by a raised standard or rolled curb and gutter unless otherwise approved by the Planning Commission.

(4) *Greenbelts.* Greenbelts shall be required where a developed parcel or parking lot abuts a public thoroughfare in the RM-1, RM-2, MH, OS-1, B-1, B-2, B-3, PD, IRO, I-1, and I-2 Zoning Districts. Greenbelts shall meet the following standards.

- (a) Greenbelts are to be constructed only on private property and are not a part of the public rights-of-way.
- (b) The minimum width of a required greenbelt shall be at least 10 feet.
- (c) Greenbelts shall contain 1 tree for each 75 lineal feet of frontage, or fraction thereof, on a public thoroughfare. At least one-half of the required trees shall be canopy trees.
- (d) Greenbelts shall contain 4 shrubs for each 20 lineal feet or fraction thereof. Said shrubs shall be planted in beds of mulch, bark, or stone.
- (e) If a landscape screen is required along a public thoroughfare, the greenbelt tree planting requirements shall still apply.
- (f) In no case shall greenbelts be considered as a part of the off-street parking area landscape requirements.
- (g) The Zoning Administrator may recommend approval of alternate spacing arrangements and alternative numbers of plant materials if the intent of reducing negative effects between incompatible land uses is achieved.

(5) *Landscape screening between land uses*

(a) Multiple family residential land uses adjacent to a public park facility or land principally used or zoned for single family residential shall have the following between it and all areas of such park or residential land:

1. Wall or fence shall be provided with a minimum height of six feet; or a hedge, berm, or combination thereof forming a continuous screen at least four feet high, if approved by the Planning Commission;
2. Multiple family projects shall also provide a minimum of 1 deciduous or evergreen tree for every 1,000 square feet of open space on the development site. Trees in any required screen may be counted toward this requirement.

(b) The following screening features shall be provided by any commercial or office development which is adjacent to a public park or land principally used or zoned for single family residences:

1. A landscaping area having a minimum width of 15 feet. This area shall consist of natural landscape materials such as lawn, ground cover, shrubs, and trees, and shall not contain impervious materials;
2. A wall or fence shall be provided with a minimum height of 6 feet; or a hedge, berm, or combination thereof forming a continuous screen at least 4 feet high if approved by the Planning Commission;
3. Required tree plantings: 1 deciduous tree or evergreen tree shall be provided for every 75 feet of lot line shared with a residential or park use or zoned property.

(c) The following screening features shall be provided by any industrial property which abuts a residential or park use:

1. A landscape screen at least 15 feet in width. Screen areas shall consist of natural landscape materials such as lawn, ground cover, shrubs, and trees, and shall not contain impervious materials;
2. A wall or fence shall be provided with a minimum height of 8 feet; or a hedge, berm, or combination thereof forming a continuous screen at least 4 feet high if approved by the Planning Commission;
3. Required tree plantings: 1 deciduous or evergreen tree for every 75 feet of lot line shared with a residential or park use or zoned property.

(d) In cases where an industrial project abuts a commercial or office use a 15 foot wide screening area shall be provided. Screening shall include a wall or fence of 6 feet in height and 1 deciduous tree or evergreen tree per 75 feet of linear distance of shared lot line.

(6) *Building fronts and interior grounds.* Interior landscaping areas, constituting at least 5% of the total building main floor area, shall be provided in every nonresidential development or residential development with attached dwelling units, except in the CBD District. Interior landscaping should be grouped near building entrances, along building foundations, along pedestrian walkways and along service areas in accordance with the following standards:

- (a) One deciduous or 1 evergreen tree shall be required for every 1,000 square feet of required interior landscaping area.
- (b) One shrub shall be required for every 250 square feet of required interior landscaping area.
- (c) The interior landscaping area shall contain grass, ground cover, or 4 inch deep shredded bark.

(7) *Solid waste dumpsters.* Solid waste dumpsters and recycling storage containers may be located on a commercial, industrial, or multiple family properties, provided that they are screened on all sides by a continuous opaque fence at least 6 feet high.

Access to the dumpster shall be via a latching opaque gate that shall remain closed when the dumpster is not being serviced. Acceptable gate enclosure materials include wood and chain link fencing with privacy slats. Acceptable screening materials include wood, brick, and masonry.

(1993 Code, § 82-460) (Ord. passed 10-12-1992; Ord. passed 10-11-1999(1); Ord. passed 3-13-2000; Ord. passed 1-10-2005)

Cross reference:

Landscape standards for parking areas, see Appendix F

§ 82-461 SIGNS.

(A) The following conditions shall apply to all signs erected or located in any use district:

- (1) All signs shall conform to all applicable codes and ordinances of the municipality and, where required, shall be approved by the building official and a permit issued.
- (2) No sign, except those established and maintained by the city, county, state or federal governments, shall be located, project into, or overhang a public right-of-way or dedicated public easement, without permission of the governmental unit controlling the right-of-way or easement.
- (3) No sign shall be located so as to obstruct the view of traffic on streets for vehicle drivers entering or leaving a premises.

(4) No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which located.

(5) Signs containing only directional information, pedestrian or vehicle warnings, and control information shall be permitted in all use districts. Such signs shall have a surface display area of not more than three square feet and shall not exceed five feet in height.

(6) Nonaccessory signs shall not be permitted in any district. Nonconforming nonaccessory signs may not be expanded, enlarged or extended, but may be maintained and repaired so as to continue the useful life of the sign.

(7) Signs used for advertising land or buildings for rent, lease and/or for sale shall be permitted when located on the land or building intended to be rented, leased and/or sold.

(8) Freestanding signs may be allowed within a required front yard.

(9) Special event signs advertising sales or grand openings may be permitted under the following conditions:

(a) A sign application must be submitted, which provides the size, means of securing, and a site plan showing the location for signs 32 square feet or larger. A maximum of one sign per parcel may be allowed.

(b) Signs up to 8 square feet may be allowed with a maximum of four per business.

(c) No signs shall be located on utility poles, street signs or trees.

(d) Signs will be allowed for a maximum of 14 days and a maximum of 6 times within a year.

(10) Community event. Signs (including special event signs or banners) advertising activities may be permitted under the following conditions:

(a) A sign application must be submitted, which provides the dates, duration, site plan and location for the display.

(b) No signs shall be located on utility poles, street signs or trees.

(c) The sign shall not exceed 32 square feet.

(d) There shall be no more than 1 sign on any parcel or lot.

(e) The application must be approved by the Building Department.

(11) For open house signs for auctions or for the sale of real estate, a sign shall not exceed four square feet and shall not be placed in the city right-of-way. Open house signs may be displayed 1 week (7 days) prior to the advertised event and removed immediately after the event.

(12) Signs and their supporting structures (poles, braces, brackets, and closing structural framework and the like) shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of the announcement, display, illustration, or insignia, and preservation of structure with paint or other surface finish material so that the sign and support structure shall be without rust, corrosion, peeling paint, or other evidence of dilapidation.

(13) It shall be unlawful to maintain a sign or sign supporting structure which is structurally unsafe, or constitutes a hazard to safety or health, or which has not been properly maintained pursuant to the aforementioned subsection or has been abandoned. Any sign or sign supporting structure which does not meet these requirements is hereby declared to be a public nuisance. The owner of said sign or sign supporting structure shall have 30 days to abate the nuisance by either making repairs or removing the sign, as directed by the building official. If the repairs are not made or the sign is not removed as directed by the building official, the building official shall file with the city clerk the notice given to the owner, occupant, mortgagee, lessee, agent, and such other persons having an interest in the sign or supporting structure, and a report on the findings of the building department giving rise to said notice, and there shall be a hearing before city council pursuant to the provisions as set forth at § 52-2 of the Charlotte City Code.

(14) One freestanding or 1 ground sign shall be allowed.

(15) Those signs or sign structures that involve motion or rotation of any part of the structure, running animation or running video displays, whether digital or analog, or incorporating flashing or moving lights, are prohibited.

(B) The following shall apply to the various use districts as indicated:

(1) Use district R-1, R-2 and R-T districts.

(a) Construction signs not exceeding 4.5 square feet per sign face and 36 inches in height shall be permitted.

1. Construction signs shall be permitted 7 days prior to the start of a minor construction project and may remain 7 days after completion not to exceed 45 days total.

2. Construction signs for major projects that include foundations shall be permitted 7 days prior to the start of the project and may remain until the occupancy permit is issued.

(2) Use district R-1, R-2, R-T, RM-1, RM-2 and MH districts.

(a) For each dwelling unit, 1 name-plate not exceeding 2 square feet in area, indicating name of occupant.

(b) For structures other than dwellings, 1 identification sign not exceeding 10 square feet per sign face, except for churches under the following conditions:

1. For churches located on state trunk lines and major streets, as that term is defined under the major street system of the city, it shall not exceed 32 square feet per sign face.
2. For churches located elsewhere, a sign not exceeding 18 square feet per sign face.
3. Signs may only be ground signs not to exceed 5 feet in height.

(c) For rental and/or management offices in a multiple housing development, 1 identification sign not exceeding 6 square feet per sign face.

(d) In RM-1, RM-2 and MH districts, where the multiple housing project abuts a single family use, or zoning district, 1 sign at each drive entrance indicating the name of the multiple housing project shall be permitted provided that no such sign shall exceed 10 square feet per sign face. Only ground signs compatible with the surrounding development shall be permitted for this purpose with a maximum height of 5 feet.

(e) In RM-1, RM-2 and MH districts abutting districts other than R-1, R-2, and R-T, 1 sign at each drive entrance indicating the name of the multiple housing project shall be permitted provided that no such sign shall exceed 32 square feet per sign face. Only ground signs compatible with the surrounding development shall be permitted for this purpose with a maximum height of 5 feet.

(f) For bed and breakfast dwelling units, a sign not exceeding 6 square feet in area may be placed on the wall of the dwelling unit, or a freestanding ground sign not to exceed 10 square feet, with a maximum height of 3 feet, and that only 1 sign per establishment be allowed.

(g) Garage sale signs may be displayed only during the conduct of such sale and should be promptly removed upon completion of such sale. Location of garage sale signs on street, utility poles, trees and at any location within the city right-of-way shall be prohibited.

(h) Subdivision identification signs shall be ground signs only and shall not exceed 32 square feet per sign face at entrances to a subdivision outside the rights-of-way of any public or private street. The location of such sign shall meet all corner clearance requirements so as not to obstruct traffic vision.

(i) In the RM-2 district, a sign to announce a grand opening shall be permitted, up to 32 square feet in size, for a period not to exceed 60 days for each building under permit.

(j) For home occupations, 1 wall sign or 1 freestanding sign not to exceed 3 square feet. Freestanding sign must be placed parallel to the front of the residence, with no portion to extend beyond a 36 inches distance from the front of the residence. Sign height may not exceed 4 feet. Exterior lighting specific to sign will not be permitted.

(3) Use district B-1, OS-1 and mixed use districts.

(a) No sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than 1 foot, and shall not project above or beyond the highest point of the roof or parapet. One sign shall be permitted for each office unit occupying a building.

(b) One accessory ground sign not over 5 feet in height and not exceeding 32 square feet in area per sign face may be located in the required front yard provided such sign is located no less than 20 feet from any property line of an adjacent residential district and shall be located so as not to obstruct traffic vision.

(c) Accessory wall signs not exceeding 100 square feet in area or ten percent of the area of the front wall of the structure, whichever is less.

(d) One freestanding accessory sign not over 20 feet in height. Such signs shall not be placed closer than 100 feet to any adjacent residential district. Such sign shall be not over 64 square feet in area per sign face and may be located in the required front yard provided that the bottom of the structure, excluding supporting structure, is at least eight feet above grade.

(e) Two restaurant menu signs per drive through with 1 sign being a pre-menu board and 1 sign a regular menu board that do not exceed 96 inches in height.

(4) Use District B-2 and B-3 Districts.

(a) No sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than one foot, and shall not project above or beyond the highest point of the roof or parapet. One sign shall be permitted for each office unit occupying a building.

(b) One freestanding accessory sign not over 20 feet in height. Such signs shall not be placed closer than 100 feet to any adjacent residential district. Such sign shall be not over 100 square feet in area per sign face and may be located in the required front yard provided that the bottom of the structure, excluding supporting structure, is at least eight feet above grade.

(c) Except as provided for in subsection (g), accessory awning and wall signs not to exceed 100 square feet in area or ten percent of the area of the side of the structure where the sign is located, whichever is less, may be permitted.

(d) One ground sign shall be permitted and shall not exceed five feet in height. Such signs shall not be placed closer than 100 feet to any adjacent residential area. Such sign shall not exceed 32 square feet per sign face.

(e) In those instances where a group of stores in a shopping center or plaza with a common parking lot to serve all stores, one freestanding sign for the shopping center or plaza not exceeding 150 square feet per sign face and not over 20 feet in height may be located in a required front yard no closer than 100 feet to any adjacent residential district. The bottom of the structure, excluding supporting structure, shall be not less than eight feet above grade.

(f) Two restaurant menu signs per drive through with 1 sign being a pre-menu board and 1 sign a regular menu board that do not exceed 96 inches in height.

(5) Use district PDD.

(a) As a guide, the normal sign regulations for the proposed use will be considered by the planning commission in granting its approval.

(6) Use District I-1, IRO and 1-2 Districts.

(a) No sign shall project beyond or overhang the wall or any permanent architectural feature by more than one foot.

(b) One accessory ground sign, not to exceed eight feet in height and 80 square feet in area per sign face, may be located in the required front yard and shall be located so as not to obstruct traffic vision.

(c) Accessory wall signs, not exceeding 100 square feet in area, or ten percent of the area of the side of the structure where the sign is located, whichever is greater.

(C) Advertising signs pertaining to real estate developments located within the city and designed to promote the sale of lots or homes within a subdivision located within the city may be permitted by the Building Department on a temporary basis provided the following conditions are met:

(1) Such accessory signs shall not exceed 32 square feet in area. Signs which are freestanding shall comply with schedule of regulations if located on subdivided land. If located on unsubdivided land, the yard requirements need not apply. No sign shall be located on any road rights-of-way.

(2) A temporary permit shall be obtained for each accessory sign from the Building Department.

(3) Temporary accessory signs shall be kept in good condition and must be removed when the development is 90% complete.

(D) Political campaign signs announcing the candidacy of persons running for public office or issues to be voted upon at an election and other information pertinent thereto must be removed within seven days after the election to which they pertain. There shall be a service charge of \$50 to the owner of each political sign removed by the city after the seven day time limit has expired.

(E) Use District CBD. Signs, Banners, and Flags in the Central Business District.

(1) No sign shall project above or beyond the highest point of the roof or parapet.

(2) One freestanding accessory sign not over 20 feet in height. Such signs shall not be placed closer than 100 feet to any adjacent residential district. Such sign shall not be over 32 square feet in area per sign face and may be located in the required front yard provided that the bottom of the structure, excluding supporting structure, is at least eight feet above grade.

(3) Accessory awning and wall signs not to exceed 100 square feet in area or 10% of the area of the side of the structure where the sign is located, whichever is less, may be permitted.

(4) One ground signs shall be permitted. Such signs shall not be placed closer than 100 feet to any adjacent residential area. Such sign shall not exceed 32 square feet per sign face or five feet in height.

(5) Sidewalk signs shall only be permitted in the Central Business District.

(a) Sidewalk signs shall be limited to two and one-half by three feet in size and must be removed by the closing of the business day.

(b) Sidewalk signs shall not interfere with pedestrian passage nor create a public safety hazard.

(c) Any sidewalk sign in disrepair or not properly placed may be removed by the city at owner's expense so as not to create an unsafe or blight condition.

(d) Sidewalk signs, which are rolling signs, may not exceed five feet in height and shall occupy an area no greater than seven and one-half square feet.

(e) Each separate business shall be allowed one sidewalk sign whether the business encompasses more than one store-front or less than one store-front.

(f) No permit shall be required for a sidewalk sign.

(6) For signs, banners, and flags.

(a) A banner is to be utilized only to promote a grand opening sale or special event. A banner may be erected for a period not to exceed 15 days.

(b) The number of banners shall be limited to six approvals per business or non-profit organization per calendar year with no banner being used consecutively.

(c) A banner promoting a commercial purpose shall be limited to ten percent of the first floor wall space, per street front, but not to exceed 40 square feet. A banner which promotes a non-profit purpose or event shall be limited to 50 square feet.

(d) A banner shall be attached to the building, for example, it shall not be mounted or hung from utility poles, wires, light standards or other publicly owned property. No banner shall be at a height greater than the top of the wall to which it is attached. Non-profit organizations, however, may place a banner on their building face or yards, but shall not exceed 50 square feet.

(e) Any banner in disrepair or not properly hung may be removed by the city so as not to create an unsafe or blighted condition at owner's expense.

(f) A sticker-style permit must be obtained from the city prior to installation of banners.

(g) Each separate business on a premises with multiple businesses shall be allowed a banner, provided, however, that there shall be required a separate entrance for each banner.

(h) Balloons are to be utilized only to promote a grand opening, sale or special event. A balloon display may be erected for a period not to exceed three consecutive days in any one week.

(i) The number of balloons shall be no more than 12 in any one grouping and no balloons shall be more than 15 inches in diameter.

(j) Each separate business shall be allowed 12 balloons whether the business encompasses more than one store front or less than one store front.

(k) Balloons shall not be mounted or hung from utility poles, wires, light standards or other publicly owned property.

(l) Any balloon display in disrepair or not properly hung may be removed by the city at the owner's expense so as not to create an unsafe or blighted condition.

(m) A flag may be displayed for a period not to exceed 15 consecutive days in any one approval period.

(n) Flag approvals shall be limited to four per business per 12 month period.

(o) Each separate business shall be allowed one flag whether the business encompasses more than one store-front or less than one store-front.

(p) A flag shall be limited to 18 square feet.

(q) A flag shall be attached to the building face only, for example, it shall not be mounted or hung from utility poles, wires, light standards or other publicly owned property.

(r) No flag shall be at a height greater than the top of the wall to which it is attached.

(s) Any flag in disrepair or not properly hung may be removed by the city at the owner's expense so as not to create an unsafe or blighted condition.

(t) Nothing shall restrict the display of the American, state, city, school or community flags, which may be hung from the building and which may over-hang the sidewalk, provided that:

1. It is not more than 18 feet square in size;
2. It is properly anchored; and
3. That the lowest portion of the flag is at least eight feet above grade.

(u) Display of the American, state, city, school or community flags shall be permitted on property owned by the government or by a non-profit organization and shall be exempt from these requirements.

(v) Flags promoting a public purpose may be erected on city light poles. Permission to place such flags must be granted by the Building Department. Such flags must be at least eight feet above sidewalk grade and are exempt from all other requirements relating to flags in the above paragraphs.

(F) Banners, Balloons, Flags, Sidewalk Signs, and Temporary Signs in the OS-1, B-1, B-2, B-3, I-1, IRO, and I-2 Districts.

(1) Banners shall be permitted to be displayed at any time during the year.

(2) Banners may only be attached to the principal structure.

(3) A banner promoting a commercial purpose shall be limited to ten percent of the first floor wall space, per street front, but not to exceed 32 square feet.

(4) A banner shall be attached to the building, for example, it shall not be mounted or hung from utility poles, wires, light standards, or other publicly owned property. No banners shall be at a height greater than the top of the wall to which it is attached.

(5) Any banner in disrepair or not properly hung may be removed by the city at owner's expense so as not to create an unsafe or blighted condition.

(6) Balloons are to be utilized only to promote a grand opening, sale or special event.

(7) Balloons shall not be mounted or hung from utility poles, wires, light standards or other publicly owned property.

(8) Any balloon display in disrepair or not properly hung may be removed by the city at the owner's expense so as not to create an unsafe or blighted condition.

(9) Each separate business shall be allowed one flag whether the business encompasses more than one store-front or less than one store-front.

(10) A flag shall be attached to the building face only, for example, it shall not be mounted or hung from utility poles, wires, light standards or other publicly owned property.

(11) Any flag in disrepair or not properly hung may be removed by the city at the owner's expense so as not to create an unsafe or blighted condition.

(12) Nothing shall restrict the display of the American, state, city, school or community flags, which may be hung from the building.

(G) Unregulated Signs. The following signs are exempt from regulation by this Chapter.

(1) One wall sign or one ground sign not exceeding one square foot in surface display area to designate an assigned house number or building name. Such signs shall not be counted in the total sign area permitted the premises. Such signs in excess of one square foot in surface display area may be permitted as part of the total sign area otherwise permitted under this chapter.

(2) Any sign, traffic signal, or warning device erected or displayed by any public agency, such signs shall not be counted against the number of signs or against the total sign area permitted on the premises in which they are located.

(3) Free-standing signs or wall signs indicating "No Parking", "Fire Lane," "Entrance" and similar wording when such signs are required to be erected by a public agency. Such signs shall not be counted against the number of signs or against the total sign area permitted on such premises, provided they do not exceed three square feet per sign. No license shall be required for such sign if approved by the traffic engineer.

(4) Signs existing on the effective date of the adoption of this chapter which are maintained by a church, school, community center, or other public building.

(5) Banners, balloons, and flags, in R-1, R-2, R-T, RM-1, RM-2, and MH Districts.

(6) Memorial signs or tablets denoting the name or date of erection of a building when cut into any masonry surface or when constructed of bronze or other noncombustible material.

(7) Flags bearing the official design of a unit of government, education institution, or civic league or organization, fraternal benefit societies, order or association, or any organization operated exclusively for religious, charitable, scientific, literary, or education purposes. Providing such flags confirm to subsection (7)(t).

(8) Signs not exceeding 2 square feet which contain only noncommercial messages including designation of rest rooms, telephone location, or direction of door openings.

(9) Parking information signs containing only directional information or pedestrian or vehicular warning and control material. Such signs shall have a surface display of not more than three square feet and shall not exceed 5 feet in height.

(10) Parking reservation signs not exceeding 1 square foot in surface display area and not exceeding three feet in height.

(11) Political signs which meet the requirements of §82-461(d) of the city zoning ordinance.

(12) One wall or free-standing real estate sign, provided that, such signs are removed 10 days after the sale, lease, or rental of the property upon which erected, subject to the following further conditions:

(a) Real estate signs in residential areas shall not exceed 9 square feet in surface display area per face, and, if they are freestanding, shall be set back at least 15 feet from the nearest property line.

(b) Real estate signs in commercial areas shall not exceed 16 square feet in surface area per face, nor exceed 8 feet in height, and, if they are freestanding, shall be set back at least 25 feet from the nearest existing or future curb line, in the absence of the curbs, 25 feet from the nearest edge of pavement, and that only 1 sign per road frontage be allowed.

(13) Signs maintained by a political subdivision of the State of Michigan.

(14) Directly or indirectly illuminated signs which do not contain any illustration or communicate any message other than time, temperature, barber poles, or market quotations.

(15) Plaques or signs not exceeding 6 square feet designating a historic structure or district.

(16) One building directory sign not exceeding 6 square feet with letter height not greater than 2 inches painted on or attached to the building which contains only names of the building occupants.

(H) Appeals.

(1) Sign board of appeals. The Charlotte Zoning Board of Appeals shall constitute a board of appeals for purposes of this chapter.

(2) Reduction, modification or waiver. The board of appeals may authorize a variance from the requirements of this chapter upon request provided the standards established hereinafter are fully met.

(3) Standards for reduction, modification or waiver. Standards for a variance are as follows:

(a) That there is a practical difficulty in the way of carrying out the strict letter of this article.

(b) That the practical difficulty is due to unique circumstances related to the particular property and not general to other property in the district, neighborhood, or throughout the city.

(c) That the problem was not created by the applicant.

(d) That granting the variance will not alter the essential character of the neighborhood or district.

(e) Every variance granted shall be in the minimum amount necessary to overcome the inequity inherent in the particular property.

(I) Height restriction. No height variance shall be granted from the height restrictions except in cases where topographic or landscaping features restrict visibility. A variance of no more than 5 additional feet may be granted.

(1993 Code, § 82-461) (Ord. passed 10-12-1992; Ord. passed 1-8-1996(2); Ord. passed 2-12-1996; Ord. passed 1-11-1999(2); Ord. passed 7-23-2001; Ord. passed 3-11-2002(11); Ord. passed 7-12-2004; Ord. passed 12-12-2005; Ord. passed 9-11-2006; Ord. passed 4-9-2007(2); Ord. passed 4-9-2007(3); Ord. passed 3-10-2008)

§ 82-462 EXTERIOR LIGHTING.

(A) All outdoor lighting in all use districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences.

(B) All outdoor lighting in all use districts shall be directed toward and confined to the ground areas of lawns or parking lots.

(C) All lighting in nonresidential districts used for the external illumination of buildings, so as to feature the buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.

(D) Illumination of signs shall be directed or shaded downward so as not to interfere with vision of persons on the adjacent highways or adjacent property.

(E) All illumination of signs and any other outdoor feature shall not be of a flashing type. Artificial light shall be maintained constant in intensity and color at all times when in use.

(1993 Code, § 82-462) (Ord. passed 10-12-1992)

§ 82-463 CORNER CLEARANCE.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of 2 feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection, nor shall such obstruction to vision be permitted at the intersection of any driveway or alley and a street right-of-way line within a triangular area formed at such intersection by a straight line drawn between the driveway or alley line and the street right-of-way line at a distance along each line of 15 feet from their point of intersection. In those instances where such triangular area cannot be constructed on the property in question, a 15-foot setback shall be required between the property line and the driveway or alley. (See Appendix G)

(1993 Code, § 82-463) (Ord. passed 10-12-1992)

§ 82-464 RESIDENTIAL ENTRANCEWAY.

In all residential districts, so-called entranceway structures, including but not limited to walls, columns and gates marking entrances to single family subdivisions or multiple housing projects, may be permitted and may be located in a required yard, except as provided in § 82-458, provided that such entranceway structures shall comply with all codes of the city and shall be approved by the Building Department and a permit issued.

(1993 Code, § 82-464) (Ord. passed 10-12-1992)

§ 82-465 FENCES, RESIDENTIAL.

Residential fences are permitted as follows.

(1) Fences in residential districts not exceeding 6 feet 6 inches in height may be constructed within a required rear or interior side yard; for example, along the property line. On exterior side yard lines, fences or walls not exceeding 6 feet 6 inches in height may be constructed on the setback line for structures. (See Appendix H.) Ornamental fences, not exceeding 42 inches in height as measured from the established sidewalk or curb grade may be located within a front yard. Ornamental fences shall be faced decorative side outward. All fences shall comply with § 82-463, related to corner clearance. Notwithstanding the above restrictions, fences which are to be used for decorative or privacy reasons in residential districts may be constructed to a height of 12 feet or the height of the main building eave, whichever is less. Said height shall be determined by a measurement from grade. Such fences will not be allowed to intrude into any front, side, or rear yard setback and may not extend beyond the front plane of the residence.

(2) Recorded lots having a lot area in excess of 2 acres and a frontage of at least 200 feet, and acreage or parcels not included within the boundaries of a recorded plat, are excluded from these regulations.

(3) Fences shall not contain barbed wire, electric current or charge of electricity.

(4) Fences which enclose public or institutional parks, playgrounds or public landscaped areas, situated within an area developed with recorded lots, shall not exceed 8 feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25% of their total area.

(5) Residential fences shall not contain any sharp points unless approved by the Building Department.

(1993 Code, § 82-465) (Ord. passed 10-12-1992; Ord. passed 7-24-1995; Ord. passed 1-11-1999(3))

§ 82-466 FENCES, INDUSTRIAL.

Industrial fences are permitted as follows.

(1) Fences not exceeding 3 feet in height shall be allowed within the required front yard. All fences shall comply with § 82-463, related to corner clearance.

(2) Fences not to exceed 8 feet in height shall be permitted in side yards, rear yards, and nonrequired front yards. Barbed wire in not more than 3 strands mounted in a wye at the top of the fence shall be permitted, provided such wye is located to project over the property being fenced.

(3) Recorded lots having a lot area in excess of 2 acres and a frontage of at least 200 feet, and acreage or parcels not included within the boundaries of a recorded plat, are excluded from these regulations.

(4) Fences shall not contain barbed wire, electric current or charge of electricity.

(5) Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots, shall not exceed 8 feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25% of their total area.

(1993 Code, § 82-466) (Ord. passed 10-12-1992)

§ 82-467 WALLS.

(A) For those use districts and uses listed below there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall as required below, except as otherwise required in subsection (F) of this section.

Use	Requirements
Use	Requirements
P-1 Vehicular Parking District	4'6" high wall
Off-street parking area (other than P-1 Districts)	4'6" high wall
B-1, B-2, B-3, CBD and OS-1 Districts	4'6" high wall
IRO, I-1, I-2 Districts – open storage areas, loading or unloading areas, service areas	4'6" to 8' high wall or fence. Height shall provide the most complete obscuring wall possible
Auto wash, drive-in restaurant	6'0" high wall
Hospital – ambulance and delivery areas	6'0" high wall
Utility buildings, stations and/or substations	6'0" high wall

(B) The Planning Commission may in its review of site plans for specific uses allow or require the provision of an earth berm and/or a greenbelt planting consisting of trees and shrubs to serve as an obscuring wall, where such obscuring walls

are required under this chapter, and where conditions are such that a more effective and harmonious development with abutting or neighboring land uses would result. Review and approval shall be required by the Planning Commission of types of plant materials and their location in such greenbelt.

(C) Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this chapter requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the Planning Commission may approve a reduction in height requirements or may approve an alternate location for the wall or may waive the wall requirement if in specific cases it would not serve the purposes of screening the parking area effectively. Required walls may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the Planning Commission in reviewing such request.

(D) Walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except such openings as may be approved by the Chief of Police and the Building Official. All walls required in this section shall be constructed of materials approved by the Building Official to be durable, weather resistant, and rustproof, and shall be maintained by the property owner or tenant at all times equal in condition to the completed structure at the time of initial installation. Walls may be constructed with openings which do not in any square section (height and width) exceed 20% of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the Building Official.

(E) The city may require that suitable maintenance guarantee be provided for the continued maintenance of walls required under this chapter.

(F) The requirement for an obscuring wall between off-street parking areas, outdoor storage areas, and any abutting residential districts shall not be required when such areas are located more than 200 feet distant from such abutting residential district.

(G) The Board of Appeals may waive or modify the requirements of this section where cause can be shown that no good purpose would be served.

(1) In consideration of request to waive all requirements between nonresidential and residential districts, the Board shall refer the request to the Planning Commission for a determination as to whether or not the residential district is considered to be an area in transition and will become nonresidential in the future.

(2) In such cases as the Planning Commission determines the residential district to be a future nonresidential area, the Board may temporarily waive wall requirements for an initial period not to exceed 12 months. Granting of subsequent waivers shall be permitted, provided that the Planning Commission shall make a determination, as described in this section, for each subsequent waiver prior to the granting of such waiver by the Board. (See Appendix I.)

(1993 Code, § 82-467) (Ord. passed 10-12-1992)

§ 82-468 USE RESTRICTION.

No portion of a lot or parcel once used in complying with the provisions of this chapter for yards, lot area per family, density as for a development in the multiple-family district, or percentage of lot occupancy in connection with an existing or proposed building or structure shall again be used as part of the lot or parcel required in connection with any other building or structure existing or intended to exist at the same time.

(1993 Code, § 82-468) (Ord. passed 10-12-1992)

§ 82-469 FRONTAGE ON A PUBLIC STREET.

No zoning lot shall be used for any purpose permitted by this chapter unless the lot abuts a public street, unless otherwise provided for in this chapter. This provision shall not apply to mobile home parks which are regulated in accord with Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 *et seq.*, as amended.

(1993 Code, § 82-469) (Ord. passed 10-12-1992)

§ 82-470 ACCESS TO MAJOR THOROUGHFARE OR COLLECTOR STREET.

For uses making reference to this section, vehicular access shall be provided only to an existing or planned major thoroughfare or collector street. Provided, however, that access driveways may be permitted to other than a major thoroughfare or collector street where such access is provided to a street where the property directly across the street between the driveway and the major thoroughfare or collector street is zoned for multiple-family use or any nonresidential uses, is developed with permanent uses other than single-family residences or is an area which, in the opinion of the Planning Commission, will be used for other than single-family purposes in the future. This exception shall apply only if the Planning Commission finds that there are special circumstances which indicate that there will be a substantial improvement in traffic safety by reducing the number of driveways to a thoroughfare.

(1993 Code, § 82-470) (Ord. passed 10-12-1992)

§ 82-471 SITE PLAN REVIEW FOR ALL DISTRICTS.

(A) A nonsealed site plan shall be submitted for the Planning Commission approval for the following.

- (1) When, in the opinion of the Building Department a drawing or plan is needed for proper Planning Commission review.
- (2) For building additions or accessory buildings in excess of 1,000 square feet in the RM-1, RM-2, OS-1, B-1, B-2, B-3, IRO, I-1 and I-2 Districts.
- (3) Whenever a single family dwelling is converted to a use other than a two family dwelling and such use would not otherwise require a sealed site plan by this section and if such use abuts a single or two family dwelling, the Planning Commission shall review such plan to ensure that the proposed use will not have an adverse impact on the abutting single family or two family dwellings. In its review, the Commission may require landscaping, fencing, the reduction of on-site lighting or similar measures to ensure that the impact of the proposed use on nearby residents is minimized.
- (4) Reserved.
- (5) Reserved.
- (6) Reserved.

(B) A sealed site plan shall be to the City Building Department for the following:

- (1) Any new development in an RM-1, RM-2, OS-1, B-1, B-2, B-3, IRO, I-1 and I-2 Districts;
- (2) Any expanded use, change of use, building addition or accessory building in RM-1, RM-2, OS-1, B-1, B-2, B-3, IRO, I-1, or I-2 District which requires additional off-street parking as required in § 82-455 over and above 15% of that existing;
- (3) Any nonresidential class A nonconforming use;
- (4) Any nonresidential use or change of use in the R-1, R-2 or RT Districts;
- (5) Any new construction (not including additions) of a non-residential nature in the R-1, R-2 or RT Districts except single family and two family dwellings. This shall not include uses which are conducted from a residence where the business operator lives (i.e. day care, bed and breakfast, home occupations);
- (6) Any additions to non-residential structures in the R-1, R-2 or R-T Districts where the addition exceeds 1,000 square feet or where additional off-street parking is required over and above 15% of existing parking spaces provided as required in § 82-455. This shall not include uses which are conducted from a residence where the business operator lives (i.e. day care, bed and breakfast, home occupations).

(C) Applications for sealed site plan approval for all projects shall consist of the following.

- (1) Application form and appropriate fee as adopted by the City Council.
- (2) Ten full-size copies of the site plan and 1 reduced copy, no larger than 11 inches x 17 inches which can be photocopied.
- (3) A scale of not less than 1 inch = 50 feet if the subject property is less than 3 acres and 1 inch = 100 feet if 3 acres or more.
- (4) Date, north point, and written and graphic scale.
- (5) Legal description; lot line dimensions, tax parcel number(s), and address of the site.
- (6) Name and address of the property owner of record, developer, and any architect, planner, designer, engineer or other licensed professional responsible for the preparation of the site plan.
- (7) Vicinity map, showing the location of the site, in relation to the nearest cross street and section corner.
- (8) General information about the site:
 - (a) Zoning district of the site and all adjacent properties;
 - (b) Land use of the site and all adjacent properties and buildings within 100 feet of subject property;
 - (c) Proposed use of the site;
 - (d) Parcel area in acres or square feet, including property line dimensions;
 - (e) The location of all existing structures on the subject property and within 100 feet of the subject property, including buildings, drives, parking areas, wells, septic tanks, drain fields, utilities, poles, ditches, underground storage tanks, above ground storage areas, and the like;
 - (f) Existing deed restrictions, if any;
 - (g) Location, width and purpose of existing easements;
 - (h) Soil type information;
 - (i) Location and type of natural features on or adjacent to the site, such as woods, streams, marshes, wetlands, fence

rows, individual trees of 6 inches or larger in caliper when not located in a woods, and the 100 year flood area;

(j) Existing topography on the site.

(9) General information about the proposed development on the site:

(a) The location of all proposed structures on the subject property (length and width of all buildings must be labeled);

(b) Ground floor and total floor area to be constructed;

(c) Floor coverage ratio (ground floor area/lot area);

(d) Floor area ratio (total floor area/lot area);

(e) Number of buildings;

(f) Building height, in feet and number of floors;

(g) Required yards and setbacks and corner clearance (delineated on the plan);

(h) Number of parking and loading spaces required and supporting calculations, including provisions for barrier free spaces;

(i) Size of parking spaces, aisles, and angle of proposed parking spaces with a clear indication of all paved areas;

(j) Proposed fences or screens, location, height, type and typical details;

(k) Proposed site lighting location, type, height, intensity, direction, and other typical details;

(l) Proposed deed restrictions, if any;

(m) Location and screening of trash storage areas. (Per §82-460(6)) If no outdoor trash areas are intended, the plan shall so state;

(n) Proposed identification and advertising signs location, dimensions and area, height, illumination, typical copy;

(o) Proposed on-site traffic control signs location, type, height;

(p) Proposed building address number locations, typical copy, dimensions.

(10) Utilities plan demonstrating the general proposed utility layout for sanitary sewer, water, storm water, communication (i.e. telephone and cable TV), electricity, fire hydrants (both on and off site), fire lanes, and natural gas.

(11) Information about the proposed and existing transportation network:

(a) Surface type and right-of-way widths of all existing streets and alleys abutting the site;

(b) Surface type, right-of-way width, easements, location and type of curbing, length and width of turning lanes, and curve radii for all proposed drives, alleys and/or streets;

(c) The names of all proposed streets, alleys, and drives;

(d) Proposed sidewalk and pedestrian paths location, width, surface types, and typical cross section;

(e) Acceleration lanes and traffic pattern.

(12) Site grading, drainage, and retention plan, including on-site elevations for pavements, drives, parking lots, curbs, sidewalks and finish grade at building except in the R-1, R-2, and RT Districts.

(13) Landscape plan showing plant materials to be used in accordance with §82-460.

(14) In addition to the items listed above, residential development site plans must also indicate:

(a) Number and type of dwelling units;

(b) Individual lot dimensions and areas;

(c) Number and timing of phases;

(d) Proposed location of central mailboxes, if applicable;

(e) The location of open and/or recreation areas, if applicable.

(15) In addition to the items listed above, multiple family developments must include the following additional items:

(a) Total number of rooms;

(b) Total number of dwelling units;

(c) Number of dwelling units and bedrooms in each building;

(d) Percent of 1 room apartments (efficiencies);

- (e) Special site features (play areas, pools, and the like), if applicable;
- (f) Number and timing of phases;
- (g) The location of central mailboxes, if applicable.

(D) In the process of reviewing the site plan, the Planning Commission shall utilize the following checklist:

- (1) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and including acceleration and deceleration lane needs;
- (2) Needs for service drives (marginal access roads);
- (3) Parking lot layout, including ingress, egress, and driveway widths;
- (4) Loading and unloading areas and building service areas;
- (5) Location and requirements for fences, walls and greenbelts;
- (6) Special site features such as play areas, pools, and the like;
- (7) Landscape plans showing size and type of plant materials utilized.

(E) Mobile home park site plans shall not be required to follow the procedures given in subsections (A) through (D) of this section. Review of plans for mobile home parks shall be conducted in accord with R 325.338 Rule 81 of the Michigan Administrative Code.

(F) *Approval duration.* Following approval of the site plan, the Building Inspector may issue a building permit upon approval of proper construction plans and shall insure that the development is undertaken and completed in accordance with the approved plans. For any approved site plan, building permits must be obtained encompassing a minimum of 25% of the gross floor area shown on the site plan within 12 months of the date of site plan approval, or the site plan shall be deemed null and void, without any further action by the city. The Planning Commission may, upon application in writing stating the reasons therefore, extend the 12-month period for an additional period of up to 12 months. Renewal must be requested in writing prior to the expiration of the site plan approval. The site plan may be renewed twice and the Planning Commission may require compliance with any ordinances adopted after the applicant received the original approval.

(G) The intent of this subsection is to permit improvement and minor modification to a conforming use and building which does not meet all of the site improvement regulations of this chapter. The intent is to permit partial compliance with the article requirements for site improvements for developed or partially developed sites which predate the zoning ordinance standards for landscaping, paving and non-safety site related improvements. Such improvements or expansions may be permitted by the Planning Commission during site plan review without a complete upgrade of all site elements under the following conditions.

(1) A finding by the Planning Commission that the applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building and site improvements or expansion. For a change in use requiring site plan review, the site shall be brought toward conformity with the minimum standards of the ordinance as much as reasonably possible.

(2) The applicant has addressed all safety related site issues on the overall site.

(3) (a) For landscaping, the applicant shall bring the portion of the site proposed to be changed or expanded into full compliance with current landscaping requirements of the article. For the remainder of the site where no changes or expansions are proposed, the applicant shall bring the site toward conformity with current landscaping standards at twice the rate of the building or parking lot expansion, whichever is greater. (For example, a site plan showing a 10% expansion of the building floor area and 15% expansion of the number of parking spaces shall require a minimum 30% of the landscaping, in terms of landscaping area and quantity of plants, on the portion of the site where no changes or expansions are proposed).

(b) This landscaping requirement shall apply to the paving of any portion of an existing gravel parking lot that is 5,000 square feet or greater in area of the paving of parking lots for uses which require 17 or more parking spaces in accordance to § 82-455.

(4) The improvements of minor expansion shall not increase noncompliance with site requirements of this chapter.

(5) For nonconforming uses or structures in the B-3 zone, the site must be designated as a class A nonconforming use or structure by the Planning Commission, as set forth in § 82-453(B), and the site plan must demonstrate compliance with all applicable class A conditions, as set forth in § 82-453(C).

(1993 Code, § 82-471) (Ord. passed 10-12-1992; Ord. passed 1-8-1996(2); Ord. passed 4-12-1999; Ord. passed 10-11-1999(2); Ord. passed 3-13-2000;

Ord. passed 10-9-2000(2); Ord. passed 9-10-2001(4))

§ 82-472 PERFORMANCE STANDARDS.

No use otherwise allowed shall be permitted within any district which does not conform to the following standards of use, occupancy and operation, which standards are hereby established as the minimum requirements to be maintained within

such area.

(1) *Smoke.* It shall be unlawful for any person, firm or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 2 on the Ringlemann chart; provided that the following exceptions shall be permitted.

(a) Smoke, the shade or appearance of which is equal to but not darker than No. 3 on the Ringlemann chart for a period aggregating 4 minutes in any 30 minutes.

(b) Smoke, the shade or appearance of which is equal to but not darker than No. 3 of the Ringlemann chart for a period, aggregating 3 minutes in any 15 minutes, when building a new fire or when breakdown of equipment occurs such as to make it evident that the emission was not reasonably preventable.

Method of measurement. For the purposes of grading the density of smoke, the Ringlemann chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the umbrascope readings of smoke densities may be used when correlated with the Ringlemann chart.

(2) *Dust, dirt and fly ash.* No person, firm or corporation shall operate or cause to be operated, maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating while using such process or furnace or combustion device, recognized and approved equipment, means, method, device or contrivance to reduce the quantity of gasborne or airborne solids of fumes emitted into the open air, which is operated in conjunction with such process, furnace, or combustion device so that the quantity of gasborne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

Method of measurement. For the purpose of determining the adequacy of such devices these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50% at full load. The foregoing requirement shall be measured by the ASME test code of dust separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The Building Official may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.

(3) *Glare and radioactive materials.* Glare from any process, such as or similar to arc welding, or acetylene torch cutting, which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, including electromagnetic radiation such as x-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

(4) *Fire and explosive hazards.*

(a) In the I-1 Industrial District, the storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the Fire Marshal, is permitted, subject to compliance with all other performance standards above mentioned.

(b) The storage, utilization or manufacture of materials, goods or products ranging from free to active burning to intense burning, as determined by the Fire Marshal, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned, and provided that the following conditions are met.

1. The materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having combustible exterior walls, which meet the requirements of the Building Code of the city.

2. All such buildings or structures shall be set back at least 40 feet from lot lines, or in lieu thereof all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.

3. The storage and handling of flammable liquids, liquified petroleum gases and explosives shall comply with the state rules and regulations as established by Public Act 207 of 1941, being M.C.L.A. §§ 29.1 *et seq.*, as amended.

(5) *Noise.* The emission of measurable noises from the premises shall not exceed 60 decibels as measured at the boundary property lines, except where normal street traffic noises exceed 60 decibels during such periods, the measurable noise emanating from such premises may equal, but not exceed, such traffic noises. This provision shall apply in all districts except as specified in this section for the I Districts.

I-1 District. In all I-1 Districts, the measurable noise emanating from the premises used for activities permitted shall not exceed 75 decibels during the normal work periods of between the hours of 6:00 a.m. and 10:00 p.m. and shall not exceed 70 decibels during the sleeping hours of 10:00 p.m. to 6:00 a.m., as measured at the property lines. Noises shall be muffled so as not to become objectional due to intermittence, beat frequency or high frequency.

(6) *Vibration.* Machines or operations which cause vibration shall be permitted in industrial districts, but no operation shall cause a displacement exceeding 0.003 of 1 inch as measured at the property line.

(7) *Odors.* Creation of offensive odors shall be prohibited.

(8) *Wastes.* All discharges to the city's publicly owned sewage treatment facility (sanitary sewer system) shall conform to appropriate regulations in Chapter 78 relating to sewer services. Mobile home parks shall be governed by State

Department of Health standards.

(1993 Code, § 82-472) (Ord. passed 10-12-1992)

§ 82-473 ENVIRONMENTAL IMPACT ASSESSMENT.

(A) *Intent.* An environmental impact assessment (EIA), providing the information and data specified in this section, in the form described, shall be required. This section shall not apply to mobile home parks which are under the jurisdiction of the State Department of Commerce.

(1) Whenever a project is proposed by a public agency, or by other agencies using public funds (excluding city municipal agencies), which significantly affects the quality of the human environment; or

(2) Whenever a project is proposed which, in the opinion of the City Manager, significantly affects the municipal service systems (transportation, waste water systems, potable water supply, storm drains, police services, fire services, library services, solid waste disposal services, emergency medical services); or

(3) When stipulated under the terms of this chapter or other chapters of this Code; or

(4) When required by the Planning Commission in order to assist in their consideration of a particular development proposal; or

(5) When a development proposal is submitted which, in the opinion of the Planning Commission, constitutes a substantial departure from the intent of the Master Land Use Plan.

The requirements contained in this section shall not relieve the project's sponsor from complying with EIA standards established by other public agencies having jurisdiction.

(B) *Submittal and approval requirements.* The sponsor of the project shall submit the following to the Secretary of the Planning Commission.

(1) *Preliminary environmental impact assessment.* A preliminary environmental impact assessment shall be submitted in conjunction with requests for rezoning or other land development proposals which enable developments which, in accordance with the provisions of this chapter, would require such submittals. A preliminary environmental impact assessment shall consist of the applicable information or material required by the following subsections of this section:

(a) Subsection (C), related to physical conditions;

(b) Subsection (D), related to project description;

(c) Subsection (E), impact analysis, subsections (1) through (4) inclusive;

(d) Other sections or subsection of this chapter as determined by the City Manager to be particularly important or necessary in order to provide adequate information regarding a specific rezoning or development proposal.

(2) *Final environmental impact assessment.* A final environmental impact assessment, including all applicable provisions of this chapter, shall be submitted in conjunction with applications for site plan approvals, special use approvals, land development projects, or building permits for developments which, in accordance with the provisions of this chapter, would require such submittals.

Prior to granting of building permits for projects covered by this chapter, provisions satisfactory to the City Council shall be made to assure the financing and/or installation of all road and utility improvements and the provision of additional services found, by the environmental impact assessment process, to be necessary to serve the project.

(C) *Physical conditions.*

(1) Legal description of the subject project prepared by a registered surveyor or civil engineer accompanied by a survey map of the property (scale 1" = 100', unless otherwise provided).

(2) Location map (minimum scale 1" = 800') indicating the location of the subject property in relation to the city's thoroughfare system.

(3) Land use and general development plan or schematic of the subject property (minimum scale 1" = 200') and adjacent properties within 1,000 feet of its property line. The zoning of properties within this area shall also be indicated.

(4) Site conditions of the subject property (scale 1" = 100', unless otherwise provided) indicating:

(a) Natural features such as streams, trees, bodies of water, floodplains, soil conditions and topography (maximum 2 foot contour interval);

(b) Location and size of existing facilities and utilities (thoroughfares, water service, sanitary sewer, storm drain, gas lines, electric lines, and the like).

(5) Limitation applicable to the development of the property (if any) as a result of proximity to airports.

(D) *Description of intended use with site plans and building elevations* Final environmental impact assessment shall include:

(1) An architectural model, to indicate the scale and massing of buildings. The requirement for submittal of an architectural model may be waived by the City Manager when it is determined that the proposed development will be similar to an existing development available for review, or otherwise of a nature whereby its scale, massing and potential relationship to adjacent development can readily be determined without assistance of an architectural model;

(2) Calculation of the quantities of proposed elements or functions of the development by type: gross and net floor area; number of dwelling units by type and bedroom count; parking spaces (including handicapped spaces) required and provided; rights-of-way; landscaped area required and provided, and the like;

(3) Anticipated number of employees, residents, school children by school type and senior citizens;

(4) Anticipated vehicular generation.

(E) *Project impact analysis.* A full analysis and description prepared by registered engineers, architects, public safety specialists, public facility specialists, and the like, as applicable, of the proposed project's required levels of service, as compared to the service levels available, and the means by which the sponsor intends to serve the project and resolve any potential deficiencies, relative to the following facility and utility systems and services.

(1) *Impact analysis; systems.*

(a) *Thoroughfares.* Information should include projections of traffic volumes generated adjacent to the site as a result of the project to properly accommodate these volumes.

(b) Water service facilities for providing potable water supply, fire flows and other uses, expressed in average and peak hour needs.

(c) Storm drains and retention facilities, including provisions for retention site landscaping and maintenance.

(d) Sanitary sewer, collection and treatment facilities.

(e) Solid waste collection, storage and disposal systems.

(f) Power, heat and communication systems.

(g) School facilities.

(h) Transportation facilities and services other than private automobile. Such project impact analysis and information should take into account the potential development of adjacent areas which may be developed to similar intensities.

The sponsor shall present evidence that he has informed other affected organizations or agencies of the potential impact of the proposed project on their facilities and services. In this regard, all communications shall be submitted from organizations such as power and communications utilities, school districts, aeronautics authorities, and the like.

(2) *Impact analysis: services.* The sponsor of the proposed development shall submit information as to the project's impact upon the following service activities, indicating the steps being taken to alleviate any potential deficiencies or problems, or to supplement municipal involvement therein:

(a) Fire protection and prevention;

(b) Public and private safety and security systems;

(c) Emergency medical services;

(d) Lighting on and adjacent to the site;

(e) Recreation and leisure time facilities and activities, including library services.

(3) *Impact analysis: economics.* Overall analysis or information shall be presented indicating the public revenue benefits resulting from the proposed project, as compared to the costs in terms of services and facilities.

(4) *Impact analysis: natural and social environment.* The sponsor of the proposed development shall submit information and comments which indicate public advantages and disadvantages unique to the proposed project, or unavailable except as a result of the project, and shall approach matters such as, but not limited to, the following:

(a) Environmental improvements (landscaped areas, open space areas, tree preservation, replacement and enhancement, and other aesthetic benefits);

(b) The environmental impact assessment shall contain an indication of the means by which natural features such as water courses, bodies of water, stands of trees, and individual trees, apart from stands of trees, having a caliper of 4 to 10 inches D.B.H., are to be preserved or replaced;

(c) Employment opportunities;

(d) Service opportunities;

(e) Residential opportunities;

(f) Recreation and leisure time opportunities.

§ 82-474 WIRELESS COMMUNICATION FACILITIES.

It is the general purpose and intent of the city to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the city to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempts have been made to balance these potentially competing interests and promote the public health, safety and welfare.

(1) *Definitions.*

(a) Wireless communication facilities shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment, building, and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

(b) Attached wireless communications facilities shall mean wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

(c) Wireless communication support structures shall mean structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles or guyed wires.

(d) Co-location shall mean the location by 2 or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

(2) *Authorization.* Subject to the standards and conditions set forth in this section, wireless communication facilities shall be permitted uses in the following circumstances, and in the following zoning districts by right:

(a) Subject to the standards and conditions set forth below, wireless communication facilities shall be authorized as a permitted use within the following zoning districts: I-1 and I-2.

1. An existing structure will serve as an attached wireless communication facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the Planning Official, proposed to be either materially altered or materially changed appearance.

2. A proposed co-location upon an attached wireless communication facility which had been preapproved for such co-location as part of an earlier approval by the city.

3. An existing structure which will serve as an attached wireless communication facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the Planning Official, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.

4. A proposed tower in the I-1 and I-2 zoning districts subject to the provisions of (3), "general regulations," and the site plan review process outlined in § 82-471.

(b) Subject to the standards and conditions set forth in this section, wireless communication facilities shall be authorized as special land uses within the following zoning districts: OS-1, B-1, B-2, B-3 and IRO.

(c) If it is demonstrated by an applicant that a wireless communication facility may not be reasonably established as a permitted use under (a) above, and, is required to be established outside of a district identified in (b), above, in order to operate a wireless communication service, then, wireless communication facilities may be permitted elsewhere in the community as a special land use, subject to the criteria and standards of subsections (3), (4), (5), (6), and (7) below.

(3) *General regulations.*

(a) All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission in its discretion.

1. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

2. Facilities shall be located and designed to be harmonious with the surrounding areas.

3. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

4. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.

5. The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure). Towers over 300 feet in height will require a special use permit. The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.

6. No support structure shall be located closer than 30 feet to the property line of any residential district or use, or no closer than equal to the height of any adjacent residential building, whichever is greater. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the wireless communication structure.

7. Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in the zoning district in which the support structure is located.

8. There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.

9. The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.

10. Where an attached wireless communication facility is proposed on the roof of a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.

11. The Planning Commission shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.

12. The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the state. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.

13. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

(b) *Standards and conditions applicable to special land use facilities* Applications for wireless communication facilities which may be approved as special land uses shall be reviewed, and if approved, constructed and maintained, in accordance with the standards and conditions in subsection (3)(a). In addition, the applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of 1 or more of the following factors:

1. Proximity to an interstate or major thoroughfare;
2. Areas of population concentration;
3. Concentration of commercial, industrial, and/or other business centers;
4. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions;
5. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate;
6. Other specifically identified reason(s) creating facility need.

(c) All proposals shall be reviewed in conformity with the co-location requirements of this section.

(4) *Application requirements.*

(a) A site plan prepared in accordance with §82-471 shall be submitted, including the location, size, screening and design of all buildings and structures, including fences and outdoor equipment.

(b) The site plan shall also include a detailed landscaping plan where the support structure is being placed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing, which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.

(c) The application shall include a signed certification by a state-licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.

(d) The application shall also include a description of security to be posted at the time the facility is to be removed when it has been abandoned or is no longer needed. In this regard, the security shall, at the election of the applicant, be in the form of:

1. Cash;
2. Surety bond;
3. Letter of credit; or

4. An agreement in a form approved by the attorney for the community and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section of the ordinance, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the community in securing removal.

(e) The application shall include a map showing existing and known proposed wireless communication facilities within the city, and further showing existing and known proposed wireless communication facilities within 1 mile from all borders of the city, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. M.C.L.A. § 15.243(1)(f). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.

(5) *Special requirements for facilities proposed to be situated outside a zoning district in which the facility is permitted by right or special use permit.*

(a) For facilities which are not permitted uses under subsection (2) and proposed to be located outside of a zone identified in subsection (2), an application shall be reviewed and, if approved, facilities shall be constructed and maintained in accordance with the following additional standards and requirements.

1. At the time of the submittal, the applicant shall demonstrate that a location within the district/overlay zone cannot reasonably meet the coverage and/or capacity needs of the applicant.

2. Wireless communication facilities shall be of a design such as (without limitation) a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the city.

3. In single-family residential neighborhoods, site locations shall be permitted on the following sites (not stated in any order of priority), subject to application of all other standards contained in this section:

- a. Municipally owned site;
- b. Other governmentally owned site;
- c. Religious or other institutional site;
- d. Public park and other large permanent open space areas when compatible;
- e. Public or private school site.

(6) *Co-location.*

(a) *Statement of policy.* It is the policy of the city to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community and encourage the use of existing structures for attached wireless communication facility purposes. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the city that all users should co-locate on attached wireless communication facilities and wireless communication support structures in the interest of achieving the purposes and intent of this section. If a provider fails or refuses to permit co-location on a facility owned or otherwise controlled by it, where co-location is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. The provisions of this subsection are designed to carry out and encourage conformity with this policy.

(b) *Feasibility of co-location.* Co- location shall be deemed to be "feasible" for purposes of this section where all of the following are met:

1. The wireless communication provider entity under consideration for co-location will undertake to pay market rent

or other market compensation for co-location;

2. The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support;

3. The co-location being considered is technologically reasonable; for example, the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like;

4. The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the city, taking into consideration the several standards contained in this ordinance.

(c) *Requirements for co-location.*

1. A special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible co- location is not available for the coverage area and capacity needs.

2. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate co-location.

3. The policy of the community is for co-location. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co- location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

4. If a party who owns or otherwise controls a wireless communication facility fails or refuses to permit a feasible co-location, and this requires the construction and/or use of a new facility, the party failing or refusing to permit a feasible co- location shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the city, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the city for a period of 5 years from the date of the failure or refusal to permit the co-location. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the 5 year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

(d) *Offer of co-location required.* An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for co-location.

(e) Final approval for a wireless communication support structure shall be effective for a period of 6 months.

(f) *Incentive.* Review of an application for co-location, and review of an application for a permit for use of an existing facility shall be expedited by the city.

(7) *Removal.*

(a) A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of 1 or more of the following events:

1. When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use;

2. Six months after new technology is available at reasonable cost, as determined by the legislative body of the community, which permits the operation of the communication system without the requirement of the support structure.

(b) The situations in which removal of a facility is required, as set forth in paragraph (a)(1) above, may be applied and limited to portions of a facility.

(c) Upon the occurrence of 1 or more of the events requiring removal, specified in paragraph (a)(1) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Planning Official.

(d) If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the city may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

(1993 Code, § 82-474) (Ord. passed 10-11-1999(3); Ord. passed 3-12-2007)

§§ 82-475 – 82-490 RESERVED.

ARTICLE XXII. EXCEPTIONS

§ 82-491 AREA, HEIGHT AND USE EXCEPTIONS.

(A) The regulations in this chapter shall be subject to the following interpretations and exceptions.

(1) *Essential services.* Essential services serving the city and essential transportation services authorized by state and federal law shall be permitted as authorized and regulated by law and other ordinances of the municipality. Overhead or underground lines and necessary poles and towers to be erected for transmission systems defined as all lines conducting electricity between stations, commonly called high tension towers and lines, shall receive the review and approval, after a public hearing, of the Board of Appeals. Such review of the Board of Appeals shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers, and further shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city.

(2) *Voting place.* The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

(3) *Height limit.* The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments or wireless transmission towers; provided, however, that the Board of Appeals may specify a height limit for any such structure when such structure requires authorization as a conditional use.

(4) *Lot area.* Any lot existing and of record on the effective date of this chapter may be used for any principal use permitted other than conditional uses for which special lot area requirements are specified in this chapter, permitted in the district in which such lot is located whether or not such lot complies with the lot area and width requirements of this chapter. Such use may be made provided that all requirements other than lot area and width prescribed in this chapter are complied with, and provided that not more than 1 dwelling unit shall occupy any lot except in conformance with the provisions of this chapter for required lot area for each dwelling unit.

(5) *Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley for the purpose of applying lot area requirements of this chapter, one-half the width of such alley abutting the lot shall be considered as part of such lot.

(6) *Yard regulations.* When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architecture or site arrangement, such regulations may be modified or determined by the Board of Appeals.

(7) *Porches.* An open, unenclosed and uncovered porch or paved terrace may project into a front yard for a distance not exceeding 10 feet, but this shall not be interpreted to include or permit fixed canopies.

(8) *Projections into yards.* Architectural features, not including vertical projections, may extend or project into a required side yard not more than 2 inches for each 1 foot of width of such side yard and may extend or project into a required front yard or rear yard not more than 3 feet.

(9) *Access through yards.* For the purpose of this chapter access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of 9 inches above the grade upon which placed, shall for the purpose of this chapter not be considered to be a structure and shall be permitted in any required yard.

(10) *Lots having water frontage.* Those residential lots or parcels having water frontage and abutting a public thoroughfare shall maintain the yard on the water side as an open unobscured yard, excepting that a covered and/or uncovered boat well shall be permitted. Accessory structures shall be permitted in the setback between the abutting road right-of-way and the main building providing the front yard setback required in § 82-426 is met.

(B) The provisions of subsections (A)(4) through (A)(10) of this section shall not apply to mobile home parks.

(1993 Code, § 82-491) (Ord. passed 10-12-1992)

§§ 82-492 – 82-495 RESERVED.

ARTICLE XXIII. PLANNED DEVELOPMENT DISTRICT

§ 82-496 INTENT.

The PD Planned Development District is intended to permit the private or public development or redevelopment of areas throughout the city which shall be substantially in accord with the goals and objectives of the future land use plan for the city. The reuse and new development patterns of the areas involved shall provide a desirable environment and shall be harmonious to the general surrounding uses permitting flexibility in overall development while insuring adequate safeguards and standards for public health, safety, convenience and general welfare.

(1993 Code, § 82-496) (Ord. passed 3-10-1997)

§ 82-497 PROCEDURE FOR APPLICATION.

Application shall be made to the Planning Commission for consideration under this District. The applicant may be required to submit the following materials for review and recommendation to the City Council:

(1) Property area survey of the exact area being requested;

(2) Proof of ownership of land being requested for rezoning;

(3) Topographic map of the entire area at a contour interval showing 1 foot changes in elevation. This map shall indicate all natural and man-made features. (Scale 1 inch = 50 feet);

(4) Preliminary plan of the entire area carried out in such detail as to show the land uses being requested, the densities being proposed where applicable, the system of collector streets and off- street parking system;

(5) Written statement explaining in detail the full intent of the sponsor indicating the specifics of the development plan as it relates to the type of dwelling units contemplated and resultant population, the extent of the nonresidential development and the resultant traffic generated and parking demands created, and providing supporting documentation such as, but not limited to, market studies, supporting land use request, and the intended scheduling of development.

(1993 Code, § 82-497) (Ord. passed 3-10-1997)

§ 82-498 PRELIMINARY APPROVAL.

Approval of the preliminary plan by the City Council shall be effective for a period of 3 years. The preliminary plan approval may be extended by the Council for up to 2 years, upon the request of the applicant. In reviewing and approving the plan, the following conditions shall be set forth.

(1) The preliminary plan shall be reviewed and recommendation shall be made by the Planning Commission relative to the plan's meeting the general intent and the requirements of the future land use plan and guidelines for planned developments.

(2) Approval shall be given only after public hearing and shall be granted by rezoning the area to the PD District. Approval under this section is based on the plan submitted and the supporting documentation, and the plan, therefore, is basic to the rezoning.

(3) Once an area has been included within the PD District by having been granted preliminary approval, no development shall take place therein nor use made of any part thereof, until a final plan has been approved by City Council.

(4) Approval of the preliminary plan by the City Council shall not constitute approval of the final site plan; however, it shall be deemed as approval of the land use plan submitted and shall serve as a guide in the preparation of the final plan.

(5) The proposed PD District shall be of such area as to represent a substantial carrying out of the land use plan, it not being the intention of this district that an unrelated parcel by parcel rezoning be effectuated.

(6) Changes or amendments to the preliminary plan shall be reviewed and approved by the City Council. A public hearing may be required if the Council deems it necessary.

(1993 Code, § 82-498) (Ord. passed 3-10-1997)

§ 82-499 FINAL PLAN SUBMITTAL.

A presentation of the final site plan shall be made to the Planning Commission for review and recommendation.

(1) A final site plan for the entire area being requested under this PD District shall be submitted. This plan shall be worked out in detail showing specific uses, building location, building elevations, off-street parking, street alignment changes, open spaces, drainage utilities, and other physical plan details being proposed. The plan may be phased; however, detail relative to streets, infrastructure, and other items deemed necessary shall be provided about future phases in order to insure consistency and continuity. Supporting documentation in the form of building plans and schedules of construction may also be required.

(2) The final plan shall be in substantial compliance with the Guidelines for Planned Developments of current adoption.

(3) The final plan shall reflect the use patterns as approved in the preliminary plan. Minimum development standards are set forth in § 82-502.

(4) A landscape plan shall be submitted with the final plan.

(5) Plats, condominium documents, and similarly approved official documents may be used to satisfy final plan submittal requirements. Final plan, final plat, and condominium approval may be sought concurrently. Additional information may be required for final plan approval.

(1993 Code, § 82-499) (Ord. passed 3-10-1997)

§ 82-500 FINAL APPROVAL.

Approval of the final plan shall be effective for a period of 2 years. If development has not commenced in this period, the Planning Commission shall review progress to date and make a recommendation to the City Council as to action relative to permitting continuation under original approval. In reviewing and approving the final plan, the following conditions shall be set forth.

(1) Approval shall be granted by the City Council after review and recommendation by the Planning Commission. Public hearings may be required on the final plan.

(2) All dedications of public rights-of-way or planned public open spaces shall be made prior to any construction taking place on the site.

(3) In residential redevelopment areas, any prorated open space shall be irrevocably committed and retained as open space for park, recreation and related uses. All such lands dedicated in fee or easement shall meet the requirements of the City Council.

(4) Upon approval by the City Council of this chapter amendment, the site, building elevations and other development proposals, including the proposed uses, shall become an integral part of the zoning amendment to the PD District and for purposes of recordation, shall be referred to as "Planned Development No. _____" which number shall correspond to the number of the amending ordinance. All proposed plans shall be filed with the City Clerk.

(1993 Code, § 82-500) (Ord. passed 3-10-1997)

§ 82-501 REQUIRED CONDITIONS.

Before approving the plan in either the preliminary or final submittal, the Planning Commission and the City Council shall determine that:

(1) Provisions, satisfactory to the City Council, have been made to provide for the financing of any improvements shown on the open spaces and common use areas which are to be provided by the applicant and that maintenance of such improvements is assured by a means satisfactory of the City Council;

(2) The cost of installing all streets, necessary utilities, and other improvements has been assured by a means satisfactory to the City Council;

(3) The final plan of each project area of the approved plan is in conformity with the overall approved plan. Any changes or amendments requested shall suspend approval on the overall plan until such changes or amendments have been reviewed and approved as in the instance of the first submittal;

(4) Proceeding with a Planned Development District shall only be permitted if it is mutually agreeable to the City Council and the developer.

(1993 Code, § 82-501) (Ord. passed 3-10-1997)

§ 82-502 MINIMUM DEVELOPMENT STANDARDS.

(A) The minimum setback between buildings and/or structures shall be 10 feet.

(B) Parking shall be provided in accordance with §82-455 of the zoning ordinance.

(C) Signs shall be in accordance with §82-461, except no freestanding sign shall exceed 40 square feet per sign face, and shall not exceed 20 feet in height above grade. Ground signs if used in lieu of the allowed freestanding sign may have 50 square feet per sign face.

(1993 Code, § 82-502) (Ord. passed 3-10-1997)

ARTICLE XXIV. NEIGHBORHOOD COMMERCIAL MX-1 MIXED-USE OVERLAY DISTRICT

§ 82-510 MIXED-USE OVERLAY DISTRICT.

The overlay district, designated MX-1 Mixed-Use Overlay District, is hereby established.

(Ord. 2014-06, passed 10-13-2014)

§ 82-511 PURPOSE AND OBJECTIVES.

The purpose of the MX-1 Mixed-Use Overlay District is to:

(A) Accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units above the nonresidential space, while allowing that single uses in these buildings are permissible due to market conditions;

(B) Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets;

(C) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction; and

(D) Encourage the reuse and redevelopment of older and historic structures, recognizing that amendments to this subchapter may be necessary from time to time to accommodate this purpose.

(Ord. 2014-06, passed 10-13-2014)

§ 82-512 DEFINITIONS.

As used in this subchapter, the following words and terms shall have the meanings specified herein:

FLOOR AREA RATIO. The ratio of a building's gross floor area to the area of the lot on which the building is located.

GROSS FLOOR AREA. The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. **GROSS FLOOR AREA** does not include basements when at least one-half the floor-to-ceiling height is below grade, accessory parking (i.e., parking that is available on or off-site that is not part of the use's minimum parking standard), attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.

MIXED-USE BUILDING. A building that contains at least one floor devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.

(Ord. 2014-06, passed 10-13-2014)

§ 82-513 APPLICATION TO NONRESIDENTIAL DISTRICTS.

The MX-1 Mixed Use Overlay District is a zoning classification which permits owners of property within any zone other than R-1 One Family Residential and R-2 One Family Residential zones to petition City Council to establish an overlay district, and the district use regulations as set forth herein, on their property. Upon the filing of such petition, the petition shall be treated as a request for a zoning change and shall proceed under the Zoning Code in the same manner as a zoning classification change.

(Ord. 2014-06, passed 10-13-2014; Ord. 2016-03, passed 3-14-2016)

§ 82-514 USES.

(A) *Uses within the MX-1 Mixed-Use Overlay District.* Uses shall be permitted in accordance with the use table set forth herein. Where indicated under column P, the use shall be permitted as of right. Where the use is indicated under column C, the use shall be conditioned upon approval of the Planning Commission, which conditions and procedures are set forth hereinafter. The use table is as follows:

USE GROUP		
<i>Use category</i>	P	C
Specific use type		
USE GROUP		
<i>Use category</i>	P	C
Specific use type		
RESIDENTIAL		
<i>Household Living</i>		
Artist live/work space located above the ground floor	*	
Artist live/work space, ground floor		*
Dwelling units located above the ground floor	*	
Detached house		*
Multiunit (3+ units Residential)		
Single-room occupancy		*
Townhouse		*
Two-flat		*
<i>Group Living</i>		
Assisted living/adult foster care/home for the aged		*
Group home		*
Nursing home		*
Temporary overnight shelter		*
Transitional residences		*
Transitional shelters		*
PUBLIC AND CIVIC		
Colleges and universities	*	
Cultural exhibits and libraries	*	
Day care	*	
Hospital		*

Lodge or private club		*
Public recreation	*	
Postal service	*	
Public safety services	*	
Religious assembly	*	
School		*
Utilities and service, minor	*	
Utilities and service, major		*
COMMERCIAL		
Adult use		*
Animal services		
Sales and grooming	*	
Veterinary	*	
Drive-through facility		*
Eating and drinking establishments		
Restaurant	*	
Tavern		*
Entertainment and spectator sports		
Small (1-149 seats)	*	
Financial services	*	
Food and beverage retail sales	*	
Gas stations		*
Lodging		
Small (1-16 guest rooms)	*	
Medical service	*	
Office	*	
Parking, commercial(non-accessory)		*
Personal service, including health clubs and gyms	*	
Repair service, consumer, including bicycles	*	
Retail sales, general	*	
INDUSTRIAL		
<i>Manufacturing, Production and Industrial Services</i>		
Artisan (hand tools only; e.g. jewelry or ceramics)		*
OTHER		
<i>Wireless Communications Facilities</i>		
Co-located	*	
Freestanding		*
P= Permitted by right C= Conditional use		

(B) *Parameters and procedures for conditional uses.* Where the use is determined to be a conditional use, the applicant must seek a permit for such use by the Planning Commission subject to the conditions imposed in this section and subject further to such other conditions which in the opinion of the Planning Commission are necessary to provide adequate protection to the neighborhood and abutting properties and subject further to Planning Commission review, including a public hearing, in accordance with § 82-34. Such permit request for conditional use should be filed at the same time as the petition under § 82-513.

(Ord. 2014-06, passed 10-13-2014)

§ 82-515 REQUIRED CONDITIONS.

All permitted or conditional uses are subject to the following required conditions:

(A) *Indoor/outdoor operations.* All permitted uses in the MX-1 District must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

(B) *Off-street parking.*

- (1) Off-street parking requirements for residential uses shall be the same as the underlying, non-mixed-use zoning.
- (2) No off-street parking is required for non-residential uses in MX-1 Districts unless such uses exceed 3,000 square feet of gross floor area, in which case off-street parking must be provided for the floor area in excess of 3,000 square feet.
- (3) Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

(C) *Transparency.*

- (1) A minimum of 60% of the street-facing building facade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space of product display areas.
- (2) The bottom of any window or product display window used to satisfy the transparency standard of division (1) above may not be more than four feet above the adjacent sidewalk.
- (3) Product display windows used to satisfy these requirements must have a minimum height of four feet and be internally lighted.

(D) *Doors and entrances.*

- (1) Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.
- (2) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

(E) *Vehicle and driveway access.* No curb cuts are allowed for lots that abut alleys.

(Ord. 2014-06, passed 10-13-2014)

§ 82-516 AREA AND BULK REQUIREMENTS.

(A) *Commercial establishment size limits.* The gross floor area of commercial establishments in the MX-1 district shall not exceed 15,000 square feet.

(B) *Floor-to-floor heights and floor area of ground-floor space.*

- (1) All commercial floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 11 feet.
- (2) All commercial floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:
 - (a) At least 800 square feet or 25% of the lot area (whichever is greater) on lots with street frontage of less than 50 feet; or
 - (b) At least 20% of the lot area on lots with 50 feet of street frontage or more.

(C) *Lot area per unit (density).* The minimum lot area per dwelling unit shall be 750 square feet for mixed-use buildings and 1,000 square feet for all other buildings.

(D) *Floor area ratio (FAR).* The maximum FAR shall be 4.0.

(E) *Setbacks.*

- (1) The entire building facade must abut front and street side property lines or be located within ten feet of such property lines.
- (2) There is no minimum rear setback except when MX-1 zoned property abuts R-zoned property, in which case the minimum rear setback required in the MX-1 zone shall be the same as required for a residential use on the abutting R-zoned lot.
- (3) No interior side setbacks are required in the MX-1 District, except when the MX-1-zoned property abuts R-zoned property, in which case the minimum side setback required in the MX-1 district shall be the same as required for a residential use on the abutting R-zoned lot.

(F) *Building height.* The maximum building height shall be 50 feet.

(Ord. 2014-06, passed 10-13-2014)

APPENDIX A: DEFINITION ILLUSTRATIONS

See city offices for images

APPENDIX B: PARKING LAYOUTS

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APPENDIX C: DISTANCE SPACING FOR MULTIPLE DWELLINGS; SIDE YARDS ABUTTING A STREET

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APPENDIX D: CLUSTER EXAMPLE

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APPENDIX E: CONDOMINIUM SUBDIVISION TERMINOLOGY

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APPENDIX F: LANDSCAPE STANDARDS FOR PARKING AREAS

See city offices for images

APPENDIX G: CORNER CLEARANCE

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APPENDIX H: RESIDENTIAL FENCE SETBACKS

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APPENDIX I: WALLS - TRANSITION DETAILS

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