

Chapter 98 - ZONING

Footnotes:

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Cross reference— Any ordinance pertaining to rezoning saved from repeal, § 1-6(12); planning commission, § 2-181 et seq.; buildings and building regulations, ch. 14; environment, ch. 34; land division, ch. 42; manufactured homes and trailers, ch. 46; streets, sidewalks and public grounds, ch. 74; vegetation, ch. 90.

State Law reference— Authority to regulate land use, MCL 125.581 et seq.

ARTICLE I. - IN GENERAL

Sec. 98-1. - Rules applying to the text.

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

- (1) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- (2) The word "person" includes a corporation or firm as well as an individual.
- (3) The word "building" includes the word "structure."
- (4) The word "lot" includes the word "plot," "tract," or "parcel."
- (5) The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (6) The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."
- (7) Any word or term not interpreted or defined by this chapter shall be used with a meaning of common or standard utilization.

(Ord. No. 38, § 10.1, 3-11-1955)

Sec. 98-2. - Definitions.

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

Accessory building means a subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use.

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

Adult bookstore means an establishment that has as a substantial or significant portion of its stock-in-trade, display space or floor space, and offers for sale or rental, for any form of consideration, any one or more of the following: (a) books, magazine, periodicals or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas, or (b) instruments, devices, or paraphernalia designed for use as part of, or in connection with, specified sexual activities.

Adult entertainment establishment means an establishment which is one or more of the following: an adult bookstore, adult theater, cabaret, massage parlor.

Adult foster care family home means a private residence with the approved capacity to receive not more than six adults who shall be provided foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence. The adult foster care family home shall conform and qualify for license under Act No. 116 of the Public Acts of Michigan of 1973 (MCL 722.111 et seq.), as amended, and under Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq.).

Adult theater means an establishment, where, for any form of consideration, films, motion pictures, videos, slides, or other photographic or electronic reproductions are shown and in which a substantial or significant portion of the establishment's regular business is devoted to the showing of material characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities.

Advertising structure means a structural poster panel or painted sign, either freestanding or attached to a building, for the purpose of conveying information, knowledge or ideas to the public about a subject unrelated to the premises upon which it is located.

Alley means any dedicated public way other than a street which provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

Alterations means any modification, addition or change in construction or type of occupancy; any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another.

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

Apartment, garden means a group of two or more multiple dwelling buildings not over two stories in height, located on the same lot, that offer each dwelling unit direct access to an open yard area.

Apartment house. See "Dwelling, multiple-family."

Auto court. See "Motel."

Basement means a story having part, but not more than one-half of its height below finished grade. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

Board means the city board of appeals or city zoning board of appeals.

Boardinghouse means a building other than a hotel, where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more persons.

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

Building area means the total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

Building, front line of means the line or face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches, but does not include steps.

Building, height of means the vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

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

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

Cabaret means an establishment, where, for any form of consideration, entertainers, waiters, waitresses, or other employees, show specified anatomical areas or engage in specified sexual activities.

Cellar means a story having more than one-half of its height below the average finished level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measurement.

Certificate of occupancy means a statement signed by the zoning administrator setting forth either that a building or structure complies with this chapter or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

Clinic means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professions.

Clubs means an organization catering exclusively to members and their guests, or premises and buildings for recreational, artistic, political or social purposes, which are not conducted primarily for gain and which do not provide merchandising, vending or commercial activities except as required incidentally for the membership and purpose of such club.

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

Convalescent or nursing home means a home for the care of children who are not members of the family, of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein three or more persons are cared for. Such convalescent or nursing home shall conform and qualify for license under Section 1122, Federal Public Law 92-603, and the state department of public health's policies, criteria and guidelines.

Court means an unoccupied open space, other than a yard, on the same lot with a building which is bounded on two or more sides by the walls of such building.

Court, closed means a court enclosed on all sides by exterior walls of a building, or enclosed on all sides by a combination of exterior building walls and freestanding walls.

Court, outer means a court enclosed on not more than three sides by exterior walls of a building or by a combination of exterior walls and freestanding walls, with one side or end open to a street, alley or yard.

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

Deck means an exterior floor system supported on at least two opposing sides by an adjoining structure and or post, piers, or other supports.

Density means the number of dwelling units residing upon or to be developed upon a net acre of land.

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

Dormitory means a building, or portion thereof, used for housing purposes under the supervision of a college, university or other institutions.

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

Dwelling, multiple-family means a building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in article VI, division 6, of this chapter.

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

Dwelling, single-family means a building containing not more than one dwelling unit designed for residential use, complying with the standards set forth in article VI, division 6, of this chapter.

Dwelling, two-family means a building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in article VI, division 6, of this chapter.

Dwelling unit means a building, or portion thereof, designed exclusively for residential occupancy by one family and having cooking facilities.

Erecting means the building, construction, alteration, reconstruction, moving upon, or any physical activity upon a premises or lot.

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, telephone transmission or distribution system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection there with, but not including, buildings reasonably necessary for the furnishing of adequate service by such public utilities, departments or commissions.

Family means an individual, or two or more persons related by blood, marriage or adoption, or a group not to exceed two persons not related by blood or marriage, occupying a premises and living as a single, nonprofit housekeeping unit with single culinary facilities as distinguished from a group occupying a boardinghouse, lodgginghouse, hotel, club, fraternity or similar dwelling for group use. The usual domestic servants residing on the premises shall be considered as part of the family.

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

Floodplain means the area of land adjoining the channel of a river, stream, watercourse, lake, or other body of water which has been or may be covered by floodwater.

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

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

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

Gasoline service station means any area of land, including any structure or structures thereon, that is used or designed for the supply of gasoline or oil or other fuel for the propulsion of vehicles. For the purpose of this chapter, this term shall also mean any area or structure used or designed for polishing, greasing, washing, dry cleaning, spraying (but not including painting) or otherwise cleaning or servicing such motor vehicles.

Grade, finished means the completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs related thereto.

Group housing means a residential development involving the ultimate construction of a group of dwelling units, including a combination of one-family, two-family or multiple-family dwellings on a lot, parcel or tract of land or on a combination of lots under one ownership, and containing common services or facilities.

Guest unit means a room or group of rooms occupied, arranged or designed for occupancy by one or more guests for compensation.

Home occupation means an accessory use of a service or professional character conducted within a dwelling by the family residents thereof, which is clearly secondary and incidental to the use of the dwelling for living purposes and does not change the character thereof.

Hotel means a building in which the rooms are occupied or designed as temporary abiding places for individuals who are lodged with or without meals and in which there are more than ten sleeping rooms served only by a general kitchen and dining facility located within the building.

Junkyard means any land or building over 200 square feet in area used for abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles or machinery, or parts thereof.

Kennel means any lot or premises used for the sale, boarding or breeding of dogs, cats or other household pets. Kennel shall also mean the keeping of three dogs, cats and/or other household pets over the age of six months.

Lodginghouse means a building in which three or more rooms are rented and in which no table board is furnished, but not exceeding five persons.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building with its accessory buildings, and providing the open spaces, parking spaces and loading spaces required by this chapter; provided that the owner of any number of contiguous lots may have as many of such contiguous lots considered a single lot for the purpose of this chapter as he elects and, in such case, the outside perimeter of such group of lots shall constitute the front, rear and side lot lines thereof.

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

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

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

Lot line means the lines bounding a lot.

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

Lot, width of means the width measured along the front lot lines or street line.

Major thoroughfare means a public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary use or function the provision of access to abutting property, and which has been classified as such upon the future land use plan of the city.

Massage parlor means an establishment or place primarily in the business of providing massage services other than a regular licensed hospital or dispensary where non-medical and non-surgical manipulative exercises are practiced upon the human body for other than cosmetic or beautifying purposes by anyone not a physician or surgeon or of a similarly registered status.

Minor or local street means a public way, the principal use or function of which is to give access to abutting properties.

Mobile home. See "Trailer coach."

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

Nonconforming use means a building, structure or use of land lawfully existing at the effective date of the ordinance from which this chapter is derived, or amendments thereto, and which does not conform to the regulations of the district or zone in which it is located.

Open space means any unoccupied space open to the sky on the same lot with a building.

Plan, future land use means an adopted statement of policy by the planning commission relative to the agreed-upon desirable physical pattern of future community development, consisting of a series of maps, charts and written material that represents a sound conception of how the community should grow in order to bring about the very best community living conditions.

Planned unit development means a land area which has both individual building sites and common property, such as a park, and which is designed and developed under one owner or organized group as a separate neighborhood or community unit.

Planning commission means the city planning commission.

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

Public storage rental facilities: A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.

Public utility means any person, firm, corporation, municipal department or board fully authorized to furnish to the public electricity, gas, steam, telephone, telegraph, transportation or water.

Recreation, private means a recreational space or structure, or combination thereof, belonging to and/or operated by private interests for use by private individuals and/or organizations and/or the public, consisting primarily of manmade structures and/or other artificial apparatus which are necessary to or form the basis for such use.

Recreation, public means any recreational space or structure owned by the public or any space and structure or combination thereof privately owned and publicly used consisting primarily of the utilization of natural physical features as the basis for such use (structures and artificial apparatus being secondary to the primary outdoor use.)

Right-of-way means a street, alley or other thoroughfare or easement permanently established for passage of persons, vehicles or the location of utilities.

Roominghouse means a building where lodging only is provided for compensation.

Secondary thoroughfare means a public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary use or function the provision of access to abutting property, and which has been classified as such upon the future land use plan for the city.

Setback means the minimum horizontal distance between a structure, excluding steps and unenclosed porches, and the front street or right-of-way line or lot line.

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

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

Specified anatomical areas means and includes anyone 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 areola; or (b) human male genitals in a discernible turgid state, even if completely and opaquely covered.

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

Stable, private means an accessory building in which horses are kept for private use and not for hire, remuneration or sale.

Story means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story, half means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished off for use. A half-story containing independent apartments or living quarters shall be counted as a full story.

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

Street means a public thoroughfare which affords the principal means of access to abutting property.

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

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

Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

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

Trailer coach or mobile home means any structure used or designed for sleeping, living, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks or similar support, and which has been or reasonably can be, transported or drawn by motive power.

Trailer park or mobile home park means any lot, site, parcel or tract of land under the control or management of any person, upon which two or more trailer coaches are parked or which is offered to the public for that purpose, regardless of whether a charge is made therefor or not, and including any building, structure, tent, vehicle or enclosure used or intended to be used as part of the equipment of such trailer park.

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

Travel trailer park means the two basic types of travel trailer parks as follows:

- (1) *Overnight park* means a park having elaborate facilities and is usually located along or near a main highway where trailers stay overnight on the way to some other destination.
- (2) *Destination park* means a park located at or near a scenic or historic area or near fishing, hunting, boating, skiing or other recreational facilities and has sufficient washroom and restroom facilities to meet the demands, plus providing tot lot recreational facilities, such as swings or slides.

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

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

Yard means an open space on the same lot with a building unoccupied, and unobstructed from the ground upward except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building line.

Yard, front means a yard extending across the front of a lot between the side lot lines and measured between the front line of the lot and the nearest point of the main building or land use.

Yard, rear means an open space on the same lot with a main building unoccupied except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot or the centerline of the alley, if there is an alley, and the rear line of the building.

Yard, side means an open, unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a front line or a rear line shall be deemed a side line.

Zoning administrator means an officer appointed by the mayor with the recommendation of the planning commission, to effect proper administration of this chapter. The zoning administrator shall not be considered an administrative officer under section 6.6 and section 10.2 of the city Charter.

Zoning permit means a permit required for any change in use of land or structure in accordance with the provisions of this chapter.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998; Ord. No. 166, § 3, 3-15-1999; Ord. No. 168, § 1, 9-10-1999, Ord. No. 170, 1-27-2000; Ord. No. 178, § 1, 12-15-2001)

Cross reference— Definitions generally, § 1-2.

Sec. 98-3. - Purposes.

It is the purpose of this chapter to:

- (1) Promote the public health, safety, morals, comfort, convenience and general welfare of the inhabitants of the city by encouraging the use of lands and natural resources in the city in accordance with their character, adaptability and suitability for particular purposes;
- (2) Enhance social and economic stability;
- (3) Prevent excessive concentration of population;
- (4) Reduce hazards due to flooding;
- (5) Conserve and stabilize the value of property;
- (6) Provide adequate open space for light and air;
- (7) Prevent fire and facilitate the fighting of fires;
- (8) Allow for a variety of residential housing types and commercial and industrial land uses;
- (9) Lessen congestion on the public streets and highways;
- (10) Facilitate adequate and economical provision of transportation, sewerage and drainage, water supply and distribution, and educational and recreational facilities: assuring adequate provisions for food, natural resources, housing, and commerce, insuring appropriate locations and relationships for uses of land;
- (11) Facilitate the expenditure of funds for adequate public facilities and services and the expenditure of funds for other public facilities and services, by establishing herein standards for physical development in accordance with the objective and policies contained in the future land use plan for the city; and
- (12) Provide for the administration and enforcement of such standards.

(Ord. No. 38, Art. II, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-4. - Most stringent law to govern.

In the interpretation, application and enforcement of the provisions of this chapter whenever any one of the provisions or limitations imposed or required by the provisions of this chapter are more stringent than any other law or ordinance, then the provisions of this chapter shall govern, provided that 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 other law or ordinance shall govern.

(Ord. No. 38, §§ 3.2.1(4), 3.2.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-5. - Enforcement; violations and penalties.

The zoning administrator shall enforce the provisions of this chapter. It shall be considered unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code. Any and all building or land use activities considered possible violations of the provisions of this chapter observed or communicated to police and fire department employees or to any city officials shall be reported to the zoning administrator.

- (1) *Inspection and notice of violation.* The zoning administrator shall inspect each alleged violation and shall order correction, in writing, of all conditions found to be in violation of this chapter. The written notice of such violations shall include a description of the property sufficient for identification, a statement of the violation and why the notice is being issued, a correction order allowing a reasonable time to make repairs or improvements required to bring the violation back into compliance with the provisions of this code as described in 98-5(2) below, inform the property owner of the right to appeal, and include a statement of the right to file a lien in accordance with 98-5(3), below.
- (2) *Correction period.* All violations shall be corrected within a period of 30 days after the order to correct is issued or such longer period of time, not to exceed six months, as the zoning administrator shall permit. A violation not corrected within this period shall be the subject of a municipal civil infraction action under the Leslie City Code or reported to the city attorney who is hereby authorized and empowered to initiate procedures to eliminate such violations.
- (3) *Prosecution of violations.* Any person failing to comply with a notice of violation or order shall be issued and served with a municipal civil infraction citation or be deemed guilty of a misdemeanor as determined by the local municipality. Any violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the zoning administrator may institute the appropriate proceedings at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located, and shall be a lien upon such real estate.
- (4) *Violation penalties.* Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be subject to the civil penalties and schedule of fines then in effect for municipal civil infraction violations or prosecuted within the limits provided by state or local laws. For each and every day the violation continues beyond the permissible grace period, a separate offense shall be declared.
- (5) *Abatement of violation.* The imposition of penalties herein prescribed shall not preclude the legal officer of the jurisdiction or city attorney from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building structure or premises.

(Ord. No. 38, § 3.2.1, 3-11-1955; Ord. No. 2017-01, § 1, 1-3-2017)

Secs. 98-6—98-30. - Reserved.

ARTICLE II. - ADMINISTRATION

Footnotes:

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Cross reference— *Administration, ch. 2.*

DIVISION 1. - GENERALLY

Sec. 98-31. - Administration generally.

The provisions of this chapter shall be administered by the city planning commission and the city council in accordance with the Municipal Planning Commission Act, Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq.), as amended, and the City and Village Zoning Act, Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended.

(Ord. No. 38, § 3.1.1, 3-11-1955)

Sec. 98-32. - Zoning administrator.

- (a) *Appointment.* The mayor, with the recommendation of the planning commission, shall appoint a zoning administrator, to act as its officer to effect proper administration of this chapter. The mayor shall have the power of removal of the zoning administrator. The term of employment and rate of compensation shall be established by the city council. For the purpose of this chapter, the zoning administrator shall have the powers of a police officer.
- (b) *Duties.* It shall be the responsibility of the zoning administrator to enforce the provisions of this chapter and in so doing shall perform the following duties:
 - (1) *Issue permits.* All applications for zoning permits shall be submitted to the zoning administrator who may issue zoning permits and certificates of occupancy when all applicable provisions of this chapter have been complied with.
 - (2) *File of applications.* The zoning administrator shall maintain files of all applications for building permits and for certificates of occupancy and shall keep records of all building permits and certificates of occupancy issued. These files and records shall be filed in the office of the city clerk, which files and records shall be open to public inspection. Copies shall be furnished at cost upon the request of any person having a proprietary or tenancy interest in the property involved.
 - (3) *Inspection.* The zoning administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this chapter.
 - (4) *Record nonconforming uses.* The zoning administrator shall record all nonconforming uses of land existing at the effective date of the ordinance from which this chapter is derived for the purposes of carrying out the provisions of article IV of this chapter, and the zoning administrator shall further notify all affected property owners of their nonconforming status within one year from the effective date of the ordinance from which this chapter is derived by means of written communication mailed to the address of the owner of the nonconforming land use as given in the last assessment roll.

- (5) *Record of complaints.* The zoning administrator shall keep a record of every identifiable complaint of a violation the provisions of this chapter, and of the action taken consequent to each such complaint, which records shall be records.
- (6) *Report to city council.* The zoning administrator shall report to the city council periodically, at intervals of not greater than six months, summarizing for the period since the last previous report all building permits and certificates of occupancy issued and all complaints of violation and the action taken subsequent thereon. Under no circumstances is the zoning administrator permitted to make changes in this chapter, nor to vary the terms of this chapter while carrying out the duties prescribed herein.

(Ord. No. 38, §§ 3.1.2, 3.1.3, 3-11-1955; Ord. No. 43, § 1, 4-18-1977; Ord. No. 92, § 1, 5-5-1986)

Sec. 98-33. - Zoning permits.

The following shall apply in the issuance of any permit:

- (1) *General requirements.* Exclusive of farm service buildings, the excavation for any building or structure shall not be commenced; the erection of, addition to, alteration of, or moving of any building or structure shall not be undertaken; or any land shall not be used, or an existing use of land shall not be changed to a use of a different type or class, until a building permit or a certificate of occupancy has been secured from the zoning administrator. Except upon a written order of the board of appeals, no such building permit or certificate of occupancy shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of any of the provisions of this chapter.
- (2) *Application requirements.* There shall be submitted with all applications for zoning permits three copies of a site layout or plat plan, drawn to scale, showing:
- a. The location, shape, area and dimension of the lot.
 - b. The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered or moved on the lot.
 - c. The intended uses.
 - d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users.
 - e. The yard, open space and parking space dimensions.
 - f. Any other information deemed necessary by the zoning administrator to determine and provide for the enforcement of this chapter.
- (3) *Voiding of permit.* Any permit granted under this section shall become null and void after one year from the date of granting such permit unless the development proposed shall have passed its first building inspection. Before voidance is actually declared, the zoning administrator shall notify the applicant of such voiding action by sending a notice to the applicant at the address indicated on the permit application at least ten days before such voidance is effective.
- (4) *Inspection.* The development or usage proposed by any zoning permit shall be subject to two zoning inspections; one inspection before construction begins and the other before occupancy occurs. It shall be the duty of the permit holder to notify the zoning administrator regarding times of inspection. Failure of the permit holder to make proper requests for inspection shall automatically cancel the permit, requiring the issuance of a new permit before construction may proceed or occupancy may be permitted.

- (5) *Fees.* Fees for inspection and the issuance of permits or certificates required under this chapter shall be collected by the city clerk in advance of issuance. The amount of such fees shall be established by the city council and shall cover the cost of inspection and supervision resulting from the enforcement of this chapter.

(Ord. No. 38, § 3.1.4, 3-11-1955)

Sec. 98-34. - Certificate of occupancy.

No land shall be occupied or used, and no building shall be used or changed in use until a certificate of occupancy shall have been issued by the zoning administrator, stating that the building and its proposed use comply with the provisions of this chapter.

- (1) *Certificates for existing buildings.* Certificates of occupancy may be issued upon request for existing buildings, structures or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures or parts thereof, or such uses of land are in conformity with the provisions of this chapter.
- (2) *Certificates for nonconforming uses.* Any use or occupancy of any land or building not specifically permitted in its particular zoning district shall require the issuance of a certificate of occupancy for continued use. The certificate shall indicate the authorized use, the authority by which it is permitted, and any limiting conditions to such use.
- (3) *Application for certificates.* Application for certificates of occupancy shall be made at the time of application for building permit or, in the case of existing buildings or uses of land, by application in writing to the zoning administrator. A certificate of occupancy applied for coincidentally with an application for a building permit shall be issued at the completion of the final inspection, and in the case of existing buildings or uses of land a certificate of occupancy shall be issued within ten days after the receipt of such application if the building, structure or use of land is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant shall be notified of such refusal in writing within the aforesaid ten-day period.

(Ord. No. 38, § 3.1.5, 3-11-1955)

Secs. 98-35—98-50. - Reserved.

DIVISION 2. - AMENDMENTS

Footnotes:

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State Law reference— *Amendment of zoning ordinance, MCL 125.584.*

Sec. 98-51. - City council may amend.

The regulations and provisions stated in the text of this chapter and the boundaries of zoning districts shown on the zoning districts map of the city may be amended, supplemented or changed by the city council in accordance with Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended.

(Ord. No. 38, § 9.1, 3-11-1955)

Sec. 98-52. - Initiation of amendments.

Proposals for amendments, supplements or changes may be initiated by the city council on its own motion, by the planning commission, or by petition of one or more owners of property to be affected by the proposed amendment.

(Ord. No. 38, § 9.2, 3-11-1955)

Sec. 98-53. - Petition to city council.

Each petition by one or more owners for an amendment shall be submitted by application to the city clerk on a standard form provided. A fee as established by the city council shall be paid at the time of application to cover costs of necessary advertising for public hearing, for the use of a standard amendment sign and investigation of the amendment request. No part of such fee shall be returnable to a petitioner. No fee shall be charged if the city or any official body of the city is the moving party.

(Ord. No. 38, § 9.3.1, 3-11-1955)

Sec. 98-54. - Referral to planning commission.

The city clerk shall refer every proposed amendment, supplement or change to the planning commission for its review and recommended action. Upon its receipt of the proposed amendment, the planning commission may conduct a public hearing thereon if it determines that such a hearing would be of material assistance to it in developing the facts upon which to base its recommendations to the city council as hereinafter provided. The procedure and notice requirements with respect to such public hearing shall be as set forth in section 98-57.

(Ord. No. 38, § 9.3.2, 3-11-1955; Ord. No. 41, § 1, 4-18-1977)

Sec. 98-55. - Planning commission recommendation.

The planning commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the likely effect of such proposal upon the future land use plan for the city. The planning commission may recommend any additions or modifications to the original amendment proposal. The planning commission shall transmit a written recommendation within 60 days to the city council setting forth the reasons for the acceptance, denial or modification of the amendment proposal.

(Ord. No. 38, § 9.3.3, 3-11-1955)

Sec. 98-56. - Action by city council.

The planning commission shall then transmit its recommendations concerning the proposed amendment to the city council; and if the city council shall deem any amendments, changes, additions or departures are advisable to the proposed text or district boundaries recommended by the planning commission, it shall refer the amendment back to the planning commission for a report thereon within a time specified by the city council. After receiving the report and before any amendments shall become effective, the city council shall conduct a public hearing on the proposed amendment. Thereafter, the city council may adopt the amendment with or without any changes or may refer the amendment again to the planning commission for further report.

(Ord. No. 38, § 9.3.4, 3-11-1955)

Sec. 98-57. - Public hearing procedure; notice.

For any public hearing conducted by the planning commission or the city council on a proposed amendment to this chapter, the following procedure and notice requirements shall apply:

- (1) Notice of the public hearing shall be given by publishing such notice at least once in a newspaper of general circulation in the city, stating the time and place of such hearing and the substance of the proposed amendment, and in the event of a proposed change in the zoning districts map the district boundary lines affected shall also be stated. This notice shall appear in such newspaper at least 15 days prior to the date set for the public hearing. Furthermore, not less than 15 days notice of the time and place of such public hearing shall first be given by registered United States 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, and a hearing be granted any person interested at the time and place specified.
- (2) Additionally, any parcel, regarding which a petition for change in zoning classification has been filed by any person, shall be posted by the petitioner for at least 15 days prior to the public hearing. The posted notices shall be provided by the zoning administrator once the planning commission sets its date for a public hearing. The posted notices shall include the following messages:
 - a. The present zoning classification;
 - b. The proposed zoning classification;
 - c. The time and place of the public hearing; and
 - d. The location where additional information may be obtained.
- (3) Notice of the proposed zoning change shall also be made by the city clerk, mailing notification by first class mail to the person or firm to whom the property is assessed, and to all persons or firms to whom property within 300 feet are assessed, provided, however, that failure to mail such notices in any particular instances shall not invalidate any zoning ordinance enacted.

(Ord. No. 38, § 9.3.5, 3-11-1955)

Sec. 98-58. - Effect of protest to proposed amendment.

In case a protest against any proposed amendment to this chapter is presented in writing to the city clerk prior to the public hearing thereon, duly signed by the owners of 20 percent or more of the frontage proposed to be altered, or by the owners of 20 percent or more of the frontage directly opposite the frontage proposed to be altered or by the owners of land adjacent to 20 percent or more of either of the side lot lines of the property proposed to be altered, such amendment shall not be passed except by a three-fourths vote of all members of the city council.

(Ord. No. 38, § 9.3.6, 3-11-1955)

Sec. 98-59. - Resubmittal.

No application for a rezoning which has been denied by the city council shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the city council to be valid.

(Ord. No. 38, § 9.3.7, 3-11-1955)

Sec. 98-60. - Publication of notice of amendments.

Following adoption of subsequent amendments to this chapter by the city, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

- (1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
- (2) The effective date of the amending ordinance.
- (3) The place and time where a copy of the amending ordinance may be purchased or inspected. The filing and publication requirements in this section relating to city zoning ordinances supercede Charter provisions relating to the filing and publication of city ordinances.

(Ord. No. 86, § 1, 5-3-1982)

Sec. 98-61. - Comprehensive review of zoning regulations.

The planning commission shall, from time to time at intervals of not more than five years, examine the provisions of this chapter and the location of zoning district boundary lines and shall submit a report to the city council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

(Ord. No. 38, § 9.3.8, 3-11-1955)

Secs. 98-62—98-80. - Reserved.

ARTICLE III. - CITY ZONING BOARD OF APPEALS

Footnotes:

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Cross reference— *Boards and commissions, § 2-241 et seq.*

State Law reference— *Board of appeals, MCL 125.585 et seq.*

Sec. 98-81. - Creation and membership.

- (a) *Establishment.* There is hereby established a city zoning board of appeals in accordance with Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended. The board of appeals shall perform its duties and exercise its powers as provided by section 5 of such act (MCL 125.585), as amended, and in such a way that:
 - (1) The objectives of this chapter may be equitably achieved;
 - (2) There shall be provided a means for competent interpretation and controlled flexibility in the application of this chapter; and
 - (3) The health, safety and welfare of the public are secured, and that substantial justice is secured.
- (b) *Membership, terms of office.* The legislative body of the city may act as or appoint a board of appeals. In the event that the legislative body appoints, the board of appeals shall consist of six members, each to be appointed for a term of three years: provided, that appointments for the first year shall be for a period of one, two and

three years respectively, so as nearly as may be to provide for the appointment of an equal number each year, thereafter each member to hold office for the full three year period. One member of the zoning board of appeals shall be a member of the planning commission who holds no other municipal office. Members of the board of appeals shall be removable by the city council for nonfeasance, malfeasance, and misfeasance of office.

- (c) *Training for board of appeals members.* It shall be the duty of the zoning administrator to carefully review with each new member of the board of appeals the provisions of this chapter, most importantly the provisions of this article as they regard the duties, powers and scope of responsibility that each board member will assume while a member of the board of appeals. Furthermore, once each year the zoning administrator may, at the board's request, review with the entire board of appeals their duties, powers, scope of responsibilities and the procedures and policies set forth for the board of appeals in this chapter.

(Ord. No. 38, § 4.1, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-82. - Organization and procedures.

- (a) *Rules of procedure.* The board of appeals shall adopt its own rules of procedure as may be necessary to conduct its meeting and carry out its function. The board of appeals shall choose its own chairman, and in his absence, an acting chairman.
- (b) *Meetings.* Meetings shall be held at the call of the chairman and at such times as the board of appeals may determine. All meetings by the board shall be open to the public. The board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance.
- (c) *Records.* Minutes shall be recorded of all proceedings which shall contain the evidence received, the findings of fact and data relevant to every case considered, together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the city clerk and shall be made available to the general public. The city clerk shall act as secretary to the board of appeals, and all records of the board's action shall be taken and recorded under the city clerk's direction.
- (d) *Counsel.* The city attorney shall act as legal counsel for the board and shall be present at all meetings upon request by the board.
- (e) *Hearings.*
- (1) The board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to all persons to whom any real property within 300 feet of the premises in question shall be assessed, such notice to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll and shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
 - (2) The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all powers of the officer from whom the appeal is taken. The board may recess such hearing from time to time, and, if the time and place of the continued hearing is publicly announced at the time of adjournment of the board hearing, no further notice shall be required.
- (f) *Decisions.* The board of appeals shall return a decision on a case within 60 days after a request or appeal has been filed, unless a further time is agreed upon with the parties concerned. Any decision of the board shall not

become final until the expiration of five days from the date of entry of such order, unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

- (g) *Vote required.* The concurring vote of a majority of the members of the board of appeals shall be necessary to reverse an order, requirement, decision or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance, except that a concurring vote of two-thirds of the members of the board shall be necessary to grant a variance from uses of land permitted in the ordinance.
- (h) *Reports to council.* At intervals of not greater than one year, the board of appeals shall, by written report to the city council, list all applications and appeals made to it since its last report, and shall summarize its decision on such applications and appeals.

(Ord. No. 38, § 4.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-83. - Appeals.

- (a) *Filing.* Appeals to the board of appeals may be made by any person aggrieved, or by any officer, department, board or bureau of the city. Any appeal from the ruling of the zoning administrator concerning the enforcement of the provisions of this chapter shall be made to the board of appeals within ten days after the date of the mailing of the zoning administrator's decision. Such appeal shall be filed with the secretary of the board of appeals and with the zoning administrator, and shall specify the grounds for the appeal. The zoning administrator shall immediately transmit to the secretary of the board all papers constituting the record upon which the action appealed from was taken.
- (b) *Stay.* An appeal shall stay all proceeding in furtherance of the action appealed from unless the zoning administrator 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 the administrator's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of appeals or, on application, by court of record.
- (c) *Fees.* A fee, as established by the city council, shall be paid to the secretary of the board of appeals at the time the petitioner files an application with the board. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, hearing records and other expenses incurred by the board in connection with the appeal. No fee shall be charged if the city or any official body of the city is the moving party.
- (d) *Review by circuit court.* Any party aggrieved by any order, determination or decision of any officer, agency, board, commission, board of appeals or the legislative body of the city which has acted pursuant to the provisions of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended and Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq.), as amended, may obtain a review thereof both on the facts and the law, in the circuit court of the county; provided, that application is made to the court within 30 days after the delivery of certiorari or by any other method permissible under the rules and practices of the circuit courts of this state; and further provided, that all other means of local appeal and review as provided in this chapter have first been exhausted. The circuit court shall review the record and decision of the board of appeals to insure that the decision:
 - (1) Complies with the constitution and laws of the state.
 - (2) Is based upon proper procedure.

(3) Is supported by competent, material and substantial evidence on the record.

(4) Represents the reasonable exercise of discretion granted by the board of appeals.

If the circuit court finds the record of the board of appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the board of appeals, the court shall order further proceedings before the board of appeals on conditions which the court considers proper. The board of appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decisions shall be filed with the courts. As a result of this review the circuit court may affirm, reverse or modify the decision of the board of appeals.

(e) *Appeals to supreme court.* Any appeal may be had from the decision of any circuit court or condemnation court to the supreme court in the same manner as provided by the laws of this state with respect to appeals from circuit courts; and in the event of such appeal, the issue of nonconformity may be reviewed as an issue of law in the supreme court.

(Ord. No. 38, § 4.3, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

State Law reference— Appeal and review by courts, MCL 125.585, 125.590.

Sec. 98-84. - Duties and powers.

- (a) *Generally.* The city 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 or intent of this chapter, but does have power to act on those matters where this chapter provides for an administrative review, interpretation, variance, exception or special approval permit as defined in this section.
- (b) *Review.* The board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator or by any other official in administering or enforcing any provisions of this chapter.
- (c) *Interpretation.* The board shall have the power to:
- (1) Interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter.
 - (2) Determine the precise location of the boundary lines between zoning districts.
 - (3) Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
 - (4) Determine the off-street parking and loading space requirements of any use not specifically mentioned in article VIII, divisions 2 and 3 of this chapter.
- (d) *Variances.* The board shall have the power to authorize, upon appeal, specific variances from such requirements as lot area and width relations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, provided all of the basic conditions listed herein and any one of the special conditions listed thereafter can be satisfied.
- (1) *Basic conditions.* That any variance granted from this chapter:
 - a. Will not be contrary to the public interest or to the intent and purpose of this chapter.
 - b. Shall not permit the establishment within a district of any use which is not permitted by right within that

zone district, or any use or dimensional variance for which a conditional use permit or a temporary use permit is required.

- c. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
- d. Is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
- e. Will relate only to property that is under control of the applicant.

(2) *Special conditions.* When all of the basic conditions in subsection (d)(1) of this section can be satisfied, a variance may be granted when any one of the following special conditions can be clearly demonstrated:

- a. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this chapter. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
- b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this chapter.
- c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

(3) *Rules.* The following rules shall be applied in the granting of variances:

- a. The board may specify, in writing, such conditions regarding the character, location, and other features that will, in its judgment, secure the objectives and purposes of this chapter. The breach of any such condition shall automatically invalidate the permit granted.
- b. Each variance granted under the provisions of this chapter shall become null and void unless:
 - 1. The construction authorized by such variance or permit has been commenced within six months after the granting of the variance.
 - 2. The occupancy of land, premises or buildings authorized by the variance has taken place within one year after the granting of the variance.
- c. No application for a variance which has been denied wholly or in part by the board shall be resubmitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the board to be valid.

(e) *Special exceptions.* When, in its judgment, the public welfare will be served and the use of neighboring property will not be injured thereby, the board may, in a specific case, after due notice and public hearing and subject to appropriate conditions and safeguards, determine and vary the application of the regulations of this chapter in harmony with the general character of the district and the intent and purposes of this chapter. The granting of a special exception shall in no way constitute a change in the basic uses permitted in the district affected nor on the property wherein the exception is permitted. The board may issue either temporary or conditional permits as special exceptions for the following land and structure uses:

(1) *Temporary permits.* For temporary structures for dwelling purposes, including trailer coaches, subject to the following procedures and limitations:

- a. An application for a permit for the erection or movement of a temporary structure for dwelling purposes, in coaches, shall be made to the board on a special form used exclusively for that purpose.
 - b. The board shall give due notice to the applicant and to all property owners within 300 feet of the property affected at least five days before the hearing will be held on such application.
 - c. A temporary permit shall not be granted unless the board finds adequate evidence that the proposed location of use will not be detrimental to property in the immediate vicinity; and that the proposed water supply and sanitary facilities have been approved by the county health department.
 - d. The board may impose any reasonable conditions, including setbacks, land coverage, off-street parking, landscaping and other requirements deemed necessary to protect adjoining properties and the public welfare. The violation of any such condition shall automatically invalidate the permit.
 - e. The permit issued shall clearly set forth the conditions under which the permit is granted and shall state that the proposed temporary dwelling structure is to be vacated upon expiration of a specific time limit not to exceed six months. No permit shall be transferable to any other owner or occupant.
- (2) *Conditional permits.* When conditions exist that are unique to a particular situation, a conditional permit may be issued with specific limitations imposed by the board. The land or structure may be permitted to be established and to continue in use as long as the conditions unique to the use exist. The permit issued shall contain all the specified conditions under which continued use may be allowed. Conditional permits may be issued for the following uses:
- a. Permit more than two roomers in any one dwelling, but not more than four, when it can be demonstrated to the satisfaction of the board that such an expanded capacity is a clear necessity for satisfaction of this particular housing demand; that adequate off-street parking space can be provided in accordance with standards stated in article VIII, division 2, of this chapter and that such use will not injure the character or value of the immediate neighborhood.
 - b. The board may authorize a reduction, modification or waiver of any of the off-street parking or off-street loading regulations in article VIII, divisions 2 and 3, of this chapter, when it can be demonstrated that circumstances of extreme practical difficulty exist that would unquestionably result in hardship to the applicant when a literal interpretation of the regulations is required. Hardship shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land. A hardship that is a result of any action of the applicant shall not be considered by the board. Under all these circumstances, in no case shall the off-street parking or off-street loading standards be reduced by more than 25 percent.
 - c. Joint use of off-street parking areas may be authorized by the board when the capacities outlined in article VIII, division 2, of this chapter are complied with and when a copy of an agreement between joint users shall be filed with the application for a building permit and is recorded with the register of deeds of the county, guaranteeing continued use of the parking facilities for each party.
- (f) *Special use permit.* The board of appeals shall review any appeal properly filed with it where a special use permit application has been denied by the city council as provided in article X, division 2, of this chapter. In which case, the board has the power to approve or deny the issuance of a special use permit; or it can authorize approval and vary the conditions of that approval as long as the conditions remain consistent with the standards described in article X of this chapter and are consistent with the intent and provisions of this chapter. In making

their determination, the board of appeals shall examine the application and all accompanying data as well as the records and determinations of both the planning commission hearing and the city council deliberations.

Furthermore, the board shall make any additional investigations it deems necessary before rendering a decision.

(Ord. No. 38, § 4.4, 3-11-1955)

Sec. 98-85. - Essential services.

The board of appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes, in any permitted district to a greater height or of larger area than the district requirements herein established, and permit the location in any use district of a public utility building, structure or use if the board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service.

(Ord. No. 38, § 4.5, 3-11-1955)

Sec. 98-86. - Bond authorized.

In authorizing any variance, or in granting any conditional, temporary or special approval permits, the city board of appeals may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city covering the estimated cost of improvements associated with a project for which zoning approval is sought, be deposited with the city clerk to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The city board of appeals may not require the deposit of the performance guarantee before the date on which the permit is to be issued. The city board of appeals shall establish procedures under which a rebate of any cash deposits in reasonable proportions to the ratio of work completed on the required improvements will be made as work progresses.

(Ord. No. 38, § 4.6.1, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

State Law reference— Improvements, compliance, performance guarantee, MCL 125.584e.

Secs. 98-87—98-104. - Reserved.

ARTICLE IV. - NONCONFORMITIES

Footnotes:

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

Sec. 98-105. - Nonconforming uses.

- (a) It is the intent of this chapter to permit the continuance of a lawful use of any building or land existing at the effective date of the ordinance from which this chapter is derived, although such use of land or structures may not conform with the provisions of this chapter.
- (b) There are two types of nonconforming uses: Class A and class B.
 - (1) *Class A.* Class A nonconforming uses or structures are those which have been so designated by the zoning

board of appeals, after application by the person having interest in the property or the zoning administrator. Where class A nonconforming uses are identified it is the intent of this chapter to provide for their continuance, so long as they fulfill the requirements in this article.

- (2) *Class B.* Class B nonconforming uses or structures are all nonconforming uses or structures not designated as class A. It is the intent of this chapter not to encourage the survival of class B nonconforming uses or structures. Class B nonconforming uses or structures shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other uses or structures prohibited elsewhere in the same district.
- (c) The continuance of all nonconforming uses and structures within the city shall be subject to the conditions and requirements set forth in this section.

(Ord. No. 38, § 6.7, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-106. - Procedures for obtaining class A designation.

- (a) Any application for a class A designation for a nonconforming use permit for any land or structural use permitted under this article shall be submitted and processed under the following procedures:
 - (1) A written application shall be filed with the zoning board of appeals setting forth the name and address of the applicant, giving a legal description of the property to which the application pertains and including such other information as may be necessary to enable the board of appeals to make a determination of the matter.
 - (2) The zoning board of appeals may require the furnishing of such additional information as it considers necessary.
 - (3) A notice of hearing and subsequent hearing procedures shall be given in accordance with the procedures outlined in section 98-82.
- (b) Before an application of class A designation for nonconforming use can be processed the zoning board of appeals shall review each application to insure, beyond a reasonable doubt, that the following standards are met:
 - (1) That the continuance of the use would not be contrary to the public health, safety or welfare, or the spirit of this chapter.
 - (2) That the use or structure does not and is not likely to significantly decrease the value of nearby properties.
 - (3) That the use or structure was lawful at the time of its inception and that no useful purpose would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

(Ord. No. 38, § 6.7.1, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-107. - Approval of class A designation.

The zoning board of appeals shall approve class A designation for nonconforming uses that comply with the standards and procedures of this article. The decision of the board of appeals shall be in writing and shall set forth the findings and reasons on which it is based. The board of appeals shall attach conditions, where necessary, to assure that the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this chapter. In addition, no vested interest shall arise out of a class A designation.

(Ord. No. 38, § 6.7.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-108. - 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.

(Ord. No. 38, § 6.7.3, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-109. - Regulations pertaining to class A nonconforming uses and structures.

A class A nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

- (1) This chapter shall not prohibit the repair, improvement or modernization of a class A nonconforming structure to correct deterioration, obsolescence, depreciation and wear, provided that such repair does not exceed an aggregate cost of 50 percent of the structure's replacement cost. Repairs, improvements or modernization in excess of 50 percent of the structure replacement cost may be permitted by the zoning board of appeals provided the structure will still meet the qualifications of a class A nonconforming use or structure.
- (2) Any class A nonconforming use or structure damaged by fire, explosion, flood, erosion or other means, may be restored, rebuilt or repaired, provided that such restoration does not exceed 50 percent of the structure's pre-catastrophe replacement cost as determined by a qualified appraiser. Restoration of a class A nonconforming use or structure damaged in excess of 50 percent of the structure's pre-catastrophe replacement cost may be permitted by the zoning board of appeals provided the restored structure would still meet the qualification of a class A nonconforming use or structure. However, no class A nonconforming structure damaged in a floodplain, shoreland erosion area or other areas of recurring natural hazards in excess of 50 percent of the structure's pre-catastrophe replacement shall be rebuilt except in full compliance with this chapter.
- (3) Structural changes including enlargement or extension of a class A nonconforming structure or use may be permitted by the zoning board of appeals except when such extension for enlargement would be incompatible with surrounding land uses or when the structural change would be inconsistent with the intent of this chapter. No extension or enlargement of a class A nonconforming use or structure shall be approved if approval would result in violation of the setback, side yard or bulk requirements of this chapter.
- (4) A class A nonconforming use may be substituted for a similar nonconforming use or structure when the zoning board of appeals determines that the substitution would improve the property, would not increase the structure or use's nonconformity, or when the substitution would not be contrary to the intent of this chapter.

(Ord. No. 38, § 6.7.4, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-110. - Regulations pertaining to class B nonconforming uses and structures.

It is a purpose of this chapter to eliminate class B nonconforming uses and structures as rapidly as is permitted by law without payment of compensation. A class B nonconforming use or structure shall not be repaired, restored, extended, enlarged or substituted for except in accord with the following requirements:

- (1) Minor repairs or maintenance of a class B nonconforming use or structure in order to keep it structurally safe are permitted. A class B nonconforming use or structure shall not be repaired, improved or remodeled when such improvement exceeds 25 percent of the structure's replacement cost. The replacement cost shall be determined by any repairs or improvements by a qualified appraiser. If a class B nonconforming use or structure is changed to conform with this chapter, the limitations on repairs or improvements shall not apply.
- (2) Any class B nonconforming use or structure damaged by fire, explosion, flood, erosion or other means, shall not be rebuilt, repaired or reconstructed if damaged in excess of 50 percent of the structure's pre-catastrophe replacement cost except when the use or structure would fully comply with the requirements of this chapter.
- (3) No class B nonconforming use or structure shall be enlarged, extended or structurally altered nor shall the nonconforming use be changed to a substantially different nonconforming use.
- (4) If a mineral extraction operation is designated a class B nonconforming use, existing holes or shafts may be worked or enlarged on the land which constituted the lot on which operations were conducted at the time of the operation being so classified, but no new holes or shafts shall be established.
- (5) No class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time it was established.
- (6) A class B nonconforming structure or use may be substituted for/with a nonconforming use or structure, or by a use or structure which meets the requirements of a class A nonconforming use when the zoning board of appeals determines that the substitution would not increase the nonconformity of the use or structure or be contrary to the public health, safety and welfare and the intent of this chapter.

(Ord. No. 38, § 6.7.5, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-111. - Determination of replacement cost.

The replacement cost of repairing, restoring or improving a class A or B nonconforming use or structure excluding contents, damaged by fire, explosion, flood, erosion or other means shall be made on the basis of an appraisal by a qualified individual designated by the zoning board of appeals. The cost of such determination shall be born by the zoning administrator after:

- (1) Receiving an estimate of the structural damage from the city fire chief;
- (2) Receiving a figure representing the difference between the pre-catastrophe market value of the structure and the post-catastrophe value as determined by the assessing officer for the city;
- (3) Dividing the sum of the figures derived from the fire chief and from the assessing officer by two.

(Ord. No. 38, § 6.7.6, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-112. - Nonconforming lots of record.

Any nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this chapter or an amendment thereto, shall be used only for a use permitted in this chapter. If the use of a nonconforming lot requires a variation of the setback or yard requirements of this chapter in excess of 15 percent of the requirements, then such use shall be permitted if a variance is granted by the zoning board of appeals under the terms of this chapter. The reduction by 15 percent or less of dimensional requirements for lawful nonconforming lots may be granted by the zoning administrator. When the minimum dimensional requirements of this chapter can be met by the

combination of two or more nonconforming contiguous lots owned by the same person, such lots may be combined for use and no variance is necessary. Notwithstanding any other provision of this article, the setback requirements for new residential structures on nonconforming lots of record shall not be required to exceed the average setback of existing residential structures within 200 feet and on the same side of the street as the proposed structure, as determined by the zoning administrator and the building inspector, provided that in no case may the setback of the proposed structure be less than that of existing residential structures on adjacent parcels of property.

(Ord. No. 38, § 6.7.7, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 149, § 2, 9-16-1996)

Sec. 98-113. - Discontinuance or abandonment.

Whenever a nonconforming use has been discontinued for 12 consecutive months, or for 18 months during any three-year period, such discontinuance shall be considered conclusive evidence of an intention to abandonment, and the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of this chapter.

(Ord. No. 38, § 6.7.8, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-114. - Changing uses.

If no structural alterations are made, the board of appeals may, upon an appeal, authorize a change from one nonconforming use to another nonconforming use, provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.

(Ord. No. 38, § 6.7.9, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-115. - Prior construction approval.

Nothing in this chapter shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived, provided that construction is commenced within 90 days after the date of issuance of the permit and that the entire building shall have been completed according to plans filed with the permit application within one year after the issuance of the building permit.

(Ord. No. 38, § 6.7.10, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-116. - Termination of nonconforming land uses.

Class B nonconforming uses of land existing at the effective date of the ordinance from which this chapter is derived, where no building is located, may be continued, provided that the nonconforming land use shall not in any way be expanded or extended.

(Ord. No. 38, § 6.7.11, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-117. - Illegal nonconforming uses.

Nonconforming uses of buildings or land existing at the effective date of the ordinance from which this chapter is derived established without a building permit or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of the ordinance from which this chapter is derived shall be declared illegal nonconforming uses and shall be discontinued within a period of three years following the effective date of the ordinance from which this chapter is derived, subject to the review and approval of the city council.

(Ord. No. 86, § 1, 5-3-1982)

Sec. 98-118. - District changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

(Ord. No. 86, § 1, 5-3-1982)

Sec. 98-119. - Elimination of nonconforming uses.

In accordance with Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended, the city council may acquire properties on which nonconforming buildings or uses are located, by condemnation or other means, and may remove such uses or may be used by the city for a public use. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

(Ord. No. 86, § 1, 5-3-1982)

Secs. 98-120—98-140. - Reserved.

ARTICLE V. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 98-141. - Districts established.

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

R-1A Low density residential

R-1B Medium density residential

R-M1 Multiple-family residential

B-1 General business

B-2 Highway service

M-1 Industrial

A-1 Agricultural

(Ord. No. 38, § 5.1.1, 3-11-1955)

Sec. 98-142. - Zoning districts map.

- (a) The boundaries of these districts are hereby defined and established as shown on a map entitled Zoning District Map of the City of Leslie, Ingham County, Michigan, which map, with all explanatory matter thereon, is hereby made a part of this chapter. Two copies of the official zoning district map are to be maintained and kept up-to-date, one in the city clerk's or treasurer's office, and one in the zoning administrator's office.
- (b) The official zoning map shall be identified by the signature of the city mayor, attested by the city clerk or treasurer, and bearing the following words: "This is to certify that this is the official zoning map referred to in section 98-142 of the city Code adopted on September 7, 1976."
- (c) If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matter portrayed on the official zoning district map, such changes shall not be considered final, and zoning permits shall not be issued until changes have been made within five normal working days after the effective date of the ordinance amendment. Each map change shall be accompanied by a reference number on the map which shall refer to the official action of the city council.

(Ord. No. 38, § 5.1.2, 3-11-1955)

Sec. 98-143. - Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning district map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the streets or highways, the centerlines of such streets or highways shall be construed to be such boundaries.
- (2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following city boundary lines shall be construed as following such city boundary lines.
- (4) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official zoning district map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official zoning district map.
- (6) Boundaries following the shoreline of a stream, lake or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines, shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the thread of streams, canals or other bodies of water shall be construed to follow such threads.
- (7) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the city zoning board of appeals after recommendation from the city planning commission.

(Ord. No. 38, § 5.1.3, 3-11-1955)

Sec. 98-144. - Scope of regulations.

No building or structure, or part thereof, shall hereafter be erected, moved, constructed or altered, and no new use or change in use shall be made unless in conformity with the provisions of this chapter and with the regulations specified for the district in which it is located.

- (1) The regulations applying to each district include specific limitations on the use of land and structure, height and bulk of structures, density of population, lot area, yard dimensions, and area of lot that can be covered by each structure.
- (2) The board of appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district.

(Ord. No. 38, § 5.1.4, 3-11-1955)

Sec. 98-145. - Zoning of vacated areas.

Whenever any street, alley or other public way within the city shall have been vacated by official public action, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands formerly within such vacated street, alley or public way shall automatically and without further action of the city council, thenceforth acquire and be subject to the same zoning regulations as are applicable to lands to which such property shall attach, and such property shall be used for the same use as is permitted under this chapter for such adjoining lands.

(Ord. No. 38, § 5.1.5, 3-11-1955)

Sec. 98-146. - Zoning of annexed areas.

Any area annexed to the city shall, immediately upon such annexation, be automatically classified as an A-1 agricultural district, until a zoning map for such area has been adopted by the city council. The planning commission shall recommend appropriate zoning for such area within three months after the matter is referred by the city council.

(Ord. No. 38, § 5.1.6, 3-11-1955)

Sec. 98-147. - District requirements.

All buildings and uses in any district shall be subject, where applicable, to the provisions of article VI, Supplementary Regulations, article VII, Floodplain Regulations, article VIII, Off-Street Parking and Loading Regulations, and article IX, Signs, of this chapter.

(Ord. No. 38, § 5.1.7, 3-11-1955)

Sec. 98-148. - Categories within zone districts.

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

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

(2) *Uses permitted by special use permit.* Uses and structures which have been generally accepted as reasonable with the primary uses and structures within the zone district, but could present potential injurious effects upon primary uses and structures within the zone district and therefore require special consideration in relation to those of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing following review by the city planning commission. Refer to article X of this chapter.

(Ord. No. 38, § 5.1.8, 3-11-1955)

Sec. 98-149. - Schedule of regulations.

The following is the schedule limiting height, bulk, density and area by zoning district.

Schedule Limiting Height, Bulk, Density and Area by Zoning District

Zoning District	Minimum Zoning Lot Size Per Unit		Maximum Height of Structures		Minimum Yard Setback Per Lot In Feet from Right-of-Way and/or Lot Line			Minimum Floor Area Per Unit	Maximum Percent of Lot Area Covered
	Area in Square Feet/ Acres	Width in Feet	In Stories	In Feet	Front	Each Side	Rear	In Square Feet	By All Structures
R-1A Low density residential	13,000	88(b)	2½	35	35	15(c, d)	40	1,040(g)	20
R-1B Medium density residential	11,000(a)	75(b)	2½	35	25	10(c, d)	30	1,040(g)	20
R-M1 Multiple-family residential									
Low density residential	8,500(a)	66(b)	2½	35	25	10(c, d)	30	800	35
Medium density residential	8,000(a)	60(b)	2½	35	25	10(c, d)	30	750	35

Multifamily residential	3,500(a)	60(b)	2½	35	40	10(c, d)	50	(e)	35
B-1 General business	5,000	88	2½	35	—	—	—	—	—
B-2 Highway service	10,000	100	2½	35	50	20(c, d)	40	—	—
A-1 Agricultural	5 acres	125	2½	35(f)	60	30	60	1,000	—

Notes to schedule:

- (a) Development permitted only on subdivided land served with public water and public sewer.
- (b) In the case where a curvilinear street pattern produces irregularly shaped lots with nonparallel side lot lines, a lesser frontage width at the street line may be permitted, provided that the lot width at the building line is equal to the specified lot width from that district.
- (c) All measurements for front and/or side yards abutting state trunklines shall be taken from the right-of-way and shall not be less than 15 feet. All measurements for front and/or side yards abutting all arterial and/or roads shall not be less than 50 feet. All measurements for front and/or side yards abutting local internal subdivision roads shall be as specified for the respective zoning districts.
- (d) Except in the case of a corner lot where the side yard on the street side shall not be less than the front yard requirement.
- (e) For each dwelling unit in a multiple-family dwelling: 350 square feet for one room; 550 square feet for two rooms; 750 square feet for three rooms; an average of 200 square feet for each room in excess of three rooms.
- (f) Structures for agricultural operations may be permitted up to 75 feet in height.
- (g) Except that the residential structure shall have a minimum width across any front, side or rear elevation of 20 feet or more.

(Ord. No. 38, § 5.9, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 145, § 1, 12-18-1995; Ord. No. 147, § 1, 1-2-1996; Ord. No. 149, § 1, 9-16-1996; Ord. No. 185, § 1, 9-2-2003)

Secs. 98-150—98-165. - Reserved.

DIVISION 2. - R-1A ONE-FAMILY LOW DENSITY RESIDENTIAL DISTRICT

Sec. 98-166. - Intent and purpose.

- (a) This section establishes the R-1A one-family low density residential district. It is the purpose of the R-1A one-family low density residential district to encourage a predominance of residential dwellings located on individual parcels of land housing only one family. The requirements for the R-1A one-family low density residential district are designed to protect and stabilize the essential character of these areas and to promote and encourage a suitable and safe environment for family life. The R-1A one-family low density residential district includes existing low density one-family properties as well as areas within which such development appears both likely and desirable.
- (b) In order to avoid intrusion of undesirable uses and to foster all possible benefits for a continued high quality residential environment, all nonresidential land and structure uses in the R-1A one-family low density residential district, as well as other residential districts in this chapter, have been classified into two categories:
- (1) Those uses permitted by right.
 - (2) Those uses permitted by special permit.
- (c) The uses permitted by special permit have been established to facilitate the inclusion within the district of certain residential and nonresidential uses that have been generally accepted as reasonably compatible with one-family neighborhoods, but that present potential injurious effects upon residential and other property unless authorized under specific and controlled conditions.

(Ord. No. 38, § 5.2.1, 3-11-1955)

Sec. 98-167. - Uses permitted by right.

The following uses are permitted by right in the R-1A one-family low density residential district:

- (1) Adult foster care family home.
- (2) One-family dwelling.
- (3) Customary accessory uses and buildings. Provided such uses and buildings are incidental to the principal use and do not include any activity conducted as a business. Any accessory building or use shall be located on the same lot with the principal building. Accessory uses shall include the following:
 - a. Living quarters as part of an accessory garage for domestic employees of the resident of the principal building.
 - b. Additional supplementary uses, including accessory buildings, as stipulated in section 98-357.
- (4) Public recreation.
- (5) Name plates and signs: As provided in article IX of this chapter.
- (6) Automobile parking: Off-street spaces shall be provided as specified in article VIII, division 2, of this chapter.
- (7) Temporary buildings: For uses incidental to construction work; such buildings shall be removed upon the completion or abandonment of the construction work or within the period of one year, whichever is the lesser time period.
- (8) Railroad right-of-way: Including all necessary trackage, switches, and operating devices, but excluding storage, marshalling yards, freight yards, or sidings.
- (9) Cemeteries: Public or private, subject to the following conditions:
 - a. The site shall be no less than 20 acres and shall be so designed as to provide all ingress and egress directly onto or from a major thoroughfare, as classified on the future land use plan of the city.

- b. The location of proposed service roads, entrances and driveways shall be so designed in relationship to the thoroughfare that pedestrian and vehicular traffic safety is encouraged.
- c. No principal or accessory building shall be closer than 50 feet from any abutting residentially zoned property line.

(10) Private swimming pools: Provided, that such swimming pools shall be enclosed by a protective fence not less than six feet in height. If the pool shall be an aboveground pool, the height of the pool walls may be included as part of this six-foot height requirement. Entry to the pool shall be provided by means of a controlled self-latching gate.

(Ord. No. 38, § 5.2.2, 3-11-1955; Ord. No. 55, § 1, 8-21-1978; Ord. No. 86, § 1, 5-3-1982; Ord. No. 102, § 1, 9-1-1987)

State Law reference— State licensed residential facility considered as residential use for zoning purposes, MCL 125.583b.

Sec. 98-168. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in the R-1A one-family low density residential district by the application for and the issuance of a special use permit when specified procedures and requirements, as outlined in the article and sections cited, are complied with:

- (1) Institutions for human care: Hospitals, professional offices for doctors, dentists and optometrists, clinics, sanitariums, nursing or convalescent homes, homes for the aged, philanthropic and charitable institutions: Refer to article X, division 3, subdivision II, of this chapter.
- (2) Religious institutions: Churches, convents, parsonages and other housing for religious personnel: Refer to article X, division 3, subdivision II, of this chapter.
- (3) Educational and social institutions: Public or private elementary and secondary schools, institutions for higher education, auditoriums and other places for assembly, and centers for social activities: Refer to article X, division 3, subdivision II, of this chapter.
- (4) Public buildings and public service installations: Publicly-owned and operated buildings, including libraries, public utility buildings and structures, telephone exchange buildings, transformer stations and substations: Refer to article X, division 3, subdivision II, of this chapter.
- (5) Customary home occupations: Provided the requirements stated in article X, division 3, subdivision X, of this chapter are met.
- (6) Golf courses and country clubs: Other than golf driving ranges and miniature golf courses, subject to the following conditions:
 - a. The site area shall be 50 acres or more and shall be so designed as to provide all ingress and egress directly onto or from a major thoroughfare.
 - b. A site plan of the proposed development shall be reviewed and approved by the planning commission. Such site plan shall indicate the location of service roads, entrances, driveways and parking areas and shall be so designed in relationship to the major thoroughfare that pedestrian and vehicular traffic safety is encouraged.
 - c. Development features shall be shown on such site plans, including the principal and accessory buildings, structures and parking areas, and shall be so located as to minimize any possible adverse effects upon adjacent property; all principal or accessory buildings and parking areas shall not be less than 200 feet

from any property line of abutting residentially zoned lands.

- d. The minimum number of off-street parking spaces shall be provided as required in article VIII, division 2, of this chapter, including additional spaces which may be required for each accessory use, such as a restaurant or bar.
- e. Whenever a swimming pool is to be provided, such pool shall be located at least 100 feet from abutting residentially zoned property lines and shall be provided with a protective fence six feet in height, and entry shall be provided by means of a controlled gate.
- f. All lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from all residential lands which adjoin the site.

(7) Conversion of one-family dwellings: Provided the requirements stated in article X, division 3, subdivision XII, of this chapter are met.

(Ord. No. 38, § 5.2.3, 3-11-1955)

Sec. 98-169. - Area and bulk requirements.

See [section 98-149](#), Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 38, § 5.2.4, 3-11-1955)

Secs. 98-170—98-185. - Reserved.

DIVISION 3. - R-1B MEDIUM DENSITY RESIDENTIAL DISTRICT

Sec. 98-186. - Intent and purpose.

The R-1B medium density residential district is intended to provide for a diverse residential environment whereby both one-family and two-family dwellings can be accommodated side by side. The R-1B medium density residential district provides for a mixture of these two housing types and thereby offers a greater choice in living environments. This district also includes areas within the city which presently have, or will have within a reasonable future period, public water and sewer facilities.

(Ord. No. 38, § 5.3.1, 3-11-1955)

Sec. 98-187. - Uses permitted by right.

The following uses are permitted by right in the R-1B medium density residential district:

- (1) All uses permitted by right in R-1A districts subject to all the restrictions specified therefor.
- (2) Two-family dwellings.

(Ord. No. 38, § 5.3.2, 3-11-1955)

Sec. 98-188. - Uses permitted by special use permit.

The following uses of land and structures may be permitted by the application for and the issuance of a special use permit when specified procedures and requirements, as outlined in the article and sections cited, are complied with:

- (1) All special uses permitted in R-1A districts: Subject to all the restrictions specified therefor.
- (2) Private noncommercial recreation areas: Private, nonprofit swimming pool clubs, community recreation centers, or other noncommercial recreation activities.
- (3) Day nursery, not including dormitories.
- (4) Offices for professional and health services: Offices for surgeons, physicians, dentists, architects, engineers, artists, attorneys, and other professionals providing health or other personal professional services.

(Ord. No. 38, § 5.3.3, 3-11-1955; Ord. No. 144, § 1, 12-18-1995)

Sec. 98-189. - Area and bulk requirements.

See section 98-149, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 38, § 5.3.4, 3-11-1955)

Secs. 98-190—98-205. - Reserved.

DIVISION 4. - R-M1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 98-206. - Intent and purpose.

The R-M1 multiple-family residential district is provided to accommodate a mixture of housing types, to permit boardinghouses and lodgishouses under specified maximum capacities, and to serve the limited needs for garden apartments, townhouses, row houses, or other group housing facilities similar in character and density in an otherwise low density, one-family community. The R-M1 multiple-family residential district is further intended to accommodate the particular needs of mobile homes when situated in mobile home parks which are properly located, designed and constructed under all conditions specified in this chapter and other applicable city ordinances. This district also includes areas within the city which presently have sewer and water facilities, which are located adjacent to major thoroughfares, and are situated contiguous to existing multiple-family residential development. It is the purpose of the R-M1 multiple-family residential district to achieve the same character, stability and soundness of residential environment as intended for achievement in the R-1A and R-1B districts.

(Ord. No. 38, § 5.4.1, 3-11-1955)

Sec. 98-207. - Uses permitted by right.

The following uses are permitted by right in the R-M1 multiple-family residential district:

- (1) All uses permitted by right in R-1B residential district.
- (2) Multiple-family dwellings.
- (3) Lodgishouses: Provided, that not more than four nontransient roomers are accommodated in one dwelling

and that such dwelling is occupied by a resident family.

- (4) Boardinghouses: Provided, that not more than four nontransient persons are accommodated for the serving of meals.

(Ord. No. 38, § 5.4.2, 3-11-1955)

Sec. 98-208. - Uses permitted by special use permit.

The following uses of land and structures may be permitted by the application for and issuance of a special use permit when specified procedures and requirements, as outlined in the article and sections cited, are complied with:

- (1) All uses permitted by special use permit in the R-1B residential district subject to all the restrictions specified therefor.
- (2) Mobile home park developments shall comply with all requirements and conditions specified in chapter 46 of this Code, as amended, and any other applicable provisions of this chapter.
- (3) Group housing developments shall comply with all requirements and conditions in article X, division 3, subdivision III, of this chapter.
- (4) Planned unit developments: Provided that the development requirements cited in article X, division 3, subdivision IV, of this chapter are met.
- (5) Institutions for human care: Hospitals, professional offices for doctors, dentists, optometrists, clinics, philanthropic and charitable institutions subject to the specifications of article X, division 3, subdivision II, of this chapter.
- (6) Religious institutions; Churches, convents, parsonages, and other housing for religious personnel subject to the specifications of article X, division 3, subdivision II, of this chapter.
- (7) Educational and social institutions: Subject to the specifications of article X, division 3, subdivision II, of this chapter.
- (8) Public buildings and public service institutions: Subject to the specifications of article X, division 3, subdivision II, of this chapter.
- (9) Funeral homes and mortuaries: Subject to the specifications of article X, division 3, subdivision II, of this chapter.

(Ord. No. 38, § 5.4.3, 3-11-1955)

Sec. 98-209. - Area and bulk requirements.

See section 98-149, Schedule of Regulations, limiting the height and bulk of building, the minimum size of lot permitted, and providing minimum yard setback requirements.

(Ord. No. 38, § 5.4.4, 3-11-1955)

Secs. 98-210—98-225. - Reserved.

DIVISION 5. - B-1 GENERAL BUSINESS DISTRICT

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Cross reference— *Businesses, ch. 18.*

Sec. 98-226. - Intent and purpose.

The B-1 general business districts are designed to cater to the needs of the local consumer population and typically, accommodate those retail and business activities that serve the whole community. It is the purpose of these regulations to recognize those retail establishments presently existing within the commercial core of the city and to permit a wide variety of business enterprise types which cannot practicably be incorporated into the highway service districts.

(Ord. No. 38, § 5.5.1, 3-11-1955)

Sec. 98-227. - Uses permitted by right.

Unless otherwise indicated, all of the following uses within this district must be wholly conducted within a permanent, fully enclosed building, except utility structures not usually so enclosed:

- (1) Retail food establishments: Which supply groceries, fruits, vegetables, meats, dairy products, baked goods, confections, or similar commodities for consumption off the premises. Foodstuffs may be prepared or manufactured on the premises as an accessory activity if the sale of the product is limited to the local retail store.
- (2) Other retail businesses: Such as drug, variety, secondhand stores, dry goods, clothing, notions, music, book or hardware stores which supply commodities on the premises.
- (3) Personal service establishments: Which perform services on the premises, such as barber or beauty shops: repair shops for shoes, radio, television, jewelry; self-service laundries: and photographic studios.
- (4) Restaurants: Including lunch counters, dairy bars, coffee shops and other establishments which provide for consumption on the premises, provided that such establishments shall not be so-called drive-in facilities.
- (5) Fur and dry cleaning establishments: Provided that nonflammable and odorless cleaning fluid or solvent is used.
- (6) Taverns.
- (7) Public assembly buildings, including theaters (except drive-in), auditoriums, churches, clubs and lodges.
- (8) Public buildings: Post offices, libraries and governmental administrative offices.
- (9) Banks and other financial corporation offices.
- (10) Hospitals, medical clinics and convalescent homes.
- (11) Funeral homes and mortuaries.
- (12) Printing, publishing, photographic reproduction, blueprinting and related trades and arts.
- (13) Building supply and equipment stores.
- (14) Automobile showroom for new and used automobiles.
- (15) Bus passenger terminals and stations.
- (16) Health offices: For surgeons, physicians, dentists other similar professional persons concerned with improving personal and community health.
- (17) Professional offices: For architects, engineers, artists, and others employed in the graphic arts field.

- (18) Administrative offices: In which the personnel will be employed in one or more of the following fields: Executive, administrative, legal, writing, clerical, stenographic, accounting, insurance and similar enterprises.
- (19) Business schools or private schools operated for profit.
- (20) Pet shops: Provided that animals and birds are kept entirely within the building at all times.
- (21) Commercial recreation facilities: Such as bowling alleys, billiard halls, indoor archery ranges, indoor skating rinks, or other similar uses, Provided that all uses will be conducted wholly within a completely enclosed building.
- (22) Temporary outdoor uses: Such as sidewalk sales displays, Christmas tree sales lots, revival tents, or other quasi-civic activities may be permitted on a temporary basis without a public hearing by the board of appeals, provided that such permit shall not be issued for more than 30 days in any one year.
- (23) Outdoor sales: For new and used automobiles, trailers and boats, provided that:
 - a. The space used therefor is paved and adequately maintained so as to provide a durable, smooth and dustless surface.
 - b. The space is so graded and provided with adequate drainage facilities that all collected surface water is effectively carried away from the site.
- (24) Car wash: Provided, that the site development requirements for gasoline service stations in article X, division 3, subdivision IX, of this chapter are met.
- (25) Motels: Motor hotel, hotel and transient lodging facilities (but not including trailer camps or tent sites), provided the following conditions are met:
 - a. See section 98-149, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.
 - b. Site screening: The site may be enclosed by open structure wood or wire fences along any yard line, but shall not exceed six feet in height. Shrubs and/or trees may be used to screen alone or in combination with structural screens. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicle. Screening at least four feet in height shall be erected to prevent headlight glare from shining on adjacent residential or agricultural property. No screening shall be closer than 75 feet to any street line, except for headlight screening, which shall not be closer than 30 feet.
 - c. Lighting: Lighting shall be hooded, shielded and directed so as to prevent the source of illumination from being visible outside the property lines of the parcel or lot and shall in no way impair safe movement of traffic on any street or highway.
 - d. Swimming pools and other outdoor recreational uses, provided such facilities are an accessory use to a permitted use within this district and are located on the same site as the principal use to which they are accessory and further provided that whenever an unenclosed swimming pool is constructed, such pool shall be provided with a protective fence six feet in height and entry shall be provided by means of a controlled gate.
 - e. Accessory uses, such as meeting rooms, tavern, bar or similar uses, provided such accessory use shall be carried on within the same building as the principal use. A caretaker's or proprietor's residence shall be permitted as an accessory use only when the principal use is a motel, motor hotel, hotel or other transient tourist facility.

- (26) Residential use located on a story above a permitted business use for single-family, two-family and multiple-family dwellings.

(Ord. No. 38, § 5.5.2, 3-11-1955; Ord. No. 138, § 1, 12-5-1994; Ord. No. 193, § 1, 10-6-2009)

Sec. 98-228. - Uses permitted by special use permit.

The following uses may be permitted under the provisions of article X of this chapter:

- (1) Servicing and repair of motor vehicles, trailers, and land, snow or water recreational vehicles as an accessory use to a principal retail use, such as an automobile showroom.
- (2) Small manufacturing and processing establishments, provided that no such use shall entail the outside storage of supplies, material or equipment, and provided further that the application for such proposed use is accompanied by a site plan which demonstrates adequate off-street parking capacity in view of the number of people to be employed in such use, and adequate loading and unloading facilities in view of the nature of the operation. In granting or refusing to grant a special use permit to such an establishment, the following factors shall be considered:
 - a. Use of an existing structure shall be considered more favorably than the construction of a new structure.
 - b. Uses which shall, by virtue of unusual hours of operation, significant numbers of employees, heavy vehicular traffic, offensive sounds or odors, potentially dangerous products or supplies, or other such factors, have an adverse impact on the surrounding area, shall not be permitted.
 - c. Reasonable limits and restrictions on the continuation of the special use permit may be imposed to ensure that such an adverse impact on the surrounding area will not occur.
- (3) Veterinary hospitals, clinics and kennels.
- (4) Secondhand stores.
- (5) Freezer locker for retail business.
- (6) Retail services, such as household equipment repair, servicing laundries and similar establishments.
- (7) Open air business uses, such as retail sales of product, landscaping materials, plant materials not grown on the site, sales of lawn furniture, playground equipment and garden supplies.
- (8) Miniature golf, trampoline or similar public amusement.
- (9) Drive-in theatres, provided the site development regulations of [section 98-937](#) are met.
- (10) Institutional buildings and public service installations, provided that the conditions and requirements as set forth in article X, division 3, subdivision II, of this chapter are met.
- (11) Gasoline service stations, provided that the development requirements cited in article X, division 3, subdivision IX, of this chapter are met.
- (12) Planned shopping centers, provided that the development requirements cited in article X, division 3, subdivision XI, of this chapter are met.
- (13) Drive-in businesses: Except drive-in theatres and drive-in eating establishments, provided that:
 - a. Service may be in automobiles or outdoors, but all other activities shall be carried on within a building.
 - b. A setback of at least 60 feet from the right-of-way line of any existing or proposed street shall be maintained.
 - c. Ingress and egress points shall be located at least 50 feet from the intersection of any two streets.

- d. All lighting shall be shielded from adjacent residential districts.
- e. All motor vehicle parking and standing areas shall be provided and improved in accordance with the requirements stated in article VIII, division 2, of this chapter.

(14) Restaurant and drive-in businesses: Including cafes and other drive-in businesses, but excepting drive-in theatres, provided that for drive-in restaurants and businesses, the following conditions are met:

- a. All motor vehicle parking and standing areas shall be provided and improved in accordance with the requirements stated in article VIII, division 2, of this chapter.
- b. The development requirements of article X, division 3, subdivision IX, of this chapter shall be met.

(15) All uses permitted by right in R-M1 multiple-family residential district.

(Ord. No. 38, § 5.5.3, 3-11-1955; Ord. No. 47, § 1, 1-3-1978; Ord. No. 94, § 1, 11-4-1985)

Sec. 98-229. - Site development requirements.

- (a) *General use requirements.* No use in this district shall produce any objectionable noise, odor, smoke, fumes, heat, glare or vibration at its lot lines so as to be detrimental to the health, safety and welfare of the city and its residents.
- (b) *Signs.* Signs identifying any of the permitted uses within this district shall be in accordance with the requirements as specified in article IX of this chapter.
- (c) *Off-street parking and loading requirements.* Off-street parking and loading requirements shall be provided as specified in article VIII, divisions 2 and 3, of this chapter. When all frontage on one side of the street within a block is zoned B-1 general business and when two or more existing business structures are set back for the purpose of providing suitable parking in front, then new construction on adjacent lots shall conform to that setback insofar as practical so that a joint functional parking facility can be created; otherwise parking shall be provided at the side or rear yards. When such parking areas abut a street or residential lot, parking facilities shall be screened by an obscuring fence or wall at least four feet in height and shall be appropriately painted and landscaped.
- (d) *Storage of refuse.* All space required for the accumulation and unloading of garbage, trash, waste and empty containers shall be provided entirely within a contained structure.

(Ord. No. 38, § 5.5.4, 3-11-1955)

Sec. 98-230. - Area and bulk requirements.

See [section 98-149](#), Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted and providing minimum yard setback requirements.

(Ord. No. 38, § 5.5.5, 3-11-1955)

Secs. 98-231—98-250. - Reserved.

DIVISION 6. - B-2 HIGHWAY SERVICE DISTRICT

Footnotes:

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Cross reference— *Businesses, ch. 18.*

Sec. 98-251. - Intent and purpose.

The B-2 highway service district is designed to accommodate retail business and service activities which serve the particular needs of the highway traveler. The protective standards for site development contained in this division are intended to promote efficient and safe traffic access to these districts and to minimize any adverse effect of such districts upon adjoining land uses of a different type.

(Ord. No. 38, § 5.6.1, 3-11-1955)

Sec. 98-252. - Review procedure.

Review and approval by the city council is required before a building permit or zoning permit may be issued within any highway service district. The owner or lessee proposing development within this district shall submit to the zoning administrator a site plan of suitable scale indicating all service improvements proposed to be made. Such site plan shall include the location of all buildings, driveways, parking areas, acceleration or deceleration lanes, traffic control landscaped areas, fences or walls, and other details of the proposed development which may be required by the zoning administrator. The planning commission shall complete its review of the site plan within 45 days from the date of submission and shall promptly forward its approval or disapproval in writing to the city council. To assure maximum traffic safety and to assure maximum protection to abutting properties, the planning commission may recommend, as part of its written approval, that the city council require the carrying out of certain development requirements by the owner or lessee that modify or are in addition to the standards set forth in this division. If the development proposal is approved by the city council, the city clerk or treasurer shall issue the necessary permits for construction and zoning compliance.

(Ord. No. 38, § 5.6.2, 3-11-1955)

State Law reference— City may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance, MCL 125.584d.

Sec. 98-253. - Bond for compliance.

In approving any site development proposal under this division, the city council may require that a bond of ample sum be furnished by the owner or lessee to insure compliance with the requirements, specifications and conditions imposed with the approval of a site plan.

(Ord. No. 38, § 5.6.3, 3-11-1955)

State Law reference— Improvements, performance guarantee permissible, MCL 125.584e.

Sec. 98-254. - Uses permitted.

All of the following uses permitted must be conducted wholly in a permanent, fully enclosed building except as otherwise stated herein and except utility structures not usually so enclosed:

- (1) Retail establishments: Selling principally (90 percent of total sales measured by dollar volume) new merchandise, including but not limited to such uses as gift, curio, novelty, and outdoor sports supply shops.

- (2) Personal and business services, including processing of physical materials.
- (3) Passenger terminals.
- (4) Offices, banks and public buildings.
- (5) Gasoline service stations: Under the following conditions:
 - a. No more than ten percent of the gross area of the district shall be utilized for this use.
 - b. The site development requirements of article X, division 3, subdivision IX, of this chapter shall be met.
 - c. Automobile, truck and trailer repair and sale of automotive accessories shall be permitted only as an accessory use to an automobile or truck service station and shall be conducted within a wholly enclosed building.
- (6) Restaurant and drive-in businesses: Including cafes and other drive-in businesses, except drive-in theaters, provided that for drive-in restaurants and businesses the following conditions are met:
 - a. All motor vehicle parking and standing areas shall be provided and improved in accordance with the requirements stated in article VIII, division 2, of this chapter.
 - b. The development requirements of article X, division 3, subdivision IX, of this chapter shall be met.
- (7) Ice storage and portable dispensing structures.
- (8) Motel, motor hotel, hotel and transit lodging facilities (but not including trailer camps or tent sites) under the following conditions:
 - a. See section 98-149, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted and providing minimum yard setback requirements.
 - b. Site screening: The site may be enclosed by open structure wood or wire fences along any yard line, but shall not exceed six feet in height. Shrubs and/or trees may be used to screen alone or in combination with structural screens. No screening shall in any way impair safe vertical or horizontal sight distance for any moving vehicle. Screening at least four feet high shall be erected to prevent headlight glare from shining on adjacent residential or agricultural property. No screening shall be closer than 75 feet to any street line, except for headlight screening which shall not be closer than 30 feet.
 - c. Lighting: Lighting shall be hooded, shielded and directed so as to prevent the source of illumination from being visible outside the property lines of the parcel or lot and shall in no way impair safe movement of traffic on any street or highway.
 - d. Swimming pools and other outdoor recreational uses, provided such facilities are an accessory use to a permitted use within this district and are located on the same site as the principal use to which they are accessory and provided further, that whenever an unenclosed swimming pool is constructed, such pool shall be provided with a protective fence six feet in height and entry shall be provided by means of a controlled gate.
 - e. Accessory uses, such as meeting rooms, tavern, bar, or similar uses, provided such accessory use shall be carried on within the same building as the principal use. A caretaker's or proprietor's residence shall be permitted as an accessory use only when the principal use is a motel, motor hotel, hotel, or other transient tourist facility.
- (9) Servicing and repair of motor vehicles, trailers and land or water recreational vehicles as an accessory use to a principal retail use, such as an automobile showroom.

(Ord. No. 38, § 5.6.4, 3-11-1955)

Sec. 98-255. - Site development requirements.

- (a) *Motor vehicle access.* All site plan proposals submitted under the requirements of the highway service district shall provide for the proper handling of traffic on the highway, frontage road, or street giving access to the district. No access by motor vehicles other than stated in this chapter shall be permitted to a minor residential street. All points of entrance or exit for motor vehicles shall be no closer than 50 feet from the intersection of the right-of-way lines of two streets. Whenever a proposed use is located adjacent to or within one-half mile of an existing or planned state or interstate limited access highway interchange, it shall be incumbent upon the applicant to show that the proposed site location shall not cause unsafe traffic congestion resulting at or in conjunction with such limited access interchange; and the applicant shall request and submit with his application written recommendations from the traffic division of the state department of state highways and transportation and from the county road commission. In no case shall private access drives be less than 100 feet from an interchange.
- (b) *Transition strips.* There shall be included in addition to and as an integral part of any site development within this district, a strip of land 50 feet or more in width on all sides of the highway service district which abut a residential or agricultural district, except on the side fronting on a major street or highway. This strip shall serve as a transition between the subject use and the adjacent property uses, both existing and future. No part of this transition strip shall be used for any of the site functions except that 30 feet thereof may be used for a parking area. Further, the transition strip shall be occupied by plant materials or structural fences or walls, used separately or in combination. The plans and specifications for site development shall include the proposed arrangement for such plantings and structures.
- (c) *General use requirements.* Noise emanating from a use in the B-2 highway service district shall not exceed the level of ordinary conversation at the boundaries of the lot. Short intermittent noise peaks may be expected if they do not exceed normal traffic noise peaks at any point on the lot boundaries. No odors shall be humanly perceptible at or beyond the lot boundaries, at a height of less than 25 feet. No physical vibrations humanly perceptible at or beyond the lot boundaries shall be allowed.
- (d) *Signs.* Signs identifying any of the permitted uses within this district shall be in accordance with the requirements as specified in article IX of this chapter.
- (e) *Off-street parking and loading requirements.* Off-street parking and loading areas shall be provided and maintained in accordance with the requirements of article VIII, divisions 2 and 3, of this chapter, and in addition, shall conform to the following locational criteria:
- (1) Motels, motor hotels, hotels and other transient residential uses: Parking shall be furnished on the immediate premises of the developed site.
 - (2) Restaurants and drive-in businesses: Parking shall be provided on the premises and shall be located upon the same side of the major roadway as the establishment.
- (f) *Storage of refuse.* All space required for the accumulation and unloading of garbage, trash, scrap, waste and empty containers shall be provided entirely within a covered contained structure.

(Ord. No. 38, § 5.6.5, 3-11-1955)

Sec. 98-256. - Area and bulk requirements.

- (a) *Generally.* See section 98-149, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size permitted by land use, the maximum density permitted and providing minimum yard setback requirements.
- (b) *Exceptions to required lot area, width and yards.* In cases where one owner or lessee proposes an integrated site development of a unified group of buildings, the board of appeals may waive or modify the lot area, lot width and yard requirements (except front yard requirements) stated herein, if in its judgment, the proposed development conforms to the basic intent of the highway service district and will meet the parking, vehicular safety and protective standards stated within this division.

(Ord. No. 38, § 5.6.6, 3-11-1955)

Secs. 98-257—98-275. - Reserved.

DIVISION 7. - M-1 INDUSTRIAL DISTRICT

Footnotes:

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Cross reference— *Businesses, ch. 18.*

Sec. 98-276. - Intent and purpose.

- (a) The M-1 industrial district is established to provide location and space for all types of industrial, wholesale and storage facilities and to permit the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material such as pharmaceuticals, hardware and cutlery, tool and die, gauge, and machine shops. The M-1 industrial district is also intended to permit industrial and commercial uses which meet the performance standards of this division, commercial establishments not engaged in retail sales as a principal use, and service establishments which are of a type not generally requiring the customer to call at the place of business, except as an accessory use to its principal use.
- (b) The M-1 industrial district is designed also for manufacturing, assembling and fabrication activities including large-scale or specialized industrial operations, whose external effects will be felt to some degree by surrounding districts. It is so structured to permit the manufacturing, processing and compounding of semi-finished or finished products from raw material, as well as from previously prepared material. It is the interest of this division to encourage the full utilization of these districts, under standards of development which will service to effectuate this intent and with adequate protection against the creation of nuisances. In order to allow optimum service to activities of this nature, residential uses, uses incidental to residential development and most retail commercial uses are excluded from these districts as being incompatible with the primary uses permitted.

(Ord. No. 38, § 5.7.1, 3-11-1955; Ord. No. 195, § 1, 9-7-2010)

Sec. 98-277. - Review procedure.

- (a) Review and approval by the city council is required before a building permit or zoning permit is issued within any industrial district. The city council shall receive the recommendation of the planning commission before acting. The owners or lessee proposing development in this district shall submit the following material to the zoning administrator:
 - (1) A site plan of the property showing the location of all present and proposed buildings, drives, parking areas,

waste disposal fields, landscaping, plant materials, screening fences or walls, and other construction features which shall be proposed.

- (2) A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire or safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.
 - (3) Engineering and architectural plans for:
 - a. The treatment and disposal of sewage and industrial waste or unusable byproducts.
 - b. The proposed handling of any excess traffic congestion, noise, glare, air pollution, water pollution, fire or safety hazards, or emission of potentially harmful or obnoxious matter or radiation.
 - (4) The proposed number of shifts to be worked and the maximum number of employees on each shift.
 - (5) A written statement, submitted and signed by the applicant, certifying that the proposed use will be operated in complete conformance with the performance requirements set forth in section 98-279. Any failure of the use to conform thereby shall automatically void any permit issued therefor.
- (b) The materials described in subsection (b) will be used as part of the basis for determining whether the proposed use should be granted a zoning permit under the procedures outlined in article X, division 2, of this chapter. The granting of such permit shall be guided by the following considerations:
- (1) If the nature of the use is such that all of the conditions of section 98-279 cannot reasonably be compiled with, the city council shall require that all practical steps will be taken to minimize any harmful, obnoxious, or annoying effects of the operation of the use. Such effects include, but are not limited to pollution of the atmosphere or any body of water, the discharge into the atmosphere or water body of any particulate matter, the emission of odors, noise, heat, glare, vibrations, or radiation capable of causing danger or discomfort to humans or interfering with the lawful use of any other property, for the general health, safety and welfare of the city.
 - (2) In order to minimize particular effects such as those cited above, which cannot practically be eliminated in a particular case, the city council, before approving or disapproving a use permit, shall consider the arrangement of the proposed use on its lot, the pattern of land use and zoning in the vicinity, and prevailing winds.
 - (3) Open burning shall not be permitted under any circumstances, except to accomplish the disposal of fluid byproducts of industrial processes under conditions which will minimize possible detrimental effects.
 - (4) It shall be the responsibility of the applicant to furnish the zoning administrator with any additional information deemed necessary in support of the application.

(Ord. No. 38, § 5.7.2, 3-11-1955)

State Law reference— City may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance, MCL 125.584d.

Sec. 98-278. - Uses permitted.

In this district no building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered or enlarged, except for the following uses:

- (1) Any production, processing, clearing, testing, repair, storage and distribution of materials, goods, foodstuffs,

and other semi-finished or finished products from previously prepared material, provided that the requirements specified in section 98-279 are met and provided further that no retail activity is involved.

- (2) Veterinary hospital.
- (3) Trade or industrial schools.
- (4) Public utility installations and buildings.
- (5) Truck or rail freight terminal.
- (6) Contractor's establishment not engaging in retail activities on the site as a principal use.
- (7) Commercial freestanding towers, provided the requirements of subsection 98-416(3) are met.
- (8) Storage facilities for building materials, sand, gravel, stone, lumber and contractor's equipment, provided the requirements of subsection 98-279(a) are met.
- (9) Storage and repair of large trucking equipment.
- (10) Railroad right-of-way: including all necessary trackage, switches, operating devices, storage, marshalling yards, freight yards or sidings.
- (11) Heating and electric power generating plants.
- (12) Grain and seed elevators and sales; cold storage for cooperative and/or wholesale agricultural products.
- (13) Accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use, such as:
 - a. Incidental offices for management and materials control.
 - b. Restaurant or cafeteria facilities for employees.
 - c. Caretaker's residence if situated upon a portion of the lot complying with all of the requirements of the residential districts.
 - d. Identification signs referring to the principal activities on the premises or to the person or firm performing these activities.
 - e. Incidental retail activities or showroom areas.
- (14) Open industrial or storage uses, provided that any activity in which materials being processed or stored are located, transported or treated outside of a building; such use shall be provided with an obscuring, permanently maintained fence or wall no lower than the subject use or storage.
- (15) Junkyards:
 - a. All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.
 - b. The site shall be a minimum of one acre in size.
 - c. An obscuring fence or wall at least eight feet in height shall be provided around the entire periphery of the site to screen such area from surrounding property. Such fence or wall shall be of sound construction, painted and otherwise finished neatly and inconspicuously.
 - d. All activities shall be confined within the fenced-in area. There shall be no piling of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced-in area.
 - e. All fenced-in area shall be set back at least 100 feet from any front street or property line. Such front yard

setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation; the spacing and type of plant materials to be determined by the city council after receiving a recommendation from the planning commission.

- f. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
- g. Whenever the installation abuts upon property within a residential or agricultural district, a transition strip of at least 200 feet in width shall be provided between the fenced-in area and the property within a residential or agricultural district. Such strip shall contain plant materials or grass and structural screens of a type to effectively minimize the appearance of the installation and help confine odors therein.

(16) Public garage, motor vehicle repair shop or automobile paint and bump shop.

(17) Other uses of a similar and no more objectionable character which can meet the requirements of section 98-279.

(Ord. No. 38, § 5.7.3, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 195, §§ 2, 3, 9-7-2010)

Sec. 98-278.1. - Uses permitted by special use permit.

The following uses may be permitted under the provisions of article X of this chapter:

- (1) Licensed medical marihuana facilities provided the conditions and requirements as set forth in Chapter 19 ("Medical Marihuana") are fully satisfied.

(Ord. No. 2018-02, § 1, 5-1-2018)

Editor's note— Ord. No. 2018-02, § 1, adopted May 1, 2018, added a new § 98-278a to the Code; however, said provisions have been redesignated as § 98-278.1, at the editor's discretion, for purposes of maintaining Code format.

Sec. 98-279. - Use requirements.

- (a) *Enclosed buildings.* Activities in this district shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors, provided that within 300 feet of any other district, all storage shall be in completely enclosed buildings. All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates, such fence or wall shall be at least eight feet in height, but in no case shall the fence be lower than the enclosed storage. Such storage shall not be deemed to include the parking of licensed motor vehicles under 1½ tons rated capacity.
- (b) *Noise.* Noise emanating from a use in this district shall not exceed 80 decibels as measured at the property line.
- (c) *Standards.* Uses in this district shall conform to the following standards:
 - (1) Emit no obnoxious, toxic or corrosive fumes or gases which are deleterious to the public health, safety or general welfare.
 - (2) Emit no smoke, odorous gases, or other odorous matter in such quantities as to be offensive to health, safety and general welfare at or beyond any boundary of the use of the parcel; for the purpose of grading the density of smoke, the shade or appearance of smoke which is equal to but not darker than No. 1 of the Ringelmann Chart, as published and used by the United States Bureau of Mines, may be emitted for a period not exceeding four minutes out of any 30 minutes.
 - (3) Discharge into the air no dust or other particulate matter created by any industrial operation or emanating

from any products stored prior or subsequent to processing.

- (4) Produce no heat or glare detrimental to the health, safety and general welfare at or beyond the lot boundaries.
- (5) Produce no physical vibrations to such an extent to be detrimental to the health, safety and general welfare at or beyond the lot boundaries.
- (6) Discharge no radioactive materials that exceed quantities established by the U.S. Bureau of Mines Standards.
- (d) *Explosives prohibited.* Use shall not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor in the use of any such material in production.

(Ord. No. 38, § 5.7.4, 3-11-1955)

Sec. 98-280. - Site development requirements.

- (a) *Yards.* Site development requirements for yards shall be as follows:
 - (1) Except for landscape improvements and necessary drives and walks, the front yard shall remain clear and shall not be used for parking, loading, storage or accessory structures. Side and rear yards, except for a strip along the lot boundary ten feet in width, may be used for parking and loading, but not for storage. The side or rear yard may be eliminated where a service to the site is obtained at that edge of the lot.
 - (2) Structures shall be no closer to the lot boundary than the distance specified by the relevant section of the Stille-Derossett-Hale Single State Construction Code Act, Act 230 of 1972 or the provisions of such code which shall then be in effect. MCL 125.1501 et seq., regulating industrial types of buildings. Placement of such structures shall be subject to the review of the city building inspector.
 - (3) When the side or rear yard areas abut land within a residential or commercial district and when such yard areas are to be used for parking, loading, unloading, then such side and rear yard areas shall be effectively screened by an obscuring solid, uniformly finished wall or fence. Such wall or fence shall be at least four feet in height, but in no case shall the fence or wall be lower than the enclosed parking, loading or servicing activity to be screened. The height and extent of such wall or fence shall be determined by the planning commission on the basis of proposed side or rear yard usage. Such parcels shall also be provided with a ten-foot planted transition strip. Such transition strip shall be subject to the review and approval of the planning commission.
- (b) *Off-street parking.* A building permit may be issued only if an adequate number of off-street parking spaces will be provided on the lot in accordance with the requirements as specified in article VIII, division 2, of this chapter. In addition to these requirements, sufficient parking space shall be provided to park all vehicles owned or leased by the occupant, including but not limited to passenger cars, trucks, tractors, tiers and similar vehicles.
- (c) *Off-street loading and unloading.* Each use in this district shall provide off-street loading spaces as specified in article VIII, division 3, of this chapter.
- (d) *Signs.* Signs identifying any of the permitted uses in this district shall conform to the requirements in article IX of this chapter.

(Ord. No. 38, § 5.7.5, 3-11-1955; Ord. No. 102, § 2, 9-1-1987; Ord. No. 2018-03, § 1, 5-1-2018)

Sec. 98-281. - Supporting evidence required.

In all instances in which the zoning administrator and/or the board of appeals considers the ability of a proposed use to meet all the requirements of this division to be reasonably doubtful, it will be incumbent upon the proponent to furnish adequate evidence in support of his application. If such evidence is not presented, the building permit shall not be issued.

(Ord. No. 38, § 5.7.6, 3-11-1955)

Sec. 98-282. - Area and bulk requirements.

See all applicable building code requirements pursuant to the Stille-Derossett-Hale Single State Construction Code Act, Act 230 of 1972 or the provisions of such code which shall then be in effect. MCL 125.1501 et seq.

(Ord. No. 38, § 5.7.7, 3-11-1955; Ord. No. 102, § 3, 9-1-1987; Ord. No. 2018-03, § 2, 5-1-2018)

Secs. 98-283—98-300. - Reserved.

DIVISION 8. - A-1 AGRICULTURAL DISTRICT

Footnotes:

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Cross reference— *Animals, ch. 10.*

Sec. 98-301. - Intent and purpose.

- (a) The A-1 agricultural district is intended to preserve, enhance and stabilize existing areas within the city which are presently used predominately for general farming and areas which, because of their soil characteristics and natural flora, or because of seasonal flooding, should be conserved for agricultural and open space use.
- (b) To achieve these objectives, permitted uses within the A-1 agricultural district are limited to agricultural and low density residential use together with such limited community facilities as schools, churches and public open spaces.

(Ord. No. 38, § 5.8.1, 3-11-1955)

Sec. 98-302. - Uses permitted by right.

The following uses are permitted by right in the A-1 agricultural district:

- (1) Single-family dwelling.
- (2) Field crop and fruit farming, truck gardening, horticulture, aviaries, hatcheries, apiaries, greenhouses, tree nurseries, and similar agricultural enterprises along with accessory uses incidental to the above.
- (3) Public and private conservation areas and structures for the conservation of water, soils, open space, forest and wildlife resources.
- (4) Public areas, such as forest preserves, game refuges, forest type recreation parks and similar public uses of low density character.
- (5) Customary home occupations as specified for R-1A districts, one-family low density residential, article X, division 3, subdivision X, of this chapter.

- (6) Roadside stands selling products grown on the premises upon which the stand is located, provided that contiguous for the parking of customer's vehicles is furnished off the public right-of-way at the ratio of one parking space for every square foot of roadside stand floor area and provided further that all of the requirements for accessory buildings contained in section 98-357 shall be met.
- (7) Railroad right-of-way, as specified for R-1A districts, one-family low density residential, subsection 98-167(8).
- (8) Supplementary uses: Customary accessory uses and buildings incidental to the permitted principal use of a premises. The following accessory uses may be permitted under the conditions stipulated:
 - a. The storage of not more than one unoccupied travel trailer upon each lot or parcel.
 - b. All signs shall conform to the requirements of article IX of this chapter.

(Ord. No. 38, § 5.8.2, 3-11-1955)

Sec. 98-303. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in any agricultural district by the application for and the issuance of a special use permit when all the procedural requirements specified in article X, division 2, of this chapter are satisfied, together with any applicable requirements as outlined in the particular article and sections cited:

- (1) Public recreation and playgrounds.
- (2) Greenhouses and nurseries selling at retail on the premises.
- (3) Riding stables and livestock auction yards.
- (4) Raising of fur-bearing animals for profit.
- (5) Veterinary hospitals, clinics and kennels.
- (6) Seasonal labor housing complexes associated with agricultural enterprises, provided that such units are maintained in safe and sanitary condition with inside water and sanitary sewage disposal facilities and that such structures are occupied no more than eight months in any 12-month period.
- (7) Private noncommercial recreation areas, private nonprofit swimming pool clubs, community recreation centers, or other noncommercial recreation activities.
- (8) Golf courses and country clubs; other than golf driving ranges and miniature golf courses, subject to the conditions specified in subsection 98-168(6).
- (9) Institutions for human care; religious institutions, educational and social institutions, refer to article X, division 3, subdivision II, of this chapter.
- (10) Public buildings and public service installations; refer to article X, division 3, subdivision II, of this chapter.
- (11) Sand or gravel pits, quarries, incinerators, sanitary fills, junkyards, public or semi-private sewage treatment and disposal installations; refer to article X, division 3, subdivision XII, of this chapter.
- (12) Drive-in theaters; temporary and transient amusement enterprises, golf driving ranges, miniature golf courses; refer to article X, division 3, subdivision XII, of this chapter.
- (13) Special open space uses; public beaches, bathhouses, private resorts, recreational camps and other open space uses operated for profit; refer to article X, division 3, subdivision XII, of this chapter.
- (14) Advertising structures; as provided in article X, division 3, subdivision XII, of this chapter.
- (15) Commercial freestanding towers; provided that the requirements of subsection 98-416(3) are met.
- (16) Raising and keeping of animals; refer to article X, division 3, subdivision XII, of this chapter.

(17) Travel trailer parks; subject to all specifications in section 98-852.

(18) Airports or landing fields.

(19) Hospitals.

(20) Cemeteries.

(Ord. No. 38, § 5.8.3, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-304. - Area and bulk requirements.

See section 98-149, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted and providing minimum yard setback requirements.

(Ord. No. 38, § 5.8.4, 3-11-1955)

Secs. 98-305—98-330. - Reserved.

ARTICLE VI. - SUPPLEMENTARY REGULATIONS

DIVISION 1. - GENERALLY

Sec. 98-331. - Prior building permits.

Any building permit issued prior to the effective date of this chapter shall be valid, even though not conforming to the provisions of this chapter, provided that construction is commenced within 90 days after the date of permit issuance and that the entire building shall be completed according to the plans filed with the permit application within one year after the issuance of the building permit.

(Ord. No. 38, § 6.1.1, 3-11-1955)

Sec. 98-332. - Access to street.

Any lot of record created after the effective date of the ordinance from which this chapter is derived, shall have frontage on a public street, except in the case of an officially approved group housing development as provided in section 98-208. Any one lot of record created before the effective date of the ordinance from which this chapter is derived, without any frontage on a public street shall not be occupied without access provided by an easement or other right-of-way no less than 20 feet wide.

(Ord. No. 38, § 6.1.2, 3-11-1955)

Sec. 98-333. - Rear dwelling prohibited.

No building in the rear of and on the same lot with a principal building shall be used for residential purposes except for watchmen, caretakers and domestic employees whose employment functions are related to the functions of the principal building, provided that all other requirements of this chapter are satisfied.

(Ord. No. 38, § 6.1.3, 3-11-1955)

Sec. 98-334. - Mobile homes.

Mobile homes may be occupied as a dwelling in the city provided that:

- (1) Such mobile home is located in an approved and licensed mobile home park development; or
- (2) Such mobile home complies in all respects with the standards contained in division 6 of this article.

(Ord. No. 38, § 6.1.4, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Cross reference— Manufactured homes and trailers, ch. 46.

Sec. 98-335. - Review of building design near public buildings and sites.

The design of proposed nonresidential buildings within 500 feet of the nearest property line of public parks, scenic areas and buildings, such as community centers, city office buildings, libraries, schools or hospitals, shall first be approved by the board of appeals before a building permit can be issued. The purpose of the requirement is to prevent the occurrence of inappropriate structural appearance of building designs intended to attract attention of potential customers and patrons in proximity to improvements in which the public has invested tax monies. The board of appeals shall request recommendations from the planning commission and city council before making its determination.

(Ord. No. 38, § 6.1.5, 3-11-1955)

Sec. 98-336. - Required water supply and sanitary sewerage facilities.

After the effective date of the ordinance from which this chapter is derived, no structure shall be erected, altered or moved upon a lot or premises and used in whole or in part for dwelling, business, industrial or recreational purposes unless it shall be provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human excrement and domestic, commercial and industrial wastes. All such installations and facilities shall conform with the minimum requirements of the county health department and the state health department.

(Ord. No. 38, § 6.1.6, 3-11-1955)

Cross reference— Water service, § 86-31 et seq.; sewer service, § 86-36 et seq.

Secs. 98-337—98-355. - Reserved.

DIVISION 2. - USE

Sec. 98-356. - Uses of structures for temporary dwelling.

No structure shall be used for dwelling purposes that is not considered a standard dwelling structure, as defined in this chapter. No garage or other accessory building, tent, cabin, partial structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purpose for any length of time unless authorized by the board of appeals by the issuance of a temporary permit as provided for in subsection 98-84(e).

(Ord. No. 38, § 6.2.1, 3-11-1955)

Sec. 98-357. - Accessory buildings.

Authorized accessory buildings may be erected as a part of the principal building or may be connected to it by a roofed-over porch, patio, breezeway, or similar structure, or they may be completely detached. If attached to the principal building, an accessory building shall be made structurally a part of it and shall comply in all respects with the requirements applicable to the principal building. An accessory building not attached and not made a part of the principal building, as provided in the preceding statement, shall not be nearer than ten feet from any other separate structure on the same lot:

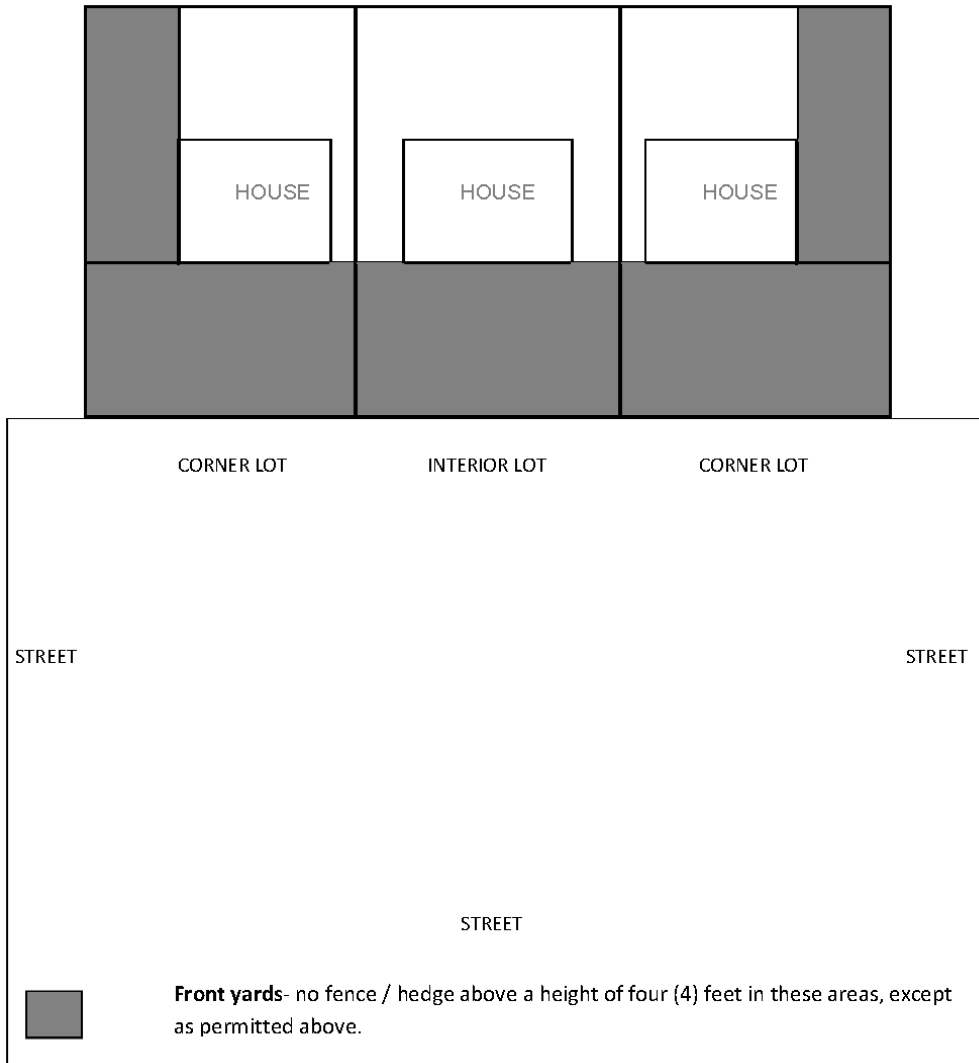
- (1) *Accessory uses, garages.* In residential districts, the number of motor vehicles for which structural space may be provided as accessory to an authorized use shall not exceed the following:
 - a. R-1A residential districts: Four motor vehicles, one of which may be a commercial vehicle exceeding one-ton rated capacity, and 1½ tons if the residence is part of an agricultural operation.
 - b. R-1B residential districts: Three motor vehicles, one of which may be a commercial vehicle not exceeding one-ton rated capacity; and for each 5,000 square feet by which the lot exceeds the minimum lot area required, space for one additional motor vehicle may be provided.
 - c. R-M1 districts and group housing developments: Two motor vehicles for one-family and two-family dwellings and for each family or household group housed in a multiple-family dwelling structure; but not more than one of these two motor vehicles may be a commercial vehicle not exceeding one-ton rated capacity. Space in a garage accessory to a multiple-family residence or a motel shall be rented only to occupants of the dwelling.
 - d. A parking area of ten feet by 20 feet shall be considered as adequate storage space for each authorized motor vehicle. Additional space may be provided in a garage for uses incidental to a garage function or for hobby workshops and storage areas.
 - e. Height of garages and other outbuildings: Garages and other outbuildings in residential districts may not exceed the height of the principal building to which it is an accessory use.
- (2) *Accessory uses, fallout shelters.* Fallout shelters are permitted uses and structures in any district, subject to the yard and lot coverage regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately and in addition to shelter use may be used for any accessory use permitted in the district, subject to the district regulations for such use.

(Ord. No. 38, § 6.2.2, 3-11-1955; Ord. No. 137, § 1, 4-5-1994)

Sec. 98-358. - Fences, walls and screens.

- (a) No fence, wall or structural screen, other than plant materials, shall be erected on any residential property higher than eight feet.
- (b) No fence, walls, structural screens, hedges or screen planting shall be erected or maintained within the front yard setback area as defined in section 98-149 except the following:
 - (1) A fence, wall, structural screen, hedge or screen planting not exceeding four feet in height, provided that a fence, wall or structural screen shall not be of a solid nature but shall be of such construction that it shall permit partial visibility through it, such as a picket or split rail fence.
 - (2) An ornamental fence not exceeding six feet in height, provided that such a fence is so constructed or fabricated so that visibility through it is essentially unimpaired.
- (c) On any corner lot, no hedge or other screen planting shall exceed a height of three feet within 25 feet of any corner so as to interfere with traffic visibility across the corner.

- (d) No fence, wall, structural screen, hedge or screen planting shall exceed a height of six feet within a side or rear yard
- (e) Corner lots are considered to have two front yards. All yards that abut a street right-of-way are considered front yards, regardless of which direction the house faces.



(Ord. No. 38, § 6.2.4, 3-11-1955; Ord. No. 60, § 1, 9-18-1978; Ord. No. 99, § 1, 5-2-1987; Ord. No. 165, § 1, 3-15-99; Ord. No. 2019-03, § 1, 10-28-2019)

Sec. 98-359. - Accessory uses permitted in B-2 highway service districts.

The following accessory uses may be made of property located within B-2 districts when in conjunction with the principal business activity conducted on the premises:

- (1) *Exterior storage or display of merchandise.* The exterior storage or display of inventory or merchandise, provided that:
 - a. The total exterior area so employed shall not exceed 15 percent of the total floor area of the principal business structure.
 - b. The items so stored or displayed shall be located within ten feet of the principal business structure.
 - c. The items so stored or displayed shall be arranged so as not to exceed eight feet in height above ground level.

- (2) *Temporary structure.* The erection for a period not longer than 45 days, and no more frequently than twice in a year, of a tent or other temporary structure to be used for the display and offering for sale of merchandise, provided no such temporary structure shall obstruct any public way, be placed within ten feet of any property line, or constitute a threat to public welfare and safety, or reduce parking spaces below what is required by city ordinance.
- (3) *Special events.* Such special events, not otherwise permitted herein, as may be authorized by application, and a permit issued by the city. The city manager or his authorized representative shall have discretion to grant or deny permission for the holding of such special events. No such event shall be permitted which may constitute a threat to the public health, welfare or safety, or which may constitute an annoyance to the reasonable sensibilities of those residents of the city who may in some way be affected thereby.

(Ord. No. 158, § 1, 11-17-1997)

Secs. 98-360—98-375. - Reserved.

DIVISION 3. - AREA

Sec. 98-376. - Exception to required lot area for residential districts.

Any residential lot created and recorded prior to the effective date of the ordinance from which this chapter is derived may be used for any permitted use even though the lot area and/or dimensions are less than those required for the district in which the lot is located, provided that:

- (1) The other requirements of the district are met.
- (2) No adjacent land or lot is owned by the owner of the lot in question.
- (3) No lot shall be so reduced in area that the required open space will be smaller than those established as a minimum for the district in which the lot is located.
- (4) Any lot so excepted shall be no less than 50 feet in width at the street line.

(Ord. No. 38, § 6.3.1, 3-11-1955)

Sec. 98-377. - Lot area can be allocated once.

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

(Ord. No. 38, § 6.3.2, 3-11-1955)

Sec. 98-378. - Accessory building.

An accessory building shall not occupy more than 40 percent of the area of any rear yard.

(Ord. No. 38, § 6.3.3, 3-11-1955)

Secs. 98-379—98-395. - Reserved.

DIVISION 4. - YARD

Sec. 98-396. - Side yard reduction.

Area required for side yards may be reduced in the following situations:

- (1) For residential lots adjoining an alley, the least width of a required side yard may be measured to the centerline of that alley, provided that no building shall be erected closer than five feet to the nearest alley right-of-way.
- (2) For lots of record 80 feet or more in width at the building line, the same side yard requirements as for lots 100 feet or over in width shall apply.
- (3) For lots of record 60 to 79 feet in width at the building line, the least width of either side yard shall be eight feet, but the sum of two side yards shall not be less than 18 feet.
- (4) For lots of record 50 to 59 feet in width at the building line, the least width of either side yard shall be six feet; but the sum of the two side yards shall not be less than 13 feet.

(Ord. No. 38, § 6.4.1, 3-11-1955)

Sec. 98-397. - Rear yard reduction.

- (a) When a lot of record in any residential district has a depth of less than 115 feet prior to the effective date of this chapter, the rear yard of such lot may be reduced one-fourth of distance if the lot depth is less than 115 feet, provided that no rear yard shall be less than 20 feet in depth.
- (b) When there is a public alley at the rear of a lot upon which the lot abuts for its full width, measurements of the depth of the rear yard may be made to the centerline of such alley.

(Ord. No. 38, § 6.4.2, 3-11-1955)

Sec. 98-398. - Permitted yard encroachments.

- (a) *Paved terraces and patios.* Paved terraces and patios shall not be subject to yard requirements provided:
 - (1) The paved area is unroofed and without such walls, parapets or other forms of solid, continuous enclosure that so link the paved area to the principal building that an enclosed area is formed which appears functionally a part of the principal building.
 - (2) The highest finished elevation of the paved area is not over 30 inches above the average surrounding finished ground grade.
 - (3) No portion of any paved area is closer than five feet from any lot line.

Such paved areas may have an open railing or fence not over three feet high and may have noncontinuous windbreaks or visual screen fences or walls not over six feet high and not enclosing more than one-half the perimeter of the paved area.

- (b) *Unenclosed porches and decks.*

- (1) *Side yard.* Unenclosed porches and decks may project into a required side yard area a distance not to exceed 12 feet provided:
 - a. The unenclosed porch or deck is no higher than one story, and is erected on piers.

- b. The unenclosed porch or deck shall not be closer than eight feet to any side lot line.
- (2) *Front yard.* Unenclosed porches or decks, may project into a front yard setback area provided:
- a. The unenclosed porch or deck projects into the front yard a distance not to exceed five feet.
 - b. The unenclosed porch or deck is in compliance with the nonconforming lot setback requirements in section 98-112.
 - c. The unenclosed porch or deck shall be necessary to provide access to the principal residence for handicapped individuals residing therein, when no other means of providing such access shall be reasonably available. Any such structure as shall be permitted hereunder for the use of handicapped individuals shall be removed at such time as the residence shall cease to be occupied by a handicapped individual.
- (3) *Rear yard—Unenclosed porches.* Unenclosed porches may project into a rear yard area a distance not to exceed 12 feet provided.
- a. The unenclosed porch is unenclosed, no higher than one story, and is erected on piers.
 - b. The unenclosed porch shall not be closer than eight feet to any rear lot line.
- (4) *Rear yard—Decks.* Decks may project into a rear yard area any distance provided:
- a. The projection of the deck into the minimum rear yard setback does not exceed 50 percent of the setback requirement.
 - b. The deck shall not be closer than 15 feet to any rear lot line.

Any such unenclosed porch or deck shall be designed and constructed strictly in compliance with building codes for guards and handrails.

- (c) *Enclosed porches.* Enclosed porches either one story, two story, or an unenclosed porch having solid foundations and capable of being enclosed shall be considered an integral part of the building and shall, therefore, be subject to all yard and area dimensional requirements established for principal buildings.
- (d) *Special structural elements.* Special structural elements, such as cornices, sills, beltcourses, chimneys, gutters, eaves, pilasters and similar structural features may project into any yard up to a maximum of two and one-half feet.
- (e) *Fire escapes, outside stairways and balconies.* Fire escapes, outside stairways and balconies if of open construction, may project into any yard area up to a maximum of five feet.
- (f) *Definitions.* For purposes of this section the following definitions shall apply:

Deck means an exterior floor system supported on at least two opposing sides by an adjoining structure and/or post, piers, or other supports.

Enclosed porch means a covered entrance to a structure which is surrounded on all sides by glass, screen, wood, brick, plastic or other materials permitted by the Building Code.

Unenclosed porch means a covered entrance to a structure which is not enclosed.

(Ord. No. 38, § 6.4.3, 3-11-1955; Ord. No. 136, § 1, 4-5-1994; Ord. No. 166, §§ 1, 2, 3-15-99; Ord. No. 186, § 1, 10-21-2003)

Sec. 98-399. - Accessory buildings.

- (a) *Front yard.* No accessory building shall project into any front yard.

- (b) *Rear yard.* No accessory building, including detached garages shall be closer than three feet to any lot line.
- (c) *Side yard.* No accessory building, including garages, shall be erected closer to any side lot line than the permitted distance for a dwelling within a residential district, except when an accessory building is located ten feet or more to the rear of the principal dwelling; then the accessory building shall be no closer than three feet to the side lot line.
- (d) *Corner lot.* No accessory building shall be closer to the side street lot line than the side yard setback of the principal building on the lot. Where the rear line of a corner lot coincides with the side line of an adjoining lot in a residential district, an accessory building shall not be closer than eight feet to the common lot line.

(Ord. No. 38, § 6.4.4, 3-11-1955)

Secs. 98-400—98-415. - Reserved.

DIVISION 5. - HEIGHT

Sec. 98-416. - Permitted exceptions, structural appurtenances.

The following kinds of structural appurtenances and permitted exceptions shall be permitted to exceed the height limitations for authorized uses only when all of the following conditions can be satisfied: No portion of any building or structure permitted as an exception to a height limitation shall be used for human occupancy or for commercial enterprise. Any structural exception to height limitations shall be erected only to such height as may be necessary to accomplish the purpose it is intended to serve, so as not to become a hazard to aviation. If the roof area of such structural elements permitted to exceed the height limitations exceed 20 percent of the gross roof area, they shall be considered as integral parts of the whole structure, and thereby shall not be eligible for permission to exceed height limitations. Structural appurtenances qualifying for exception includes those listed below:

- (1) Ornamental in purpose, such as church spires belfries, cupolas, domes, ornamental towers, flag poles and monuments.
- (2) Appurtenances to mechanical or structural functions such as chimneys and smoke stacks, water tanks, elevator and stairwell, penthouses, ventilators, bulkheads, radio towers, masts, aerials, television antennas, fire and hose towers, cooling towers, and grain and seed elevators.
- (3) Commercial towers when not attached to a building or structure, shall be constructed under applicable state and federal regulations and approved by the planning commission.
- (4) Freestanding towers, such as TV or radio towers intended primarily to serve the occupants of the main structure shall not exceed 50 feet.

(Ord. No. 38, § 6.5.1, 3-11-1955)

Sec. 98-417. - Permitted exceptions, certain nonresidential structures in residential districts.

There shall be no exceptions permitted for residential structures. Certain nonresidential structures in residential districts may be permitted to exceed height limitations as specified in article X, division 3, subdivision II, of this chapter.

(Ord. No. 38, § 6.5.2, 3-11-1955)

Sec. 98-418. - Permitted exceptions, business and industrial districts.

In any business or industrial district, any principal building may be erected to a height in excess of that specified for the district, provided each front, side and rear yard is increased one foot for each one foot of such additional height.

(Ord. No. 38, § 6.5.3, 3-11-1955)

Secs. 98-419—98-436. - Reserved.

DIVISION 6. - DWELLING STANDARDS

Sec. 98-437. - Minimum square footage requirements.

A dwelling shall comply with the minimum square footage requirements of this chapter for the zone in which it is located.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-438. - Minimum width; compliance with state and federal standards.

A dwelling shall have a minimum width as to all front, side or rear elevations of 20 feet and complies in all respects with the city building code, including minimum heights for habitable rooms. The structure shall have a pitched roof of at least four-twelfths or steeper.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-439. - Foundation requirements.

A dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the city building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-440. - Reserved.

Sec. 98-441. - Sewer and water service.

The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the appropriate health department.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-442. - Storage.

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

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-443. - Aesthetic design and appearance.

The dwelling shall be compatible in design and appearance with other residences in the vicinity, with a roof overhang of not less than one foot on all sides, with window sills and roof drainage systems, concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to the exterior door areas or to porches connected to the door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the city building inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the zoning board of appeals within a period of 15 days from the receipt of notice of the building inspector's decision. A determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within such area; or, where such area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the city. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-444. - Quality of workmanship.

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

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-445. - Compliance with building and fire codes.

The dwelling shall comply with all pertinent building and fire codes. Additionally, all dwellings shall meet or exceed all applicable roof, snow load and strength requirements.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-446. - Exception for mobile home parks.

The standards in this division shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the city pertaining to such parks.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Sec. 98-447. - Building permit required.

All construction required in this division shall be commenced only after a building permit has been obtained in accordance with the applicable city building code provisions and requirements.

(Ord. No. 38, § 10.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982; Ord. No. 161, § 1, 2-17-1998)

Secs. 98-448—98-470. - Reserved.

ARTICLE VII. - FLOODPLAIN REGULATIONS

Footnotes:

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Cross reference— *Public improvement requirements for subdivisions for storm sewer, § 42-191.*

Sec. 98-471. - Intent and purpose.

The purpose of this article regulations is to protect those areas of the city which are subject to periodic inundation from floodwaters of the major rivers, their branches and tributaries within the city so that the reservoir capacity shall not be significantly reduced, thereby creating changes to areas previously not so endangered in time of high water, or to impede, retard, accelerate or change the direction of the flow or carrying capacity of the river valley or to otherwise increase the possibility of flood. These regulations, while permitting reasonable use of such properties, will help protect human life, safety, health and general welfare, and prevent or minimize material or economic losses, through public aid and relief efforts occasioned by the unwise occupancy of such flood areas. All land and land uses within the floodplain area shall be subject to the requirements specified herein, in addition to the zoning district requirements of the zones in which such lands are located.

(Ord. No. 38, § 6.6.1, 3-11-1955)

Sec. 98-472. - Floodplain delineation.

The floodplain within the city is all of the land which would be inundated during an intermediate regional flood. The flood hazard boundary map (Department of Housing and Urban Development Community No. 260091A) shall serve as the official floodplain zoning map, until the flood insurance rate map, becomes available. The flood insurance rate map shall take precedence over all prior maps and serve as the official floodplain zoning map. The official floodplain zoning map may be subject to alteration with any significant change in land use, including the indirect impact of such a change that seriously impedes, retards, accelerates or changes the direction of flow or carrying capacity of the watercourse or which otherwise increases the possibility of flood. The official floodplain zoning map is on file at the office of the city clerk.

(Ord. No. 38, § 6.6.2, 3-11-1955)

Sec. 98-473. - Permitted principal uses.

Notwithstanding any other provisions of this chapter within the floodplains no building or structure shall be erected, converted or structurally altered, and no land and/or structure shall be used except for one or more of the following uses:

- (1) Open space uses, such as crop farming and gardening (not including related buildings), parks, playgrounds, golf courses, nature preserves, bridle trails and nature paths, private and commercial recreation and other similar, open spaces.
- (2) Public rights-of-way, private drives and off-street parking uses, provided that all parking shall be at grade

level and in conformance with the provisions of article VIII of this chapter.

- (3) Public utility facilities, provided utilities are constructed or elevated to withstand flood damages and are as further regulated by this chapter.
- (4) Storage yards for materials and equipment, not including flammable liquids which are not subject to removal or major damage by floodwaters.

(Ord. No. 38, § 6.6.3, 3-11-1955)

Sec. 98-474. - Uses permitted by special permit.

The following uses of land and structures may be permitted within the floodplain upon application for and issuance of a special use permit with specified procedures and requirements as outlines, and shall be subject to a finding of the zoning administrator that requirements of this section are satisfied. Any use permitted by right or special use permit within the zone district shall be permitted within the floodplain, provided:

- (1) The use pattern and the structure proposed to accomplish such use shall be so designed as to not significantly reduce the impoundment capacity of the floodplain and the flow of water by the use of stilts, cantilevering, or such other design techniques which will place the desired buildings above the intermediate regional flood high water level of the site in a safe manner so such structure or building will withstand the anticipated velocity of the floodwaters and not suffer flood damage.
- (2) All buildings substantially improved or newly constructed shall have a minimum floor elevation of the lowest floor, including the basement, of not less than the high water level of the intermediate regional flood and shall further incorporate elevation for floodproofing of the structure and all attendant utility and sanitary facilities up to the level of the intermediate regional flood.

(Ord. No. 38, § 6.6.4, 3-11-1955)

Sec. 98-475. - Data submission.

Prior to the issuance of a special use permit or a building permit for structures on/or adjacent to floodplain areas, the zoning administrator shall require the applicant for such permit to submit topographic data, engineering studies, proposed site plans or other similar data needed to determine the possible effects of flooding on a proposed structure and/or the effect of the structure on the flow of water. All such required data shall be prepared by technically qualified persons. Review of the data submitted and application for special use permit shall be processed according to the procedures described in article X, division 2, of this chapter.

(Ord. No. 38, § 6.6.5, 3-11-1955)

Sec. 98-476. - Alterations to floodplain.

Dumping or backfilling in the floodplain areas with any material in any manner is prohibited unless, through compensating excavation and shaping of the floodplain, it is provided that the flow and natural impoundment capacity of the floodplain will be maintained or improved so that no significant or measurable change in flow or reduction in impoundment capacity of the floodplain would thereby result. Where there is dumping, backfilling or excavation, in any manner, adequate site plans and engineering drawings shall be submitted to the zoning administrator which must effectively show the final results of such action.

(Ord. No. 38, § 6.6.6, 3-11-1955)

Sec. 98-477. - Existing uses in floodplain.

- (a) It is the intent of this chapter to permit existing uses to continue in the floodplain until they are removed, but not to encourage their survival.
- (b) It is recognized there exists within the floodplain lots and structures which were unlawful before this chapter was passed or amended, which would be prohibited, regulated or restricted under terms of this chapter or future amendments.
- (c) Such uses are declared by this chapter to be incompatible with permitted uses in the floodplain. It is further the intent of this chapter that illegal uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited in the floodplain.
- (d) Should a structure located in the floodplain be damaged by any means to an extent of more than 60 percent of the structure's pre-catastrophe market value, as recorded by the assessing officer, it shall not be reconstructed. The damage to the structure is the expenditure necessary to return the structure to its condition before destruction and shall be determined by the zoning administrator after:
 - (1) Receiving an estimate of the structural damage from the fire chief;
 - (2) Receiving a figure representing the difference between the pre-catastrophe market value of the structure and the post-catastrophe value as determined by the assessing officer;
 - (3) Dividing the sum of the figure derived from the fire chief and from the assessing officer by two.
- (e) Any building damaged by any means to an extent of less than 60 percent of the structure's pre-catastrophe market value, as recorded by the assessing officer, may be modified, repaired or replaced, but any alterations must incorporate floodproofing of utility and sanitary facilities up to the level of the intermediate regional flood. The costs of such improvements for floodproofing shall not be included in determining the damage costs.
- (f) The board of appeals may permit reconstruction of a use if it is adequately protected against flood damage, is not located in the floodway, and not allowing reconstruction would create undue hardship on the appellant.

(Ord. No. 38, § 6.6.7, 3-11-1955)

Sec. 98-478. - Liability.

Under no circumstances shall the city incur any liability whatsoever for the granting of any use or building in floodplain areas.

(Ord. No. 38, § 6.6.8, 3-11-1955)

Secs. 98-479—98-500. - Reserved.

ARTICLE VIII. - OFF-STREET PARKING AND LOADING REGULATIONS

Footnotes:

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Cross reference— *Traffic and vehicles, ch. 82.*

DIVISION 1. - GENERALLY

Secs. 98-501—98-515. - Reserved.

DIVISION 2. - OFF-STREET PARKING REQUIREMENTS

Sec. 98-516. - Intent of parking provisions.

It is the intent of this chapter that off-street parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the use of occupants, employees and patrons of each building and premises constructed, altered or enlarged after the effective date of the ordinance from which this chapter is derived.

(Ord. No. 38, § 7.1.1, 3-11-1955)

Sec. 98-517. - Definitions.

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

(Ord. No. 38, § 7.1.2, 3-11-1955)

Cross reference— Definitions generally, § 1-2.

Sec. 98-518. - Fractional spaces.

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

(Ord. No. 38, § 7.1.3, 3-11-1955)

Sec. 98-519. - Requirements for a use not mentioned.

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

(Ord. No. 38, § 7.1.4, 3-11-1955)

Sec. 98-520. - Use of parking areas.

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

- (1) No charge shall be made for customers, employees or other visitors utilizing the parking facilities.
- (2) No advertising sign shall be erected on required parking areas except that not more than one directional sign at each point of ingress or egress may be erected which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed 20 square feet in area and shall not project beyond the property line of the premises.

(Ord. No. 38, § 7.1.5, 3-11-1955)

Sec. 98-521. - Building additions or other increases in floor area.

Additional parking shall be provided and maintained in proper ratio to any increased floor area or building use capacity.

(Ord. No. 38, § 7.1.6, 3-11-1955)

Sec. 98-522. - Joint use of parking areas.

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

- (1) *Computing capacities.* In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
- (2) *Record of agreement.* A copy of an agreement between joint users shall be filed with the application for a building permit and recorded with the register of deeds of the county. The agreement shall include a guarantee for continued use of the parking facility for each party to the joint use.

(Ord. No. 38, § 7.1.7, 3-11-1955)

Sec. 98-523. - Parking space requirements.

The number of required off-street parking spaces in all districts for every residential, recreational, institutional, cultural, business and industrial use shall be provided in accordance with the following minimum requirements:

Use	Required Parking Space
One- and two-family dwellings; and dwellings converted to one-, two- or three-family dwellings	2 spaces for each family dwelling unit
Multiple dwellings	2 spaces for each dwelling unit
Boardinghouses and lodgings, fraternities, private clubs	1 space for each bedroom or each 2 occupants of the structure, whichever is greater

Motels, auto courts, tourist homes	1 space for each sleeping unit, plus 2 spaces for operating personnel
Hotel	1 space for each guest room, plus 1 additional space for every five employees
Mobile home park	2 spaces for each mobile home site, plus 1 space for each mobile home park employee
Convalescent home, convents, or similar use	1 space for each 4 beds, plus 1 space for every 4 employees, including nurses
Hospitals, sanitariums	1 space for each 3 patient beds, plus 1 space for each staff or visiting doctor and plus 1 space for each 4 employees, including nurses
Clinics	4 spaces for each doctor, plus 1 space for each employee
Auditoriums (incidental to schools), churches, theaters, buildings of similar use with fixed seats	1 space for each 4 seats, plus 1 space for every 2 employees
Auditoriums (other than incidental to schools), lodge halls, meeting halls, community centers, or buildings of similar use without fixed seats	1 space for every 8 persons of legal capacity and 1 space for every employee, including administrators and teachers
Elementary and junior high schools	1 space for every employee including administrators and teachers, plus 1 space for each 5 students, plus 1 space for every eight seats in a gymnasium
High schools and colleges	1 space for every employee including administrators and teachers, plus 1 space for each 5 students, plus 1 space for every eight seats in a gymnasium
Libraries, museums, post offices	1 space for every 800 square feet of floor area, plus 1 space for every 4 employees
Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses	1 space for every 2 member families or individuals

Golf courses open to the general public, except miniature or "par 3" courses	4 spaces for each 1 golf hole plus 1 space for each employee
Stadiums and sport arenas	1 space for each 4 seats
Dance halls, pool and billiard rooms, exhibition halls, roller rinks	1 space for each 100 square feet of floor area used for dancing assembly
Bowling alleys	5 spaces for each alley, plus 1 space for every employee
Miniature or "par 3" golf courses	3 spaces for each 1 golf hole plus 1 space for each employee
Professional offices and banks	1 space for every 100 square feet of floor area
General offices	1 space for every 200 square feet of floor area
Clothing, furniture, appliance, hardware, automobile, machinery sales, shoe repair, personal services (other than beauty and barber shops), wholesale sales	1 space for every 200 square feet of floor area
Barbershops and beauty parlors	2 spaces for each beauty and/or barbershop chair
Supermarkets, self-service foodstore	1 space for every 100 square feet of floor area
Restaurants, cafeterias, taverns, bars	1 space for every 75 square feet of floor area, plus 1 space for every three seats
Automobile service and repair garages; gasoline filling and service stations	3 spaces for each repair and service stall plus 1 space for each worker on each shift
Drive-in restaurants	1 space for every 15 square feet of floor area
Drive-in banks, cleaners, car laundries and similar businesses	Storage space for 5 cars between the sidewalk area and the service window, plus 1 space for every 200 square feet of floor area
Retail stores, except as otherwise specified herein	1 space for every 150 square feet of floor area

Funeral homes and mortuaries	1 parking space for every 50 square feet of floor area in slumber rooms, chapels and assembly rooms
Warehouses, wholesale stores	1 space for every 800 square feet of floor area
Industrial or manufacturing establishments, including research and testing laboratories, creameries, bottling works, printing and engraving shops	1 space for every 2 employees for industries using 2 or more shifts; 1 space for every 3 employees for industries using 1 shift only; or 1 space for every 400 square feet of gross floor area, whichever is greater

(Ord. No. 38, § 7.1.8, 3-11-1955)

Sec. 98-524. - Location of parking areas.

All off-street parking areas required in this chapter shall be located on the same lot, on the immediate premises of the developed site, and in the same district as the use they are intended to serve, with the exception of the following uses:

- (1) Uses in B-1 general business districts: Parking on the premises or within 500 feet measured from the nearest point of the parking area to the nearest point of the building.
- (2) Uses in M-1 industrial districts: Parking on the premises or within 800 feet walking distance from a normal entrance.
- (3) Public and quasi-public buildings, places of assembly, private clubs, associations and institutions: Parking on the premises or within 500 feet measured from the nearest point of the parking area to the nearest point of the building.

(Ord. No. 38, § 7.1.9, 3-11-1955)

Sec. 98-525. - Plot plan review.

Whenever four or more vehicles are required for a given use under the requirements of this article, plans and specifications for the construction or alteration of an off-street parking area shall be submitted to the zoning administrator before a building permit can be issued. Such plans and specifications should show the location, basis of capacity calculation, size, site design, surfacing, marking, lighting drainage curb cuts, entrances, exits and any other detailed feature essential to the complete design and construction of the parking area. Furthermore, any off-street parking area proposed adjacent to a county primary road, a state or interstate limited access highway, state trunkline or interchange, it shall be incumbent upon the applicant to show that the proposed site location and design shall not cause unsafe traffic congestion resulting at or in conjunction with the above-mentioned roadways, and the applicant shall request and submit with his application, written recommendations from the traffic division of the state department of state highways and transportation and/or from the county road commission regarding the relationship between the proposed use and the roadway concerned, from whichever is the body responsible for the road.

(Ord. No. 38, § 7.1.10, 3-11-1955)

Sec. 98-526. - Site development requirements.

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

- (1) A minimum area of 180 square feet, nine feet by 20 feet shall be provided for each vehicle parking space; each space shall be definitely designated and reserved for parking purposes exclusive of space requirements for adequate ingress and egress.
- (2) Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.
- (3) Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided.
 - a. Except for parking space provided on single-family and two-family residential lots, drives for ingress and egress to the parking area shall be not less than 20 feet wide and so located as to secure the most appropriate development of the individual property.
 - b. Each entrance to and exit from any off-street parking area shall be at least ten feet from any adjacent lot within a residential district.
- (4) Each vehicle parking space within an off-street parking area shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern, as follows:
 - a. For right angle parking patterns 75 to 90 degrees, the maneuvering lane width shall be 20 feet.
 - b. For parking patterns 54 to 74 degrees, the maneuvering lane width shall be 15 feet.
 - c. For parking patterns 30 to 53 degrees, the maneuvering lane width shall be 12 feet.
 - d. All maneuvering lane widths shall permit one-way traffic movement, except for the 90 degree pattern which may provide for two-way traffic movement.
- (5) Parking areas with a capacity of four or more vehicles shall be surfaced with a material that shall provide a durable, smooth and dustless surface, and shall be graded and provided with adequate drainage facilities to dispose of all collected surface water.
- (6) Except for single-family and two-family residential lots, adequate lighting shall be provided throughout the hours when the parking area is in operation. Such lighting shall not exceed an intensity of five footcandles, nor shall it be less than 1.5 footcandles. All lighting shall be so arranged so as to reflect light away from any residential property adjacent to the parking area and any adjacent road or street so the light will not interfere with traffic.
- (7) Where a parking area with a capacity of four or more vehicles abuts a residential district or public right-of-way in a residential district, a buffer strip at least ten feet wide shall be provided between the parking area and the adjoining property, and a vertical screen shall be erected consisting of structural or plant materials no less than four feet in height and spaced so as to effectively screen the parking area from the residential area.
- (8) Where a parking area is serving a single-family or multiple-family dwelling in a residentially zoned area, there shall be no off-street parking in the front yard area excepting within a clearly defined driveway, and the

required number of parking spaces must be provided for in the side yard or rear yard areas.

(Ord. No. 38, § 7.1.11, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-527. - Reduction, modification, waiver.

The board of appeals may authorize reduction, modification or waiver of these parking requirements under specified conditions by the issuance of a conditional permit when an appeal has been filed with them consistent with the requirements of subsection 98-83(a) and subsection 98-84(e).

(Ord. No. 38, § 7.1.12, 3-11-1955)

Secs. 98-528—98-545. - Reserved.

DIVISION 3. - LOADING AND UNLOADING SPACE REQUIREMENTS

Sec. 98-546. - Intent and purpose.

In order to prevent undue interference with public use of streets and alleys, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of vehicles that will be at the premises at the same time on an average day of full use.

(Ord. No. 38, § 7.2.1, 3-11-1955)

Sec. 98-547. - Additional to parking space.

Loading space required under this division shall be provided as area additional to off-street parking space as required under division 2, of this article and shall not be considered as supplying off-street parking space.

(Ord. No. 38, § 7.2.2, 3-11-1955)

Sec. 98-548. - Space requirements.

There shall be provided adequate space for standing, loading and unloading services not less than 12 feet in width, 25 feet in length, and 14 feet in height, open or enclosed, for all uses indicated in section 98-546, for uses listed in the following table, or for similar uses similarly involving the receipt of distribution by vehicles of materials or merchandise:

Use	Floor Area (Square Feet)	Required Space
Commercial uses, such as: retail stores, personal services, amusement, automotive service	20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1

Hotels, offices	First 2,000	None
	Next 50,000 or fraction thereof	1
	Each additional 100,000 or fraction thereof	1
Wholesale and storage, including building and contractor's yards	First 20,000	1
	Each additional 20,000 or fraction thereof	1
Manufacturing	First 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
Funeral homes and mortuaries	First 5,000 or fraction thereof	1
	Each additional 10,000 or fraction thereof	1
Hospitals	First 10,000	None
	Next 100,000 or fraction thereof	1
	Each additional 200,000 or fraction thereof	1
Schools, churches, clubs, public assembly buildings	For each building	1
For similar uses not listed	5,000 or over	1

(Ord. No. 38, § 7.2.3, 3-11-1955)

Sec. 98-549. - Access.

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

(Ord. No. 38, § 7.2.4, 3-11-1955)

Sec. 98-550. - Site requirements.

Off-street loading spaces and access drives shall be paved, drained, lighted and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. Where off-street loading space adjoins or abuts a lot or premises used for residential, educational, recreational or religious purposes, or abuts a residential district, there shall be provided a masonry wall or solid fence not less than four feet in height between the off-street loading space and such uses.

(Ord. No. 38, § 7.2.5, 3-11-1955)

Secs. 98-551—98-570. - Reserved.

ARTICLE IX. - SIGNS

DIVISION 1. - GENERALLY

Sec. 98-571. - Purpose.

The purpose of this section is to permit such signs that will not, by their reason, size, location, construction or manner of display, endanger the public safety of individuals; confuse, mislead or obstruct the vision necessary for traffic safety; or otherwise endanger public health, safety and morals; and to permit and regulate signs in such a way as to maintain the aesthetic quality of the city, preserve property values, and support and complement the land-use objectives set forth in this chapter.

(Ord. No. 86, § 1, 5-3-1982)

Sec. 98-572. - Nonconforming signs.

- (a) Signs which were constructed and installed prior to the date of adoption of the ordinance from which this chapter is derived, and which signs do not comply with the provisions of this section shall be deemed nonconforming signs. No nonconforming sign shall:
- (1) Be changed to another nonconforming sign;
 - (2) Have any changes made in the words; or symbols used or the message displayed on the sign unless the sign is an off-premises advertising sign, or a bulletin board, or substantially similar type of sign, specifically designed for periodic change of messages;
 - (3) Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign;
 - (4) Be re-established after the activity, business or usage to which it relates has been discontinued for 30 days or longer; or
 - (5) Be re-established after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the reproduction cost.
- (b) Nonconforming signs which have been abandoned for a period of 90 days shall be removed in accordance with section 98-573.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-573. - Abandoned signs.

Except as otherwise provided in this article, any sign that is located on property which becomes vacant and is unoccupied for a period of three months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.

(Ord. No. 86, § 1, 5-3-1982)

Sec. 98-574. - Dangerous or defective signs.

No person shall maintain or permit to be maintained on any premises owned or controlled by him any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the sign or owner of the premises.

(Ord. No. 86, § 1, 5-3-1982)

Sec. 98-575. - Removal of signs by the zoning administrator.

- (a) The zoning administrator shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, or materially, electrically or structurally defective sign, or a sign which is prohibited under the provisions of this section. The zoning administrator shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that, if the sign is not removed or the violation is not corrected within ten days, the sign shall be removed in accordance with the provisions of this section.
- (b) All notices mailed by the administrator shall be sent by certified mail. Any time periods provided in this section shall be deemed to commence on the date of the receipt of the certified mail.
- (c) Any person having an interest in the sign or the property may appeal the determination of the administrator ordering removal or compliance by filing a written notice of appeal with the city board of appeals within 30 days after the date of mailing the notice, or 30 days after receipt of the notice if the notice was not mailed.

(Ord. No. 86, § 1, 5-3-1982)

Secs. 98-576—98-590. - Reserved.

DIVISION 2. - VARIANCES

Sec. 98-591. - Approval by planning commission; variances.

All signs permitted by this chapter, excepting signs permitted under subsections 98-612(1), (2), (4), and section 98-618 must have the advance approval of the planning commission. In obtaining such approval, the applicant shall submit to the planning commission plans for the construction and design of such sign or signs adequately describing the size, dimensions, location and appearance of such sign or signs. No such sign shall be erected or affixed until approval by the

planning commission. When, in its judgment, the public welfare will be served and the use of neighboring property will not be injured thereby, and when a literal enforcement of the provisions of this section would result in unnecessary or undue hardship due to conditions peculiar to the particular property which are not the result of the actions of the applicant, the planning commission may, in a specific case, vary the application of the regulations and requirements of this division, provided that any variances to be granted hereunder shall be in harmony with the general character with the district and the intent and purposes of this chapter. The granting of such a variance shall in no way constitute a change in the basic requirements of this article as to signs on other properties, nor on the property wherein the variance is permitted. Such variances may be in the following forms, or any combination thereof.

- (1) *General variance.* A general variance whereby a variance from the particular requirement is permitted as to the particular sign contemplated, without time or other limitation.
- (2) *Temporary variance.* A temporary variance whereby a sign varying from the requirements of this article is permitted to be erected or affixed for a time limited and specified by the planning commission.
- (3) *Conditional variance.* A conditional variance whereby a variance is conferred authorizing the contemplated sign to be erected or affixed, but subject to specific limitations to be imposed by the planning commission, subject to termination in the event such limitation shall not be complied with or the conditions motivating the granting of such variance shall have materially changed.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982; Ord. No. 177, § 1, 10-15-2001)

Secs. 98-592—98-610. - Reserved.

DIVISION 3. - REQUIREMENTS

Sec. 98-611. - General sign requirements.

- (a) *Prohibited signs generally.* No sign which shall fit within any of the following categories shall be permitted within any district of the city:
 - (1) Signs which are illegal under state laws or regulations and applicable local ordinances or regulations;
 - (2) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with or resemble any official traffic sign, signal or device;
 - (3) Signs which by reason of their position, size, shape, color, movement or illumination may interfere with or obstruct the view of traffic, be confused with any authorized traffic sign or signal, or make it more difficult to see traffic or duly authorized traffic signs or signals, or in any way cause or constitute a traffic hazard;
 - (4) Signs which are erected or maintained upon trees, shrubs or utility poles;
 - (5) Signs which are not securely affixed to a substantial structure or which are so designed or constructed as to be unable to withstand significant wind;
 - (6) Signs which are not designed, constructed and maintained so as to be appropriate in appearance with the existing or intended character of their vicinity so as not to change the essential character of the area.
- (b) *Compliance with codes.* All signs hereafter erected shall comply with all applicable building code requirements pursuant to the Stille-Derossett-Hale Single State Construction Code Act, Act 230 of 1972 or the provisions of such code which shall then be in effect, MCL 125.1501 et seq., relating to structural design for applicable

components and installation and to the auxiliary specifications set forth in this section.

(c) *Auxiliary specifications.* Auxiliary specifications shall be as follows:

- (1) *Obstruction to exits.* No sign shall be erected so as to obstruct any fire escape, required exit, window or door opening intended as a means of egress.
- (2) *Obstruction to ventilation.* No sign shall be erected which interferes with any opening required for ventilation.
- (3) *Clearance from electrical power lines and communications lines.* Signs shall maintain all clearances from electrical conductors and from all communications equipment or lines located within city boundaries.
- (4) *Clearance from surface and underground facilities.* Signs and their supporting structures, shall maintain clearance and noninterference with all surface and underground facilities and conduits for water, sewage, gas, electricity, or communications equipment or lines. Furthermore, placement shall not interfere with natural or artificial drainage or surface or underground water.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982; Ord. No. 2018-03, § 3, 5-1-2018)

Sec. 98-612. - Signs permitted in residential districts.

The following signs shall be permitted in R-1A and R-1B residential districts:

- (1) One nonilluminated sign advertising the sale or lease of the lot or building not exceeding six square feet in area on any one lot, such sign to be placed no closer to the street right-of-way line than one-half of the minimum authorized front yard depth;
- (2) One nonilluminated sign advertising a recorded subdivision or development not to exceed 18 square feet in area and placed no closer to any street right-of-way than one-half the minimum authorized front yard depth, provided that such sign is removed within one year after the sale of 90 percent of all lots or units within such subdivision or development;
- (3) One nonilluminated sign announcing a home occupation or professional service, where permitted, not to exceed three square feet in area, provided that such sign shall be attached flat against the wall of the building;
- (4) One sign identifying a school, church, public building, or other authorized use, or a lawful nonconforming use, not to exceed 18 square feet, to be placed no closer to the street right-of-way line than one-half the minimum authorized front yard depth, or on the surface of the structure;
- (5) Business uses permitted in R-1A and R-1B residential districts shall comply with all sign regulations of this section.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-613. - Signs permitted in multiple and group housing development districts.

The following signs are permitted in R-M1 multiple and group housing development districts:

- (1) All signs permitted in R-1A and R-1B residential districts, subject to the same limitations required for those districts;
- (2) One sign identifying a multiple-family building or development not to exceed 12 square feet in area and placed no closer to any street right-of-way lane than one-half the minimum authorized front yard depth

provided that any light used to illuminate such signs shall be nonflashing, reflected light and shall be so arranged that the source of light is not visible to traffic, neighboring residences, or to other units within the development.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-614. - Signs permitted in commercial and industrial districts.

A sign in a B-1 general business district or M-1 industrial district is permitted only where it identifies an enterprise occupying the same lot upon which the sign is erected, or advertises a product or service offered by such enterprise. Such signs may be illuminated by nonflashing and nonmoving illumination provided that all light sources and immediately adjacent reflecting surfaces shall be shielded from view. Signs shall conform to the building setback and height requirements and shall be subject to the following additional requirements:

- (1) Signs shall be affixed flat against the walls of the building or parallel to the building with the projection not to exceed eight inches. Signs affixed to the rear or side walls of a building which are less than 100 feet from buildings occupied as residences shall not be illuminated. The total sign area shall not exceed ten percent of the square footage arrived at by multiplying the actual height of the wall to which the sign will be affixed, or 12 feet, whichever is less, by the length of the wall to which the sign is to be affixed. No such sign shall extend above the wall to which it is affixed;
- (2) One freestanding identification sign may be erected for a research park or office center, combined research park/office center, shopping center, or other integrated group of stores or commercial buildings. Such signs shall not exceed 80 square feet in area, nor be closer to the front, side or rear property line than one-half the distance of the required setback;
- (3) One freestanding identification sign may be erected for each separate enterprise situated on an individual lot not within a research park, office center or shopping center. Such sign shall not exceed 18 square feet in area, nor be closer to the front, side or rear property line than one-half the distance of the required setback;
- (4) One freestanding identification sign may be erected for an industrial enterprise not within a research park or office center. Such sign shall not exceed 80 square feet in area, nor be closer to the front, side or rear property line than one-half the distance of the required setback;
- (5) No sign which shall project over public property or any publicly used thoroughfare shall be less than 12 feet above the finished grade or thoroughfare.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982; Ord. No. 103, § 1(6), 5-2-1988)

Cross reference— Businesses, ch. 18.

Sec. 98-615. - Signs permitted in highway service districts.

The following signs shall be permitted in B-2 highway service districts:

- (1) All signs permitted in B-1 general business districts and M-1 industrial districts subject to the same limitations required for those districts.
- (2) Signs erected and used solely for the regulation of traffic within the development and conforming with state and local ordinances.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982)

Cross reference— Businesses, ch. 18.

Sec. 98-616. - Signs permitted in agricultural districts.

The following signs are permitted in A-1 agricultural districts:

- (1) All signs permitted in R-1A and R-1B residential districts and subject to the same requirements for those districts;
- (2) One nonilluminated sign advertising the sale of farm products grown on the premises not to exceed 50 square feet in area and placed no closer to any street line than 15 feet;
- (3) Nonilluminated signs or other identification painted on or otherwise made a part of the surface of a roof or wall or a barn or other accessory building pertaining to and identifying the owner and/or activity of the farm unit, provided that such sign or other identification is not for commercial purposes;
- (4) Memorial or historical signs such as "centennial farm" signs and/or other signs representing awards won by the farm unit and/or its proprietors.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-617. - Outdoor advertising signs.

Outdoor advertising signs, commonly known as billboards shall be permitted only under the following conditions:

- (1) Such signs are permitted only in B-2 highway service districts and M-1 industrial districts;
- (2) Such signs are required to have the same setback as other principal structures or buildings in the zone in which they are situated;
- (3) Where two or more outdoor advertising signs are along the frontage of a single street or highway, they shall not be less than 1,000 feet apart. A double face (back to back) or a V-type structure shall be considered a single sign;
- (4) The total surface area, facing in the same direction of any outdoor advertising sign shall not exceed 300 square feet;
- (5) No outdoor advertising sign shall be erected on the roof of any building, nor have one sign above another sign;
- (6) Such signs may be illuminated by reflected light only, provided the source of light is not directly visible and is so arranged to reflect away from the adjoining premises, and provided that such illumination shall not be so placed as to cause confusion or a hazard to traffic or conflict with traffic control signs or lights. No illumination involving the appearance of movement by reason of lighting arrangement or other such devices shall be permitted.
- (7) Such sign shall:
 - a. Be harmonious with and in accordance with the intent, purposes and provision of this chapter;
 - b. Be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and so as to not change the essential character of the area;
 - c. Not be hazardous or disturbing to existing or projected future uses.

(Ord. No. 38, § 6.2.3, 3-11-1955; Ord. No. 80, § 1, 8-18-1980; Ord. No. 86, § 1, 5-3-1982)

Cross reference— Businesses, ch. 18.

Sec. 98-618. - Temporary signs.

- (a) All temporary signs must have the advance approval of the planning commission or the zoning administrator. Approval by the planning commission shall be as set forth in section 98-591. If approval is sought by the zoning administrator, the applicant shall submit to the zoning administrator plans for the construction and design of such temporary sign or signs adequately describing the size, dimensions, location and appearance of such temporary sign or signs. The zoning administrator shall approve the temporary sign or signs provided such temporary sign or signs are otherwise in compliance with Section 98-611 and provided further, that in the zoning administrator's judgment, the public welfare will be served and use of neighboring property will not be injured thereby.
- (b) The approval of a temporary sign or signs shall in no way constitute a change in the basic requirements of this article as to signs on other properties, nor on the property wherein the temporary sign or signs are permitted.
- (c) No temporary sign shall be erected or affixed until approval by the planning commission or the zoning administrator. No temporary sign shall be erected so as to extend over or into any street, alley, sidewalk, or other public thoroughfare unless approved by the planning commission pursuant to this article. All temporary signs must comply with the requirements set forth in section 98-611.
- (d) For purposes of this section, "temporary sign" means a sign which is not permanently affixed, and which is not permanently displayed and/or not designed or intended to be permanently displayed, including, but not limited to, devices such as banners, pennants, special events signs, streamers, balloons, flags, searchlights, twirling or sandwich signs, sidewalk or curb signs, signs mounted on or affixed to trailers or wheels of any type, and strings of lights.
- (e) The display period for temporary signs is limited to a maximum of 30 days.

(Ord. No. 177, § 2, 10-15-2001)

Secs. 98-619—98-640. - Reserved.

ARTICLE X. - SPECIAL LAND USES

Footnotes:

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State Law reference— *Special land uses, MCL 125.584a.*

DIVISION 1. - GENERALLY

Sec. 98-641. - Intent and purpose.

- (a) Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this chapter to provide a set of procedures and standards for specific uses of land or structures that will allow, on the one hand, practical latitude for the investor or developer, but that will, at the same time, promote the intent and purpose of this chapter, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and

facilities affected by the land uses. In order to provide controllable and reasonable flexibility, this article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized within certain zone districts by the issuance of a special use permit. By such a procedure, the planning commission and the city council have the opportunity to impose conditions and safeguards upon each use which are deemed necessary for the protection of the public welfare.

- (b) The following sections of this article, together with previous references in other articles of this chapter, designate specific uses that require a special use permit and, in addition, specify the procedures and standards which must be met before such a permit can be issued.

(Ord. No. 38, § 8.1.1, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Secs. 98-642—98-660. - Reserved.

DIVISION 2. - PERMIT

Sec. 98-661. - Permit procedures generally.

An application for a special use permit for any land or structure use permitted under this article shall be submitted and processed under the following procedures set out in this division.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-662. - Submission of application.

Any application shall be submitted through the city clerk on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the city council to cover costs of processing the application. No part of any fee shall be refundable.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-663. - Data required.

Every application shall be accompanied by the following information and data:

- (1) The special form supplied by the city clerk, filled out in full by the applicant, including a statement of supporting evidence concerning the required findings specified in section 98-676.
- (2) Site plan, plot plan or development plan, drawn to scale (preferably one inch equals 100 feet) of the total property involved showing the location of all abutting streets, the location of all existing and proposed structures and their uses, and the location and extent of all above-ground development, both existing and proposed.
- (3) Preliminary plans and specifications of the proposed development and for all construction.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-664. - Changes in the site plan.

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

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-665. - Approval of the site plan by compliance.

A site plan shall be approved if it contains the information required by section 98-663 and is in compliance with this chapter and the conditions imposed thereunder, other applicable ordinances, and state and federal statutes.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-666. - Planning commission review and discretionary hearing.

- (a) The application, along with all required data, shall be transmitted to the planning commission for review. After adequate review and study of the application, the planning commission may conduct a public hearing thereon if it determines that such a hearing would be of material assistance to it in developing facts upon which to base its recommendation to the city council as herein provided.
- (b) Any such public hearing shall be preceded by at least one publication in a newspaper of general circulation in the city at least 15 days prior to the date of the hearing. Such notice shall indicate the place, time and purpose of the hearing. Upon conclusion of its review on the public hearing, if held, the planning commission shall transmit a written recommendation within 60 days to the city council setting forth its recommendations as to the reasons for the acceptance, denial or modification of the special use permit application.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-667. - Consideration by city council.

Upon transference to the city council of the application and the planning commission's recommendation, the city council shall consider the application. Prior to its consideration, one notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet, except that the notice shall be given not less than five and not more than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other district 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. The notice shall:

- (1) Describe the nature of the special land use request.
- (2) Indicate the property which is the subject of the special land use request.
- (3) State when and where the special land use request will be considered.

- (4) Indicate when and where written comments will be received concerning the request.
- (5) Indicate that a public hearing on the special land use request may be requested by a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special use.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-668. - City council public hearing.

- (a) A public hearing on the application for a special use permit shall be held where any of the following conditions exist:
 - (1) If the city council desires to have a public hearing;
 - (2) Upon the request of the applicant for the special use permit;
 - (3) Upon the request of a property owner or occupant of a structure located within 300 feet of the boundary of the property being considered for special land use.
- (b) In the event that a public hearing shall be necessary for any of the foregoing reasons, it shall be preceded by notification in the same manner as is provided for in subsection (a) of this section as to a notice of a request for special land use approval, provided that if public hearing is requested by the city council or applicant, only notification of the public hearing need be made. A decision on a special land use request which is based on discretionary grounds shall not be made unless notification of the request for special land use approval and/or notification of a public hearing on a special land use request is given as required by this subsection.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-669. - City council action.

In either event, whether or not a public hearing is required to be held under section 98-668, the city council shall review the application for special land use. The city council may deny, approve, or approve with conditions the application for special land use approval. The city council's decision shall be incorporated in a statement of conclusions relative to the special land use under consideration, and shall specify the basis for the decision and any conditions imposed. In arriving at its decision, the city council shall refer to and be guided by those standards set forth in section 98-676. A request for approval of a land use or activity which is in compliance with those standards, other applicable ordinances, and state and federal statutes shall be approved.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-670. - Conditions.

- (a) Reasonable conditions may be required in conjunction with the approval of a special land use by the city council. Such conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:
 - (1) Be designed to protect natural resources, 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.

- (2) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (3) Be necessary to meet the intent and purpose of this chapter and the various zoning regulations of the city;
- (4) Be related to the standards established in this Code for the land use or activity under consideration; and be necessary to ensure compliance with those standards.

- (b) 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 city council and the landowner. The city council shall maintain a record of changes granted and conditions.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-671. - Permit expiration.

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

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-672. - Permit revocation.

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

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-673. - Violation and penalties.

Failure to terminate the use for which the permit was granted within 60 days is declared to be a nuisance per se and a violation of this chapter. The violation shall be reported to the city attorney who is hereby authorized to and shall initiate procedures to eliminate such violations. For each and every day the violation continues beyond the aforementioned 60 days, a separate offense shall be declared. Any person, firm, corporation or legal entity violating any provisions of this chapter shall be adjudged guilty of maintaining a nuisance per se, punishable as provided in section 1-16.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-674. - Appeal.

An appeal of the city council's decision to approve or deny the issuance of a special use permit, or an appeal to modify the conditions of the special use permit approval may be made to the board of appeals in accordance with the provisions of article III of this chapter.

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-675. - Reapplication.

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

(Ord. No. 38, § 8.1.2, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-676. - Basis for determinations.

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

- (1) Be harmonious with and in accordance with the general principals and objectives of the future land use plan of the city.
- (2) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area in which it is proposed.
- (3) Not be hazardous or disturbing to existing or future uses in the same general vicinity, and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (4) Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
- (5) Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (6) Be necessary to meet the intent and purpose of this chapter.
- (7) Be related to the standards established in the ordinance for the land use or activity under consideration and be necessary to insure compliance with these standards.
- (8) Be related to the valid exercise of police power and purposes which are affected by the proposed use or activity.

(b) The foregoing general standards are basic to all uses authorized by special use permit. The specific and detailed requirements set forth in the following sections relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements where applicable.

(Ord. No. 38, § 8.1.3, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Secs. 98-677—98-695. - Reserved.

DIVISION 3. - SPECIFIC STANDARDS

Footnotes:

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Cross reference— *Businesses, ch. 18.*

Subdivision I. - In General

Secs. 98-696—98-715. - Reserved.

Subdivision II. - Institutional Structures and Uses

Sec. 98-716. - Authorization.

In recognition of the many institutional types of nonresidential functions that have been found compatible and reasonably harmonious with residential uses, the planning commission and the city council may authorize the construction, maintenance and operation in residential, general business or agricultural districts of certain institutional uses specified in this subdivision by the issuance of a special use permit. Such permit shall not be issued unless all the procedures and applicable requirements stated in divisions 1 and 2, of this article, together with the additional requirements of this subdivision can be complied with.

(Ord. No. 38, § 8.2.1, 3-11-1955)

Sec. 98-717. - Institutional uses permitted.

The following land and structure uses may be permitted in residential or agricultural districts, provided the applicable stipulated conditions can be complied with:

- (1) Institutions for human care:
 - a. Hospitals.
 - b. Sanitariums.
 - c. Nursing or convalescent homes.
 - d. Homes for the aged and foster care homes.
 - e. Philanthropic and eleemosynary institutions.
 - f. Clinics and professional offices for doctors, dentists and optometrists.
- (2) Religious institutions:
 - a. Churches or similar places of worship.
 - b. Convents.
 - c. Parsonages and parish houses.

- d. Other housing for clergy.
- (3) Educational and social institutions:
 - a. Public and private elementary schools, high schools, and institutions for high education, provided that none are operated for profit.
 - b. Auditoriums and other places of assembly.
 - c. Centers for social activities, excluding schools or studies for music and dancing instruction, but including lodges and social facilities for fraternal or like organizations.
- (4) Public buildings and public service institutions:
 - a. Publicly-owned and operated buildings.
 - b. Public utility buildings and structures.
 - c. Telephone exchange buildings.
 - d. Transformer stations and substations.
 - e. Gas regulator stations.
 - f. Radio and television stations.

(Ord. No. 38, § 8.2.2, 3-11-1955)

Sec. 98-718. - Institutions specifically prohibited.

The following uses, but not limited to these enumerated, shall not be permitted in any residential district, but may be allowed in an agricultural district.

- (1) Institutions for the mentally retarded and physically handicapped, drug or alcoholic patients.
- (2) Camps or correctional institutions.

(Ord. No. 38, § 8.2.3, 3-11-1955)

Sec. 98-719. - Site location principles.

The following principles shall be utilized to evaluate the proposed location of any institutional use within a residential, general business or agricultural district. These principles are alterable, depending upon the specific conditions of each situation, but they shall be applied by the planning commission as general guidelines to help assess the impact of an institutional use upon the district in which such use is proposed to be located.

- (1) Any institutional structure or use should preferably be located at the edge of a residential or agricultural district, abutting either a business or industrial district or adjacent to a public open space.
- (2) Motor vehicle entrance should be made on a major thoroughfare or as immediately accessible from a major thoroughfare as to avoid the impact of traffic generated by the institutional use upon a residential area.
- (3) Site locations should be preferred that offer natural or manmade barriers that would lessen the effect of the intrusion of the institutional use into a residential area.

(Ord. No. 38, § 8.2.4, 3-11-1955)

Sec. 98-720. - Site development requirements—Generally.

A special use permit shall not be issued for the occupancy of a structure or parcel of land or for the erection, reconstruction or alteration of a structure unless complying with the site development requirements of this subdivision. These requirements are not alterable except as noted.

(Ord. No. 38, § 8.2.5, 3-11-1955)

Sec. 98-721. - Same—Hospitals.

- (a) The proposed site for a hospital shall be at least ten acres in area.
- (b) The proposed site for a hospital shall have at least one property line abutting a major thoroughfare. All ingress and egress to the off-street parking area for hospitals (for guests, employees, staff) shall be directly from the major thoroughfare.
- (c) All two story hospital structures shall be at least 100 feet from all boundary lines or street lines. Buildings less than two stories shall be no closer than 50 feet to any property or street line. For buildings above two stories, the building shall be set back from the initial 100-foot setback an additional one foot for each foot of additional height above two stories.
- (d) No more than 25 percent of the gross site area for the hospital use shall be covered by buildings.
- (e) Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall six feet in height. Access to and from the delivery and ambulance area shall be directly from a major thoroughfare.
- (f) All signs shall be in accordance with the schedule outlined in article IX of this chapter.
- (g) Off-street parking space shall be provided in accordance with the schedule outlined in article VIII, division 2, of this chapter, and off-street loading in conformance with article VIII, division 3, of this chapter.

(Ord. No. 38, § 8.2.5(1), 3-11-1955)

Sec. 98-722. - Same—Churches.

- (a) The proposed site for a church shall be at least one acre in size plus one-half acre per 100 seats in the main auditorium.
- (b) The proposed site for a church shall be so located as to have at least one property line on a major thoroughfare. All ingress and egress to the church site shall be directly onto such thoroughfares or a marginal access service drive thereof.
- (c) No church building shall be closer than 50 feet to any property or street line. No church building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back from initial 80 feet an additional one foot for each foot of additional height above the district height limitation.
- (d) No more than 25 percent of the gross site area for a church shall be covered by buildings.
- (e) All signs shall be in accordance with the schedule outlined in article IX of this chapter.
- (f) Off-street parking space shall be provided in accordance with the schedule outlined in article VIII, division 2, of this chapter.

(Ord. No. 38, § 8.2.5(2), 3-11-1955)

Sec. 98-723. - Same—All other permitted uses.

For all other uses that may be permitted, except public utility transformer stations and substations, gas regulator stations, housing for religious personnel attached to a church or school function and foster care homes the following provisions shall apply:

- (1) The proposed site shall be at least two acres in area.
- (2) No building shall be closer than 50 feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back from the initial 50-foot setback an additional one foot for each foot of additional height above the district height limitations.
- (3) No more than 25 percent of the gross site area shall be covered by buildings.
- (4) All buildings shall be of an appearance that shall be harmonious and unified as a group of buildings and shall blend appropriately with the surrounding area.
- (5) All signs shall be in accordance with the schedule outlined in article IX of this chapter.
- (6) Off-street parking shall be provided in accordance with the schedule outlined in article VIII, division 2, of this chapter. No parking space shall be provided in the front yard, and the parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials, not less than four feet in height.

(Ord. No. 38, § 8.2.5(3), 3-11-1955)

Sec. 98-724. - Same—Public utility transformer stations, substations, gas regulator stations, housing for religious personnel attached to a church or school function, and radio, television and microwave transmission towers.

For public utility transformer stations and substations, gas regulator stations, housing for religious personnel attached to a church or school function, and radio, television and microwave transmission towers the following provisions shall apply:

- (1) Lot area and lot width shall be not less than that specified for the district in which the proposed use would be located.
- (2) Yard and setback requirements shall be not less than that specified for the district in which the proposed use would be located.
- (3) No building shall be erected to a height greater than that permitted in the district in which the proposed use would be located.
- (4) Not more than 30 percent of the lot area may be covered by buildings.
- (5) All buildings shall be harmonious in appearance with the surrounding residential area and shall be similar in design and appearance to any other buildings on the same site development.
- (6) Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material, and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.
- (7) All signs shall be in accordance with the schedule outlined in article IX of this chapter.
- (8) Off-street parking space shall be provided in accordance with the schedule outlined in article VIII, division 2, of this chapter.

(Ord. No. 38, § 8.2.5(4), 3-11-1955)

Sec. 98-725. - Same—Adult foster care homes.

For adult foster care homes providing residence and care to not more than 12 ambulatory patients 18 years of age or older the following provisions shall apply:

- (1) Lot area, lot width, yard, height and setback requirements shall not be less than that specified for the district in which the proposed use would be located.
- (2) Not more than 30 percent of the lot area may be covered by buildings.
- (3) All buildings shall be harmonious in appearance with the surrounding residential area and shall be similar in design and appearance to any other building on the same site development.
- (4) All signs shall be in accordance with the schedule outlined in article IX of this chapter.
- (5) A minimum of three off-street parking spaces shall be provided for each foster care home.

(Ord. No. 38, § 8.2.5(5), 3-11-1955; Ord. No. 44, § 1, 4-18-1977)

Secs. 98-726—98-740. - Reserved.

Subdivision III. - Group Housing Developments

Sec. 98-741. - Scope; service by basic utilities.

- (a) Group housing developments shall include those types of residential housing customarily known as garden apartments, terrace apartments, townhouses, row housing units, and other housing structures of similar character, provided that all proper procedures described in divisions 1 and 2, of this article are followed.
- (b) The proposed group housing development project is serviced by public or semi-private water, sanitary sewer and storm sewer systems and all of the conditions specified in this subdivision are met.

(Ord. No. 38, § 5.4.3(3), 3-11-1955)

Sec. 98-742. - Requirements.

Two or more residential buildings of similar or different character may be built upon one lot or parcel of land after a site plan has been submitted to and approved by the city council and when the site development requirements of this subdivision have been complied with.

(Ord. No. 38, § 5.4.3(3), 3-11-1955)

Sec. 98-743. - Minimum site area.

No group housing development shall be authorized with a gross site area of less than two acres.

(Ord. No. 38, § 5.4.3(3)(a), 3-11-1955)

Sec. 98-744. - Minimum lot area.

No group housing development shall be established on a lot or parcel having a width less than 150 feet; provided, however, that for group housing the average lot area per family or dwelling unit shall not be less than 4,000 square feet.

(Ord. No. 38, § 5.4.3(3)(b), 3-11-1955)

Sec. 98-745. - Maximum lot coverage.

Not more than 35 percent of the net area within property lines within a group housing project, including secondary buildings, shall be covered by buildings.

(Ord. No. 38, § 5.4.3(3)(c), 3-11-1955)

Sec. 98-746. - Yards and other open space.

- (a) *Between buildings.* The minimum horizontal distance between buildings (front to front, rear to rear, or front to rear) shall be 50 feet for buildings one story in height. This distance shall be increased by no less than five feet for every story added. The minimum distance between buildings may be decreased by as much as ten feet toward one end if it is increased by a similar distance at the other and consistent modifications are permitted by the city planning commission to accommodate plans which are not conventional in their outline or in their relation to other buildings.
- (b) *Between sides of buildings.* The horizontal distance between sides of buildings shall be 20 feet or more for one or two story buildings. These distances shall be increased by not less than five feet for every story added.
- (c) *Closed courts.* No closed courts shall be permitted. However, open arcades or garden walls not over six feet in height shall not be deemed enclosing features.
- (d) *Yard dimensions.* For buildings up to 35 feet in height, no building shall be closer than 40 feet to any street; 50 feet to any rear property line; 20 feet to an interior side property line.
- (e) *Other dimensions.* No dwelling unit in a group housing development shall be closer to a street or private access drive than 25 feet; or shall be further from a street or private access drive than 150 feet.
- (f) *Usable open space.* A minimum usable open space area of 100 square feet per dwelling unit shall be provided within group housing developments. Such open space shall be provided at ground level, unoccupied by principal or accessory buildings, and available to all occupants of the group housing development. Each open space so provided shall have a minimum total area of 1,200 square feet and shall be unobstructed to the sky and shall not be devoted to service driveways or off-street parking or loading space, but shall be usable for greenery, drying yards, recreational space, and other leisure activity normally carried on outdoors.

(Ord. No. 38, § 5.4.3(3)(d), 3-11-1955)

Sec. 98-747. - Signs.

Signs for group housing developments shall be in accordance with requirements specified in article IX of this chapter.

(Ord. No. 38, § 5.4.3(3)(e), 3-11-1955)

Sec. 98-748. - Off-street parking space.

Off-street parking space for group housing developments shall be provided as specified in article VIII, division 2, of this chapter.

(Ord. No. 38, § 5.4.3(3)(f), 3-11-1955)

Sec. 98-749. - Private streets.

Private streets or private access drives may be permitted within group housing developments, provided that the following minimum requirements are met:

- (1) All streets, roadways or private access drives will be paved to a minimum width of 20 feet when parking is prohibited alongside the road. Additional widths for streets may be required by the planning commission based upon the particular density and building relationship of the proposed group housing development.
- (2) No dead-end street or roadway shall serve more than 75 families as a means of vehicular access.
- (3) Suitable turning facilities shall be provided for vehicles at the terminus of all dead-end streets or roadways. A minimum radius of 75 feet shall be required for all turnarounds and additional widths may be required by the city planning commission after consideration of the vehicular needs of a particular group housing development proposal.
- (4) Satisfactory arrangements have been made with the planning commission regarding the maintenance and repair of streets, roadways or access drives.

(Ord. No. 38, § 5.4.3(3)(g), 3-11-1955)

Secs. 98-750—98-765. - Reserved.

Subdivision IV. - Planned Unit Developments

Footnotes:

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State Law reference— *Planned unit development, MCL 125.584b.*

Sec. 98-766. - Authorization.

- (a) Rapid and intensive urbanization in certain areas of the county during the past decade has produced a need for an economical single-family living unit that is adaptable to urban densities, but that retains many of the attractive features of the suburban home. Among the housing concepts emerging to meet this need are townhouses, row houses, garden apartments, and similar types of housing units with common property areas; cluster types of subdivisions in which housing units are arranged in cluster forms, with clusters separated from each other by common open space; and housing units developed with related recreational space, such as golf courses, swimming pools, private parks, community centers, and other recreational facilities.
- (b) It is the purpose of this subdivision to encourage more imaginative and livable housing environments within the R-M1 residential districts through a planned reduction, or averaging, of the individual lot area requirements for each zone district providing the overall density requirements for each district remains the same. Such averaging or reduction of lot area requirements shall only be permitted when a land owner, or group of owners acting jointly, can plan and develop a tract of land as an entity and thereby qualify for regulation of that tract of land as one complex land use rather than an aggregation of individual buildings located on separate, unrelated lots. Under these conditions, a special use permit may be issued for construction and occupancy of a planned unit development providing the standards, procedures and requirements set forth in this subdivision can be complied with.

(Ord. No. 38, § 8.3.1, 3-11-1955)

Sec. 98-767. - Objectives.

The following objectives shall be considered in reviewing any application for a special use permit for planned unit development:

- (1) To provide a more desirable living environment by preserving the natural character of open field, stands of trees, brooks, ponds, floodplains, hills and similar natural assets.
- (2) To encourage the provision of open space and the development of recreational facilities at a generally central location and within reasonable distance of all living units.
- (3) To encourage developers to use a more creative and imaginative approach in the development of residential areas.
- (4) To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs through the bypassing of natural obstacles in the residential site.
- (5) To encourage variety in the physical development pattern of the city by providing a mixture of housing types.

(Ord. No. 38, § 8.3.2, 3-11-1955)

Sec. 98-768. - Qualifying conditions.

Any application for a special use permit shall meet the following conditions to qualify for consideration as a planned unit development:

- (1) The planned unit development site shall be no less than five acres in area, shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit.
- (2) The planned unit development site shall be located within the R-M1 residential districts.
- (3) Public water and sewer facilities shall be available or shall be provided as part of the site development.
- (4) The proposed population density of the planned unit development shall be no greater than if the tract were developed with the lot area requirements of the particular zone district in which it is located.
- (5) For each square foot of land gained through the reduction or averaging of lot sizes, equal amounts of land shall be dedicated to the city or shall be set aside for the common use of the home or lot owners within the planned unit development under legal procedures which shall also give the city a covenant or interest therein so that there are assurances that the required open space shall remain open.
- (6) The proposed planned unit development shall meet all of the general standards outlined in this section.

(Ord. No. 38, § 8.3.3, 3-11-1955; Ord. No. 104, § 1, 5-23-1988)

Sec. 98-769. - Multi-phased projects.

Final approvals may be granted on each phase of a multi-phased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the planned unit development and the residents of the surrounding area.

(Ord. No. 86, § 1, 5-3-1982)

Sec. 98-770. - Uses that may be permitted.

The following uses of land and structures may be permitted within planned unit developments:

- (1) All uses permitted by right, or by special use permit in the R-1B residential districts, subject to all the restrictions specified therefore.
- (2) Townhouses, row houses, garden apartments, or other similar housing types which can be defined as a single-family dwelling with no side yards between adjacent dwelling units, provided that there shall be no more than five dwelling units in any contiguous group.
- (3) Recreation and open space, provided that only the following land uses may be set aside as common land for open space or recreation use under the provisions of this subdivision:
 - a. Private recreational facilities, such as golf courses, swimming pools, or other recreational facilities which are limited to the use of the owners or occupants of the lots located within the planned unit development.
 - b. Historic building sites or historical sites, parks and parkway areas, ornamental parks, extensive areas with tree cover, lowlands along streams or areas of rough terrain when such areas have natural features worthy of scenic preservation.
- (4) Name plates and signs as provided in article IX of this chapter.
- (5) Off-street parking as provided in article VIII, division 2, of this chapter.
- (6) Customary accessory uses as permitted in R-1B and R-M1 residential districts.

(Ord. No. 38, § 8.3.4, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-771. - Lot size variation procedure.

The lot area for planned unit developments within R-1B residential districts may be averaged or reduced from those sizes required by the applicable zoning district within which such development is located by compliance with the following procedures:

- (1) *Site acreage computation.* The gross acreage proposed for a planned unit development shall be computed to determine the total land area available for development into lots under the minimum lot size requirements of the applicable zoning district in which the proposed planned unit development is located. In arriving at a gross acreage figure, the following lands shall not be considered as part of the gross acreage in computing the maximum number of lots and/or dwelling units that may be created under this procedure:
 - a. Land utilized by public utilities as easements for major facilities, such as electric transmission lines, sewer lines, water mains, or other similar lands which are not available to the owner because of such easements.
 - b. Lands within floodplains as specified in article VII of this chapter.
- (2) *Maximum number of lots and dwelling units.* After the total gross area available for development has been determined by the procedure in subsection (1) of this section, the maximum number of lots and/or dwelling units that may be approved within a planned unit development shall be computed by subtracting from the total gross area available a fixed percentage of such total for street right-of-way purposes, and dividing the remaining net area available by the minimum lot area requirement of the dwelling unit density type allowed in the R-M1 district.

- a. The fixed percentages for street right-of-way purposes to be subtracted from the total gross area available for development shall be 20 percent for the R-M1 residential district. These percentages shall apply regardless of land actually required for street right-of-way.
 - b. Under this procedure, individual lots may be reduced in area below the minimum lot size required by the zone district in which the planned unit development is located, provided that the total number of dwelling units and/or lots created within the development is not more than the maximum number that would be allowed if the tract were developed under the minimum lot area requirements of the applicable zone district in which it is located.
- (3) *Permissive minimum lot area.* Notwithstanding other procedures set forth in this subdivision, lot sizes within planned unit developments shall not be varied or reduced in area below the following minimum standards:
- a. One-family detached dwelling units: Six thousand three hundred square feet of lot area within the R-M1 residential district.
 - b. Two-family dwellings: Six thousand square feet of lot area within the R-M1 residential district.
 - c. Townhouses, row houses, or other similar dwelling types: Three thousand square feet of lot area for each dwelling unit for the R-M1 residential district.
- (4) *Permissive minimum yard requirements.* Under the lot averaging or reduction procedure, each lot shall have at least the following minimum yards:
- a. Front yard: Twenty-five feet for all dwellings, provided that front yard requirements may be varied by the planning commission after consideration of common greens or other common open space if such space provides an average of 25 feet of front yard area per dwelling unit.
 - b. Side yard: Eight feet on each side for all one- and two-family dwellings; none for townhouses or row houses, provided that there shall be a minimum of 15 feet between ends of contiguous groups of dwelling units.
 - c. Rear yard: Twenty-five feet for all dwellings, provided that rear yard requirements may be varied by the planning commission after consideration of common open space lands or parks which abut the rear yard area.
- (5) *Maximum permissive building height.* The maximum permissive building height shall be 2½ stories, but not exceeding 35 feet. Accessory buildings shall not exceed a height of 15 feet.

(Ord. No. 38, § 8.3.5, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-772. - Open space requirements.

- (a) For each square foot of land gained through the averaging or reduction of lot sizes under the provisions of this subdivision, equal amounts of land shall be provided in open space. All open space, tree cover, recreational area, scenic vista, or other authorized open land areas shall be either set aside as common land for the sole benefit, use and enjoyment of present and future lot or homeowners within the development, or may be dedicated to the city as park land for the use of the general public. The planning commission shall determine which of these options is most appropriate and shall recommend to the city council one of the following procedures as part of its approval of a special use permit for a planned unit development:
 - (1) That open space land shall be conveyed by proper legal procedures from the tract owner or owners to a homeowners' association or other similar nonprofit organizations so that fee simple title shall be vested in

tract lot owners as tenants in common, provided that suitable arrangements have been made for the maintenance of such land and any buildings thereon and provided further an open space easement for such land may be conveyed to the city to assure that open space land shall remain open.

(2) That open space land may be dedicated to the general public for park or recreational purposes by the tract owner or owners, provided that the location and extent of such land conforms to the future land use plan for the city and provided further that the access to and the characteristics of such land are such that it will be readily available to and desirable for public use, development and maintenance.

(b) It is the intent of this subdivision that in cases where the option in subsection (a)(2) of this section is determined to be in the best interests of the city that the owners or developers of the planned unit development shall not be compelled or required to improve the natural condition of such open space lands provided the owners have not in any way altered the natural condition of such open space lands during the course of the construction and occupation of the premises.

(Ord. No. 38, § 8.3.6, 3-11-1955; Ord. No. 86, § 1, 5-3-1982)

Sec. 98-773. - Approval upon compliance.

A request for approval of a land use or activity which is in compliance with the standards stated in this article and the conditions imposed thereunder, other applicable ordinances, and state and federal statutes shall be approved.

(Ord. No. 86, § 1, 5-3-1982)

Secs. 98-774—98-790. - Reserved.

Subdivision V. - Private Noncommercial Recreational Areas

Sec. 98-791. - Authorization.

As urban development utilizes more and more land area within the city, there is created an increasing need and demand for recreational facilities to serve a concentration of urban dwellings. In order to accommodate such demand, and to encourage private development of recreational facilities within close proximity to the residences they serve, this subdivision permits the construction of certain types of nonprofit, noncommercial recreation facilities within the R-1B and R-M1 residential districts and the A-1 agricultural district. These uses may be authorized by the issuance of a special use permit when all of the procedures and applicable requirements stated in divisions 1 and 2, of this article and the additional requirements of this subdivision can be complied with.

(Ord. No. 38, § 8.4.1, 3-11-1955)

Sec. 98-792. - Permitted uses.

Private community swimming pools, community recreation centers, tennis courts, and other noncommercial recreation facilities may be authorized, provided such facilities are to be constructed, maintained and operated by an incorporated, nonprofit club or organization with a specified limitation of members and provided further that such recreation facilities shall be operated for the exclusive use of organization members and their guests.

(Ord. No. 38, § 8.4.2, 3-11-1955)

Sec. 98-793. - Site development requirements.

The following requirements for site development of private noncommercial recreation areas, together with any other applicable requirements of this chapter, shall be complied with:

- (1) *Minimum site size.* The minimum site size shall be one acre with a minimum width of 150 feet.
- (2) *Site location.* In those instances where the proposed site is intended to serve club or organization members who reside beyond the immediate neighborhood or subdivision in which the proposed site is located, the site shall be located on a major thoroughfare and all ingress and egress for the site shall be provided directly from such thoroughfare.
- (3) *Yards.* Front, side and rear yards shall be at least 30 feet, except on those sides adjacent to nonresidential districts wherein it shall be ten feet. All yards shall be appropriately landscaped in trees, shrubs and grass. No structures or parking areas shall be permitted in such yards, except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.
- (4) *Off-street parking.* Off-street parking shall be provided in conformance with the schedule outlined in article VIII, division 2, of this chapter. Prior to the issuance of a special use permit for any use permitted in this subdivision, a certified copy of the bylaws of the nonprofit organization shall be filed with the planning commission in order to establish the membership involved for computing the off-street parking requirements. Whenever a parking plan is so laid out as to beam automobile lights into any residential district, a solid wall or open structure wood screen fence four feet in height shall be constructed along that side of the parking area. Shrubs or trees may be used in combination with such structural screens or walls.
- (5) *Swimming pool.* Whenever an unenclosed swimming pool is constructed under this subdivision, such pool shall be provided with a protective fence six feet in height, and entry shall be provided by means of a controlled gate.
- (6) *Lighting.* No lighting shall have a visible source of illumination unless such lighting is necessary to carry on particular recreation pursuits. All lighting shall be shielded to reduce glare and shall be so arranged as to direct the light away from all residential lands which adjoin the site.

(Ord. No. 38, § 8.4.3, 3-11-1955)

Secs. 98-794—98-810. - Reserved.

Subdivision VI. - Day Nursery

Sec. 98-811. - Authorization.

In order to facilitate the care of preschool children within a desirable home environment, this subdivision provides for the inclusion of nursery schools and child care centers within the R-1B medium density residential and R-M1 multiple-family residential districts and in churches within any zone district. A day nursery use may be authorized by the issuance of a special use permit when all of the procedures and applicable requirements stated in divisions 1 and 2, of this article, and the additional requirements of this subdivision can be complied with.

(Ord. No. 38, § 8.5.1, 3-11-1955)

Sec. 98-812. - Permitted uses.

Nursery schools, day nurseries and child care centers (not including dormitories) may be authorized, provided that there shall not be more than one dwelling unit used for residential purposes on the site.

(Ord. No. 38, § 8.5.2, 3-11-1955)

Sec. 98-813. - Site development requirements.

The following requirements for site development, together with any other applicable requirements of this chapter, shall be complied with.

- (1) *Minimum site size.* The minimum site size shall be 8,700 square feet with 66-foot lot width, provided that no more than four children shall be kept on the premises in addition to the children of the foster family. For each child not a member of the family in excess of four, there shall be provided 200 square feet of lot area in addition to the base figure of 8,700 square feet.
- (2) *Yards.* Front, side and rear yards shall conform to the requirements of section 98-149 for the R-1B district.
- (3) *Maximum building height and maximum lot coverage.* The maximum building height and maximum lot coverage shall be no greater than that permitted in the R-1B district.
- (4) *Off-street parking.* Off-street parking shall be provided in conformance with the multiple dwelling requirement of article VIII, division 2, of this chapter.
- (5) *Signs.* Signs as provided in article IX of this chapter.
- (6) *Play areas.* There shall be provided on the site a usable outdoor play area at the rate of 75 square feet for each child not a member of the family, exclusive of required front yard, required side yard along a street, and of driveways and parking areas. The play area shall be fenced for safety and shall be screened from any adjoining residential land by suitable plant material.

(Ord. No. 38, § 8.5.3, 3-11-1955)

Secs. 98-814—98-830. - Reserved.

Subdivision VII. - Funeral Homes and Mortuaries

Sec. 98-831. - Authorization.

Because funeral homes and mortuaries perform special and necessary services to urban populations, and in recognition of the unique locational and site development characteristics of these functions, such uses of land may be authorized by special use permit within the R-M1 multiple-family residential districts when all of the procedures and applicable requirements stated in divisions 1 and 2, of this article, and the additional requirements of this subdivision can be complied with.

(Ord. No. 38, § 8.6.1, 3-11-1955)

Sec. 98-832. - Permitted uses.

Funeral homes, undertaking parlors and mortuaries, provided that the conduct of all aspects of activities related to such uses shall take place within the principal building and not in an accessory building. A caretaker's residence may be provided within the principal building.

(Ord. No. 38, § 8.6.2, 3-11-1955)

Sec. 98-833. - Site development requirements.

The following requirements for site development of funeral homes and mortuaries, together with any other applicable requirements of this chapter, shall be complied with:

- (1) *Minimum site size.* The minimum site size shall be one acre site with a minimum width of 150 feet.
- (2) *Site location.* The proposed site shall front upon a major thoroughfare. All ingress and egress points to the site shall be directly from such thoroughfare.
- (3) *Yards.* Front, side and rear yards shall be at least 50 feet, except on those sides adjacent to nonresidential districts wherein it shall be 20 feet. All yards shall be appropriately landscaped in trees, shrubs and grass. No structures or parking areas shall be permitted in such yards, except that rear yards may [be] used for parking purposes under the requirements specified subsection 98-526(7), and except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.
- (4) *Site coverage.* No more than 30 percent of the gross site area shall be covered by buildings, including accessory buildings.
- (5) *Maximum building height.* No building shall be erected to a height greater than that permitted in the R-M1 district.
- (6) *Appearance.* All buildings shall be harmonious in appearance with the surrounding residential area and shall be similar in design and appearance to any other buildings within the immediate vicinity of the proposed site.
- (7) *Signs.* Signs as provided in article IX of this chapter.
- (8) *Off-street parking.* Off-street parking shall be provided in conformance with the schedule outlined in article VIII, division 2, of this chapter. Adequate off-street assembly area for vehicles used in funeral processions shall be provided in addition to any required off-street parking area. Parking and assembly areas shall be screened from surrounding residential areas by an open structure wood fence or solid masonry wall at least four feet in height. Shrubs or trees may be used in combination with such structural screens or walls.

(Ord. No. 38, § 8.6.3, 3-11-1955)

Secs. 98-834—98-850. - Reserved.

Subdivision VIII. - Mobile Home Parks and Travel Trailer Parks

Footnotes:

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Cross reference— *Manufactured homes and trailers, ch. 46.*

Sec. 98-851. - Compliance with regulations.

All mobile homes and mobile home parks shall comply with the regulations contained in chapter 46 of this Code, as amended, and all other applicable provisions of this chapter.

(Ord. No. 38, § 8.7.1, 3-11-1955)

Sec. 98-852. - Travel trailer parks.

- (a) Travel trailer parks for the accommodation only of travel trailers, self-propelled homes, or vehicles designed primarily for living or sleeping or used to carry units so designed with or without tents or tent trailers and operated on a seasonal basis between May 1 and December 1, may be allowed by special use permit in the A-1 agricultural district.
- (b) Travel trailer parks shall be subject to the requirements of the state department of health.
 - (1) No travel trailer park shall be located except with direct access to a major thoroughfare, with a minimum lot width of not less than 50 feet for the portion used for entrance and exit. No entrance or exit shall be through a residential district or shall require movement of traffic from the park through a residential district.
 - (2) The minimum lot area per park shall be three acres, with a maximum of 20 acres.
 - (3) Spaces in travel trailer parks may be used by travel trailers provided they meet any additional laws and ordinances of the state and county and shall be rented by the day or week only, and an occupant of such space shall remain in the same trailer park for a period of not more than 30 days.
 - (4) Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to the operation of a travel trailer park are permitted as accessory uses in any district in which trailer parks are allowed, provided that:
 - a. Such establishments and the parking area primarily related to their operations shall not occupy more than ten percent of the area of the park.
 - b. Such establishments shall be restricted in their use to occupants of the park.
 - c. Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.
 - (5) No space shall be so located that any part intended for occupancy for sleeping purposes shall be within 50 feet of the right-of-way line of any freeway, expressway, or within 25 feet of the right-of-way of any local street.
 - (6) In addition to meeting the above requirements, the travel trailer park site plan shall be subject to the review and approval of the county health department.
 - (7) Travel trailer parks shall be permitted in existing or proposed mobile home parks, subject to the provisions provided herein.

(Ord. No. 38, § 8.7.2, 3-11-1955)

Secs. 98-853—98-870. - Reserved.

Subdivision IX. - Gasoline Service Stations

Sec. 98-871. - Authorization.

Facilities to serve motor vehicles are of considerable importance within urbanizing areas where the basic mode of transportation is by private automobile. The continued growth of motor vehicle registrations and of total miles traveled annually has stimulated additional needs for retailing gasoline and associated products. To meet the demands of location and space for this type of retail facility requires careful planning to properly integrate the service station function into the pattern of other commercial and retail activities serving the community. Because such integration requires special considerations relating to location, site layout, storage facilities, traffic safety and compatibility with surrounding uses of land, this chapter requires conformance to the standards set forth in this subdivision before a building permit may be issued for a gasoline service station as a permitted use within various commercial districts. Moreover, gasoline service stations may be permitted in the B-1 general business district only upon the issuance of a special use permit which complies with the requirements of this subdivision and with the general standards set forth in divisions 1 and 2, of this article.

(Ord. No. 38, § 8.8.1, 3-11-1955)

Sec. 98-872. - Objectives.

It is the intent of this subdivision to exercise a measure of control over service station buildings and their sites and to establish a basic set of standards within which individual solutions may be developed to meet the retail service needs of motor vehicles. The objectives of the regulations set forth in this subdivision are to:

- (1) Promote the type of development which will be compatible with other land use activities located in areas where service stations will be constructed.
- (2) Control those aspects of service station design, site layout and operation which may, unless regulated, be damaging to surrounding uses of land.
- (3) Minimize the traffic congestion and safety hazards which are inherent in service station activity.

(Ord. No. 38, § 8.8.2, 3-11-1955)

Sec. 98-873. - Uses that may be permitted.

Gasoline service stations as defined in section 98-2, including the servicing of motor vehicles under 2½ tons rated capacity, such as minor adjustments to motor vehicles, sales and installation of automotive accessories and other servicing of motor vehicles, provided such accessory uses and services are conducted wholly within a completely enclosed building. Body repair, engine overhauling, steam cleaning, or other mechanical or physical modifications to motor vehicles is specifically prohibited.

(Ord. No. 38, § 8.8.3, 3-11-1955)

Sec. 98-874. - Site development requirements.

The following requirements for site development of gasoline service stations, together with any other applicable requirements of this chapter, shall be complied with:

- (1) *Minimum site size.* The minimum site size shall be 15,000 square feet with a minimum width of 132 feet.
- (2) *Site location.* The proposed site shall have at least one property line on a major thoroughfare, provided that

where gasoline service stations are proposed as part of a planned shopping center development as outlined in subdivision XI, of this division, the gasoline service station site, or sites, shall be located at the boundary of the center where it can be away from patterns of pedestrian circulation and have direct, unencumbered access to traffic arteries.

- (3) *Building setback.* The service station building, or buildings, shall be set back 40 feet from all street right-of-way lines and shall not be located closer than 25 feet to any property line in a residential district unless separated therefrom by a street or alley.
 - a. No installations, except walls or fencing and permitted signs, lighting and essential services, may be constructed closer than 15 feet to the line of any street right-of-way.
 - b. Hydraulic hoists, pits and all lubrication, greasing automobile washing and repair equipment shall be entirely enclosed within a building.
- (4) *Access drives.* No more than two driveway approaches shall be permitted directly from any major thoroughfare, nor more than one driveway approach from any minor street, each of which shall not exceed 35 feet in width at the property line.
 - a. If the service station site fronts on two or more streets, the driveways shall be located as far from the street intersection as practicable but no less than 50 feet.
 - b. No driveway or curb cut for a driveway shall be located within ten feet of an adjoining property line, as extended to the curb or pavement or within 20 feet of any exterior (corner) lot lines as extended.
 - c. Any two driveways giving access to a single street should be separated by an island with a minimum dimension of 20 feet at both the right-of-way line and the curb or edge of the pavement.
- (5) *Curbing and paving.* A raised curb of at least six inches in height shall be erected along all of the street property lines except at driveway approaches. The entire service area shall be paved with a permanent surface of concrete or asphalt.
- (6) *Fencing.* A solid fence or wall four feet in height shall be erected along all property lines abutting any lot within a residential district.
- (7) *Signs.* Signs shall be as provided in article IX of this chapter, provided that no signs, whether permanent or temporary shall be permitted within the public right-of-way.
- (8) *Off-street parking.* Off-street parking shall be provided in conformance with the schedule outlined in article VIII, division 2, of this chapter.
- (9) *Lighting.* Exterior lighting shall be so arranged that the source of illumination is deflected away from adjacent properties and is so situated as to not pose a problem for traffic.

(Ord. No. 38, § 8.8.4, 3-11-1955)

Secs. 98-875—98-890. - Reserved.

Subdivision X. - Home Occupations

Sec. 98-891. - Authorization and intent.

It is the intent of this subdivision to provide the city council and planning commission with a framework of regulatory standards to be utilized as a basis for approving or disapproving special uses which may be permitted by issuance of a special use permit. Customary home occupations may be permitted in any residential or agricultural district upon issuance of a special use permit. Such occupations or uses are intended to be made available to provide flexibility in the application of this chapter, but notwithstanding any other provision herein such permission shall not be granted if the essential character of a lot or structure within a residential district, in terms of use and appearance, will be changed in the slightest degree by the occurrence of such occupations, uses or activities.

(Ord. No. 38, § 8.9.0, 3-11-1955; Ord. No. 56, § 1, 9-5-1978)

Sec. 98-892. - Criteria of permissible customary home occupations.

A customary home occupation for which a special use permit may be issued hereunder is defined as a use of a principal residential structure which:

- (1) Is clearly secondary and subordinate to the residential use of the structure;
- (2) Is conducted wholly within the structure, excepting that a garage may be used to the extent necessary to house one vehicle, tools of the trade, or materials used in connection with the occupation;
- (3) Has no exterior signs or indicia of such occupation excepting for a small announcement or identification sign in compliance with article IX of this chapter;
- (4) Is carried on and conducted by an occupant of the structure and has no employees excepting members of the family actually living on the premises; provided, however, that in connection with the practice of the professions of law, accounting, architecture, engineering or other such profession, one person not residing in the structure may be employed;
- (5) Occupies not more than 25 percent of the total floor area of such structure and in no event more than 500 square feet thereof;
- (6) Does not involve the storage on the premises outside of the principal structure or garage of any tools, equipment or inventory;
- (7) Does not involve the use of any personnel or equipment which may be hazardous or which would create noise, odors or other pollutants excessive in kind, quantity or duration to those customarily found in residential areas;
- (8) Does not generate any significant amount of vehicular traffic, or give rise to the possibility of gatherings of groups or crowds of people at any one time upon the premises.

(Ord. No. 38, § 8.9.2, 3-11-1955; Ord. No. 45, § 1, 6-20-1977; Ord. No. 56, § 1, 9-5-1978; Ord. No. 86, § 1, 5-3-1982)

Secs. 98-893—98-910. - Reserved.

Subdivision XI. - Planned Shopping Centers

Sec. 98-911. - Authorization.

In order to provide for and encourage the development of grouped retail sales and service establishments at logical and sound locations within the city, planned shopping centers may be allowed by special use permit in the B-1 general business districts. The unique and changing characteristics of this type of business activity calls for standards and procedures which cannot be adequately covered by any one of the customary business district classifications. This use may be authorized by the issuance of a special use permit when all the procedures and applicable requirements stated in divisions 1 and 2, of this article and additional requirements of this subdivision can be complied with.

(Ord. No. 38, § 8.10.1, 3-11-1955)

Sec. 98-912. - Site development requirements.

The owner or owners of a tract of land which comprises five acres or more may submit to the planning commission a request for a special use permit. The site requested shall be located upon a major thoroughfare to permit adequate ingress and egress. Such request shall also be accompanied by the following evidence and supporting data, without which an application shall not be accepted by the planning commission.

- (1) A market analysis by a recognized, reputable market analyst, setting forth conclusively economic justifications and need for the establishment of a center of the type and size proposed by the applicant. This analysis shall be based upon, but not limited to such factors as the trade area of the community and travel time from various parts thereof to the proposed center site; general development trends and anticipated population changes; economic trends and disposable income characteristics; expected sales volumes of the center as indicated by the demand for certain types of retail merchandise; existing or anticipated competing commercial facilities, and other data and analyses which relate to the need for and feasible success and stability of the proposed center. The purpose of this requirement is to protect the city from the over-development of retail sales and service establishments which could prove highly injurious to the community welfare.
- (2) A site plan defining the areas to be developed for buildings; the areas to be devoted to parking; the location of pedestrian and vehicular circulation and the points of ingress and egress; and the location of walls, landscaped areas, terraces and other open spaces; the provision of spaces for loading, unloading and servicing; the location, size and number of signs; and the treatment proposed for required transition strip areas to protect abutting land uses and zoning districts.
- (3) A traffic survey prepared by qualified experts indicating the effect of the proposed shopping center on adjacent streets and also indicating the anticipated points of origin, direction and amount of traffic flow to and from the proposed center.
- (4) A list of proposed uses to be included in the proposed center, with the area of each to be devoted to retail space.
- (5) A statement of financial responsibility to assure construction of the planned shopping center in accordance with the site plan and the requirements of this subdivision.

(Ord. No. 38, § 8.10.2, 3-11-1955)

Secs. 98-913—98-930. - Reserved.

Subdivision XII. - Miscellaneous Special Uses

Sec. 98-931. - Authorization.

Because of particular functional and other inherent characteristics, certain land and structure uses have a high potential of being injurious to surrounding properties by depreciating the quality and value of such property. Many of these uses may also be injurious to the city as a whole unless they are controlled by minimum standards of construction and operation. It is the intent of this subdivision to provide a framework of regulatory standards which can be utilized by the planning commission and city council as a basis for approving or disapproving certain special uses which may be permitted by the issuance of a special use permit within the particular zone districts cited.

(Ord. No. 38, § 8.11.1, 3-11-1955)

Sec. 98-932. - Special uses that may be permitted.

The following land and structure uses may be permitted within the particular zone districts cited, provided that requirements specified in divisions 1 and 2, of this article and the applicable specified conditions established herein can be complied with:

- (1) Public or private dumps, incinerators and sanitary fills within any agricultural or industrial zone district.
- (2) Junkyards within any industrial or agricultural zone district.
- (3) Sewage treatment and disposal installations within any industrial or agricultural zone district.
- (4) Drive-in theaters, race tracks, temporary and transient amusement enterprises, golf driving ranges and miniature golf courses within B-1 general business districts or any agricultural or industrial zone district.
- (5) Special open space uses, such as public beaches, bathhouses, private resorts, recreational camps and other open space uses operated for profit within any agricultural zone district.
- (6) Institutions for the mentally retarded and physically handicapped, drug or alcoholic patients, and camps or correctional institutions within any agricultural zone district.
- (7) Sand or quarries, gravel pits, within any agricultural zone district.
- (8) Raising and keeping of animals within any agricultural district.
- (9) Conversion of one-family dwellings within any residential district.
- (10) Advertising structures within any agricultural district.
- (11) Public storage rental facilities within the A-1 agricultural district and B-2 highway service district.

(Ord. No. 38, § 8.11.2, 3-11-1955; Ord. No. 178, § 2, 12-15-2001)

Sec. 98-933. - Site development requirements.

- (a) A special use permit shall not be issued for the occupancy or use of a structure or parcel of land, or for the erection, reconstruction or alteration of a structure unless complying with the following site development requirements.
- (b) Without limiting the powers of the city council in any other section of this chapter, the city council shall have the authority to revoke any special use permit when, after reasonable warning, the operators of any use permitted under this subdivision fail to comply with any of the requirements stipulated. In addition, the planning

commission, as part of its approval of a particular special use permit, may recommend to the city council any additional conditions and safeguards that are deemed necessary for the protection of the public welfare.

(Ord. No. 38, § 8.11.3, 3-11-1955)

Sec. 98-934. - Incinerators and sanitary fills.

- (a) All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subdivision are less than those in applicable state statutes, the state requirements shall prevail.
- (b) All active uses shall be enclosed by a fence six feet or more in height for the entire periphery of the property. Fences shall be adequate to prevent trespass and shall be placed no closer than 50 feet to the top or bottom of any slope.
- (c) All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned so that they shall be in condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form.
- (d) The planning commission shall establish routes for truck movement in and out of the development in order to minimize the wear on public streets, to minimize traffic hazards, and to prevent encroachment of traffic or the byproducts of traffic (such as dust and noise), upon adjacent properties.
- (e) All permitted installations shall be maintained in a neat, orderly condition as to prevent injury to any single property, any individual, or to the city in general.

(Ord. No. 38, § 8.11.3(1), 3-11-1955)

Cross reference— Solid waste, ch. 66.

Sec. 98-935. - Junkyards.

- (a) All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subdivision are less than those in applicable state statutes, the state requirements shall prevail.
- (b) The site shall be a minimum of one acre in size.
- (c) A solid fence or wall at least eight feet in height shall be provided around the entire periphery of the site to screen such site from surrounding property. Such fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.
- (d) All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced-in area.
- (e) All fenced-in areas shall be set back at least 100 feet from any front street or property line. Such front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. The spacing and type of plant materials will be determined by the city council after receiving a recommendation from the planning commission.
- (f) No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.

- (g) Whenever the installation abuts upon property within a residential district, a transition strip at least 200 feet in width shall be provided between the fenced-in area and the property within a residential district. Such strip shall contain plant materials, grass and structural screens to effectively minimize the appearance of the installation and to help confine it therein.

(Ord. No. 38, § 8.11.3(2), 3-11-1955)

Sec. 98-936. - Sewage treatment and disposal installations.

- (a) All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subdivision are less than those in applicable state statutes, the state requirements shall prevail.
- (b) Any use shall comply with all regulations for M-1 industrial districts, article V, division Z, of this chapter.
- (c) All operations shall be completely enclosed by a wirelink fence not less than six feet high.
- (d) All operations and structures shall be surrounded on all sides by a transition strip at least 200 feet in width within which grass, plant materials and structural screens shall be placed to minimize the appearance and odors of the installation. The planning commission shall approve all treatment of transition strips.

(Ord. No. 38, § 8.11.3(3), 3-11-1955)

Cross reference— Sewer service, § 86-136 et seq.

Sec. 98-937. - Drive-in theaters, race tracks, temporary and transient amusement enterprises, golf driving ranges and miniature golf courses.

- (a) All sites for drive-in theaters, race tracks, temporary and transient amusement enterprises, golf driving ranges and miniature golf courses shall be located on a major thoroughfare. All traffic ingress or egress shall be from such thoroughfare. Local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements into or out of the major thoroughfare.
- (b) All points of entrance or exit for motor vehicles shall be located no closer than 200 feet from the intersection of any two streets or highways. Miniature golf and driving ranges shall have a 100-foot requirement.
- (c) All vehicles shall have clear vertical and horizontal sight distance approaching a public street within 100 feet of the street for a sight distance of 500 feet in either direction along the street.
- (d) Acceleration and deceleration lanes should be provided, where possible, at points of ingress and egress to the site. Left turns at entrances and exits should be prohibited on the major thoroughfare where possible.
- (e) Whenever any use that may be permitted in this subsection abuts property within a residential, business or agricultural district, a transition strip at least 200 feet in width shall be provided between all operations and structures, including fences, and the residential or agricultural property. Grass, plant materials and structural screens of a type approved by the planning commission shall be placed within such transition strip. Golf driving ranges and miniature courses shall have a minimum transition strip of 50 feet when adjacent to a residential, agricultural or business district.
- (f) A minimum yard of 100 feet shall separate all uses, operations and structures permitted herein, including fences, from any public street or highway used for access or exit purposes. This yard shall be landscaped in accordance with plans approved by the planning commission.

- (g) Golf driving ranges shall provide such safety screening as deemed reasonable and necessary by the planning commission to protect the safety and welfare of adjacent areas.
- (h) Race tracks and drive-in theaters shall be enclosed for their full periphery with an obscuring screen fence at least eight feet in height. Fences shall be of sound construction, painted or otherwise finished neatly, attractively and inconspicuously.
- (i) Drive-in theater ticket gates shall be provided in accordance with the following ratios: One ticket gate for 300-car capacity theaters; two ticket gates for 600-car capacity theaters; three ticket gates for 800-car capacity theaters; four ticket gates for 1,000-car capacity theaters. Vehicle standing space shall be provided between the ticket gates and the street or highway right-of-way line equal to at least 30 percent of the vehicular capacity of the theater.
- (j) Drive-in theater picture screens shall not be permitted to face any public street and shall be so located as to be out of the view from any major thoroughfare. The picture screen tower shall not exceed 65 feet in height.
- (k) For drive-in theaters, no more than two advertising signs not exceeding in aggregate more than 500 square feet shall be permitted. Such signs shall only advertise such business and shall be so located as not to obstruct traffic or vision upon any public street. In no event is any one sign to exceed 250 square feet.

(Ord. No. 38, § 8.11.3(4), 3-11-1955)

Cross reference— Amusements and entertainments, ch. 6.

Sec. 98-938. - Special open space uses.

- (a) The proposed site for drive-in theaters, race tracks, temporary and transient amusement enterprises, golf driving ranges and miniature golf courses shall be at least two acres in area.
- (b) The proposed site shall have at least one property line abutting a major thoroughfare. All ingress and egress to the site shall be directly from such thoroughfares.
- (c) All buildings and structures shall be set back at least 200 feet from any property or street line. Whenever the installation abuts upon property within a residential district, this 200-foot setback shall be landscaped with trees, grass and structural screens of a type approved by the planning commission to effectively screen the installation from surrounding residential properties.
- (d) No more than 25 percent of the gross site shall be covered by buildings.

(Ord. No. 38, § 8.11.3(5), 3-11-1955)

Sec. 98-939. - Institutions for the mentally retarded and physically handicapped, drug or alcoholic patients, and camps or correctional institutions.

- (a) The proposed site for institutions for the mentally retarded and physically handicapped, drug or alcoholic patients, and camps or correctional institutions shall be at least 40 acres in area.
- (b) The proposed site for such institutions shall have at least one property line abutting a major thoroughfare. All ingress and egress to the off-street parking areas shall be directly from the major thoroughfare.
- (c) All two story structures of such institutions shall be at least 100 feet from all boundary lines or street lines. Buildings less than two stories shall be no closer than 50 feet to any property or street line. For buildings above two stories, the building shall be set back from the initial 100-foot setback an additional one foot for each foot of

additional height above two stories.

- (d) For such institutions, no more than 25 percent of the gross site shall be covered by buildings.
- (e) Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall six feet in height. Access to and from the delivery and ambulance area shall be directly from a major thoroughfare.
- (f) All signs shall be in accordance with the schedule outlined in article IX of this chapter.
- (g) Off-street parking space shall be provided in accordance with the schedule outlined in article VIII, division 2, of this chapter and off-street loading in conformance with article VIII, division 3, of this chapter.

(Ord. No. 38, § 8.11.3(6), 3-11-1955)

Sec. 98-940. - Sand or gravel pits, quarries.

The excavation of peat, muck, sand, gravel, clay, shale, or other natural mineral deposits including the quarrying of rock minerals, but except crude oil, may be authorized only in agricultural districts by the planning commission by the issuance of a special permit upon completion of procedures and with the imposition of the conditions and safeguards outlined below.

- (1) All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this section are less than those in applicable state statutes, the state requirements shall prevail.
- (2) Topsoil shall not be stripped, excavated or otherwise removed on any premises for sale or for any other use than on the premises on which the topsoil was originally located, except when as a product of an authorized excavation of other soils as provided in this subdivision. This provision shall not be construed, however, to prohibit sod farm operations.
- (3) In addition to the plan required in divisions 1 and 2, of this article, the applicant shall submit plans and proposals for the reuse of the property after completion of excavation. At a minimum, such plans are to provide rehabilitation of the excavated area so that the proposed site, when rehabilitated, shall be in a condition of being lacking in hazards and be inconspicuous and blend into the natural ground form of the area. Such plans shall include a contour plan.
- (4) The applicant shall file with the city council, a performance bond in such amount as the city council shall deem sufficient to insure completion of the work following excavation pursuant to the conditions as set forth in divisions 1 and 2, of this article.
- (5) No fixed machinery shall be erected or maintained within 50 feet of any property or street line.
- (6) All uses shall be enclosed by a fence, adequate to prevent trespass, four feet or more in height, for the entire periphery of the excavation area. The top of the slope of the excavation shall not be closer than 50 feet from the property line.
- (7) No slope shall exceed an angle with the horizontal of 45 degrees.
- (8) All slopes and banks shall be reasonably graded and treated to prevent erosion or any other potential deterioration.
- (9) No building shall be erected on the premises, except as may be permitted elsewhere in this chapter, or except as temporary shelter for machinery and field office subject to approval by the planning commission.
- (10) The planning commission shall establish routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. That portion

of access roads within the area of operation shall be provided with a dustless surface.

- (11) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to single property, any individual, or to the city in general.
- (12) Proper measures, as determined by the planning commission, shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling of excavated materials on the site.
- (13) When excavation and removal operations or either of them are completed, the excavated area shall be graded so that no gradients in disturbed earth shall be steeper than a slope of three to one (horizontal-vertical). A layer of arable topsoil, of a quality approved by the city council, shall be spread over the excavated area, except exposed rock surfaces, to a minimum depth of four inches in accordance with an approved contour plan. The area shall be seeded with a perennial rye grass and maintained until the area is stabilized and approved by the planning commission.
- (14) All areas within any single development shall be rehabilitated as they are worked out or abandoned so that they shall comply with the rehabilitation plan as approved by the issuance of the special use permit provided in subsection (3) of this section.
- (15) Any extension of quarrying operations beyond the property lines actually quarried at the effective date of the ordinance from which this chapter is derived, shall be considered as a new operation and shall require a special use permit.
- (16) All existing pits at the effective date of the ordinance from which this chapter is derived, shall be inspected by the zoning administrator to determine the nature and extent of nonconformity. Such uses found to be nonconforming shall be so recorded, and newly excavated areas shall conform to the provisions of this chapter, and rehabilitation of the presently operated nonconforming pit shall be made conforming as required through the issuance of a special use permit within one year of issuance of a special use permit.

(Ord. No. 38, § 8.11.3(7), 3-11-1955)

Sec. 98-941. - Raising and keeping of animals.

The raising and keeping of small animals such as poultry and rabbits and the raising and keeping of livestock such as cattle, hogs, horses, goats and ponies may be conducted on a lot of not less than ten acres in any agricultural district. Provided, that all such raising and keeping or killing and dressing of poultry and animals processed upon the premises, shall be for the use or consumption by the occupants of the premises, and provided further that such animal be listed by number and kind on the special use permit and that reasonable efforts be undertaken by the animal's keepers to reduce the odor, sounds and movement of the animals to undisturbing levels at the lot boundaries which might negatively impact adjacent properties and uses. Limits on the number and type of animals and the areas on the lot designated for animal activity may be established by the city council to protect the character of the predominant uses in the area and the use and enjoyment of adjacent properties by neighboring residents.

(Ord. No. 38, § 8.11.3(8), 3-11-1955)

Cross reference— Animals generally, ch. 10.

Sec. 98-942. - Conversion of one-family dwellings.

The conversion of one-family dwellings to two and three-family dwellings shall be permitted when all of the following conditions can be met:

- (1) It can be demonstrated that larger houses in older residential areas of the city have been or can be converted from one-family to two or three-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization.
- (2) That such an expanded capacity is a clear necessity to satisfy this particular housing demand.
- (3) That adequate off-street parking space can be provided in accordance with standards stated in article VIII, division 2, of this chapter.
- (4) That undue traffic congestion will not result.
- (5) That the imposition on existing sanitary facilities will not be excessive.
- (6) That such use will not unduly injure the character or value of the existing neighborhood.
- (7) That the floor area per dwelling unit is not less than the following minimums: 350 square feet for one room; 550 square feet for two rooms; 750 square feet for three rooms, an average of 200 square feet for each room in excess of three rooms.

(Ord. No. 38, § 8.11.3(9), 3-11-1955)

Sec. 98-943. - Advertising structures, billboards or signboards.

All such signs shall be four feet or more clear above the ground. If not attached to the wall of a building for their entire length, signs must be lighted, for safety purposes, on all sides during all hours of darkness. The illumination of such signs for purposes other than for public safety shall be subject to approval by the zoning administrator to insure that the light intensity, color and movement will not likely be so distracting to motor vehicle operators as to constitute a traffic safety hazard. Signs must be at least 40 feet from a lot or public right-of-way line. Along interstate highways and state trunk lines, such setback shall be a minimum of 50 feet from the such highway right-of-way line. These signs shall not be restricted to providing advertisement relative to the principal premises use.

(Ord. No. 38, § 8.11.3(10), 3-11-1955)

Sec. 98-944. - Adult entertainment establishments.

Adult entertainment establishments may be permitted in any zoning district except R-1A, R-1B, or R-M1, via special use permit, when the following conditions are met:

- (1) In order to preserve the quality of life, property values of the residents and the quality of neighborhoods which form an entrance to the city, no adult entertainment establishment may be established, operated, or maintained within 500 feet of an R-1A, R-1B, or R-M1 residential zoning district.
- (2) No adult entertainment establishment may be established, operated, or maintained within 500 feet of: a church, state licensed day care facility, public library, public park, pre-school, elementary school, middle school, or high school.
- (3) Distance limitations shall be measured in a straight line, without regard to intervening structures or objects, from the closest parcel or lot lines of both the subject parcel and parcels zoned R-1A, R-1B, or R-M1 residential or occupied by uses specified above.

- (4) No adult entertainment establishment may be established, operated or maintained within 500 feet of any other entertainment establishment; the distance for purposes of this provision shall be measured in a straight line, with regard to intervening structures or objects, from the closest exterior walls of the adult entertainment establishment.
- (5) If employees or patrons of an adult entertainment establishment promote, offer, solicit, allow or engage in acts of prostitution on the premises, the special use permit may be suspended or revoked.
- (6) Granting of a special use permit under these provisions shall be contingent upon the applicant(s) obtaining or maintaining an adult entertainment establishment license.
- (7) It is the intent of this section to be liberally construed to protect the health, safety and general welfare of the persons and property of the citizens of the city. Should any provision of this Ordinance be held to be unconstitutional, invalid, or of no effect, such holding shall not be construed as affecting the validity of any of the remaining provisions of this section.

(Ord. No. 168, § 2, 9-10-99)

Sec. 98-945. - Public storage rental facilities.

- (a) The minimum lot area for any public storage rental facilities shall be 8,000 square feet.
- (b) Public storage rental facilities shall be limited to storage use. Other commercial or associated uses are prohibited.
- (c) A residence may be permitted for security personnel or on-site operator.
- (d) Parking and circulation:
 - (1) One parking space shall be provided for each ten storage cubicles, equally distributed throughout the storage area. The parking requirement can be met with the parking lanes required for the storage area.
 - (2) Two parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
 - (3) One parking space shall also be required for every twenty storage cubicles up to a maximum of ten spaces, to be located adjacent to the rental office for the use of prospective clients.
 - (4) The following parking lanes and access aisles shall be required:
Twelve feet wide by a minimum of 25 foot long aisles.
 - (5) All driveways, parking, loading, storage, and vehicular circulation areas shall be paved, or constructed of approved driveway material.
- (e) The hours of operation of any public storage rental facilities shall be between 8:00 a.m. and 8:00 p.m., seven days per week.

(Ord. No. 178, § 3, 12-15-01)