

Chapter 44 - ZONING

FOOTNOTE(S):

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

ARTICLE I. - IN GENERAL

Sec. 44-1. - Title.

This chapter shall be known and cited as the "City of East Tawas Zoning Ordinance."

(Code 1992, § 24-1; Ord. No. 304, § 101, 6-2-2003)

Sec. 44-2. - Purpose.

- (a) The purpose of this chapter is to promote, protect, regulate, restrict and provide for the use of land and buildings within the city; to meet the needs of the state's residents for places of residence, recreation, industry, trade, service, and other uses of land; to ensure that uses of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public services and facility needs; and to promote public health, safety, and welfare.
- (b) The city is divided into districts which include regulations designating land uses or activities that shall be permitted or subjected to special regulations.
- (c) It is also the purpose of this chapter to provide for the establishment of a zoning board of appeals and its powers and duties; to provide for the administration and enforcement hereof and for penalties for its violation; and to provide for the repeal of any and all ordinances inconsistent herewith.

(Code 1992, § 24-2; Ord. No. 304, § 102, 6-2-2003)

Sec. 44-3. - State legislation enabling authority.

This chapter is adopted pursuant to Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and, when so far as it is applicable, Public Act No. 33 of 2008 (MCL 125.3801 et s eq.). Said Public Acts covering Municipal Planning (Act 33) and Zoning (Act 110) are hereby made a part of this chapter as if contained verbatim in their complete textual forms, as amended.

(Code 1992, § 24-3; Ord. No. 304, § 103, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-4. - Scope and construction of regulations.

- (a) This chapter shall be liberally construed in such a manner as to best implement its purpose. In interpreting and applying the provisions of this chapter, the requirements shall be held to be the minimum for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare.
- (b) No building or structure, or part thereof, shall hereafter be erected, constructed, reconstructed or altered, and no new use or change shall be made to any building, structure or land, or part thereof, except as permitted by the

provisions of this chapter.

- (c) Where a condition imposed by a provision of this chapter upon the use of any lot, building, or structure is conflicting with a condition imposed by any other provision of this chapter, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive shall govern.
- (d) Nothing within this chapter shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition any part of a building or premises declared unsafe or unhealthy.

(Code 1992, § 24-4; Ord. No. 304, § 104, 6-2-2003)

Sec. 44-5. - Validity and severability clause.

- (a) If a court of competent jurisdiction shall declare any part of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not specifically included in said ruling.
- (b) If a court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular land, parcel, lot, district, use, building, or structure, such ruling shall not affect the application of said provision to any other parcel, lot, district, use, building, or structure not specifically included in said ruling.

(Code 1992, § 24-5; Ord. No. 304, § 105, 6-2-2003)

Sec. 44-6. - Conflict with other laws, regulations, and agreements.

- (a) Where any condition imposed by any provision of this chapter upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable conditions imposed by any other provision of this chapter or by the provision of any chapter adopted under any other law, as established by this Code, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
- (b) This chapter is not intended to modify or annul any easement, covenant, or other private agreement, provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.

(Code 1992, § 24-6; Ord. No. 304, § 106, 6-2-2003)

Sec. 44-7. - Relationship to adopted master plan.

The zoning map and/or text, the plans and specifications for the future development and redevelopment of the city, are based upon the master plan, as amended, for the city. The master plan has been and will continue to be a basis for amending or changing the zoning chapter map and text in the future.

(Code 1992, § 24-7; Ord. No. 304, § 107, 6-2-2003)

Sec. 44-8. - Vested right.

It is hereby expressly declared that nothing in this chapter be held or construed to give or grant to any person, firm, or corporation any vested right, license, privilege or permit.

(Code 1992, § 24-8; Ord. No. 304, § 108, 6-2-2003)

Sec. 44-9. - Repealer.

All city zoning ordinances or provisions thereof in existence prior to June 2, 2003, being the date of adoption of aforesaid Ordinance No. 304, are hereby repealed; provided, however, that if said Ordinance No. 304 shall subsequently be determined by a court of proper jurisdiction to be unlawfully adopted or otherwise null and void, then such zoning ordinance and amendments thereto in effect prior to June 2, 2003, shall be deemed automatically reinstated and in full force and effect.

(Code 1992, § 24-9; Ord. No. 307, § 109, 7-7-2003)

Secs. 44-10—44-36. - Reserved.

ARTICLE II. - DEFINITIONS AND RULES APPLYING TO TEXT

Sec. 44-37. - Rules applying to text.

The following rules shall apply to the text and language of this chapter:

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
- (5) 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."
- (6) Any word or term not defined herein shall be used with a meaning of common or standard utilization.

(Code 1992, § 24-31; Ord. No. 304, § 201, 6-2-2003)

Sec. 44-38. - 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 or structure means a supplementary building or structure on the same lot or parcel of land as the principal building occupied by or devoted exclusively to an accessory use.

Accessory use means a use reasonably and customarily incidental and subordinate to the principal use of the premises.

Adult book or supply store means an establishment having 20 percent or more of its stock in trade or its sales devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Adult cabaret means an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees or any other form of nude or partially nude service or entertainment.

Adult foster care facility means a state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the adult foster care facility licensing act, MCL 400.701 et seq., as amended. The following additional definitions shall apply in the application of this chapter:

- (1) *Adult foster care small group home* means an owner-occupied facility with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.
- (2) *Adult foster care large group home* means a facility with approved capacity to receive at least 13 but not more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.
- (3) *Adult foster care family homes* means a private residence with the approved capacity to receive six or fewer adults to be provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week and for two or more consecutive weeks for compensation. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
- (4) *Adult foster care congregate facility* means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week and for two or more consecutive weeks for compensation.

Adult-oriented commercial enterprise means an adult bookstore, adult supply store, adult motion picture theater, adult live stage performing theater, or adult cabaret as regulated in section 44-198.

Adult live stage performing theater means an enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein. Such establishment is customarily not open to the general public, but only to one or more classes of the public, excluding any minor by reason of age.

Adult motion picture theater means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified, sexual activities or specified anatomical areas, for observation by patrons therein. Such establishment is customarily not open to the general public, but only to one or more classes of the public, excluding any minor by reason of age.

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

Animal hospital means a self-enclosed building wherein animals, including domestic household pets and farm animals, are given medical or surgical treatment and used as a boarding place for such animals limited to short-time boarding incidental to hospital use. Such hospitals include only those under direction of a licensed veterinarian registered in the state. Such animal hospitals shall be constructed in such a manner that noise and odor are not discernible beyond the property upon which they are located.

Animal shelter means a building supported by a governmental unit or agency or by a nonprofit corporation where domestic pets or other animals are kept because of requirements of public health officials, loss by owner, neglect or violation of a public law or ordinance.

Antique shop means a place offering primarily antiques for sale. An antique, for the purpose of this chapter, shall be a work of art, piece of furniture, decorative object, or the like, or of belonging to the past, at least 30 years old. The term "antique shop" does not include a secondhand store.

Apartments means the dwelling units in a multiple dwelling as defined herein:

- (1) *Efficiency unit* means a dwelling unit consisting of not more than one room, in addition to kitchen, dining and necessary sanitary facilities, and, for the purpose of computing density, shall be considered as a one-room unit.
- (2) *One-bedroom unit* means a dwelling unit consisting of not more than two rooms, in addition to kitchen, dining and necessary sanitary facilities, and, for the purpose of computing density, shall be considered as a two-room unit.
- (3) *Two-bedroom unit* means a dwelling unit consisting of not more than three rooms, in addition to kitchen, dining and necessary sanitary facilities, and, for the purpose of computing density, shall be considered as a three-room unit.
- (4) *Three- or more bedroom unit* means a dwelling unit wherein for each room in addition to the three rooms permitted in a two-bedroom unit, and, for the purpose of computing density, such three-bedroom unit shall be considered a four-room unit, and each increase in a bedroom over three shall be an increase in the room count by one over the four.

Automobile car wash means a building, or portion thereof, where self-propelled motor vehicles are washed as a commercial enterprise.

Automobile convenience mart means a place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises or in combination with the retailing of items typically found in a convenience market, carryout restaurant or supermarket.

Automobile dealer means a building or premises used primarily for the sale of new or used automobiles, not including farm equipment and recreational vehicles.

Automobile repair means a place where, with or without the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; or painting and undercoating of motor vehicles.

Automobile storage means any storage of inoperable vehicles intended to be repaired back to operable condition, but not including such vehicles which are incident or accessory to an automotive repair garage or a licensed salvage yard used as a depository for such vehicles.

Basement means that portion of a building having more than one-half of its height below finished grade. (See figure 2-1.)

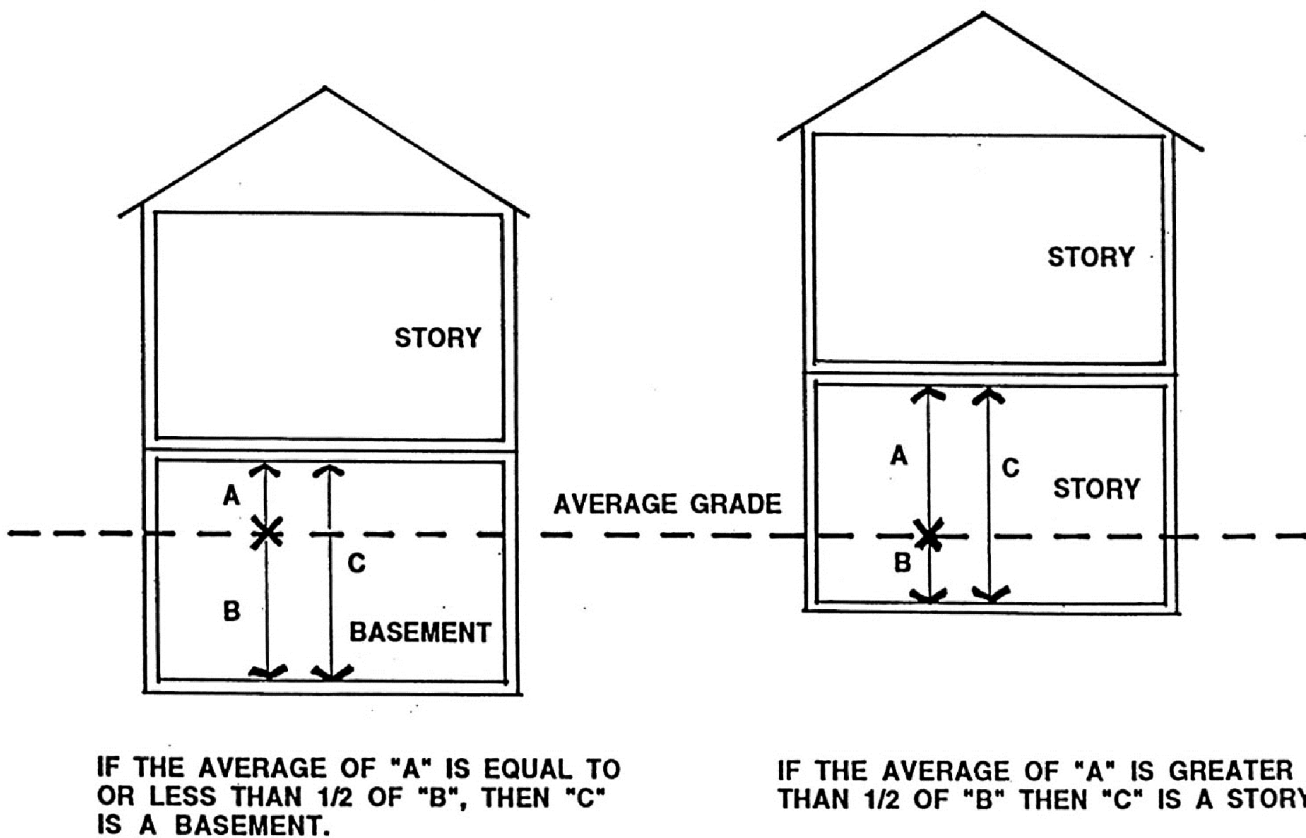


Fig. 2-1. Basement

Building means a structure having a roof supported by columns or walls.

Building area means the space remaining on a lot or parcel after the minimum yard and open space requirements of this chapter have been complied with.

Building height means the vertical distance from the established grade to the highest point of the roof surface for flat roofs, to the decline of mansard roofs, and to the average height between eaves and ridge for gables, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall. (See figure 2-2.)

MEASUREMENT OF BUILDING HEIGHT: Vertical distance from finished grade to highest point of flat roof; to the deck of mansard roofs; and to the mean height between the eaves and ridge on a hip, gambrel or gable roof.

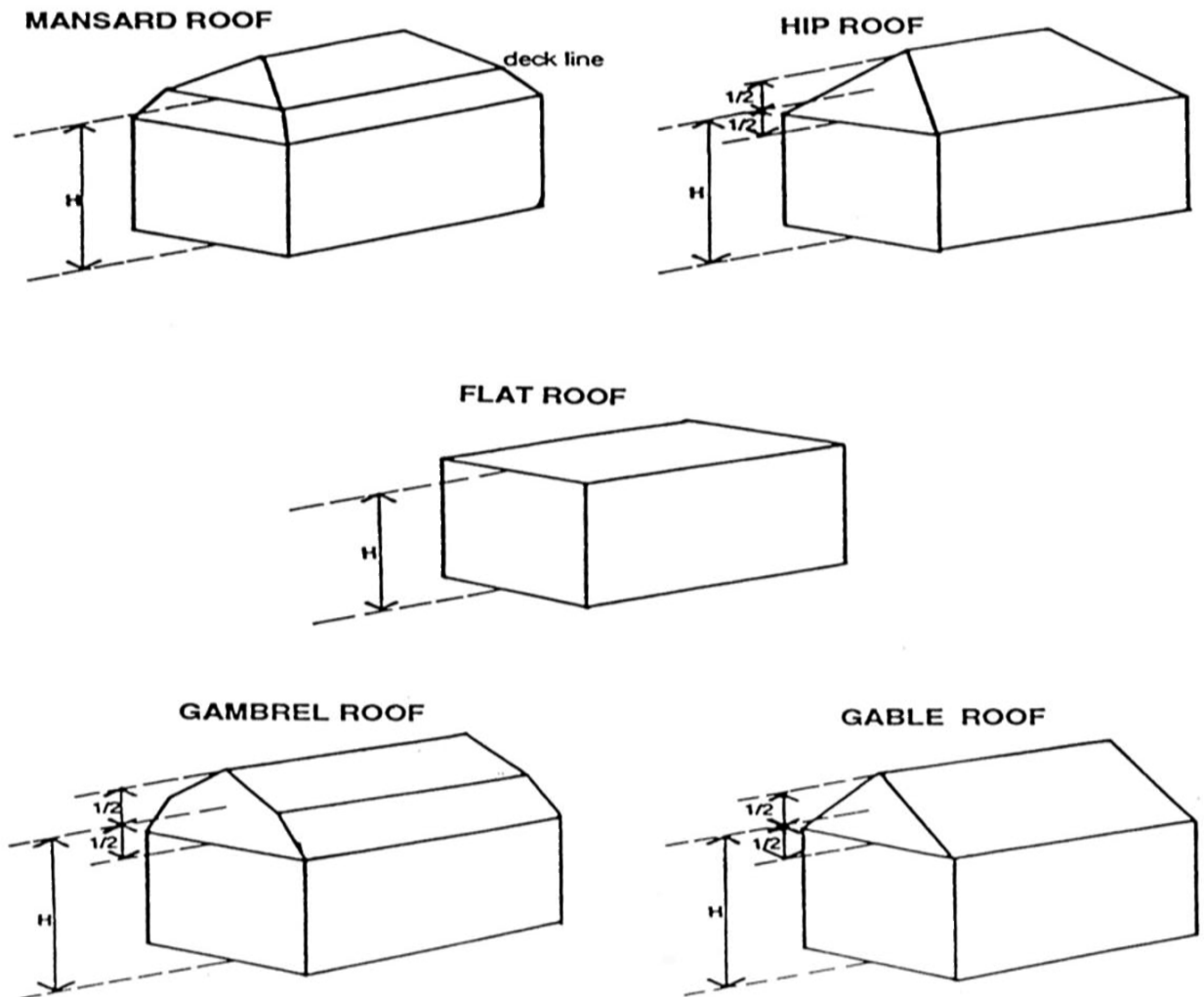


Fig. 2-2. Building Height

Building line means a line formed by the face of the building, and, for the purposes of this chapter, a minimum building line is the same as the front setback line.

Building permit shall be the written authority issued by the building inspector in conformity with the provisions of the construction code.

Building, principal, means a building in which the principal use of the premises on which it is situated is conducted.

Building setback line means the line established by the minimum required setbacks forming the area within a lot in which a building may be located.

Business district or *shopping center* means a group of two or more stores, offices, research, or manufacturing facilities which collectively have a name different than the name of any of the individual establishments and which have common off-street parking.

Campground means the uses and activities which take place on a lot or parcel for temporary short-term resort or recreational purpose in accordance with part 125 of Public Act No. 368 of 1978 (MCL 333.12501 et seq.) and the administrative rules promulgated under such act as administered by the county, district or state public health departments.

Change of copy means the replacement of a name, logo, symbol, number or graphic on a sign without changing the size of the sign, location of the sign or structural characteristics.

Child care facility includes the following definitions:

- (1) *Family child care home* means a state-licensed, owner-occupied private residence in which one but not more than six minor children are received for care and supervision for periods less than 24 hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.
- (2) *Group child care home* means a state-licensed, owner-occupied private residence in which seven, but not more than 12, children are received for care and supervision for periods less than 24 hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.
- (3) *Child care center* means a state-licensed facility, other than a private residence, receiving one or more child for care and supervision for periods less than 24 hours, and where the parents or guardians are not immediately available to the child.

Church means a building wherein persons assemble regularly for religious worship, maintained and operated by an organized religious body and accessory uses, buildings and structures customarily associated with a church. The term "church" includes temples or synagogues.

Clinic, human, means a building or group of buildings where human patients are admitted for examination and treatment by more than one professional, such as a physician, dentist, or the like, except that such human patients are not lodged therein overnight.

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

Commercial use means a use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or services, and the maintenance or operation of offices.

Common areas, uses and services means land areas, improvements, facilities and utilities, the use, enjoyment and maintenance of which are intended to be shared by the owners and occupants of individual building units in a subdivision or a planned development.

Condominium means a building or lot governed under Public Act No. 59 of 1978 (MCL 559.101 et seq.).

Condominium document means the master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

Condominium lot means the condominium unit and the contiguous limited common element surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.).

Condominium unit means the portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

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

Convenience grocery store means a one-story retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase a relatively few items (in contrast to a supermarket). Convenience grocery stores are designed to attract a large volume of stop-and-go traffic.

Development means the modification of a parcel, alteration of terrain, construction of structures or modifications of existing structures.

District means a portion of the city within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

Drive-in establishment means any establishment which offers goods and/or services over-the-counter or in motor vehicles.

Dwelling means a building designed and built in accordance with the current state construction code or used exclusively as a living quarters for one or more families, but not including automobile chassis, tents or portable buildings.

Dwelling, group, or group housing means two or more single- or multiple-family dwelling structures on a parcel of land under single ownership.

Dwelling, multiple-family, means a dwelling structure, or portion thereof, designed for occupancy by two or more families living independently of each other.

Dwelling, one-family, means a dwelling structure designed exclusively for occupancy by one family.

Dwelling, two-family, or duplex means a multiple-family dwelling structure designed exclusively for occupancy by two families independent of each other, such as a duplex dwelling unit.

Dwelling unit means any building or portion thereof or a mobile home having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently. In cases of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to a dwelling.

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

Extended-stay motel means any building containing six or more guest rooms intended or designed to be used, rented or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation, including, but not limited to, such facilities as refrigerators, stoves and ovens.

Extractive operation means the premises from which any rock, gravel, sand, topsoil, or earth in excess of 50 cubic yards in any calendar year is excavated or removed for the purpose of disposition away from the premises except excavation in connection with the construction of a building or within public highway rights-of-way.

Family means an individual or a group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a

single noncommercial housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

Fence means a permanent partition, structure or gate erected as a dividing marker, barrier or enclosure, and not a part of a principal building or structure or other accessory structure.

Floodplain means that portion of land adjacent to or connected to a water body or water course which is subject to periodic inundation in accordance with the 100-year flood cycle as determined by the U.S. Army Corps of Engineers or other applicable federal agency.

Floor area, gross, or GFA means the sum of the gross horizontal areas of the several floors of the building measured from the exterior face of the exterior walls or from the centerline of walls separating two dwelling units. The gross floor area of a building shall include the basement (see definition) floor area when more than one-half of the basement height is above the established curb level or finished lot grade and of interior finished construction similar to first or main floor. Any space devoted to off-street parking or loading shall not be included in gross floor area. Areas of dwelling basements, unfinished attics, utility rooms, breezeways, porches (enclosed or unenclosed) or attached garages are not included.

Floor area, usable, or UFA means the usable floor area (measured from the interior face of the exterior walls) used for or intended to be used for services to the public as customers, patrons, clients or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas used or intended to be used principally for storage of merchandise, utility or mechanical equipment rooms, or sanitary facilities. In the case of a one-half-story area, the usable floor area shall be considered to be only that portion having a clear height of more than 90 inches of headroom.

Frontage, street, means the legal line which separates a dedicated street right-of-way or easement from abutting land to which it provides over-the-curb vehicular access.

Garage means a structure which is accessory to a principal residential dwelling and which is used for the parking and storage of vehicles owned and operated by the residents thereof.

General common elements means the common elements other than the limited common elements.

Grade means the degree of rise or descent of a sloping surface. (See figure 2-3.)

- GRADE :** The degree of rise or descent of a sloping surface.
- GRADE, FINISHED:** The final elevation of the ground surface after development.
- GRADE, NATURAL:** The elevation of the ground surface in its natural state, before man-made alterations.

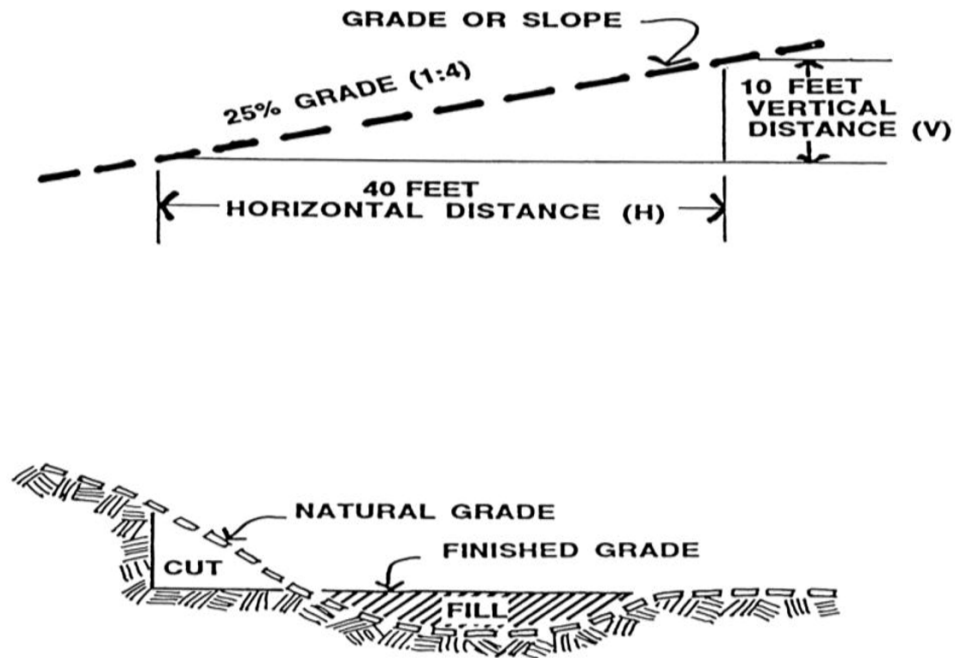


Fig. 2-3. Grade

Highway means any public thoroughfare dedicated and maintained for the use and operation of vehicular traffic by the state department of transportation.

Highway, local arterial, means those highways approved as such by the state department of transportation according to the Michigan highway law, Public Act No. 51 of 1951 (MCL 247.651 et seq.).

Highway, major arterial, means those highways approved as such by the state department of transportation according to the Michigan highway law, Public Act No. 51 of 1951 (MCL 247.651 et seq.).

Historical building, site or area means those parcels and/or uses of land and/or structures whose basic purpose is to:

- (1) Safeguard the heritage of the city by preserving or allowing a structure or use which reflects elements of the community's cultural, social, economic, political, or architectural history;
- (2) Stabilize and improve property values in the area;
- (3) Foster civic beauty;
- (4) Strengthen the local economy; and
- (5) Promote the use of such sites for the education, pleasure and welfare of the local residents and of the general public.

Home improvement center means a facility of more than 30,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builder's hardware, paint and glass, house wares and household appliances, garden supplies and cutlery.

Home occupation means an occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Hospital means an institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

Industrial means a product manufacturing or conversion through assembly of new or used products or through the disposal or reclamation of salvaged material business and service activity that are operated primarily for profit.

Industrial park means a special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

Institution means an organization having a social, educational or religious purpose established by law, custom, practice or a system to serve a public.

Junk means all rubbish, refuse, waste material, and garbage, including, but not limited to, the following: waste composed of animal, fish, fowl, fruit or vegetable matter, dead animals, putrescible and nonputrescible solid waste (except body wastes), ashes, glass, cans, bottles, discarded or abandoned machinery, household appliances, industrial wastes, discarded, inoperative, dismantled or partially dismantled motorized vehicles or parts thereof. This shall not preclude home or farm composting for on-site use.

Junkyard means any lot, parcel, field or tract of land on which there is an accumulation of junk, equipment or machinery, whether operated on a for-profit or not-for-profit basis. The term "junkyard" includes automobile wrecking yards and salvage areas of more than 200 square feet for the storage, keeping or abandonment of junk or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include uses contained entirely within an enclosed building.

Kennel means any place or premise where more than four dogs, cats, or other domestic pets over six months of age are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

Laboratory means a place in which the principal use is devoted to experimental, routine or basic study such as testing and analytical operations.

Lake means a permanent natural or manmade body of surface water of at least five acres in area.

Landscaping includes the following definitions in the application of this chapter:

- (1) *Berm* means a landscaped mound of earth which blends with the surrounding terrain.
- (2) *Buffer* means a landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide visual screening, noise reduction, and transition between conflicting types of land uses.
- (3) *Conflicting nonresidential land use* means any nonresidential use, such as office, commercial, industrial, research, parking or public road right-of-way land use which abuts a residential land use.
- (4) *Conflicting residential land use* means any residential land use developed at a higher density which abuts a

residential land use developed at a lower density.

- (5) *Greenbelt* means a landscaped area, established at a depth of the minimum required front yard setback within a zoning district, which is intended to provide a transition between a public road right-of-way and an existing or proposed land use and/or between a conflicting land use and an existing or proposed land use.
- (6) *Opacity* means the state of being impervious to sight.
- (7) *Plant material* means a collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines and ground cover.

Large box retail means a singular retail or wholesale user, who occupies no less than 70,000 square feet of gross floor area, typically requires high parking to building area ratios and has a regional sales market. Regional retail/wholesale uses can include, but are not limited to, membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

Limited common elements means a portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

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

Lodging facility means any establishment in which individual units are rented to transients for periods of less than 30 days for the purpose of sleeping accommodations. The term "lodging facility" shall include hotels and motels but shall not include bed-and-breakfast operations, multiple-family dwellings, or roominghouses.

Lot means a parcel of land, excluding any portion in a street or other right-of-way, of at least sufficient size to meet minimum requirements for use, coverage, lot area, and to provide such yards and other open spaces as herein required. Such lot shall have frontage on a public street, or on an approved private street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) Any combination of complete and/or portions of lots of record;
- (4) A parcel of land described by metes and bounds.

Lot area means the total area within the lot lines of a lot or parcel.

Lot, corner, means a lot with frontage on two intersecting streets. (See figure 2-4.)

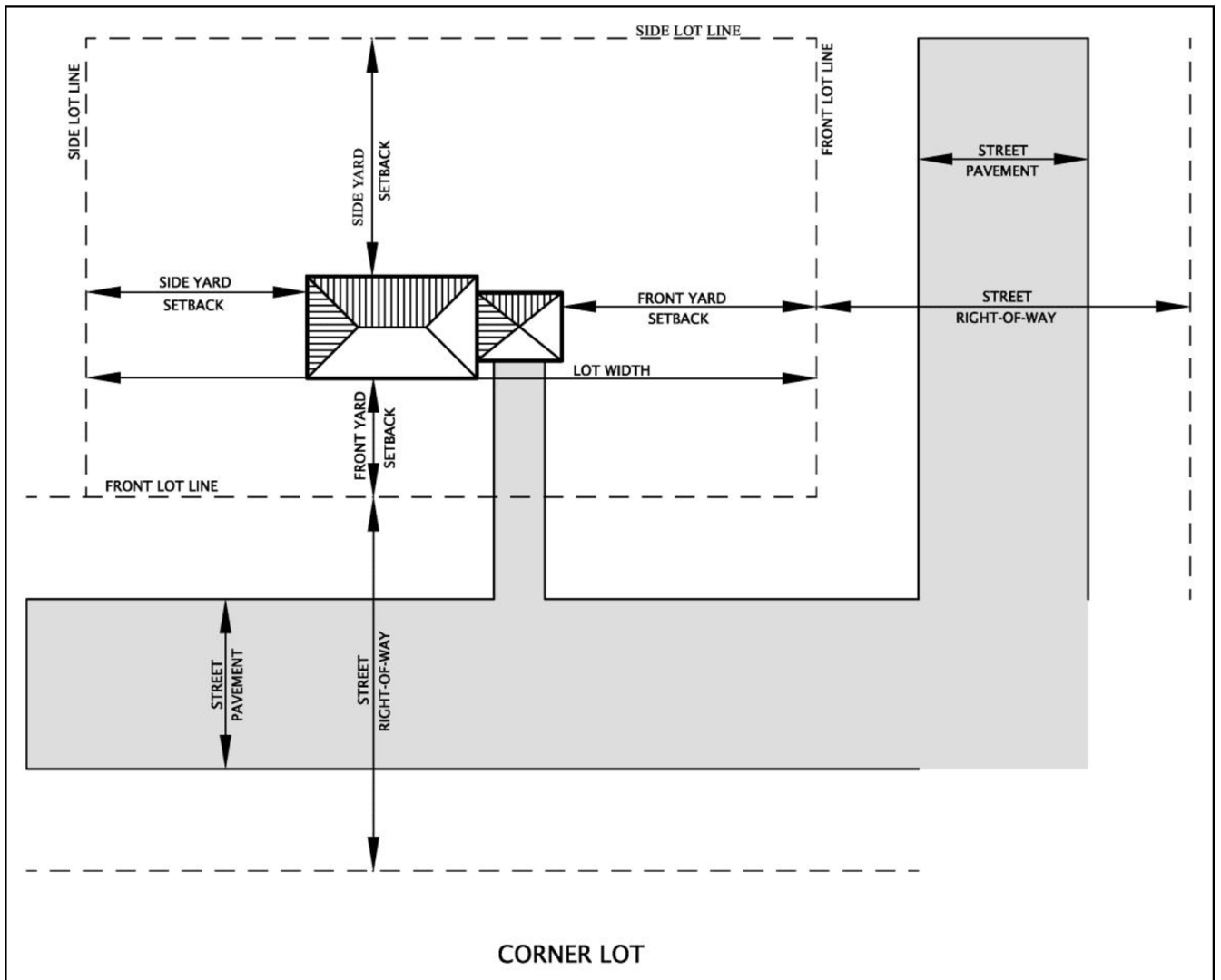


Fig. 2-4. Lot, Corner

Lot coverage means that percentage of the lot or parcel covered by all buildings and structures located on the lot or parcel.

Lot depth means the mean horizontal distance from the front lot line to the rear lot line, or, in the case of a waterfront lot, from the lake frontage line to the street frontage line, or, in the case of an acreage lot, from the right-of-way line to the rear lot line.

Lot, double frontage, means a lot having frontage on two street rights-of-way. (See figure 2-5.)

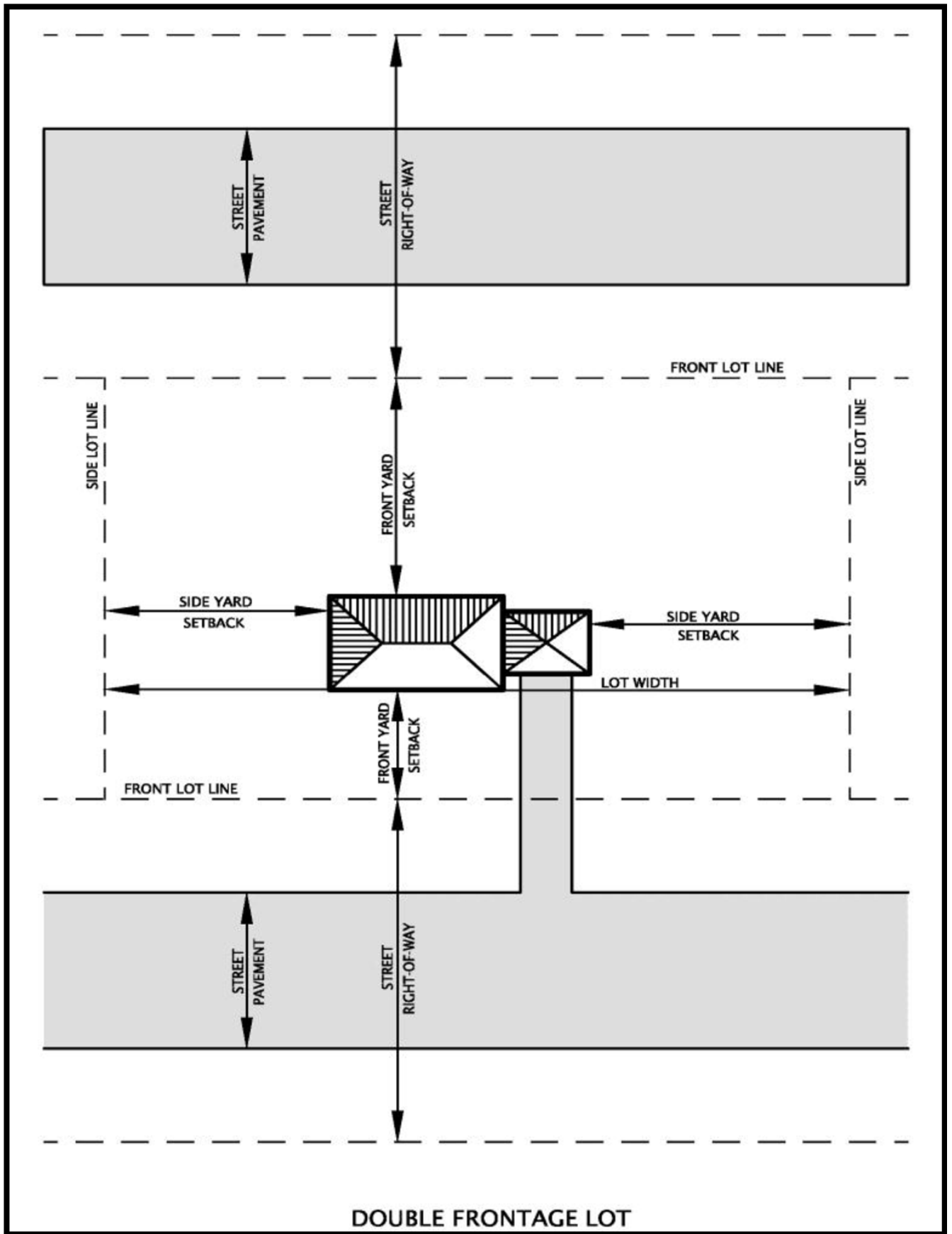


Fig. 2-5. Lot, Double Frontage

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

Lot line, front, means, in the case of an interior lot, that line separating such lot from the street right-of-way. In the case of a corner lot or double frontage lot, the term "front lot line" means that line separating such lot from that street which is designated as the front street in the plat and in the application for a zoning permit. This shall include the line separating such lot from the body of surface water upon which it fronts.

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

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

Lot lines means the exterior perimeter boundary lines of a lot or parcel.

Lot of record means a lot or parcel recorded in the office of the county register of deeds.

Lot, waterfront, means a lot having a frontage directly upon a lake, river or pond. The portion adjacent to the water shall be designated as the water frontage of the lot, and the opposite side shall be designated the street frontage of the lot.

Lot width means the horizontal distance between the side lot lines, measured at the two points where either the building line or front lot line intersects the side lot lines.

Marginal access street means a public or private street or driveway paralleling and adjacent to any one of the major streets and arterials as designated in the master plan for streets and highways.

Master deed means the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by section 8 of the condominium act (MCL 559.108).

Master plan means the plan prepared and adopted by the city planning commission in accordance with Public Act No. 33 of 2008 (MCL 125.3801 et seq.) relative to the agreed-upon desirable physical land use pattern for future city development. The plan consists of a series of maps, plans, charts and written material representing, in summary form, the soundest planning direction to the city as to how it should grow in order to realize the very best community living environment.

Mobile home park means a specifically designated parcel of land constructed and designed to accommodate three or more mobile homes for residential dwelling use, and licensed by the state in accordance with Public Act No. 96 of 1987 (MCL 125.2301 et seq.), the mobile home commission act.

Nonconforming building or structure means a building or portion thereof lawfully existing at the effective date of this chapter, or amendments thereto, and which does not conform to the dimensional requirements of this chapter in the zoning district in which it is located.

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

Nuisance means an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or adversely affect a human being.

Off-street parking area means a land surface or facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two automobiles.

Open-air business uses means a business use operated for profit, substantially in the open-air, usually without buildings or structures, including uses such as the following:

- (1) Bicycle, utility truck or trailer, motor vehicle, boats or home equipment sale, repair or rental services.

- (2) Outdoor display and sales of garages, motor homes, mobile homes, snowmobiles, farm implements, swimming pool similar products.
- (3) Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, topsoil, humus, or fertilizer.
- (4) Tennis courts, archery courts, shuffleboard courts, horseshoe pits, rifle ranges, miniature golf courses, golf driving ranges, children's amusement parks or similar recreation uses (transient or permanent).

Open space means any land area suitable for recreation, gardens or household service activities, such as clothes drying, but not occupied by any buildings or other structures, except as provided in this chapter.

Open space use means any principal or accessory use of a lot or parcel not involving the use of buildings or structures which are required to meet the construction code or any construction requirement of the city ordinances, rules or regulations, except as provided in this chapter.

Open storage means a land area occupied and used for outdoor storage of building materials, sand, gravel, stone, lumber, equipment and other supplies.

Ordinary high-water mark means the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is distinguished from the upland as evidenced in the soil, the configuration of the surface of the soil and vegetation.

Parcel means a piece of land created by a partition, subdivision, deed, or other instrument recorded with the appropriate recorder. This includes a lot, lot of record, or a piece of land created through other methods.

Parking space means a land area of not less than nine by 20 feet, exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle and so located as to be readily accessible to a public street or alley.

Pet means only such animals as may commonly be housed within domestic living quarters.

Planned unit development means a special zoning district intended to permit flexibility and innovation in accordance with article V of this chapter.

Planned unit development agreement means a written agreement between a developer and the city which specifies the terms and conditions of planning unit development zoning.

Pond means a small body of surface water more than one-fourth of an acre but less than five acres and at least 18 inches deep which exists in a natural state or is established by either the damming of surface water or by excavation of soil to expose groundwater.

Public utility means any person, municipal department, board, or commission duly authorized to furnish to the public (under federal, state or municipal regulations) electricity, gas, steam, communications, telegraph, transportation, water, stormwater collection or wastewater collection and treatment.

Recreation vehicle means the following:

- (1) *Boats and boat trailers* means and include boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- (2) *Folding tent trailer* means a canvas folding structure mounted on wheels and designed for travel and vacation use.
- (3) *Motor home* means a recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place-to-place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.

- (4) *Other recreational equipment* means and include snowmobiles, all-terrain or special terrain vehicles, utility trailers, normal equipment to transport them on the highway.
- (5) *Pickup camper* means a structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- (6) *Travel trailer* means a portable vehicle on a chassis, not exceeding 36 feet in length or nine feet in width, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

Recreation vehicle park (RV park) means a recreation-oriented facility for the overnight or short-term parking of travel trailers, recreation vehicles or tents, but not including mobile homes. The term "recreation vehicle park (RV park)" may also be known as a campground.

Restaurant means any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, or sit-down restaurant, or bar/lounge, or combination thereof, as defined below:

- (1) *Carry-out restaurant* means a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- (2) *Drive-in restaurant* means any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages or other food served directly to or permitted to be consumed by patrons in cars or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside the main building.
- (3) *Fast-food restaurant* means a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside or outside of the structure, or for consumption off the premises, but not in a motor vehicle at the site.
- (4) *Sit-down restaurant* means a restaurant whose method of operation involves either the delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or the prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- (5) *Bar/lounge* means a restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.
- (6) *Drive-through restaurant* means a restaurant that serves customers who pull up in their vehicles; orders are taken and food is provided using a window while the customers remain in their vehicles.

Right-of-way shall be a legal right of passage over real property, typically associated with roads and railroads.

Roadside stand means a temporary or permanent building or structure operated for the purpose of selling only products or produce raised or produced on the same premises, including the immediately surrounding area by the proprietor of the stand or his family; its use shall not make it a commercial district land which is basically classified as residential, nor shall its use be deemed a commercial activity. The maximum floor area of a roadside stand shall not exceed 400 square feet.

Salvage yard means any parcel of land or building for which the principal or accessory use is the abandonment, collection, demolition, dismantlement, keeping, storage, processing, bailment, recycling, salvage or sale of used, discarded, worn-out or scrapped machinery, vehicles, vehicle parts, scrap metal, chains, used pipes, wastepaper, rags, enamelware, furniture, bottles, cans, rope, iron, copper or other scrap or discarded materials.

Setback means the minimum required horizontal distance between the building or structure and the front, side, and rear lot lines and natural features.

Shopping center means more than one commercial establishment, planned, developed, owned, and managed as a unit, with off-street parking provided on the property.

Sign means a device which is affixed to, or otherwise located or set upon, a building, structure or parcel of land which directs attention to an activity or business. This includes interior signs which are directed at persons outside the premises and exterior signs, but not signs primarily directed at persons within the premises. The term "sign" does not include goods for sale displayed in a business window. (See article X of this chapter for additional definitions.)

Site condominium means a condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

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

Story, one-half, means a story under the gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story and the floor area shall not exceed two-thirds of the area of the floor below.

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

Street means any public or private thoroughfare dedicated and maintained for the use and operation of vehicular traffic and which meets the minimum standards of construction of the city street agency.

Street block means that portion of both sides of a street located between two intersecting streets and having no other intersecting street between them.

Street, collector, means a street specified as such in the master plan for streets and highways which connects to minor streets.

Street, connecting, means a street specified as such in the master plan for streets and highways.

Street frontage means the legal line which separates a dedicated street right-of-way or easement from abutting land to which it provides over-the-curb vehicular access.

Street, frontage access, means a public or private street paralleling and providing ingress and egress to adjacent lots and parcels, but connected to the major highway or street only at designated intersections or interchanges.

Street, hard surface, means a highway or street built to the concrete or asphalt surface street building specifications of the master plan or the state department of transportation.

Street, local, means those streets approved as such by the state department of transportation according to the Michigan highway law, Public Act No. 51 of 1951 (MCL 247.651 et seq.).

Street, major, means those streets approved as such by the state department of transportation according to the Michigan highway law, Public Act No. 51 of 1951(MCL 247.651 et seq.).

Street, private, means a nonpublic street which serves at least two separately owned lots or parcels and which meets the city street construction standards.

Street right-of-way line means the line which forms the outer limits of a street right-of-way or easement, and which forms the line from which all setbacks and front yards are measured unless otherwise specified in this chapter.

Structural alteration 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 above the ground, including, but not limited to, buildings, houses, garages, pole barns, sheds (over 100 square feet), pergolas, decks, porches, game courts, fences, walls, screens and gazebos.

Swimming pool means any outdoor structure or container, including Jacuzzis, hot tubs and any other pool meeting these specifications, located either above or below grade, designed to hold water to a depth greater than 20 inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

Use means the lawful purpose for which land or premises, or a structure or building thereon, is designed, arranged, intended or occupied, maintained, let or leased for a use or activity.

Temporary building means a structure without any foundation or footing and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

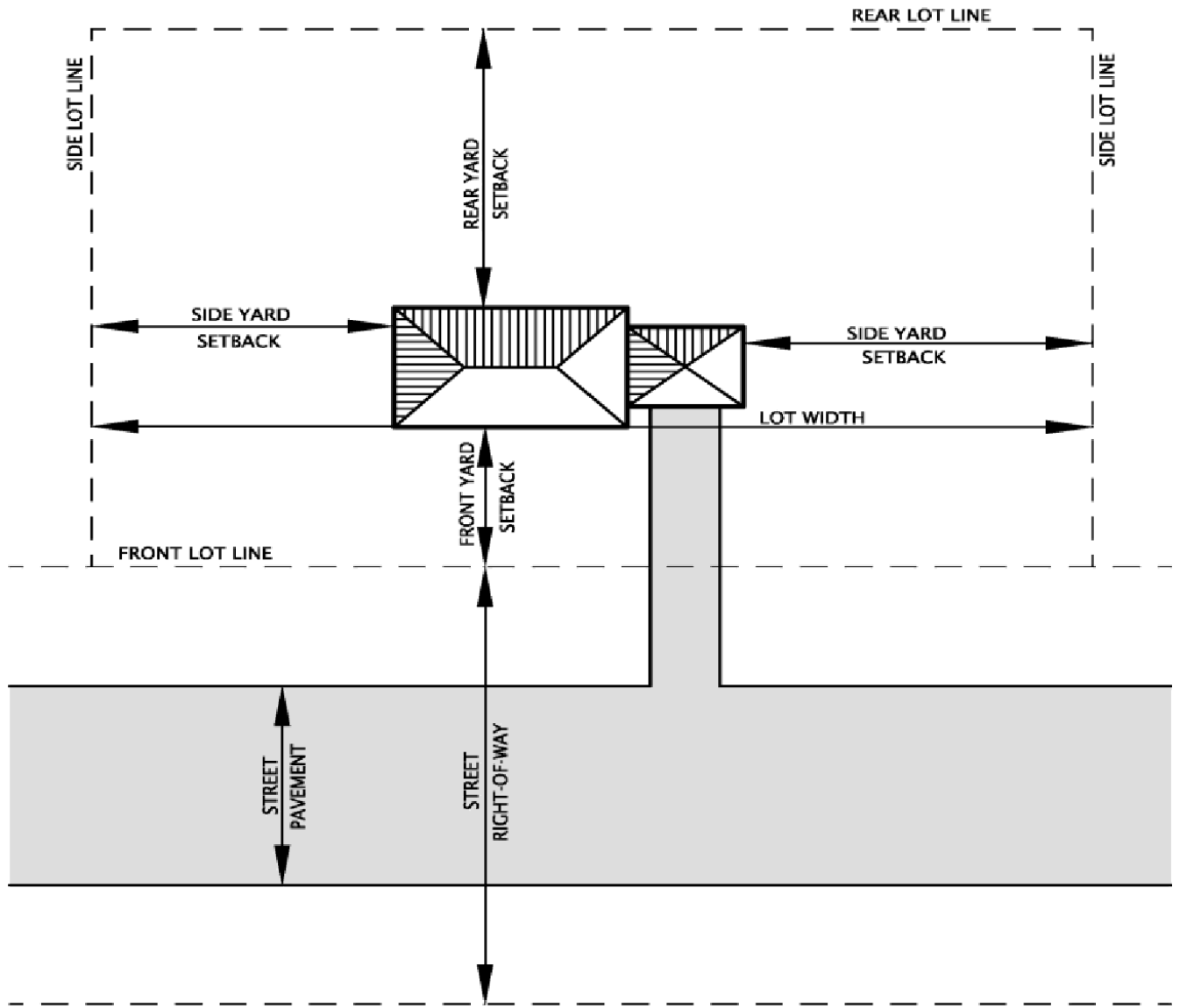
Wireless communication facilities means and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities, shortwave facilities, ham amateur radio facilities, satellite dishes, and governmental facilities which may be subject to state or federal law or regulations which preempt municipal regulatory authority. For purposes of this chapter, the following additional terms are defined:

- (1) *Attached wireless communications facilities* means wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
- (2) *Co-location* means the location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the purpose of reducing the overall number of structures required to support wireless communication antennas within the community.

Wireless communication support structures means structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

Yard means the required open spaces on the same lot with the principal structure which remain permanently unoccupied and unobstructed above and below the ground, except as permitted in [section 44-269](#), accessory buildings.

Yard, front, means the open space between the front street lot line and the main building in which the principal use is located. (See figure 2-6.)



NORMAL LOT

Fig. 2-6. Yard, Front

Yard, front, street and waterfront, means front yards or setbacks from street rights-of-way lines and shorelines of water bodies. (See figure 2-7.)

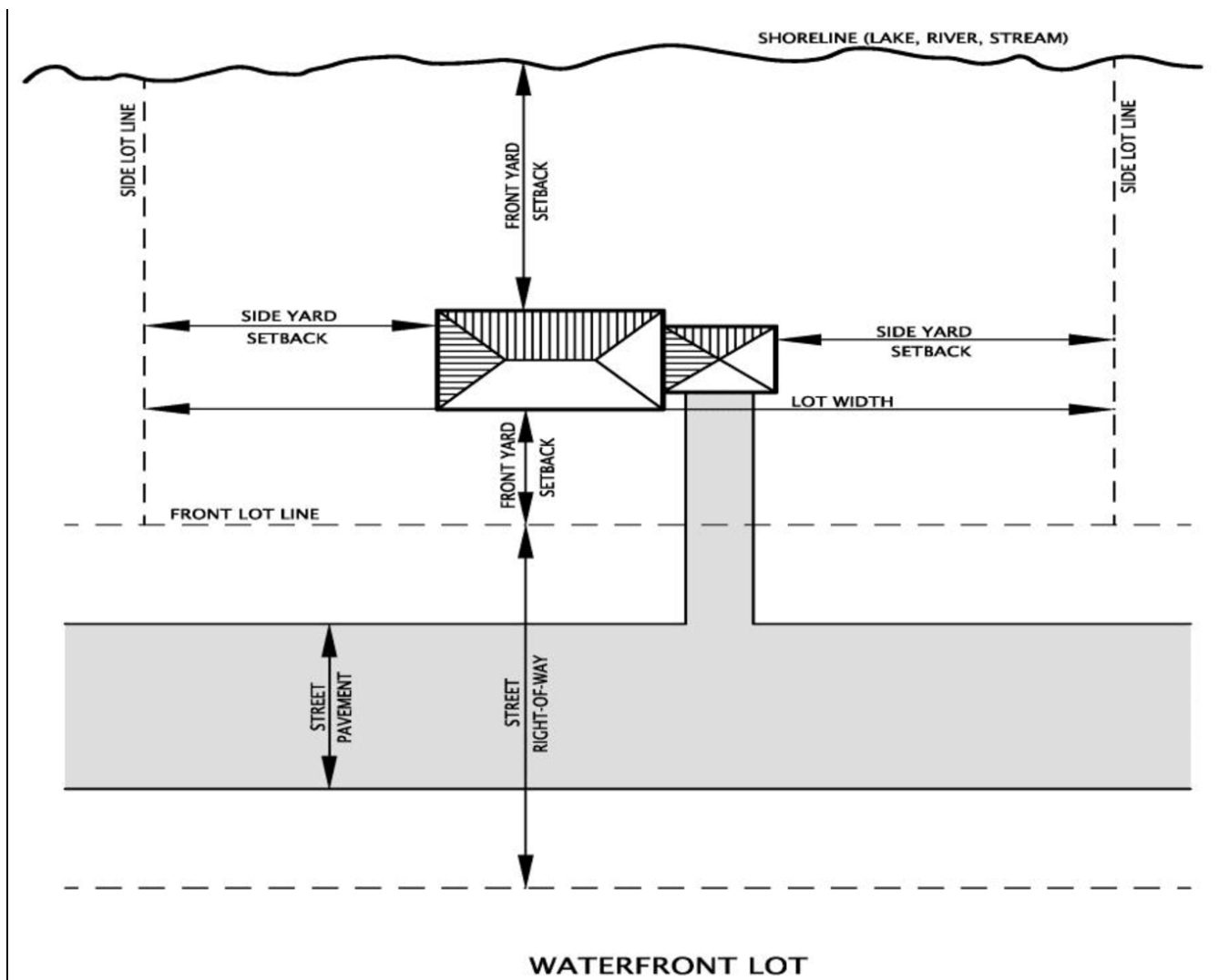


Fig. 2-7. Yard, Front, Street

Yard, rear, means the open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building in which the principal use is located. (See figure 2-6.)

Yard, required, means the minimum yard required as specified in each zoning district.

Yard, side, means the open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot to the nearest point of the main building in which the principal use is located. (See figure 2-6.)

Zoning administrator means the city official appointed by the city council to administer and enforce the standards of this chapter.

Zoning permit shall be a permit issued by the zoning administrator prior to construction, enlargement or alterations of property in accordance with article XIII of this chapter.

(Code 1992, § 24-32; Ord. No. 304, § 202, 6-2-2003; Ord. No. 313, 7-5-2005; Ord. No. 317, 2-4-2008; Ord. No. 323, 9-21-2009)

Secs. 44-39—44-64. - Reserved.

ARTICLE III. - GENERAL ZONING PROVISIONS

Sec. 44-65. - Existing uses of lands, buildings and structures.

The provisions of this chapter shall not be retroactive. At the discretion of the owners, the lawful use of any dwelling, building or structure, and of any land or premises as existing and lawful at the time of enactment of this chapter may be continued even though such use does not conform with the provisions of this chapter, or in the case of an amendment, then at the time of the amendment.

(Code 1992, § 24-51; Ord. No. 304, § 301, 6-2-2003)

Sec. 44-66. - Scope of chapter.

Except as provided by article VII, all land and premises shall be used and all buildings and structures shall be located, erected and used in conformity with the provisions of this chapter.

(Code 1992, § 24-52; Ord. No. 304, § 302, 6-2-2003)

Sec. 44-67. - Establishment of zoning districts.

The city is hereby divided into the following zoning districts as shown on the official zoning map, which, together with all explanatory matter shown thereon, is hereby adopted by reference and declared to be a part of this chapter:

LDR	Low Density Residential
MDR	Medium Density Residential
HDR	High Density Residential
MFR	Multiple-Family Residential
TLWFR	Tawas Lake Waterfront Residential
OSC	Office Service Commercial
CBD	Central Business
WF	Waterfront
HSC	Highway Service Commercial
LI	Limited Industrial
I	Industrial
PUD	Planned Unit Development
P	Public Recreation/Open Space

SO

US-23 Sign Overlay

(Code 1992, § 24-53; Ord. No. 304, § 303, 6-2-2003)

Sec. 44-68. - Provisions for official zoning map.

These districts, so established, are bounded and defined as shown on the map entitled "Zoning Map of City of East Tawas" adopted by the city council, and which, with all notations, references and other information appearing thereon, is hereby declared to be a part of this chapter and of the same force and effect as if the districts shown thereon were fully set forth herein.

(Code 1992, § 24-54; Ord. No. 304, § 304, 6-2-2003)

Sec. 44-69. - Changes to official zoning map.

In accordance with the procedures of this section and of Public Act No. 110 of 2006 (MCL 125.3101 et seq.), if a change is made in a zoning district boundary, such change shall be made by the city clerk with the assistance of the zoning administrator promptly after the ordinance authorizing such change has been adopted and published by the city council. Other changes in the zoning map may only be made as authorized by this section, and such changes, as approved, shall also be promptly made by the city clerk with the assistance of the zoning administrator.

(Code 1992, § 24-55; Ord. No. 304, § 305, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-70. - Authority of official zoning map.

Regardless of the existence of other copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the city clerk, shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the city.

(Code 1992, § 24-56; Ord. No. 304, § 306, 6-2-2003)

Sec. 44-71. - Interpretation of zoning districts.

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules for interpretation shall apply:

- (1) A boundary indicated as approximately following the centerline of a highway, street, alley, railroad or easement shall be construed as following such centerline.
- (2) A boundary indicated as approximately following a recorded lot line, a boundary of a parcel, section line, quarter section line, or other survey line shall be construed as following such lot line.
- (3) A boundary indicated as approximately following the corporate boundary line of the city shall be construed as following such boundary line.
- (4) A boundary indicated as following a shoreline shall be construed as following the established or median shoreline.
- (5) A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline.

- (6) A boundary indicated as parallel to or an extension of a feature indicated in subsections (1) through (5) of this section so construed.
- (7) A distance not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (8) All questions concerning the exact location of boundary lines of any zoning district not clearly shown on the official zoning map shall be determined by the zoning board of appeals consistent with the intent and purpose of this chapter.

(Code 1992, § 24-57; Ord. No. 304, § 307, 6-2-2003)

Sec. 44-72. - Application of district regulations.

- (a) *Generally.* The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, building, structure, or use throughout each district.
- (b) *Conformance with regulations required.* No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this chapter. Whenever the requirements of this chapter vary from the requirements of any other adopted regulations or ordinances, the most restrictive or those imposing the higher standards shall govern. Except as hereinafter provided, district regulations shall be applied in the following manner:
 - (1) *Uses in districts.*
 - a. *Permitted uses.* Permitted uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning districts or if they are similar to such listed uses.
 - b. *Accessory uses.* Accessory uses are permitted only if such uses are clearly incidental to the permitted principal uses.
 - c. *Special uses.* Special uses are permitted as listed or if similar to the listed special uses.
 - (2) *Application of area and width regulations.*
 - a. The area or width of a lot shall not be reduced below the minimum requirements herein established for the district in which such lot is located.
 - b. Every parcel of land shall meet the minimum lot width requirements set forth in the table in section 44-115, schedule of area, height, width and setback regulations, and shall have frontage on and direct access to a public street which has been accepted for maintenance by the city.
 - (3) *Application of yard regulations.*
 - a. No part of a yard required for any building for the purposes of compliance with this chapter shall be included as a part of a yard or other open space similarly required for another building.
 - b. All front yard setback lines shall be the minimum perpendicular distance measured from the street right-of-way or waterfront upon which a lot or parcel fronts to the nearest point of the principal structure.
 - c. All side and rear yard setback lines shall be the minimum perpendicular distance between the nearest point on the side or rear of the structure and the side or rear lot line parallel thereto.
 - d. On corner lots, the required front yards shall be provided along both street frontages.
 - e. No building, structure, fence, or other permanent improvement shall be permitted to be erected or located within a public right-of-way except for those improvements authorized by the city.

(4) *Application of height regulations.*

- a. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit hereinafter established for the district in which the building is located, as set forth in the table in section 44-115, schedule of area, height, width and setback regulations.
- b. Exemption to height regulations. Roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, screens, flagpoles, chimneys, smokestacks, water tanks, or similar structures, may be erected above the height limits herein prescribed. No such structure shall exceed the height limit of the district in which it is located by more than 15 feet.
- c. Communications towers shall be subject to the regulations set forth in section 44-200, wireless communication devices.

(5) *Location and number of buildings on lot of record.*

- a. Every building erected, altered, or moved shall be located on a lot of record as defined herein.
- b. There shall be only one single-family dwelling permitted per lot. Where there is more than one single-family dwelling located on a lot of record at the time of adoption of this chapter, said dwelling shall not be divided from the lot except in conformity with the requirements of this chapter.

(Code 1992, § 24-58; Ord. No. 304, § 308, 6-2-2003)

Sec. 44-73. - Conformance to other public laws, rules and regulations.

- (a) All uses of land, buildings or structures shall conform to all applicable local, county, state and federal laws, rules and regulations that have been promulgated and administered by the respective responsible public agency or official as well as the provisions of this chapter.
- (b) Uses of land or buildings or structures for commercial uses or purposes that are prohibited by or contrary to federal, state or local regulations and ordinances are expressly prohibited in any zoning district within the city. Subject to this limitation, and in accordance with the state medical marihuana act, Initiated Law 1 of 2008 (MCL 333.26423(d)), the following are exempt from this prohibition:
 - (1) The use or possession of marihuana by a registered qualifying patient as defined in the Michigan medical marihuana act, Initiated Law 1 of 2008 (MCL 333.26421 et seq.);
 - (2) The growth/cultivation of marihuana or the provision of services to a qualifying patient by a primary caregiver as defined in the Michigan medical marihuana act, Initiated Law 1 of 2008 (MCL 333.26421 et seq.), so long as such use is undertaken as a home occupation pursuant to section 44-285

(Code 1992, § 24-59; Ord. No. 304, § 309, 6-2-2003; Ord. No. 340, pt. I, 9-4-2012)

Sec. 44-74. - Conflicting regulations.

Whenever there is a difference between minimum or maximum standards, dimensions, or other provisions in this chapter or those contained in lawfully adopted county, state, federal or other governmental agency rules, regulations, ordinances or laws, the most liberal interpretation of the most restrictive or the one imposing the most desirable standard shall prevail.

(Code 1992, § 24-60; Ord. No. 304, § 310, 6-2-2003)

Sec. 44-75. - Zoning not a vested right.

The fact of any portion of the written text or districting on the map of this chapter is a function of the lawful use of the police power and shall not be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities in this chapter, and is subject to possible future change, amendment or modification as may be necessary to the present and future protection of the public health, safety and welfare of the city.

(Code 1992, § 24-61; Ord. No. 304, § 311, 6-2-2003)

Sec. 44-76. - Site plan review procedures.

(a) All uses permitted under the provisions or consequence of this chapter applying for a zoning permit shall follow the requirements of article XI of this chapter, except that all single-family homes located on a single lot or parcel shall only be required to submit a site plan, prepared in accordance with those relative portions of article XI of this chapter and submitted with the application for a zoning permit.

(b) In addition to the requirements of article XI of this chapter, site plan review procedures, all developments must adhere to the current standards of design as adopted by the city council.

(Code 1992, § 24-62; Ord. No. 304, § 312, 6-2-2003; Ord. No. 319, 1-5-2009)

State law reference— Submission and approval of site plan, MCL 125.3501.

Sec. 44-77. - Zoning permits in relation to building permits.

Prior to the issuance of any building permit in the city, it shall be necessary for any applicant for construction under the provisions of the state construction code to first apply for and obtain a zoning permit from the zoning administrator in accordance with the provisions of this chapter.

(Code 1992, § 24-63; Ord. No. 304, § 313, 6-2-2003)

Sec. 44-78. - Permitted zoning district uses and other provisions.

Each zoning district and the uses it permits are designed to represent separate categories of compatible land uses. However, regulations controlling other articles in this chapter may also appropriately apply, including those provisions included in article VIII of this chapter, supplemental regulations; article VII of this chapter, nonconforming land, building and structural uses; article IX of this chapter, off-street parking, loading and unloading requirements; article X of this chapter, signs; and article XI of this chapter, site plan review procedures. Applicants for zoning permits must follow both the appropriate zoning district and the above articles as applicable.

(Code 1992, § 24-64; Ord. No. 304, § 314, 6-2-2003)

Sec. 44-79. - Uses not specifically listed in permitted or special use sections of the respective zoning districts.

It is the intent and purpose of this chapter to limit the permitted and special land uses and activities to those specifically included in the respective zoning districts. Any uses not listed shall be added only by the zoning amendment procedure as required in article XV of this chapter, amending the zoning ordinance.

(Code 1992, § 24-65; Ord. No. 304, § 315, 6-2-2003)

Sec. 44-80. - Continued conformance with regulations and approved site plans.

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, signs and all other requirements for buildings or uses specified within this chapter and developments required and approved on site plans shall be a continuing obligation of the owners of such buildings or properties on which such buildings or uses are located.

(Code 1992, § 24-66; Ord. No. 304, § 316, 6-2-2003)

Secs. 44-81—44-103. - Reserved.

ARTICLE IV. - ZONING DISTRICT REGULATIONS

Sec. 44-104. - LDR, Low Density Residential District.

- (a) *Purpose.* This district is composed of those areas of the city served by a public water supply system and a public sanitary sewer system or other system approved by the health department where the principal use is intended to be single-family dwellings developed at a low density. In addition to the dwellings permitted in this zoning district, there are certain nonresidential and public uses which may be permitted through the conditional approval of the city.
- (b) *Permitted uses.*
- (1) Single-family dwelling.
 - (2) Public parks and playgrounds.
 - (3) Adult foster care family home.
 - (4) Family child care home.
 - (5) Foster family home.
 - (6) Foster family group home.
- (c) *Accessory uses.*
- (1) Normal existing accessory uses to single-family housing and those additional normal waterfront accessory uses and activities, such as docks, decks, wharfs, beaches, beach equipment and apparatus, boathouses, boat moorings, beach shelters, cabanas or bathhouses and other existing or typical waterfront accessory uses, with the additional approval of the state department of environmental quality or other agency when required.
 - (2) Normal accessory uses to permitted and approved special uses, and those additional normal, typical and existing types of waterfront accessory uses and activities specific to approved special uses, with the additional approval of the state department of environmental quality or other agency when required.
 - (3) Home occupations, section 44-285
- (d) *Special uses.*
- (1) Country clubs, public swimming pools and recreation clubs, private parks and playgrounds.
 - (2) Churches and other institutions for religious worship, section 44-186
 - (3) Private elementary, middle, and high schools, section 44-189
 - (4) Group child care homes, section 44-188
 - (5) Adult foster care small group homes, section 44-188
 - (6) Bed and breakfast establishments, section 44-190
 - (7) Wind energy conversion systems, section 44-201

(Code 1992, § 24-9; Ord. No. 304, § 401, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-105. - MDR, Medium Density Residential District.

- (a) *Purpose.* This district is composed of those areas of the city served by a public water supply system and public sanitary sewer system or other systems approved by the health department where the principal use is intended to be single-family dwellings on moderately sized lots. In addition to the dwellings permitted in this zoning district, there are certain nonresidential and public uses which may be permitted through the conditional approval of the city.
- (b) *Permitted uses.*
- (1) Single-family dwelling.
 - (2) Public parks and playgrounds.
 - (3) Adult foster care family home.
 - (4) Family child care home.
 - (5) Foster family home.
 - (6) Foster family group home.
- (c) *Accessory uses.*
- (1) Normal existing accessory uses to single-family housing and those additional normal waterfront accessory uses and activities, such as docks, decks, wharfs, beaches, beach equipment and apparatus, boathouses, boat moorings, beach shelters, cabanas or bathhouses and other existing or typical waterfront accessory uses, with the additional approval of the state department of environmental quality or other agency when required.
 - (2) Normal accessory uses to permitted and approved conditional uses, and those additional normal, typical and existing types of waterfront accessory uses and activities specific to approved special uses, with the additional approval of the state department of environmental quality or other agency when required.
 - (3) Home occupations, section 44-285
- (d) *Special uses.*
- (1) Country clubs, public swimming pools and recreation clubs, private parks and playgrounds.
 - (2) Churches and other institutions for religious worship, section 44-186
 - (3) Group child care home, section 44-188
 - (4) Adult foster care small group home, section 44-188
 - (5) Private elementary, middle, and high schools, section 44-189
 - (6) Bed and breakfast establishments, section 44-190
 - (7) Wind energy conversion systems, section 44-201

(Code 1992, § 24-92; Ord. No. 304, § 402, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-106. - HDR, High Density Residential District.

- (a) *Purpose.* This district is composed of those areas in the city served by a public water supply system and public sanitary sewer system or other systems approved by the health department where the principal use is intended to be single-family dwellings on small-sized lots. In addition to the dwellings permitted in the zoning district, there are certain nonresidential and public uses which may be permitted through the conditional approval of the city.
- (b) *Permitted uses.*

- (1) Single-family dwelling.
 - (2) Public park and playground.
 - (3) Adult foster care family home.
 - (4) Family child care home.
 - (5) Foster family home.
 - (6) Foster family group home.
- (c) *Accessory uses.*
- (1) Normal existing accessory uses to single-family housing and those additional normal waterfront accessory uses and activities, such as docks, decks, wharfs, beaches, beach equipment and apparatus, boathouses, boat moorings, beach shelters, cabanas or bathhouses and other existing or typical waterfront accessory uses, with the additional approval of the state department of environmental quality or other agency when required.
 - (2) Normal accessory uses to permitted and approved conditional uses, and those additional normal, typical and existing types of waterfront accessory uses and activities specific to approved special uses, with the additional approval of the state department of environmental quality or other agency when required.
 - (3) Home occupations, section 44-285
- (d) *Special uses.*
- (1) Country clubs, public swimming pools and recreation clubs, private parks and playgrounds.
 - (2) Churches and other institutions for religious worship, section 44-186
 - (3) Private elementary, middle, and high schools, section 44-189
 - (4) Group child care home, section 44-188
 - (5) Adult foster care small group home, section 44-188
 - (6) Bed and breakfast establishments, section 44-190
 - (7) Wind energy conversion systems, section 44-201

(Code 1992, § 24-93; Ord. No. 304, § 403, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-107. - MFR, Multiple-Family Residential District.

- (a) *Purpose.* This district is composed of those areas of the city where the principal use is intended to be multiple-family dwellings. The regulations of this district are designed to permit a more dense population and land use intensity. Areas zoned MFR shall be served by a public water supply system and a public sanitary sewer system or other systems approved by the health department. In addition to the dwellings permitted in this zoning district, there are certain nonresidential and public uses which may be permitted through the conditional approval of the city.
- (b) *Permitted uses.*
- (1) Multiple-family dwelling structures, including duplexes, triplexes, quadruplexes, row housing, garden apartments, townhouses and other similar types of multifamily dwelling unit buildings.
 - (2) Public parks and playgrounds.
 - (3) Adult foster care family home.
 - (4) Family child care home.
 - (5) Foster family home.
 - (6) Foster family group home.
- (c) *Accessory uses.*

- (1) Normal existing accessory uses to single-family housing and those additional normal waterfront accessory uses and such as docks, decks, wharfs, beaches, beach equipment and apparatus, boathouses, boat moorings, beach shelter or bathhouses and other existing or typical waterfront accessory uses, with the additional approval of the state department of environmental quality or other agency when required.
- (2) Normal accessory uses to permitted and approved conditional uses, and those additional normal, typical and existing types of waterfront accessory uses and activities specific to approved special uses, with the additional approval of the state department of environmental quality or other agency when required.
- (3) Home occupations, section 44-285
- (d) *Special uses.*
 - (1) Country clubs, public swimming pools and recreation clubs, private parks and playgrounds.
 - (2) Churches and other institutions for religious worship, section 44-186
 - (3) Private elementary, middle, and high schools, section 44-189
 - (4) Group child care home, section 44-188
 - (5) Adult foster care small group home, section 44-188
 - (6) Bed and breakfast establishments, section 44-190
 - (7) Medical and dental clinics, when associated with a hospital or nursing home.
 - (8) Funeral establishments.
 - (9) Hospitals and nursing homes, section 44-191
 - (10) Wind energy conversion systems, section 44-201

(Code 1992, § 24-94; Ord. No. 304, § 404, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-108. - TLWFR, Tawas Lake Waterfront Residential District.

- (a) *Purpose.* This district is composed of those areas of the city served by a public water supply system and a public sanitary sewer system or other systems approved by the health department where the principal use is intended to be waterfront single-family dwellings on small sized lots.
- (b) *Permitted uses.*
 - (1) Single-family dwelling.
 - (2) Public parks and playgrounds.
 - (3) Adult foster care family home.
 - (4) Family child care home.
 - (5) Foster family home.
 - (6) Foster family group home.
- (c) *Accessory uses.*
 - (1) Normal existing accessory uses to single-family housing and those additional normal waterfront accessory uses and activities, such as docks, decks, wharfs, beaches, beach equipment and apparatus, boathouses, boat moorings, beach shelters, cabanas or bathhouses and other existing or typical waterfront accessory uses, with the additional approval of the state department of environmental quality or other agency when required.
 - (2) Normal accessory uses to permitted and approved conditional uses, and those additional normal, typical and existing types of waterfront accessory uses and activities specific to approved special uses, with the additional approval of the state department of environmental quality or other agency when required.

(3) Home occupations, section 44-285

(d) *Special uses.*

(1) Country clubs, public swimming pools and recreation clubs, private parks and playgrounds.

(2) Bed and breakfast establishments, section 44-190

(3) Group child care home, section 44-188

(4) Adult foster care small group home, section 44-188

(5) Wind energy conversion systems, section 44-201

(Code 1992, § 24-95; Ord. No. 304, § 405, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-109. - OSC, Office Service Commercial District.

(a) *Purpose.* This district is intended to provide the necessary professional, administrative, personal, technical and scientific offices and related services as the principal uses. Any sale of retail goods is intended to be only incidental to or normally accessory to such principal uses. Office uses in part are intended to function as transition areas between retail commercial uses and residential uses. It is the further purpose of this district to retain the existing residential building character during and after their conversion from residential to office uses in order to continue to retain the overall historical and present city character.

(b) *Permitted uses.*

(1) Office buildings for any of the following occupations: computer science, governmental, executive, administrative professional, accounting, clerical, sales and data processing, insurance, real estate offices, general business and professional offices, chamber of commerce, utility offices.

(2) Research, computer technology and design centers, including the development of pilot, experimental, or prototype planning.

(3) Medical offices, dental offices, laboratories, clinics, but excluding veterinary offices.

(4) Off-street parking lots.

(5) Essential public services and buildings.

(6) Banks and financial institutions, credit unions, including drive-through.

(7) Office buildings used in conjunction with residential dwellings.

(8) Single-family dwelling.

(c) *Accessory uses.*

(1) Normal accessory uses to permitted principal uses.

(2) Incidental services provided for employees and visitors connected with the principal use, including child care centers, recreational and physical health facilities, swimming pools, conference, educational, library and meeting facilities, sales display facilities and maintenance, storage and repair facilities.

(d) *Special uses.*

(1) Hospitals, section 24-191.

(2) Veterinary offices and hospitals.

(3) Child care center, section 24-187.

(4) Adult foster care congregate facility.

(5) Adult foster care large group home.

(6) Funeral establishments.

- (7) Multiple-family dwelling structures, including duplexes, triplexes, quadruplexes, row housing, garden apartments, townhouses and other similar types of multifamily dwelling unit buildings.

(Code 1992, § 24-96; Ord. No. 304, § 406, 6-2-2003)

Sec. 44-110. - CBD, Central Business District.

- (a) *Purpose.* This district has the intent of providing areas wherein retail trade and service outlets can be located in order to satisfy the goods and services needs of the residents in the city and the surrounding trading area. It is the further purpose of this district to retain the present general scale of the variety of buildings, structures and general landscape or site development features in order to continue to retain the overall historical and present city character.
- (b) *Permitted uses.* Generally recognized retail businesses, service establishments, offices and institutional uses as follows:
- (1) Convenience group:
- a. Food stores, including all types of specialty foods such as bakeries, delicatessen, imported foods, candy, and similar uses. Foodstuffs may be prepared on the premises as an accessory use if sold at retail on premises.
 - b. Drugstores.
 - c. Hardware and related stores such as paint, wallpaper, and similar uses.
 - d. Video rental.
- (2) Comparison group:
- a. Department stores.
 - b. Restaurants—sit-down, outdoor cafe and take-out only.
 - c. Apparel shops, including specialty shops of all sorts, shoe stores, and similar uses.
 - d. Household furniture, home furnishings, gift shops, interior decorators, appliances, electronic appliances, office furniture, equipment and supplies.
 - e. Variety stores.
 - f. Gift shops, camera shops, record shops, bookstores, music shops and similar uses.
 - g. Drafting, cartographic and art supplies and equipment.
 - h. Service and repairs when incidental to a permitted use.
 - i. Mail order houses and retailers merchandise showrooms.
- (3) Service facilities group:
- a. Service shops such as barber, beauty, drop-off laundry and dry cleaner service, and similar uses.
 - b. Commercial recreation facilities such as bowling alleys, movie theaters.
 - c. Repair shops for such items as jewelry, watches, clocks, apparel and related items.
 - d. Lodging facility, bed and breakfast inns and accessory uses, including dining, entertainment, recreation and conference facilities.
 - e. Travel agencies.
 - f. Newspaper offices, publishing, commercial printers, copy centers.
 - g. Funeral homes.
 - h. Private clubs, lodge halls.
- (4) Professional and other offices:

- a. Office buildings for any of the following occupations: computer science, governmental, executive, administrative, professional, accounting, clerical, sales and data processing.
 - b. Insurance, real estate offices, general business and professional offices.
 - c. Research, computer technology and design centers including the development of pilot, experimental, or prototype planning.
 - d. Banks, loan offices, credit unions, stock exchange offices and other financial institutions (including drive-through branches or 24-hour automatic tellers).
 - e. Utility offices.
 - f. Chamber of commerce.
- (5) Automotive groups:
- a. Shops selling automobile parts and accessories exclusively.
- (6) Other uses as noted:
- a. Residential uses, provided they are on the second or higher floor of a permitted use.
 - b. Public and quasi-public buildings, such as, but not restricted to:
 - 1. Churches.
 - 2. Municipal offices.
 - 3. Libraries.
 - 4. Essential public service buildings.
 - c. Public or private off-street parking facilities according to the provisions of article IX of this chapter.
 - d. Advertising signs subject to article X of this chapter.
- (c) *Accessory uses.*
- (1) Normal accessory uses to all permitted principal uses.
 - (2) Normal accessory uses to all permitted principal conditional uses.
- (d) *Special uses.*
- (1) Drive-in restaurants and service establishments, section 44-194
 - (2) Temporary transient uses, section 44-199
 - (3) Automobile dealerships, including sales, service and used cars.

(Code 1992, § 24-97; Ord. No. 304, § 407, 6-2-2003)

Sec. 44-111. - WF, Waterfront District.

- (a) *Purpose.* This district has the intent of providing areas having waterfront access wherein the proper use of such areas will principally serve the economic, social and recreational needs and interests of the residents of the city and, secondarily, visitors in the form of seasonal residents, tourists, vacationers and travelers. It is the further purpose of this district to retain the general scale of the present variety, type and character of development in terms of their spacing, bulk, height and density so as to prevent the obscuring of the view of the lake by excessively high and closely spaced, large bulk and excessively dense structural developments from inland areas.
- (b) *Permitted uses.*
 - (1) Bakeries.
 - (2) Bay viewing facilities.

- (3) Boat or yacht clubs and related facilities.
 - (4) Confectionery shops.
 - (5) Gift and novelty shops.
 - (6) Harbormaster and harbor management facilities.
 - (7) Marinas and related facilities for recreational boating.
 - (8) Pedestrian walkways and promenades.
 - (9) Recreational boating facilities, including those providing boat rentals, fishing and boating cruises and boat sales, maintenance and repairs.
 - (10) Recreational fishing facilities, including fishing boats, fishing equipment, fishing bait, fish processing, storage and retail sales.
 - (11) Restaurants providing direct view and access to the waterfront.
 - (12) Waterfront arts and crafts shops.
 - (13) Waterfront clothing and equipment stores.
 - (14) Waterfront entertainment facilities involving water sports and activities.
 - (15) Waterfront lodging facilities.
 - (16) Waterfront parks and beaches, including all forms of waterfront recreation and sports activities.
 - (17) Museums.
 - (18) Offices.
 - (19) Single-family dwellings.
 - (20) Multifamily condominiums providing direct view and access to the waterfront.
- (c) *Accessory uses.*
- (1) Normal accessory uses to all permitted principal uses.
 - (2) Normal accessory uses to all permitted principal conditional uses.
- (d) *Special uses.*
- (1) Specialty shops, stores and service outlets not mentioned as a permitted use, but which can be appropriately related as accessory uses to any of the permitted principal uses as determined by the zoning board of appeals.
 - (2) Seasonal recreational vehicle facilities.
 - (3) Engine and hull repair shops.
 - (4) Temporary transient uses, section 44-199
 - (5) Bed and breakfast establishments, section 44-190
 - (6) Wind energy conversion systems, section 44-201

(Code 1992, § 24-98; Ord. No. 304, § 408, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-112. - HSC, Highway Service Commercial District.

- (a) *Purpose.* This district is designed to service the needs of highway traffic at the intersection areas of public roads and highways facilities. The avoidance of undue congestion on public roads, the promotion of smooth traffic flow at the intersection area and on the highway, and the protection of adjacent properties in other districts from the adverse influences of traffic are prime considerations in the location of the district.
- (b) *Permitted uses.*

- (1) Parking areas and parking garages.
 - (2) Bus passenger stations.
 - (3) Retail and service establishments providing goods, foods and services which are directly needed by highway travelers.
 - (4) Large box retail stores.
 - (5) Home improvement centers.
 - (6) Offices for executive, medical, administrative, legal, writing, clerical, stenographic, real estate, accounting, insurance, architectural, engineering, artists and other similar enterprises.
 - (7) Lodging facilities.
 - (8) Restaurants.
- (c) *Accessory uses.*
- (1) Normal accessory uses to all permitted principal uses.
 - (2) Normal accessory uses to all permitted principal special uses.
- (d) *Special uses.*
- (1) Recreation and sports buildings.
 - (2) Recreation and sports areas.
 - (3) Vehicle sales, service and repair stations for automobiles, trucks, busses, tractors, recreational vehicles and trailers, section 44-193
 - (4) Adult-oriented commercial enterprises and specified services, section 44-198
 - (5) Temporary transient uses, section 44-199
 - (6) Gasoline service and convenience stores, section 44-193
 - (7) Wind energy conversion systems, section 44-201

(Code 1992, § 24-99; Ord. No. 304, § 409, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-113. - LI, Limited Industrial District.

- (a) *Purpose.* This district is designed to accommodate industrial, storage, and other uses that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is the purpose of these regulations to permit development of the enumerated functions to protect surrounding areas from incompatible industrial activities, to restrict the intrusion of non-related uses such as residential, agricultural, business and commercial, except retail businesses that normally do not require the customer to call at the place of business, and to encourage the discontinuance of uses presently existing in the district which are nonconforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in other districts and which would interfere with the operation of the uses permitted in this district.
- (b) *Permitted uses.*
- (1) Research-oriented and light industrial park uses.
 - (2) Printing, lithographic, blueprinting, commercial laundries, dry cleaning establishments, wholesale businesses, ice and cold storage plants, lumber, fuel and feed supply yards, and other similar uses.
 - (3) Light manufacturing, research, assembly, testing and repair of components, devices, equipment and systems of professional scientific and controlling instruments, photographic and optical goods, including the following:

- a. Communication, transmission and reception equipment such as coils, tubes, semi-conductors, navigation controls and systems guidance equipment.
 - b. Data processing equipment and systems.
 - c. Graphics and art equipment.
 - d. Metering instruments.
 - e. Optical devices, equipment, and systems.
 - f. Stereo, audio units, radio equipment and systems.
 - g. Photographic equipment.
 - h. Radar, infrared and ultraviolet equipment and systems.
 - i. Scientific and mechanical instruments such as calipers and transits.
 - j. Testing equipment.
- (4) Light manufacturing, processing or assembling of the following:
- a. Biological products, drugs, medicinal chemicals, and pharmaceutical preparation.
 - b. Electrical machinery, equipment and supplies, electronic equipment and accessories.
 - c. Office, computing, and accounting machines.
- (5) Research and design centers where said centers are intended for the development of pilot or experimental products, together with related office buildings for such research facilities where said offices are designed to accommodate executive, administrative, professional, accounting, engineering, architectural, and support personnel.
- (6) Data processing and computer centers, including the servicing and maintenance of electronic data processing equipment.
- (7) Warehousing, refrigerated and general storage, but not including self-storage facilities.
- (8) Business service establishments such as printing and photocopying services, mail and packaging services, and typing and secretarial services.
- (9) Training and/or educational centers where such centers are designed and intended to provide training at the business, technical and/or professional level.
- (c) *Accessory uses.*
- (1) Normal accessory uses to all permitted principal uses.
 - (2) Normal accessory uses to all permitted principal conditional uses.
- (d) *Special uses.*
- (1) Restaurants and cafeteria facilities for employees.
 - (2) Metal fabrication, and tool and die shops.
 - (3) Automobile repair garages and paint shops for autos and other vehicles, construction and farm equipment sales, section 24-193.
 - (4) Computer and business machine sales when conducted in conjunction with and accessory to a permitted principal use.
 - (5) Self-storage facilities, section 24-195.
 - (6) Temporary transient uses, section 44-199
 - (7) Wireless communication facilities, section 44-200

(8) Wind energy conversion systems, section 44-201

(Code 1992, § 24-100; Ord. No. 304, § 410, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-114. - I, Industrial District.

- (a) *Purpose.* It is the intent of this district to provide for the development of sites for industrial plants in which the manufacture of goods in the form of finished or semi-finished products or the assembly, compounding or treatment of product parts or ingredients in order to create finished or semi-finished goods for sale to other industrial manufacturers, or to bulk or wholesale commercial purchasers. It is the further intent of this district to permit only those industrial manufacturing uses having use, performance or activity characteristics which emit a minimum amount of discernible noise, vibration, smoke, dust, dirt, glare, toxic materials, offensive odors, gases, electromagnetic radiation or any other physically adverse effect to the extent that they are not normally discernible beyond the lot lines of the parcel or site upon which the industrial manufacturing activity is located.
- (b) *Permitted uses.* The following uses are permitted in the I district as long as they are conducted completely within a building, structure or an area enclosed and screened from external visibility beyond the lot lines of the parcel upon which the use is located, except as otherwise provided in this section:
- (1) Boat and marine equipment and supply manufacturers.
 - (2) Dry bulk blending plants.
 - (3) Electrical and electronic equipment manufacturers.
 - (4) Fabricated metal products.
 - (5) Food process plants.
 - (6) Jobbing and machine shops.
 - (7) Monument and cut stone manufacturers.
 - (8) Plastic products forming and molding.
 - (9) Printing and publishing.
 - (10) Processing of machine parts.
 - (11) Public service and utility facilities.
 - (12) Research and development establishments.
 - (13) Trade and industrial schools.
 - (14) Wine distilleries.
 - (15) Wood products manufacturing plants.
 - (16) Wireless communication facilities, section 44-200
- (c) *Accessory uses.* The following uses are permitted in the I district when they are an integral part of the building or structure or are included as a part of the site development upon which the principal use is located:
- (1) Banking.
 - (2) Caretaker's quarters.
 - (3) Education, library and training facilities.
 - (4) Medical and health care facilities.
 - (5) Normal accessory uses to all permitted principal uses.
 - (6) Office facilities.
 - (7) Recreation and physical fitness facilities.

- (8) Research and experimentation facilities.
 - (9) Restaurants.
 - (10) Sales display facilities and areas.
 - (11) Truck and equipment service, maintenance, repair and storage facilities.
 - (12) Warehouse and storage facilities.
 - (13) Work clothing sales and service facilities.
- (d) *Special uses.*
- (1) Temporary transient uses, section 44-199
 - (2) Salvage yards, section 44-192
 - (3) Wind energy conversion systems, section 44-201

(Code 1992, § 24-101; Ord. No. 304, § 411, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-115. - Area, height, width and setback regulations.

The following table includes the schedule of area, height, width and setback regulations:

Schedule of Area, Height, Width and Setback Regulations

Zoning District	Minimum Lot Size		Maximum Building Height Space		Minimum Yard Setback (in feet)			Max. Lot Coverage	Footnotes
	Area (sq. ft.)	Lot Width	Stories	Feet	Front	Side Least/Total	Rear	Percent	
Low Density Residential LDR	20,000	100 ft.	<u>2.5</u>	<u>35</u>	<u>40</u>	15/35	50	30%	ABDE
Medium Density Residential MDR	10,000	80 ft.	<u>2.5</u>	<u>35</u>	<u>35</u>	15/30	<u>40</u>	30%	ABDE
High Density Residential HDR	7,500	60 ft.	<u>2.5</u>	<u>35</u>	25	6/20	30	30%	ABDE
Multiple-Family Residential MFR	footnotes	200 ft.	3	<u>35</u>	<u>35</u>	35/70	50	30%	ABDEFGH

Tawas Lake Waterfront Residential TLWFR	5,000	50 ft.	2	30	<u>15</u>	6/15	20	30%	ABDE
Office Service Commercial OSC	footnotes	footnotes	—	<u>40</u>	25	6/20	30	50%	ABIJK
Central Business District CBD	footnotes	footnotes	—	<u>40</u>	—	—	—	100%	ABCDL
Waterfront WF	15,000	70 ft.	—	<u>40</u>	25	6/20	30	75%	AB
Highway Service Commercial HSC	10,000	80 ft.	2	<u>35</u>	25	10/20	25	75%	AB
Limited Industrial LI	20,000	80 ft.	—	<u>40</u>	50	10/20	50	75%	AB
Industrial I	40,000	120 ft.	2	<u>35</u>	25	10/20	50	75%	AB
Planned Unit Development PUD	See district.								

Footnotes

- A. All dwelling units and occupied buildings shall be served with a public water supply system and public sanitary sewer system or other systems approved by the health department.
- B. The minimum distance of any principal building from the ordinary high-water mark shall be 50 feet or as specified by the state department of environmental quality.
- C. Any structure located in the CBD which abuts a dwelling located in a residential district shall have a minimum setback from the common property line of ten feet.
- D. The minimum floor area of dwelling units shall be as follows:

Type of Dwelling		Total Usable Floor Area (sq. ft.)
1.	Single-family	1,000
2.	Two-family (per dwelling unit)	800
3.	Multifamily	
	Efficiency unit	500
	1 Bedroom	700
	2 Bedroom	900
	3 Bedroom	1,100
	<u>4</u> Bedroom	1,300
	Each additional bedroom	90

E. The maximum density shall be computed as follows:

1. Efficiency or one-bedroom units shall not exceed ten dwelling units per acre or 4,356.
2. Two-bedroom units shall not exceed eight dwelling units per acre or 5,445.
3. Three-bedroom units shall not exceed six dwelling units per acre or 7,260.
4. The area used for computing density shall be the total site area.

F. In an MFR, multiple-family residential district, the minimum distance between two buildings shall be 25 feet.

G. Front, side and rear yards shall be landscaped in trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those fences, walls, berms and vegetation used to screen the use from abutting residential lots and parcels.

H. Adequate minimum area to accommodate all of the specific requirements for lot area coverage, off-street parking, for all on-site uses, yards and setbacks, water supply and wastewater disposal and other requirements specified for the uses permitted in this district.

I. Adequate minimum lot width to accommodate all buildings, structures and open-air use areas and yard and setback requirements specified for the uses permitted in this district.

J. The minimum lot area shall be equal to the area of the smallest lot in the street block in which it is located as long as each lot or parcel is served by the public water supply system and a public wastewater sewer and treatment system.

K. The minimum lot width shall be equal to the width of the narrowest lot in the street block in which it is

located.

- L. Each lot or parcel shall have direct convenient pedestrian access from parking spaces provided for customers to the entrance of its principal building's customer service area.

(Code 1992, § 24-102; Ord. No. 304, § 412, 6-2-2003)

Secs. 44-116—44-143. - Reserved.

ARTICLE V. - PLANNED UNIT DEVELOPMENT (PUD)

FOOTNOTE(S):

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State Law reference— Planned unit development, MCL 125.3503.

Sec. 44-144. - Purpose and intent.

The planned unit development (PUD) is provided as a special zoning district, intended to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership (such as site condominiums) and variety in design, layout, and type of structures constructed; to preserve significant natural, historical, and architectural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide adequate housing and employment; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites or existing buildings when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the site or its surrounding areas or flexibility to consider adaptive reuse of existing structures.

(Code 1992, § 24-136; Ord. No. 304, § 501, 6-2-2003)

Sec. 44-145. - PUD regulations.

- (a) A planned unit development may be applied for in any zoning district. The approval of a PUD application shall require a rezoning by way of amendment of this chapter upon the recommendation of the planning commission and approval of the city council. The process for PUD approval shall be in accordance with section 44-149, procedure for review; section 44-150, preliminary plan and section 44-151, final plan. In terms of the required process, there shall be no distinction between a proposed planned unit development in areas already zoned PUD and a planned unit development in areas not zoned PUD.
- (b) Generally, proposed uses shall be consistent with the underlying zoning designation before application to PUD and the future land use map in the master plan. However, it is recognized that the PUD option is intended to allow mixed uses and flexibility in use. In this regard, mixed uses may be allowed as part of a PUD application, provided that uses are consistent with the goals and objectives of the master plan and subject to adequate public health, safety, and welfare protection mechanisms, which are designed into the development to ensure the compatibility of varied land uses both inside and outside the development.

(Code 1992, § 24-137; Ord. No. 304, § 502, 6-2-2003)

Sec. 44-146. - PUD eligibility.

The applicant for a PUD must demonstrate all of the following criteria as a condition to being entitled to planned unit development treatment:

- (1) Grant of the planned unit development will result in one of the following:
 - a. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations;
 - b. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the PUD regulations;
 - c. Long-term protection of historic structures or significant architecture worthy of historic preservation; or
 - d. A nonconforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.
- (2) The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, roads and utilities.
- (3) The proposed planned unit development shall be harmonious with the public health, safety and welfare of the city.
- (4) The proposed planned unit development shall not result in an unreasonable negative environmental impact or loss of an historic structure on the subject site or surrounding land.
- (5) The proposed planned unit development shall not result in an unreasonable negative economic impact upon surrounding properties.
- (6) The proposed planned unit development shall be under single ownership and/or control such that there is a single person, corporation, or partnership having responsibility for completing the project in conformity with this chapter.
- (7) The proposed planned unit development shall be consistent with the goals and policies of the master plan.
- (8) The proposed use or uses shall be of such location, size, density and character as to be in harmony with the zoning district in which it is situated, and shall not be detrimental to the adjoining zoning districts.
- (9) The proposed planned unit development is not an attempt by the applicant to circumvent the strict application of zoning standards.

(Code 1992, § 24-138; Ord. No. 304, § 503, 6-2-2003)

Sec. 44-147. - Residential and nonresidential PUD standards.

- (a) Residential uses shall be permitted with the following general density standards, based upon the zoning district in which the property is situated immediately prior to classification under this article. In the event the property is already zoned PUD, density shall be allowed at the discretion of the planning commission and city council, based on the master plan and surrounding land use densities and character. Land area under water, public road rights-of-way and private road easements shall not be included in the gross density calculation.

District	Residential Density Permitted (Dwelling Units/Gross Area)
LDR—Low Density Residential	1 dwelling unit per 15,000 sq. ft.

TLWFR—Waterfront Residential	1 dwelling unit per 5,000 sq. ft.
HSC—Highway Service Commercial MDR—Medium Density Residential	1 dwelling unit per 8,000 sq. ft.
HDR—High Density Residential	1 dwelling unit per 6,000 sq. ft.
MFR—Multiple-Family Residential	14 dwelling units per 1 acre
WF—Waterfront	1 dwelling unit per 6,000 sq. ft.
CBD—Central Business District	1 dwelling unit per 6,000 sq. ft.

- (b) Additional density greater than specified in subsection (a) of this section may be allowed at the discretion of the planning commission and city council based upon a demonstration by the applicant of design excellence and conformance to the standards listed in section 44-146, PUD eligibility, as well as conformance to the master plan.
- (c) The planning commission and city council may allow a residential PUD in areas having a nonresidential base zoning subject to compliance with the master plan or a determination by the planning commission and city council that the proposed development meets the general intent of section 44-146, PUD eligibility.
- (d) A planned unit development incorporating nonresidential uses such as commercial, industrial, institutional or a mix of nonresidential and residential uses may also be allowed, subject to the design standards of this article.

(Code 1992, § 24-139; Ord. No. 304, § 504, 6-2-2003)

Sec. 44-148. - General design standards.

- (a) All regulations within this chapter applicable to setback, parking and loading, general provisions, and other requirements shall be met in relation to each respective land use in the planned unit development based upon the zoning districts in which the use is listed as a permitted use. In all cases, the strictest provisions shall apply. Notwithstanding this subsection, deviations with respect to such regulations may be granted as part of the overall approval of the planned unit development. Deviations may be considered, provided there are features or elements demonstrated by the applicant and deemed adequate by the city council and planning commission designed into the project plan for the purpose of achieving the objectives of this article.
- (b) The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on the present and future potential surrounding land uses.
- (c) The uses proposed will not adversely affect the existing public utilities, public streets, traffic access, surrounding properties, or the environment.
- (d) The public benefit shall be one which could not be achieved under the regulations of the underlying district alone or that of any other zoning district.
- (e) The number and dimensions of off-street parking shall be sufficient to meet the minimum required of article IX of this chapter, off-street parking, loading and unloading requirements. However, when warranted by overlapping or shared parking arrangements, the planning commission or city council may reduce the required number of parking

spaces.

- (f) All streets and parking areas within the proposed planned unit development shall meet the minimum construction and other requirements of city ordinances, unless modified by the planning commission and city council.
- (g) Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
- (h) Efforts shall be made to preserve significant natural, historical, and architectural features and the integrity of the land, including MDEQ regulated and non-MDEQ regulated wetlands or floodplains.
- (i) Thoroughfare, drainage, and utility designs shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.
- (j) There shall be underground installation of utilities, including electricity and telephone unless otherwise permitted by the city.
- (k) The pedestrian circulation system, and its related walkways and safety paths, shall be separated from vehicular thoroughfares.
- (l) Signage, lighting, landscaping, building materials for the exterior of all structures, and other features of the project shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.
- (m) Where nonresidential uses adjoin residentially zoned or used property outside the proposed planned unit development, noise reduction and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls shall be employed in accordance with section 44-425, landscaping, greenbelts and buffers, and screening.
- (n) The proposed density of the planned unit development shall be no greater than that which would be required for the sum of each individual use (measured by stated acreage allocated to each use) of the development, according to the table in section 44-147, residential and nonresidential PUD standards, and the regulations of the underlying zoning district, unless otherwise permitted by the planning commission and city council.
- (o) The proposed planned unit development shall provide a minimum of 20 percent of the gross site acreage as open space. Gross site area, for the purposes of computing required open space, does not include private and public rights-of-way. Such open space will remain undisturbed and reserved for passive enjoyment of the users of the development, and shall not include retention ponds or other bodies of water, required yards around residential building lots, or other similar features. This open space requirement may be waived by the city council if determined to be not applicable due to the type and character of the development.

(Code 1992, § 24-140; Ord. No. 304, § 505, 6-2-2003)

Sec. 44-149. - Procedure for review.

- (a) *Pre-application conference.* Prior to the submission of an application for a planned unit development approval, the applicant shall meet with the planning commission and any other officials who might have an interest in the proposed development. The applicant shall present at such conference, or conferences, at least a sketch plan of the proposed planned unit development, as well as the following information; total size of the project; a statement of the number of residential units, if any; the number and type of nonresidential uses; the size of the area to be occupied by each type of use; the known deviations from ordinance regulations; the number of acres to be preserved as open or recreational space; and all known natural features or historic features to be preserved. The purpose of the conference shall be to inform the planning commission and other officials of the concept of the proposed

development and to provide the applicant with information regarding land development policies, procedures, standards, and requirements of the city and other agencies. The applicant is encouraged to present schematic plans, site data and other information that will explain the proposed development.

- (b) *PUD eligibility review and evaluation.* Following the pre-application conference, the applicant shall submit preliminary sketch plans and/or other written documentation explaining the proposed project and request review of PUD eligibility from the planning commission. The planning commission shall evaluate these preliminary plans for compliance with PUD regulations outlined in section 44-145. The planning commission shall review the development request based upon the criteria and convey written or verbal comments to the applicant regarding the PUD eligibility.
- (c) *Neighborhood review.* The applicant is encouraged to meet with any neighborhood associations and surrounding landowners prior to submittal of preliminary plans to the planning commission.

(Code 1992, § 24-141; Ord. No. 304, § 506, 6-2-2003)

Sec. 44-150. - Preliminary plan.

- (a) *Submittal by applicant; narrative report.* Following a determination of eligibility, the applicant shall submit a preliminary site plan of the proposed planned unit development. A narrative report shall accompany the site plan providing a description of the project, discussion of the market concept of the project, and explanation of the manner in which the criteria set forth in the preceding design standards have been met.
- (b) *Request for planning commission review.* The applicant may request that the planning commission review the preliminary PUD plans under this section and final PUD plans under section 44-151, final plan, concurrently rather than under two separate phased applications.
- (1) *Information required.* The preliminary site plan and application for a PUD shall contain at a minimum the information set forth below:
- a. One copy of the preliminary planned unit development site plan, reduced in size to 8½ inches by 11 inches, on clear acetate or similar material suitable for use with an overhead projector.
 - b. In addition to the 8½-inch by 11-inch transparency, large size plans shall also be submitted. Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics and scale.
 - c. Plans providing:
 1. The applicant's name.
 2. Name of the development.
 3. The preparer's name and professional seal of architect, engineer, surveyor or landscape architect indicating license in the State of Michigan.
 4. Date of preparation and any revisions.
 5. North arrow.
 6. Property lines and dimensions.
 7. Complete and current legal description and size of property in acres.
 8. Small location sketch of the subject site and area within one-half mile, at a scale of no less than one inch equals 1,000 feet.
 9. Zoning and current land use of applicant's property and all abutting properties and of properties located across any abutting public or private street from the planned unit development site.
 10. Lot lines and all structures on the property and within 100 feet of the planned unit development property

lines.

11. Location of any access points on both sides of the street within 100 feet of the planned unit development site along streets where access to the planned unit development is proposed.
 12. Existing locations of significant natural, historical, and architectural features, existing drainage patterns, surface water bodies, floodplain areas, MDEQ designated or regulated wetlands with supporting documentation and a tree survey indicating the location and diameter (in inches, measured four feet above grade) of trees greater than six inches in diameter.
 13. Existing and proposed topography at five-foot contour intervals, or two-foot contour intervals (two-foot intervals required for final site plan), and a general description of grades within 100 feet of the site.
 14. Dimensions of existing and proposed rights-of-way lines, names of abutting public streets, proposed access driveways and parking areas, and existing and proposed pedestrian and/or bicycle paths.
 15. Location of existing buildings, utility services (with sizes), and any public or private easements, noting those which will remain and which are to be removed.
 16. Layout and typical dimensions of proposed lots, footprints and dimensions of proposed buildings and structures, and uses with the acreage allotted to each use. For residential developments: the number, type and density of proposed housing units.
 17. General location and type of landscaping proposed (evergreen, deciduous, berm, etc.), noting existing trees and landscaping to be retained.
 18. Size, type and location of proposed identification signs.
 19. If a multiphase planned unit development is proposed, identification of the areas included in each phase. For residential uses, identify the number, type, and density of proposed housing units within each phase.
 20. Any additional graphics or written materials requested by the planning commission or city council to assist in determining the appropriateness of the PUD such as, but not limited to: aerial photography; market studies; impact on public primary and secondary schools and utilities; traffic impacts using trip generation rates recognized by the Institute of Transportation Engineers for an average day and peak hour of the affected roadways; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; description of how property could be developed under the regulations of the underlying district; preliminary architectural sketches, building elevations, and conceptual plans or lists of building materials and estimated construction cost.
 21. An explanation of why the submitted planned unit development plan is superior to a plan which could have been prepared under strict adherence to related sections of this chapter.
- (2) *Planning commission action.* The preliminary plan shall be noticed for a public hearing before the planning commission in accordance with sections 44-522, procedures, and 44-523, notice of hearing, or applicable state laws, including Public Act No. 110 of 2006 (MCL 125.3101 et seq.). Following the public hearing, the planning commission shall report its conclusions, determine a basis for its recommendation and transmit summary comments received at the public hearing to the city council. The planning commission shall review the preliminary site plan and recommend one of the following actions to the council:
- a. *Approval.* Upon finding that the preliminary plan meets the criteria set forth in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; and 44-148, general design standards, the planning commission may recommend preliminary approval. Approval shall constitute approval of the uses and design concept as shown on the preliminary plan and shall

confer upon the applicant the right to submit the preliminary PUD plan to the city council. Recommended approval of the preliminary plan by the planning commission shall not bind the city council to approval of the preliminary plan.

- b. *Approval with changes or conditions.* The planning commission may recommend conditional approval subject to modifications as performed by the applicant.
 - c. *Postpone.* Upon finding that the preliminary plan does not meet the criteria set forth in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; and 44-148, general design standards, but could meet such criteria if revised, the planning commission may postpone action until a revised preliminary plan is submitted.
 - d. *Denial.* Upon finding that the preliminary plan does not meet the criteria set forth in sections 44-144, purpose and intent; 44-145, PUD regulations, and 44-146, PUD eligibility, the planning commission shall recommend denial of preliminary approval.
- (3) *City council action.* The preliminary PUD plan shall be submitted to the city council in conjunction with comments from the planning commission. Following review, the city council shall take one of the following actions: approval, approval with conditions, postponement or denial. The city council decision shall be based upon criteria established within this article.

(Code 1992, § 24-142; Ord. No. 304, § 507, 6-2-2003)

Sec. 44-151. - Final plan.

Within six months following receipt of the planning commission's comments on the preliminary plan and favorable city council action, the applicant shall submit a final plan and supporting materials conforming to this section. If a final plan is not submitted by the applicant for final approval within six months following city council action, the preliminary plan approval becomes null and void.

- (1) *Information required.* A final site plan and application for a PUD shall at a minimum contain the following information:
- a. A site plan meeting article XI of this chapter, site plan review procedures, or site condominium requirements, or a tentative preliminary plat in accordance with article III of chapter 16 of this Code.
 - b. A separately delineated specification of all deviations from this chapter which would otherwise be applicable to the uses and developments proposed in the absence of this PUD article.
 - c. A specific schedule of the intended development and construction details, including phasing and timing.
 - d. A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.
 - e. A specification of the exterior building materials with respect to the structures proposed in the project.
 - f. Signatures of all parties having an interest in the property.
 - g. Draft PUD agreement with preliminary conditions.
- (2) *Planning commission final action.* The planning commission shall review the final site plan and shall take one of the following actions:
- a. *Approval.* Upon finding that the final plan meets the criteria established in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; and 44-148, general design standards, the planning commission may recommend final approval.
 - b. *Approval with changes or conditions.* The planning commission may recommend conditional approval subject

- to modifications as performed by the applicant as long as the plan meets the criteria established in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; 44-148, general design standards; 44-149, procedure for review; and 44-150, preliminary plan.
- c. *Postpone*. Upon finding that the final plan does not meet the criteria set forth in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; 44-148, general design standards; 44-149, procedure for review; and 44-150, preliminary plan, the planning commission may postpone action until a revised plan is submitted.
 - d. *Denial*. Upon finding that the final plan does not meet the criteria set forth in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; 44-148, general design standards; 44-149, procedure for review; and 44-150, preliminary plan, the planning commission shall recommend denial of final approval.
- (3) *City council final action*. If the proposed development has been recommended for approval or approval with conditions, or denial, the planning commission recommendation shall be submitted to and reviewed by the city council. Prior to making a decision, the city council shall conduct a public hearing in accordance with sections 44-522, procedures, and 44-523, notice of hearing, or applicable state laws, including Act No. 110 of the Public Acts of Michigan of 2006, as amended. Following the public hearing, the city council shall report its conclusions and establish a basis for its decision. The city council shall take one of the following actions:
- a. *Approval*. Upon finding that the final plan meets the criteria established in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; and 44-148, general design standards, and any conditions placed by the planning commission, the city council may grant final approval. If the final PUD is in the form of a subdivision, final PUD approval shall also grant the applicant permission to submit for approval additional phases of plat review, including final preliminary plat and final plat in accordance with article III of chapter 16 of this Code.
 - b. *Approval with changes or conditions*. The city council may grant approval and attach additional conditions if the plan meets the criteria established in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; 44-148, general design standards; 44-149, procedure for review; and 44-150, preliminary plan.
 - c. *Postpone*. Upon finding that the final plan does not meet the criteria set forth in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; 44-148, general design standards; 44-149, procedure for review; and 44-150, preliminary plan, the city council may postpone action until a revised plan is submitted.
 - d. *Denial*. Upon finding that the planning commission has recommended denial of the application for final plan and that the application does not meet the criteria set forth in sections 44-144, purpose and intent; 44-145, PUD regulations; 44-146, PUD eligibility; 44-147, residential and nonresidential PUD standards; 44-148, general design standards; 44-149, procedure for review; and 44-150, preliminary plan, the city council shall deny said application.
- (4) *Actions on preliminary and final plans*. All actions on the preliminary plan or final plan by the planning commission and the city council shall state the reasons for approval, conditional approval, postponement or denial within the body of the motion. Action by the planning commission shall not bind the city council to approval of the final plan.
- (5) *Final PUD approval*. Approval of the final PUD by the city council shall constitute amendment of the official zoning map. The applicant shall then be authorized to proceed with any necessary permits such as final platting

or construction submittals, for building department approval.

(Code 1992, § 24-143; Ord. No. 304, § 508, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-152. - PUD conditions.

- (a) Reasonable conditions may be required by the planning commission before the approval of a PUD, to the extent authorized by law, for the purpose of ensuring that existing 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, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.
- (b) Permit conditions may be drafted in writing specifying conditions of approval and use. Conditions may stipulate that the PUD may only be used for selective land uses, provided the restraints:
 - (1) Advance, rather than injure, the interests of adjacent landowners;
 - (2) Are a means of harmonizing private interests in land, thus benefiting the public interest;
 - (3) Are for the purposes of ensuring that the PUD fulfills the purposes and intent of this section and thus benefit the public interest; and/or
 - (4) Possess a reasonable relationship to the promotion of the public health, safety, and welfare.

A change of land use from that which was previously approved will render the PUD null and void or will require application for a revised PUD.

- (c) Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project and those immediately adjacent, and the community as a whole; are reasonably related to the purposes affected by the planned unit development; necessary to meet the intent and purpose of this chapter; and related to the objective of ensuring compliance with the standards of this chapter. All conditions imposed shall be made a part of the written record of the approved planned unit development which shall include a site plan and written PUD permit conditions signed by the mayor and the applicant.
- (d) In the event that conditions set forth herein are not complied with, the zoning administrator shall have the right to follow enforcement procedures pursuant to article XIII of this chapter, administration and enforcement. Additional conditions may be imposed by the city council, or the applicant may be required to submit a new PUD application.

(Code 1992, § 24-144; Ord. No. 304, § 509, 6-2-2003)

Sec. 44-153. - Phasing and commencement of construction.

- (a) *Phasing.* Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure 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. In addition, in developments which include residential and nonresidential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable by the city council after recommendation from the planning commission.
- (b) *Commencement and completion of construction.* Construction shall be commenced within one year following final approval of a PUD and shall proceed in conformance with the schedule set forth by the applicant. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void; however, an extension for a specified period may be granted by the planning commission upon good cause shown if

such request is made to the planning commission prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the city council shall take action, in accordance with article XV of this chapter, amending the zoning ordinance, to reclassify the property to its previous zoning designation, by adopting an amendment to the zoning ordinance, after planning commission review and public hearing as required by section 44-523, notice of hearing.

(Code 1992, § 24-145; Ord. No. 304, § 510, 6-2-2003)

Sec. 44-154. - Effect of approval.

When approved, the PUD, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvements and uses shall be in conformity with such PUD. Notice of adoption of the final PUD site plan and PUD permit conditions shall be recorded with the county register of deeds at the applicant's expense. The zoning administration may require the submittal of an as-built survey upon completion of final construction.

(Code 1992, § 24-146; Ord. No. 304, § 511, 6-2-2003)

Sec. 44-155. - Deviations from approved final PUD site plan.

Deviations from the approved final PUD site plan may occur only under the following conditions:

- (1) An applicant or property owner who has been granted final PUD site plan approval shall notify the zoning administrator of any proposed amendment to such approved site plan or PUD conditions.
- (2) Minor changes may be approved by the zoning administrator upon certification in writing to the city council that the proposed revision does not alter the basic design nor any conditions of the plan imposed upon the original approval by the city council. In considering such a determination, the zoning administrator shall consider the following to be a minor change:
 - a. For residential buildings, the size of structures may be reduced or increased by up to five percent, provided that the overall density of units does not increase;
 - b. Square footage of nonresidential buildings may be decreased or increased by up to five percent or 10,000 square feet, whichever is smaller;
 - c. Horizontal and/or vertical elevations may be altered by up to five percent;
 - d. Movement of a building footprint by no more than ten feet, as long as required setbacks are not compromised;
 - e. Designated areas not to be disturbed may be increased;
 - f. Plantings approved in the final PUD landscape plan may be replaced by similar types of landscaping on a one-to-one or greater basis;
 - g. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.;
 - h. Changes of building materials to another of higher quality, as determined by the building official;
 - i. Changes in floor plans which do not alter the character of the use;
 - j. Slight modification of sign placement or reduction of size;
 - k. Relocation of sidewalks and/or refuse storage stations;
 - l. Internal rearrangement of parking lots which do not affect the number of parking spaces or alter access locations or design;

- m. Changes required or requested by the city for safety reasons shall be considered a minor change.
- (3) Should the zoning administrator determine that the requested modification to the approved final PUD site plan is not minor or if a change in land use has occurred which is different than land uses previously approved, re-submittal to the planning commission shall be necessary and a new public hearing and notification under section 44-150(b) shall be required.
- (4) Should the planning commission determine that the modifications to the final PUD site plan significantly alter the intent of the preliminary PUD site plan, a new submittal illustrating the modification shall be required.
- (5) Any deviation from the approved PUD site plan, except as authorized in this section, shall be considered a violation of this article and treated as a violation subject to article XIII of this chapter, administration and enforcement. Further, any such deviation shall invalidate the PUD designation.

CITY OF EAST TAWAS PUD PROCESS

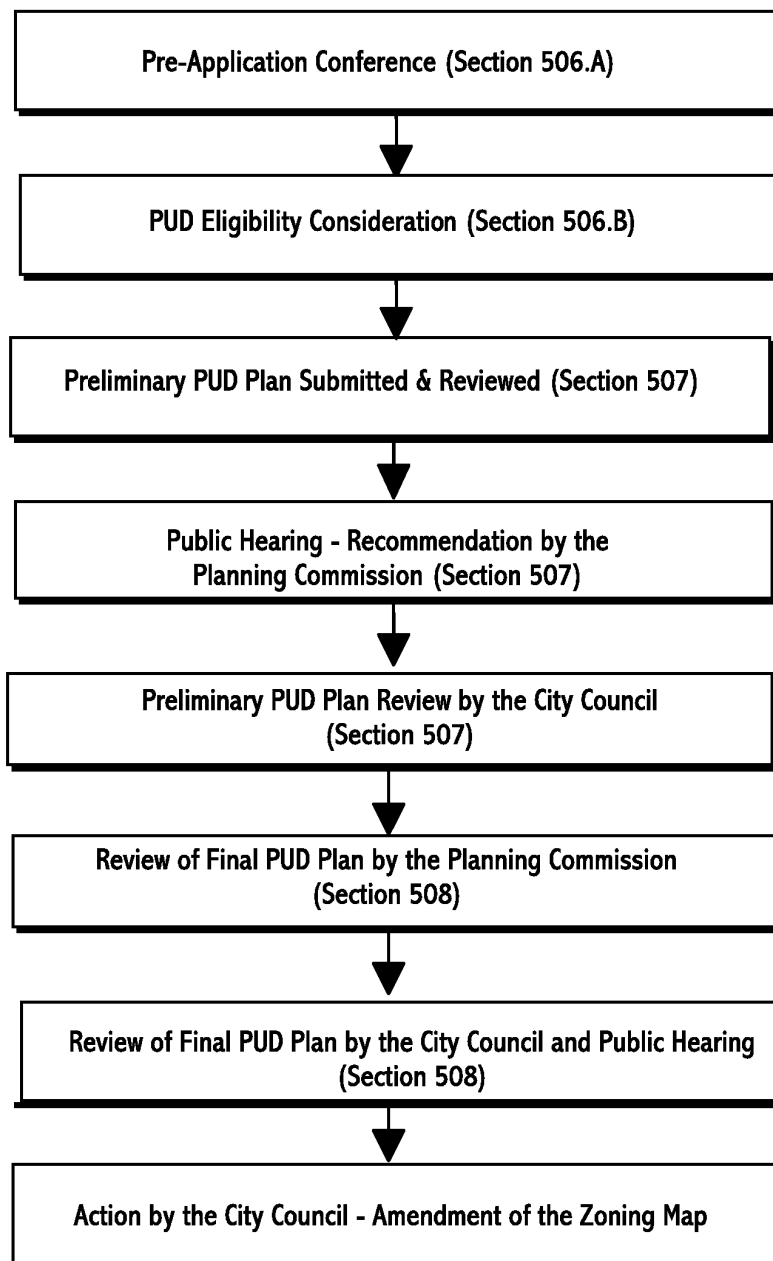


Fig. 5-1. PUD Process

Note: The above is an overview of the PUD ordinance, and is not intended to replace the specific language of the PUD ordinance, but rather provide a guide to the process.

(Code 1992, § 24-147; Ord. No. 304, § 512, 6-2-2003)

Secs. 44-156—44-178. - Reserved.

ARTICLE VI. - SPECIAL USES

FOOTNOTE(S):

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State Law reference— Special land uses, MCL 125.3502 et seq.

Sec. 44-179. - Purpose.

The formulation and enactment of this chapter is based upon the division of the city into zoning districts, each of which includes permitted uses which are mutually compatible. In addition to such permitted uses in the districts, however, it is recognized that there are certain specific or unique uses which may be necessary or desirable to allow in definable locations in certain districts; but, which on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the permitted uses in a district. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as an unrestricted permitted use.

(Code 1992, § 24-17; Ord. No. 304, § 601, 6-2-2003)

Sec. 44-180. - Authority to grant permits.

The city council shall have the authority to grant special use permits, subject to the review and recommendation of the planning commission, and subject to such conditions of design and operations, safeguards and time limitations as it may determine for all special uses specially allowed in the various district provisions of this chapter and in accordance with article XI of this chapter, site plan review procedures.

(Code 1992, § 24-172; Ord. No. 304, § 602, 6-2-2003)

Sec. 44-181. - Application and fees.

Application for any special use permit allowed under the provisions of this chapter shall be made to the zoning administrator by filling in the official special use permit application form, submitting required data, exhibits and information, and depositing the necessary fee in accordance with the city's schedule of fees on file with the zoning administrator. No fee shall be required of any governmental body or agency.

(Code 1992, § 24-173; Ord. No. 304, § 603, 6-2-2003)

Sec. 44-182. - Data, exhibits and information required.

An application for any special use shall contain:

- (1) The applicant's name and address in full;
- (2) Documentation that the applicant is the owner involved;

- (3) The address of the property involved;
- (4) An accurate survey and site plan of such property showing the existing and proposed location of all buildings and structures thereon, and types thereof, and their uses; and
- (5) A statement and supporting data, exhibits, information and evidence regarding the required findings set forth in this chapter.

(Code 1992, § 24-174; Ord. No. 304, § 604, 6-2-2003)

Sec. 44-183. - Public hearing.

The planning commission shall hold a public hearing, or hearings, upon any application for a special use, notice of which shall be given as required by section 103 of Public Act No. 110 of 2006 (MCL 125.3103).

(Code 1992, § 24-175; Ord. No. 304, § 605, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-184. - Required standards and findings for making determinations.

The planning commission shall review the particular circumstances and facts of each proposed special use and shall make its recommendation to the city council. The following standards shall be used in evaluating the request for a special use approval:

- (1) Will be harmonious with and in accordance with the general objectives, intent and purposes of this chapter.
- (2) Will 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.
- (3) Will be required to be served by public sanitary sewer and water supply systems or other systems approved by the health department, and served adequately by other essential public facilities and services, such as highways, streets and drives, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed special use shall be able to provide adequately all such services.
- (4) Will not be hazardous or disturbing to existing or future neighboring uses.
- (5) Will not create excessive additional requirements at public cost for public facilities, utilities and services.
- (6) Upon conclusion of the public hearing procedures and after consideration of the basis of determination and the standards of preliminary site plan review, the planning commission may recommend denial, approval or approval with conditions for a request for special land use approval. The recommendation on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

(Code 1992, § 24-176; Ord. No. 304, § 606, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-185. - Site plan review of special uses.

If a site plan is disapproved by the city council, the applicant is required to wait one year before re-submittal of the same or similar site plan for review and approval consideration by the planning commission on the same or approximately the same parcel of land. The applicant has the right to request the review of a disapproved site plan on matters of interpretation of the provisions of this chapter, but not of land, building or structural use, to the zoning board of appeals.

(Code 1992, § 24-177; Ord. No. 304, § 607, 6-2-2003)

State law reference— Submission and approval of site plan, MCL 125.3501.

Sec. 44-186. - Churches and other institutions for religious worship.

A church or other institution for religious worship may be permitted in residential districts, subject to the following conditions:

- (1) Front and side yard setbacks shall be a minimum of 25 feet. Rear yard setbacks shall be a minimum of 35 feet.
- (2) No off-street parking shall be located in any required front yard.
- (3) The site shall have access from the parking lot to a public road.

(Code 1992, § 24-178; Ord. No. 304, § 608, 6-2-2003)

Sec. 44-187. - Child care center.

The intent of this section is to establish standards for a child care center which will ensure compatibility with adjacent land uses.

- (1) The subject parcel shall meet the minimum lot area requirements for the district in which it is located.
- (2) Drop-off and pick-up shall be provided for in a manner which protects the safety of children and does not create congestion on the site or within a public roadway.
- (3) There shall be an outdoor play area of at least 500 square feet provided on the premises. Said play area shall not be located within the front setback. This requirement may be waived by the city if a public play area is available within 500 feet of the subject parcel.
- (4) All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing, and is at least four feet in height, but no higher than six feet.
- (5) The hours of operation shall not exceed 16 hours within a 24-hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the drop-off and pick-up of children is not disruptive to neighboring residents.
- (6) Applicable licenses with the state shall be maintained.

(Code 1992, § 24-179; Ord. No. 304, § 609, 6-2-2003)

Sec. 44-188. - Group child care home and adult foster care small group home.

Such homes which exceed six residents shall be considered as a special land use and are subject to the requirements and standards of section 44-184 and the following additional requirements:

- (1) No day care or adult foster care facility shall be located closer than 1,500 feet to any other day care or adult foster care facility, measured between such lots along public streets.
- (2) The property is maintained in a manner that is consistent with the character of the neighborhood.
- (3) An on-site drive shall be provided for drop-offs/loading. This drive shall be arranged to allow maneuvers without affecting traffic flow on the public street.
- (4) There shall be a fenced, contiguous open space with a minimum area of 500 square feet provided on the same premises as the facility. The required open space shall not be located within a required front yard.
- (5) The hours of operation shall not exceed 16 hours within a 24-hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the drop-off and pick-up of children is not disruptive to neighboring residents.

(6) Applicable licenses with the state shall be maintained.

(Code 1992, § 24-180; Ord. No. 304, § 610, 6-2-2003)

State law reference— Adult foster care facility licensing act, MCL 400.701 et seq.; child care licensing act, MCL 722.111 et seq.

Sec. 44-189. - Private schools (preschools, elementary, middle and high schools).

The following requirements apply to private schools (preschools, elementary, middle and high schools):

- (1) Ingress and egress to the site shall be only from a paved major thoroughfare.
- (2) The minimum lot or parcel shall be five acres.
- (3) Service areas and facilities and outdoor recreation areas shall not be located within 100 feet of a residential district or use.
- (4) Parking areas shall not be located within 50 feet of the front lot line or a residential use.
- (5) The principal building shall be no closer than 75 feet from any lot line or right-of-way.

(Code 1992, § 24-181; Ord. No. 304, § 611, 6-2-2003; Ord. No. 325, 3-1-2010)

Sec. 44-190. - Bed and breakfast.

- (a) Bed and breakfast operations may be permitted, provided that these establishments will blend with the unique character of the city and offer accommodations that are both inconspicuous and a logical alternative to traditional accommodations.
- (b) Bed and breakfast operations may be carried on in owner-occupied and owner-managed residential structures under the following conditions:
 - (1) The owner shall use the bed and breakfast facility as his principal residence.
 - (2) A maximum number of three bedrooms are available for guest use for compensation.
 - (3) Not more than eight guests may be accommodated at any time.
 - (4) The maximum stay for any guest shall be 14 consecutive days.
 - (5) One off-street parking space shall be provided for each bedroom available for bed and breakfast usage.
 - (6) There shall be no external evidence of such use except one non-illuminated sign announcing only bed and breakfast, not to exceed four square feet in area and attached flat against the principal building wall.
 - (7) A floor plan of the dwelling shall be submitted with the application. The floor plan shall be subject to fire safety regulations as established by the state construction code.
 - (8) Guest bedrooms shall be a part of the principal dwelling and shall not be specifically constructed for bed and breakfast purposes.
 - (9) Every bed and breakfast shall maintain a register of guests. Such register shall be made available to the zoning administrator upon request.
 - (10) Every bed and breakfast may be subject to annual inspections by the zoning administrator and may be terminated by order of the zoning administrator whenever the same fails to comply with this section.
 - (11) The bed and breakfast facility shall comply with county regulations pertaining to food service and sanitation.

(Code 1992, § 24-182; Ord. No. 304, § 612, 6-2-2003)

State law reference— Treatment of bed and breakfast by the state construction code, MCL 125.1504b.

Sec. 44-191. - Hospitals and nursing homes.

The following requirements apply to hospitals and nursing homes:

- (1) All ingress and egress shall be from a paved major street.
- (2) No building shall be closer than 30 feet to any lot line.
- (3) Parking areas shall not be located within 30 feet of a residential district or use.
- (4) All facilities shall be licensed by the state department of community health.

(Code 1992, § 24-183; Ord. No. 304, § 613, 6-2-2003)

State law reference— Hospitals, MCL 333.21501 et seq.; nursing homes, MCL 333.21701 et seq.

Sec. 44-192. - Salvage yards.

All salvage yards shall conform to the following requirements:

- (1) All materials stored outside shall be enclosed within a solid, unpierced fence or wall at least eight feet in height, and not less in height than the materials. All gates, doors, and access ways through said fence or wall shall be of solid, unpierced materials. In no event shall any stored materials be in the area between the lines of said lot and the solid, unpierced fence or wall.
- (2) All ingress or egress shall be limited to one entrance to a paved road.
- (3) On the lot on which a salvage yard is to be operated, all roads, driveways, parking lots, and loading and unloading areas shall be paved, so as to limit the nuisance caused by windborne dust on adjoining lots and public roads.

(Code 1992, § 24-184; Ord. No. 304, § 614, 6-2-2003)

Sec. 44-193. - Automotive gasoline and service stations, gasoline service and convenience stores, repair garages and paint shops for autos and other vehicles.

- (a) Such uses shall have a minimum frontage along the principal street of 150 feet and a minimum area of 35,000 square feet.
- (b) Separation shall be made between the pedestrian sidewalk and vehicular parking and maneuvering areas with the use of curbs, greenbelts and/or traffic islands.
- (c) Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which does not create a traffic safety or congestion problem.
- (d) Vehicle sales shall not be permitted on the premises.
- (e) Any work including repairs, servicing, greasing and/or washing motor vehicles shall be conducted within an enclosed building located not less than 40 feet from any street lot line, and not less than ten feet from any side lot line.
- (f) All driveways providing ingress to or egress from a filling or service station shall be not more than 30 feet wide at the property line. No more than one curb opening shall be permitted for each 50 feet of frontage or major fraction thereof along any street. No driveway or curb opening shall be located nearer than ten feet to any corner or exterior lot line. No driveway shall be located nearer than 30 feet to any other driveway serving the site.
- (g) Gasoline pumps shall be located not less than 15 feet from any lot line, and shall be arranged so that motor vehicles do not park upon or overhang any public sidewalk, street or right-of-way while waiting for or receiving fuel service.
- (h) Outdoor storage or parking of vehicles, except for two private automobiles per indoor stall or service area of the

facility, shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m.

- (i) All outdoor areas used for the storage of motor vehicles waiting for service shall be effectively screened from view from abutting properties and public streets. Such screening shall consist of a solid masonry-screening device, except for gates, and such screening device shall not be less than six feet in height. Parking areas for employees and customers shall be separate and apart from the storage area.

(Code 1992, § 24-185; Ord. No. 304, § 101, 6-2-2003)

Sec. 44-194. - Drive-in establishments.

- (a) All egress from and ingress to the site shall be made from a paved major or minor thoroughfare.
- (b) No driveway should be closer than 75 feet to any other driveway and the maximum number of driveways permitted is two.

(Code 1992, § 24-186; Ord. No. 304, § 616, 6-2-2003)

Sec. 44-195. - Self-storage facilities.

- (a) No activity other than rental of storage units shall be allowed. No commercial, wholesale, retail, industrial or other business activity shall be conducted from the facility.
- (b) The storage of any toxic, explosive, corrosive, flammable or hazardous materials is prohibited. Fuel tanks on any motor vehicle, boat, lawn mower or similar property will be drained or removed prior to storage. Batteries shall be removed from vehicles before storage.
- (c) All storage including vehicles of any kind shall be contained within a completely enclosed building.
- (d) Exterior walls of the ends of all storage units shall be of masonry or face-brick construction.
- (e) All storage units must be accessible by paved circular drives clearly marked to distinguish traffic flow. A minimum of 24-foot drives shall be provided between buildings. Site circulation shall be designed to accommodate fire trucks, as well as trucks that will customarily access the site.
- (f) Adequate means of security and management shall be provided, including lighting, fencing, or other methods of site security.

(Code 1992, § 24-187; Ord. No. 304, § 617, 6-2-2003)

Sec. 44-196. - Trailers, temporary construction offices, motor homes and recreation vehicles.

It shall be unlawful for any person to move a travel trailer, motor home or recreation vehicle on to any lot, parcel or tract of land in the city for any purpose, except as provided and permitted hereinafter in this section, or as specifically permitted in section 44-197, valid nonconforming use of mobile homes, travel trailers, motor homes or recreation vehicles, and section 44-289, use of recreation vehicles as temporary dwellings by visitors.

- (1) Mobile homes, travel trailers, motor homes or recreation vehicles shall be permitted for construction contractor purposes when located on an approved construction site. The applicant must furnish all pertinent data, including description of land to be used, number of mobile home, travel trailer, motor home or recreation vehicle units involved, and the expected length of construction time. The zoning administrator must verify that the location of the unit will be not less than 100 feet from any public highway and/or boundary of adjoining property, and that adequate fresh water supply and sanitary facilities are available on site. A temporary permit shall be issued covering the period of the specific construction job, not to exceed one year; subject to an extension approved by the planning commission for good cause which shall not exceed one year.

(2) For parking or storage of recreational vehicles in LDR, MDR, HDR, and WFR zoning districts, refer to section 44-329(2)

(3) For temporary occupancy of visitor-owned mobile homes and recreation vehicles, refer to section 44-289, use of recreation vehicles as temporary dwellings by visitors.

(Code 1992, § 24-188; Ord. No. 304, § 618, 6-2-2003)

Sec. 44-197. - Valid nonconforming use of mobile homes, travel trailers, motor homes or recreation vehicles.

The use of any mobile home, travel trailer, motor home or recreation vehicle placed on a lot, parcel or tract of land in the city prior to the effective date of the ordinance from which this chapter is derived, which use is not prohibited by this chapter, shall be a valid nonconforming use that may be continued, subject to the provisions pertaining to nonconforming uses contained in article VII of this chapter, nonconforming land, building and structural uses.

(Code 1992, § 24-189; Ord. No. 304, § 619, 6-2-2003)

Sec. 44-198. - Adult-oriented commercial enterprises and specified services.

In the preparation and enactment of this chapter, it is recognized that there are some uses which, because of their very nature, have operational characteristics that have a serious and deleterious impact upon residential, office and commercial areas. Regulation of the locations of these uses is necessary to ensure that the negative secondary impact, that such businesses have been documented to have, will not cause or contribute to the blighting or downgrading of the city's residential neighborhoods, community uses which support a residential environment, or commercial centers. The regulations in this section are for the purpose of locating these uses in areas where the adverse impact of their operations may be minimized by the separation of such uses from one another and from residential neighborhoods and places of public congregation. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Bill of Rights, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(1) Uses subject to these controls are as follows (hereinafter referred to as regulated uses):

- a. Adult-oriented commercial enterprises.
- b. Escort services and/or escort agencies.
- c. Pawnbrokers and/or pawnshops.
- d. Tattoo and/or body-piercing and/or branding studios.

(2) Location. The location of regulated uses within the city shall be subject to the following conditions:

- a. No regulated use shall be permitted within a 1,000-foot radius of an existing regulated use. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses are or would be situated.
- b. No regulated use shall be permitted within a 1,000-foot radius of a school, library, park, playground, licensed group daycare home or center, or church, convent, monastery, synagogue or similar place of worship. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses are or would be situated.
- c. No regulated use shall be permitted within a 150-foot radius of any residential district. Measurement of the 150-foot radius shall be made from the outermost boundaries of the lot or parcel upon which the respective uses/districts are or would be situated.

(3) Miscellaneous requirements.

- a. No person shall reside in or permit any person to reside in the premises of a regulated use.
- b. An adult-oriented commercial enterprise use is in violation of this section if:
 1. The merchandise or activities of the establishment are visible from any point outside the establishment.
 2. The exterior portions of the establishment or signs have any words, lettering, photographs, silhouettes, drawings or pictorial representations of any specified anatomical area or sexually explicit activity as defined in this chapter.
 3. The provision of this section shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of physicians, surgeons, chiropractors, osteopaths or massage therapists who practice their respective professions in the state.

(Code 1992, § 24-190; Ord. No. 304, § 620, 6-2-2003)

Sec. 44-199. - Temporary transient uses.

- (a) Temporary transient use of an existing land site, building or structure may be permitted in any district upon approval of a site plan by the planning commission, and upon finding that the location of such an activity will not adversely affect public health, safety and general welfare in the district in which it is to be temporarily located. All temporary transient uses, if approved by the planning commission, shall have a reasonable time limit placed upon their use based upon the normal periods of time such uses need to exist for an expressed number of days authorized by the planning commission. Temporary transient uses may be granted a permit on the basis of compliance with the criteria stated in article XI of this chapter, site plan review procedures.
- (b) The following provisions shall apply in addition to all applicable regulations in the district in which they are to be located:
 - (1) Temporary transient uses shall include all uses, such as circuses, carnivals, meetings and assemblies of people in tents or other temporary structures, dispensing and selling of goods or offerings of services from vehicles or other temporarily parked structures. This shall exclude regularly scheduled civic events, outdoor church activities, service organization activities, or fundraisers as approved by the city council.
 - (2) Temporary transient uses may be located within any required yard, but shall not be located within any public road right-of-way or sidewalk unless otherwise permitted by the city council.
 - (3) Temporary transient uses shall not occupy or obstruct the use of any fire lane, required off-street or landscape area required to meet requirements of this chapter, or create a traffic or safety hazard.
 - (4) Temporary transient uses shall be conducted in a manner so as not to create a public nuisance to neighboring properties. Adequate on-site parking, together with proper ingress to and egress from the site, shall be provided.
 - (5) All traffic ingress or egress shall be on public streets and all local traffic movements shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements onto or off from public streets.

(Code 1992, § 24-191; Ord. No. 304, § 621, 6-2-2003; Ord. No. 313, 7-5-2005)

Sec. 44-200. - Wireless communication devices.

- (a) *Preamble.* Changing technology in the field of communications has resulted in a reliance upon more versatile and convenient forms of communications. Businesses, individuals and government have all developed a strong dependence upon the ability to quickly contact others. The utility of radios, cellular, digital and other wireless communication devices have repeatedly proven of value in emergency situations and otherwise.

- (b) *Definitions.* For purposes herein, the term "communications tower" means and includes radio, telephone, cellular telepole attached directly to the ground or to another structure, used for the transmission or reception of radio, tele television, microwave, digital or any other form of telecommunication signal.
- (c) *Qualifying conditions and requirements:*
- (1) The following site and development requirements shall apply to communications towers:
- a. A minimum site of 1,600 square feet.
 - b. An established and recorded means of access between a public right-of-way and the communications tower site.
 - c. Communications towers and related equipment of facilities are prohibited in all zoning districts except in the Industrial District (I).
 - d. The height of the tower shall not exceed 200 feet. Any and all tower and facility lighting shall be shielded and/or deflected so as not to unreasonably annoy or disturb the owners or occupants of residences in the vicinity of such tower or facility.
 - e. No more than one communication tower or related facility shall be located within a one-mile radius of any existing communications towers or related facility.
 - f. The communications tower site shall be fenced with a minimum four-foot-high fence.
- (2) *Special performance standards.*
- a. The communications tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications are submitted to the city's engineer and such engineer verifies that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of tower failure is minimal. The party seeking to construct such tower shall incur all cost associated with such engineering review.
 - b. Accessory structures, equipment and facilities shall be limited to those which are reasonably and typically associated with the operation of such towers, and may not be located any closer than 30 feet from the front or side property lines.
 - c. Accessory structures shall not exceed 600 square feet of gross building area.
 - d. All buffer and yard requirements applicable to the industrial district regulations shall be met.
 - e. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
 - f. The plans of the tower construction shall be certified by a registered structural engineer.
 - g. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable rules, codes and regulations.
 - h. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
 - i. No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area in which such tower or antenna is located.
 - j. Metal towers shall be constructed of, or treated with, corrosive-resistant material.
 - k. Antenna and metal towers shall be adequately grounded for protection against a direct strike by lightning and shall comply with all applicable local and state statues, rules, regulations and standards for electrical wiring and connections.
 - l. Towers with antennas shall be designed to withstand a uniform wind loading as defined in the building code

maintained and applied by the county building inspector.

- m. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.
- n. Communications towers and related facilities shall be located so that they do not interfere with television or radio reception in residential areas.
- o. Communications towers and related facilities shall be located so there is room for maintenance vehicles to reasonably maneuver on the property.
- p. The base of any communications tower shall not occupy an area greater than 500 square feet.
- q. Towers shall not be artificially lighted unless required by federal or state regulations and such lighting is shielded and/or directed so as not to unreasonably annoy or disturb the owners or occupants of residences in the vicinity of the tower or facility.
- r. Existing on-site vegetation shall be preserved to the maximum extent possible and practicable.
- s. There shall be no advertising or identification displayed on the tower which is visible from the ground or other structures, unless the same is required by law or for emergency purposes.
- t. Any antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- u. Communications towers and related structures, equipment and facilities shall be subjected to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the towers, structures, equipment and/or facilities shall be made to conform to the extent required by such standards.
- v. There shall be no employees or contractors located on the site on a permanent basis. Occasional or temporary maintenance and repair activities are permitted.
- w. Where the communications tower or related structure, equipment or facility site adjoins any residential district or land use, the site shall consist of two staggered rows of evergreen trees with a minimum height of five feet on 20-foot centers along the residential property line.
- x. The communications tower and all related structures, equipment and facilities shall be removed by the owner thereof within six months of discontinuance or abandonment of the tower or related structures, equipment or facilities.
- y. Co-location.
 - 1. Newly constructed towers shall have at least three times the capacity of intended use in order that secondary users could lease the balance of tower capacity at a reasonable rate.
 - 2. Within any site plan or other application for tower approval, the applicant must include a statement and an affidavit stating that space on the proposed tower will be made available to future users when technically possible.
 - 3. The applicant shall send written notice via certified mail to all potential users of the new communications tower offering an opportunity for co-location. The list of potential users shall be provided by the city based on those entities who have requested approval of communications towers in the past, current FCC license holders, and any other entities requesting to be on the list or who the city believes may desire to

be on the list. Copies of the notice letter shall be provided to the city at the time the application is filed. The applicant shall accommodate any user requesting to co-locate pursuant to such notice letter, unless co-location is not possible based upon the criteria of this subsection.

(Code 1992, § 24-192; Ord. No. 304, § 622, 6-2-2003)

Sec. 44-201. - Wind energy conversion systems (WECS).

- (a) *Intent.* It is the intent of the city to promote the effective and efficient use of wind energy conversion systems (WECS) by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare. In no case shall this section guarantee the wind rights or establish access to the wind.
- (b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Anemometer means a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing WECS at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

Anti-climbing device means a piece or pieces of equipment which are either attached to the supporting structure of WECS, or which are freestanding and are designed to prevent people from climbing the structure. These devices may include, but are not limited to squirrel-cones (i.e., a plastic or metal disc cone around a pole which impedes climbing), the removal of climbing pegs on the pole, or other approved devices, but excluding the use of barbed or razor wire.

Decibel means a unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale as defined by the American National Standards Institute.

Decommissioning means the process of terminating operation and completely removing WECS and all related buildings, structures, foundations, and equipment.

Nacelle means the encasement which houses all of the generating components, gear box, drive tram, and other equipment in WECS.

Net-metering means a special metering and billing agreement between utility companies and their customers which facilitates the connection of renewable energy generating systems to the power grid.

Occupied building means a residence, school, hospital, church, public library, business, or any other building used for public gatherings.

Operator, WECS, means the entity responsible for the day-to-day operation and maintenance of WECS.

Owner, WECS, means the individual or entity, including their respective successors and assigns, with equity interest in or ownership of WECS.

Rotor diameter means the cross sectional dimension of the circle swept by the rotating blades of WECS.

Shadow flicker means the moving shadow created by the sun shining through the rotating blades of WECS. The amount of shadow flicker created by WECS is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

Small structure-mounted wind energy conversion system (SSMWECS) means a system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWECS is attached to a structure's roof, walls, or other elevated surface. The SSMWECS has a nameplate capacity that does not exceed 50 kilowatts. The total height does not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances.

Small tower-mounted wind energy conversion system (STMWECS) means a system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The STMWECS has a nameplate capacity that does not exceed 50 kilowatts. The total height does not exceed 60 feet.

Structure means a walled and roofed building that is principally above ground, including a gas or liquid storage facility, as well as a mobile home. As used with WECS, the term "structure" means any building or other fixture, such as a municipal water tower, that is a minimum of 12 feet high at the highest point of its roof and is secured to frost-footings or a concrete slab. As used in this section and other than with WECS, the term "structure" means anything erected on the ground, underground or attached to something having location on the ground or underground.

Total height means the vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of WECS.

Tower means a freestanding monopole that supports WECS.

Wind energy conversion system means any structure-mounted, small, medium, or large system that converts wind energy into any form of usable energy including electricity through the use of a wind generator and includes the nacelle, rotor, tower, and pad transformer, if any.

(c) *General provisions.*

(1) *Purpose.* The purpose of this section is to establish guidelines for siting WECS. The goals are as follows:

- a. To promote the safe, effective, and efficient use of WECS in order to reduce the consumption of fossil fuels in producing electricity.
- b. To preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of WECS.
- c. To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of WECS shall be governed.
- d. Accessory uses. Private WECS projects shall be permitted as a special use and an accessory use to the permitted principal use.

(2) *Applicability.*

- a. This section applies to all WECS proposed to be constructed after the effective date of the ordinance from which this section is derived.
- b. A SSMWECS and a STMWECS shall be considered special uses in all zoning districts and shall not be erected, constructed, installed, or modified as provided in this section unless appropriate permits have been issued to the WECS owner or WECS operator.
- c. All WECS constructed prior to the effective date of the ordinance from which this section is derived shall not be required to meet the requirements of this section; however, any physical modification to existing WECS that materially alters the size, type, equipment or location shall require a permit under this section, in

compliance with the standards of this section.

(3) *Siting and design.* All SSMWECS and STMWECS must be sited and designed in accordance with the following:

a. *Visual appearance.*

1. A SSMWECS or STMWECS, including accessory buildings and related structures, shall be a solid, non-reflective, non-obtrusive color (e.g., white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the SSMWECS or STMWECS.
2. A SSMWECS or STMWECS shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or unless otherwise approved by the planning commission.
3. A SSMWECS or STMWECS shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.

b. *Ground clearance.* The lowest extension of any blade or other exposed moving component of a SSMWECS or STMWECS shall be at least 15 feet above the ground (at the highest point of the natural grade within 30 feet of the base of the tower) and, in addition, at least 15 feet above any outdoor surfaces intended for human use, such as decks, balconies or roof gardens, that are located directly below the SSMWECS or STMWECS.

c. *Noise.* Noise emanating from the operation of a SSMWECS or STMWECS shall not exceed, at any time, the maximum possible sound levels of sound levels of 55 dB(A) daylight time or 50 dB(A) night time measured at the property line. The following octave band limits (unadjusted dB) shall apply as listed in table 3.C., measured at property line.

Table 3.C Octave Band Noise Limits
(Frequency at Center of Octave Band)

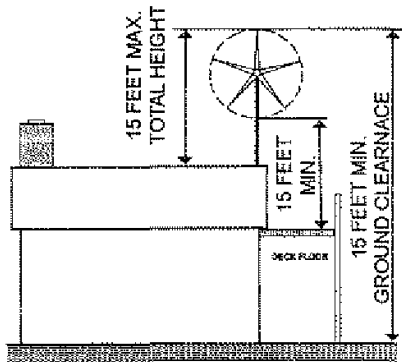
Center Octave Band	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz
Day	72 dB	71 dB	65 dB	57 dB	51 dB
Night	67 dB	66 dB	60 dB	52 dB	46 dB

d. *Vibration.* Vibrations shall not be produced which are humanly perceptible beyond the property on which a SSMWECS or STMWECS is located.

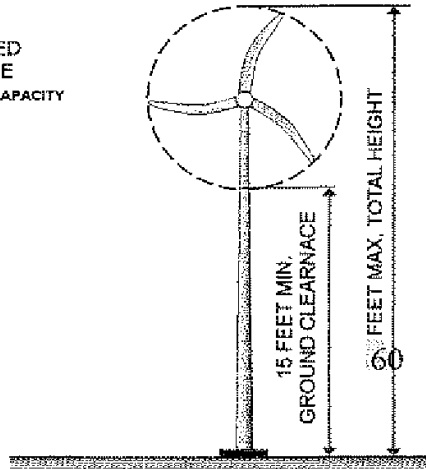
e. *Guy wires.* Guy wires shall not be permitted as part of the SSMWECS or STMWECS.

f. *Height.* The total height of a SSMWECS shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances. The total height of a STMWECS shall not exceed 60 feet. See exceptions, subsection (3)l. of this section, quantity-height exceptions.

SMALL STRUCTURE MOUNTED
WIND ENERGY TURBINE
(SSM-WET) KILOWATTS MAX. CAPACITY



SMALL TOWER MOUNTED
WIND ENERGY TURBINE
(STM-WET) 30 KILOWATTS MAX. CAPACITY



- g. *Prevention of unauthorized access.* Security measures must be in place to prevent unauthorized trespass and access. Each WECS shall be enclosed by security fencing not less six feet in height with locking portals. Appropriate anti-climbing devices shall be provided; however, the planning commission may waive such requirements.
- h. *Shadow flicker.* The WECS owner and/or operator shall conduct an analysis on potential shadow flicker at any occupied building with direct line-of-sight to the WECS and at the buildable area of any vacant adjacent lot with direct line-of-sight to the WECS that could accommodate an occupied building. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the shadow flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year, and describes measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed 30 hours per year.
- i. *Setback.*
1. The setback for a SSMWECS shall be a minimum of 15 feet from the lot line, public or private street, or overhead utility lines. The setback shall be measured from the furthest outward extension of all moving parts.
 2. The setback from all property lines for a STMWECS shall be at least a distance equal to or greater than the total height of the STMWECS, as measured from the base of the tower to the highest reach of its blade, and must maintain the same or greater distance from public or private streets, public easements, or overhead public utility lines.

- j. *Separation.* If more than one SSMWECS is installed on a lot, a distance equal to the total height of the highest SSMWECS shall be maintained between the bases of each SSMWECS.
 - k. *Location.* The SSMWECS shall not be affixed to the wall on the side of a structure facing a public or private street. A STMWECS may be located in a rear yard of a lot that has an occupied building. A STMWECS may be located in a side yard or front yard of a lot that has an occupied building, provided that no part of the STMWECS protrudes past the front of the principle structure.
 - l. *Quantity-height exceptions.* No more than three SSMWECS shall be installed on any lot of residentially zoned or used property. The planning commission may allow more SSMWECS on commercially or industrially zoned properties, if appropriate. No more than one STMWECS shall be installed on any residentially zoned or used property unless the lot or parcel is five acres or more in size. The planning commission may allow more STMWECS with a total height of 120 feet on any parcel or lot over five acres and any commercially or industrially zoned or used properties if appropriate. The planning commission shall consider the size of the lot, the use of the lot, the location of the proposed WECS, the use of and impact upon adjoining lots, and other relevant factors in determining if additional height or WECS are appropriate.
 - m. *Electrical system.* All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each lot at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the WECS to the tower wiring are exempt from this requirement.
 - n. *Anemometers.* If an anemometer is to be installed prior to, or in conjunction with a SSMWECS or STMWECS, it must be done so in accordance with the following provisions:
 - 1. The construction, installation, or modification of an anemometer tower shall require a special use permit and applicable building, electrical or mechanical permits and shall conform to all applicable city, county, state, and federal, applicable safety, construction, environmental, electrical, communications, and FAA requirements.
 - 2. An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety, and decommissioning of this section that correspond to the size of the SSMWECS or STMWECS that is proposed to be constructed on the site.
- (4) *Special use application requirements.* In addition to the standard information required for all special uses, an application for a SSMWECS or a STMWECS shall also include the following information/documentation:
- a. A site plan (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWECS or STMWECS, lot lines, physical dimensions of the lot, existing buildings, setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, nonmotorized pathways, public and private streets, and contours. The site plan must also include adjoining lots as well as the location and use of all structures.
 - b. The proposed number, type, and total height of a SSMWECS or STMWECS to be constructed, including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
 - c. Documented compliance with the noise requirements set forth in this section.
 - d. Documented compliance with applicable city, county, state and federal regulations, including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
 - e. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.

- f. For STMWECS applications, a description of the methods that will be used to perform maintenance on the STMV procedures for lowering or removing the STMWECS in order to conduct maintenance.
 - g. Verification that the SSMWECS or STMWECS shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
 - h. Other relevant information as may be reasonably requested by the city.
- (5) *Safety requirements.* All SSMWECS and STMWECS must be designed to meet the following safety requirements:
- a. If the SSMWECS or STMWECS is connected to a public utilities system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
 - b. The SSMWECS or STMWECS shall be equipped with manual and automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
 - c. A clearly visible warning sign regarding voltage shall be placed at the base of the SSMWECS or STMWECS.
 - d. The structural integrity of the SSMWECS or STMWECS shall conform to the design standards of the International Electrotechnical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing," or any similar successor standards.
- (6) *Decommissioning.* Any SSMWECS or STMWECS that is to be decommissioned shall be done so in accordance with the following requirements:
- a. The WECS owners or operator shall complete decommissioning within 12 months after the end of the useful life. Upon request of the WECS owner or operator of the SSMWECS or STMWECS, and for a good cause, the city manager, or the city manager's designee, may grant a reasonable extension of time. The SSMWECS or STMWECS will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of 12 months; the end of its useful life may also be established by other facts and circumstances determined by the city manager, or the city manager's designee. All decommissioning expenses are the responsibility of the WECS owner or operator.
 - b. If the WECS owner or operator fails to complete decommissioning within the period prescribed above, the city council may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the property. If the SSMWECS or STMWECS is not owned by the property owner, a bond, security deposit or bank letter of credit must be provided to the city for the cost of decommissioning each SSMWECS or STMWECS.
- (7) In addition to the decommissioning requirements listed previously, the STMWECS shall also be subject to the following:
- a. Decommissioning shall include the removal of each STMWECS, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade.
 - b. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the WECS owner or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.

(Code 1992, § 24-193; Ord. No. 328, 5-3-2010)

State law reference— Clean, renewable and efficient energy act, MCL 460.1001 et seq.; wind energy resource zone, MCL 460.1141 et seq.

Secs. 44-202—44-225. - Reserved.

ARTICLE VII. - NONCONFORMING LAND, BUILDING AND STRUCTURAL USES

FOOTNOTE(S):

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State Law reference— Nonconforming uses or structures, MCL 125.3208.

Sec. 44-226. - Purpose.

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 structure may not conform to the provisions of this chapter. Further, it is the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same districts. The continuance of all nonconforming uses and structures within the city shall be subject to the conditions and requirements set forth in this article.

(Code 1992, § 24-221; Ord. No. 304, § 701, 6-2-2003)

Sec. 44-227. - Nonconforming lots.

- (a) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though a lot fails to meet the applicable requirements for area or width, provided that setbacks and other requirements, not involving area or width, shall conform to the regulations for the zone in which such lot is located.
- (b) If two or more lots, combination of lots, or portions of lots are contiguous and have continuous frontage in single ownership, are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, they shall be subject to the following regulations. The lands involved shall be considered to be an undivided parcel for the purposes of this article, and no portion of such lots or parcels shall be used or occupied by a principal use which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

(Code 1992, § 24-222; Ord. No. 304, § 702, 6-2-2003)

Sec. 44-228. - Nonconforming uses of land.

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be extended to occupy a greater number of parcels than was occupied at the effective date of adoption or amendment of this chapter, unless approved by the zoning board of appeals.
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied

by such use at the effective date of adoption or amendment of this chapter, unless approved by the zoning board of appeals.

- (3) If such nonconforming use of land ceases operation with the intent of abandonment for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by the chapter for the district in which such land is located.

(Code 1992, § 24-223; Ord. No. 304, § 703, 6-2-2003)

Sec. 44-229. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity, unless approved by the zoning administrator through the submission of a site plan, and providing the following remain true:
 - a. The existing character of the area is maintained.
 - b. Additional parking spaces are not required to comply with the standards of this chapter.
 - c. The size is comparable to adjacent uses.
 - d. The construction materials and resulting style are compatible with the existing building.
 - e. The expansion will not have a detrimental effect on neighboring properties.
- (2) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Code 1992, § 24-224; Ord. No. 304, § 704, 6-2-2003)

Sec. 44-230. - Restoration of damage.

Any lawful nonconforming use damaged by fire, explosion or an act of God or by other causes may be restored, rebuilt or repaired, provided that the structure housing the nonconforming use has not been more than 50 percent destroyed as measured by the usable cubic space previously existing in such structure.

(Code 1992, § 24-225; Ord. No. 304, § 705, 6-2-2003)

Sec. 44-231. - Reversion to a nonconforming use.

If a nonconforming use is changed to a use permitted in the district in which it is located, it shall not revert or be changed back to a nonconforming lot, use or structure.

(Code 1992, § 24-226; Ord. No. 706, § 706, 6-2-2003)

Sec. 44-232. - Displacement of a conforming use.

No nonconforming use shall be extended to displace a conforming use.

(Code 1992, § 24-227; Ord. No. 304, § 707, 6-2-2003)

Sec. 44-233. - Change to another lesser nonconforming use.

The zoning board of appeals may 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 it is replacing.

(Code 1992, § 24-228; Ord. No. 304, § 708, 6-2-2003)

Sec. 44-234. - Illegal nonconforming uses.

Those nonconforming uses which are created after the effective date of this chapter shall be declared illegal nonconforming uses and shall be discontinued. Uses which were illegal under a prior ordinance and which do not conform to this chapter shall continue to be illegal.

(Code 1992, § 24-229; Ord. No. 304, § 709, 6-2-2003)

Sec. 44-235. - Changes in a zoning district.

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

(Code 1992, § 24-230; Ord. No. 304, § 710, 6-2-2003)

Sec. 44-236. - Elimination of nonconforming uses.

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 structures. The resultant property may be leased or sold for a conforming use or may be used by the city for a public purpose. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

(Code 1992, § 24-231; Ord. No. 304, § 711, 6-2-2003)

Secs. 44-237—44-265. - Reserved.

ARTICLE VIII. - SUPPLEMENTAL REGULATIONS

Sec. 44-266. - Purpose.

The intent of this article is to provide for those regulations which generally apply to all uses regardless of the particular zoning district, as well as those uses specifically identified as special land uses in article VI of this chapter.

(Code 1992, § 24-256; Ord. No. 304, § 801, 6-2-2003)

Sec. 44-267. - Area limitations.

In conforming to land and yard requirements, no area shall be counted as accessory to more than one dwelling or main building.

(Code 1992, § 24-257; Ord. No. 304, § 802, 6-2-2003)

Sec. 44-268. - Dwelling lots or sites.

Every dwelling, cottage, cabin, occupied mobile home or pre-manufactured dwelling erected outside of a mobile park shall be located on a lot or site and no more than one such dwelling shall be erected on such lot or site, except as otherwise provided in sections 44-199, temporary transient uses, and 44-276, emergency temporary dwellings.

(Code 1992, § 24-258; Ord. No. 304, § 803, 6-2-2003)

Sec. 44-269. - Accessory buildings.

Accessory buildings shall be subject to the following regulations:

- (1) Where the accessory building is structurally attached to a principal building, it shall be subject to, and must conform to, all regulations applicable to the principal building.
- (2) No accessory building shall be built upon a lot or parcel unless and until a principal building is erected, except that an accessory building may be erected on a vacant lot adjoining a lot with a principal building provided that both lots remain in common ownership. For the Tawas Lake Waterfront Residential District, lots are also considered to be adjoining if they are separated by a road or right-of-way provided that both lots remain in common ownership.
- (3) Accessory buildings shall not exceed 25 feet in height. The square footage of an accessory building shall not exceed the total square footage of the ground floor of the principal building, including any structurally attached accessory buildings.
- (4) An accessory building shall not be located within a dedicated utility or drainage easement or right-of-way.
- (5) If the lot is a corner lot, accessory buildings shall remain behind all required building setbacks adjacent to streets.
- (6) Accessory buildings may be erected in any non-required yard of non-waterfront lots in low density residential (LDR), medium density residential (MDR) and high density residential (HDR) zoning districts. In addition, an accessory building may be erected in the non-required portion of the yard facing the street on a waterfront lot.
- (7) Accessory buildings in residential zoning districts may be erected a minimum of six feet from any adjoining lot line except that they may not be erected in any required front yard.
- (8) No detached accessory buildings shall be located closer than ten feet to any principal building.
- (9) Accessory buildings shall be subject to all applicable building code regulations and shall also be subject to the same placement and coverage requirements for the zoning district in which they are located.

(Code 1992, § 24-259; Ord. No. 304, § 804, 6-2-2003; Ord. No. 311, 5-2-2005; Ord. No. 315, 7-24-2007)

Sec. 44-270. - Use of yard space.

- (a) No required yard surrounding a dwelling, building or structure utilized for dwelling purposes, shall be used, occupied or obstructed by accessory buildings or structures, either permanently or temporarily; provided, however, that a side or rear yard may be used for the parking of not more than five passenger automobiles in active service when parked on a designated hard-surfaced parking area for each vehicle, but not for the location, parking, disposition, storage, deposit or dismantling in whole or in part of junked vehicles, machinery, secondhand building materials or other discarded, disused or rubbish-like materials or structures.
- (b) This section does not apply to fences, walls, berms and vegetation used to screen the use from abutting lots and parcels as provided in section 44-297, fences, walls, and screens.

(Code 1992, § 24-260; Ord. No. 304, § 805, 6-2-2003; Ord. No. 313, 7-5-2005)

Sec. 44-271. - One-family dwelling unit standards.

No site-built, mobile home, modular housing, or prefabricated housing located outside a mobile home park shall be permitted unless said dwelling unit conforms to the following standards:

- (1) *Square footage.* A dwelling unit shall comply with the minimum floor area requirements as stated in the footnotes to section 44-115, schedule of area, height, width and setback regulations.
- (2) *Dimensions.* A dwelling unit shall have a minimum width across any front, side, or rear elevation of 20 feet.
- (3) *Foundation.* A dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the building code and shall be securely anchored to the foundation in order to prevent displacement during windstorms. Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
- (4) *Architecture and compatibility.* The compatibility of design and appearance shall be first determined by the zoning administrator. The zoning administrator may also refer any determination of compatibility to the planning commission. Any determination of compatibility shall be based upon the character, design, roof pitch, and appearance of one or more residential dwellings located within 300 feet of the subject dwelling. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. All dwellings shall have a roof overhang of not less than six inches on all sides with roof drainage systems concentrating roof drainage at specified collection points. The dwellings shall not have less than two exterior doors, with the second one being in either the rear or side of the dwelling. Steps shall also be required for exterior door areas or to porches connected to said door areas.
- (5) *Additions.* A dwelling unit shall contain no addition or room or other area which is not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- (6) *Code compliance.* A dwelling unit shall comply with all pertinent building and fire codes. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction that are different than those imposed for single-family site-built housing then such federal or state standards or regulations shall apply.
- (7) *Building permit.* All construction required herein shall commence only after building permits have been obtained.

(Code 1992, § 24-261; Ord. No. 304, § 806, 6-2-2003)

State law reference— Treatment of site-built versus manufactured housing, MCL 125.2307.

Sec. 44-272. - Manufactured housing park requirements.

- (a) The manufactured housing code, as established by the state manufactured housing commission and the state department of licensing and regulatory affairs under the authority of the mobile home commission act, Public Act No. 96 of 1987 (MCL 125.2301 et seq.), regulates development of mobile home parks. All mobile home parks must be constructed according to the standards of the code.
- (b) In addition to the rules and standards of the state, the city imposes the following conditions:
 - (1) Mobile home parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the mobile home commission act, Public Act No. 96 of 1987 (MCL 125.2301 et seq.), and subsequently adopted rules and regulations governing mobile home parks.
 - (2) Mobile home parks shall not be permitted on parcels less than 20 acres in size.

- (3) Individual mobile home sites within a mobile home park shall have a minimum lot size of 5,500 square feet per lot being served. This 5,500-square-foot minimum may be reduced by 20 percent, provided that the individual site shall be at least 4,400 square feet. For each square foot of land gained through this reduction of the site below 5,500 square feet, an equal amount of land shall be dedicated as open space. In no case shall the open space requirements be less than that required under R125.1946, Rule 946 of the Michigan Administrative Code.
- (4) The on-site storage of boat trailers, boats, camping units, horse trailers and similar recreational equipment shall be prohibited on mobile home sites and in designated open space areas.
- (5) Mobile home parks shall be landscaped as follows:
 - a. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.
 - b. If the park abuts a nonresidential zoning district development, the park need not provide screening.
 - c. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way. The landscaping shall consist of evergreen trees or shrubs a minimum three feet in height which are spaced so they provide a continuous screen at maturity.
- (6) Mobile home parks shall be subject to preliminary site plan review requirements in accordance with the mobile home commission act, Public Act No. 96 of 1987 (MCL 125.2301 et seq.).
- (7) A permit shall not be required for the construction or erection of canopies or awnings which are open on three sides. A building permit shall be required, however, before the construction or erection of any screened, glassed-in, or otherwise enclosed awning or canopy.

(Code 1992, § 24-262; Ord. No. 304, § 807, 6-2-2003)

State law reference— Mobile home commission act, MCL 125.2301 et seq.

Sec. 44-273. - Accessory building as dwelling.

No accessory building on the same lot with a principal building shall be used for dwelling purposes.

(Code 1992, § 24-263; Ord. No. 304, § 808, 6-2-2003)

Sec. 44-274. - Basement as dwelling.

No basement structure shall be used for human occupancy unless a completed story is situated immediately above the basement structure and is used as a dwelling, except underground homes designed and built in accordance with the construction code in effect in the city.

(Code 1992, § 24-264; Ord. No. 304, § 809, 6-2-2003)

Sec. 44-275. - Damaged buildings and structures.

Any building that has been partially destroyed or is in such a state of disrepair as to be uninhabitable and/or a hazard to the public health and safety shall be subject to regulations contained within the state construction code and/or fire code.

(Code 1992, § 24-265; Ord. No. 304, § 810, 6-2-2003; Ord. No. 336, 5-7-2012)

Sec. 44-276. - Emergency temporary dwellings.

- (a) Emergency temporary dwellings may be permitted upon a finding by the city that the principal residential structure has been destroyed in whole or in part and therefore is uninhabitable and the standards set forth herein have been

met.

(b) Permit application and review.

- (1) An application for a permit for the emergency temporary use and installation of a mobile home, modular, or prefabricated dwelling unit shall be made to the zoning administrator. The application shall be accompanied by a plot plan showing the location of the proposed structure.
- (2) The application shall be reviewed by a committee composed of the zoning administrator and two city council members appointed by the mayor. Approval of the application may be granted by a majority vote of the committee upon a finding that both of the following conditions are met:
 - a. The principal residential structure has been destroyed in whole or in part and therefore is uninhabitable.
 - b. The temporary dwelling unit shall be connected to sewer and water.
- (c) The granting of a permit for an emergency temporary dwelling unit shall be for a period of up to one year from the date of approval by the committee. Any conditions of approval shall be specified in writing on the permit.
- (d) To guarantee compliance with the provisions of this article and removal of the emergency temporary dwelling upon expiration of the permit, the city council may require a cash bond to be posted prior to the issuance of a permit.

(Code 1992, § 24-266; Ord. No. 304, § 811, 6-2-2003)

Sec. 44-277. - Required water supply and wastewater disposal facilities.

All required water supply and wastewater disposal facilities shall meet the requirements established by the city, county and those of the state department of environmental quality.

(Code 1992, § 24-267; Ord. No. 304, § 812, 6-2-2003)

State law reference— Sewage disposal and waterworks systems, MCL 324.4101 et seq.

Sec. 44-278. - Access to a public street or highway.

Any lot of record created prior to the effective date of this chapter without any frontage on a public street right-of-way shall not be occupied, except where access to a public street right-of-way is provided by a public or private easement or other right-of-way no less than 30 feet in width, and which meets the city street construction requirements.

(Code 1992, § 24-268; Ord. No. 304, § 813, 6-2-2003)

Sec. 44-279. - Frontage on a public or private street or highway.

In any zoning district, every use, building or structure shall be on a lot or parcel that fronts upon a public or private street right-of-way that meets all of the requirements for street construction as specified by the city.

(Code 1992, § 24-269; Ord. No. 304, § 814, 6-2-2003)

Sec. 44-280. - Visibility at intersections.

No fence, wall, hedge, screen, sign, structure, vegetation, planting, snow pile or other obstruction shall be higher than 30 inches and lower than ten feet above street grade on any corner lot or parcel in any zoning district requiring front and side yards within the triangular area formed by the intersecting street rights-of-way lines and a straight line joining the two street lines at points which are 25 feet from the point of intersection, measured along the street right-of-way lines.

(Code 1992, § 24-270; Ord. No. 304, § 815, 6-2-2003)

Sec. 44-281. - Street closures.

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

(Code 1992, § 24-271; Ord. No. 304, § 816, 6-2-2003)

Sec. 44-282. - Height regulations.

The height requirements established by this article shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this article: church steeples, bell towers, chimneys, ventilators, skylights, water tanks, bulkheads, utility poles, power lines, radio, television and other communication broadcasting (except cellular telephone) facilities, silos, parapets and other necessary mechanical appurtenances; provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the state aeronautics commission, other public authorities having jurisdiction and any regulations established by authorized state agencies and the provisions of Public Act No. 23 of 1978, Ex. Sess., airport zoning act (MCL 259.431 et seq.).

(Code 1992, § 24-272; Ord. No. 304, § 817, 6-2-2003; Ord. No. 328, 5-3-2010)

Sec. 44-283. - Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city. The construction of buildings associated with essential services shall be subject to article XI of this chapter, site plan review procedures. Otherwise, the construction, maintenance, and alteration of essential services shall be exempt from the provisions of this chapter.

(Code 1992, § 24-273; Ord. No. 304, § 818, 6-2-2003)

Sec. 44-284. - Swimming pools, hot tubs, Jacuzzis, whirlpools and other pools.

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

Depth or pool depth means the greater of the water depth or the pool wall depth.

Pool or pools means and includes all swimming pools, hot tubs, Jacuzzis, whirlpools, manmade ponds, and other pools not contained and enclosed within any principal or accessory building or structure.

- (b) *Pool requirements.* All pools more than 20 inches in depth shall be permitted as an accessory use, provided they meet the following requirements:
- (1) *Setback from property lines.* There shall be a distance of not less than six feet between each adjoining property line and the outside of the pool wall.
 - (2) *Setback from buildings.* There shall be a distance of not less than ten feet between the outside pool wall and any building located on the same lot. Provided, however, that any whirlpool, hot tub and other such pool not intended and/or used for swimming purposes may be located any distance from a building as allowed by applicable construction codes.
 - (3) *Pool location.* All pools shall be located completely within a side or rear yard.
 - (4) *Electrical conductors; wires.* If electrical service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make arrangements with the utility involved for the relocation of such

conductors or wires before a permit shall be issued for the construction or installation of a swimming pool. Such relocation shall occur prior to using the pool.

- (5) *Fencing.* For the protection of the public, the following pools shall be completely enclosed by a fence not less than four feet in height; any gates accessing the pool area shall be of a latching type and capable of being securely locked:
- a. All in-ground pools.
 - b. All aboveground or partially aboveground pools which have an exterior wall height of less than four feet above the grade of the yard in which the pool is located. Provided, however, that all aboveground or partially aboveground pools having an exterior wall height of four feet or greater, and which are accessible from the ground by means of a ladder, steps or similar device, shall be either completely enclosed by a fence pursuant to the above provisions or have a latching gate capable of being locked and preventing access to the pool by wall of such ladder, steps or similar device. Further provided that any whirlpool, hot tub and other such pool not intended and/or used for swimming purposes shall be exempt from the foregoing fencing requirements if the same is at all times equipped with a lid or cover capable of being locked when such pool is not in use.

(Code 1992, § 24-274; Ord. No. 304, § 819, 6-2-2003; Ord. No. 313, 7-5-2005)

State law reference— Public swimming pools, MCL 333.12521 et seq.

Sec. 44-285. - Home occupations.

Home occupations shall be permitted in all detached single-family residential dwellings and shall include such customary home occupations as: hairdressing, millinery, dressmaking, bookkeeping and accounting services, real estate and insurance sales, professional offices, woodworking, arts and crafts, pottery making, antique collection and sales and other similar occupations, and other home occupations involving the production of goods and services legally operating in detached single-family homes, and as well involving the growth/cultivation of marihuana or the provision of services to a qualifying patient by a primary caregiver as defined in, provided by and subject to the Michigan medical marihuana act, Initiated Law 1 of 2008 (MCL 333.26421 et seq.), and as provided in subsection (12) of this section.

- (1) The nonresidential use shall be only incidental to the primary residential use.
- (2) The occupation shall utilize no more than 25 percent of the ground floor or basement floor area of the principal structure or an equal area in an accessory structure.
- (3) Only normal domestic or household equipment and equipment characteristic of small workshops, businesses and professional offices shall be used to accommodate the home occupation.
- (4) The home occupation shall involve no employees other than members of the immediate family.
- (5) All activities shall be carried on indoors. No outdoor activities or storage shall be permitted.
- (6) No alterations, additions or changes to a principal structure which will change the residential character of the dwelling structure shall be permitted in order to accommodate or facilitate a home occupation.
- (7) There shall be no external evidence of such occupation, except a small announcement sign not to exceed two square feet in area and attached to the front wall of the principal structure.
- (8) The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this chapter, but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of home occupations.
- (9) A home occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odors, unsanitary or unsightly conditions,

fire hazards, or the like, involved in or resulting from such home occupation.

- (10) No storage or display of goods within the dwelling unit shall be visible from outside the dwelling unit.
- (11) The home occupation shall not require additional off-street parking spaces or loading/unloading areas.
- (12) The following restrictions apply relative to any home occupation involving the growth/cultivation of marihuana or the provision of services to a qualifying patient by a primary caregiver as defined in, provided by and subject to the Michigan medical marihuana act, Initiated Law 1 of 2008 (MCL 333.26421 et seq.):
- a. A medical marihuana home occupation shall not be located or operated within 1,000 feet of another medical marihuana home occupation.
 - b. The applicant must be at least 21 years of age.
 - c. The applicant shall submit a floor plan of the premises showing the following:
 1. The location of the entry, demonstrating that there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms;
 2. The location of all lighting fixtures used for the home occupation;
 3. Identification of all portions of the premises to which patrons will not be permitted access;
 4. Identification of the use of each room or other area of the premises; and
 5. Identification of any areas of the premises that will be used for the growth/cultivation of marihuana, as well as the total square footage thereof.
 - d. The applicant shall submit proof that the proposed operator of the medical marihuana home occupation has been issued a registry identification card relative to the growth/cultivation of marihuana or the provision of services to a qualifying patient by a primary caregiver as per the Michigan medical marihuana act, Initiated Law 1 of 2008 (MCL 333.26421 et seq.).
 - e. No persons under the age of 18 shall be permitted in the area of the premises used for the medical marihuana home occupation at any time, unless the person is a registered qualifying patient and/or is accompanied by his parent or legal guardian.
 - f. By applying for a home occupation use permit hereunder, the owner of the premises and/or operator of the medical marihuana home occupation thereon gives his consent to inspection of the premises for purposes of determining compliance with this article and all other applicable laws by agents, officers or representatives of the city, city police authority, county and state.

(Code 1992, § 24-275; Ord. No. 304, § 820, 6-2-2003; Ord. No. 340, pt. II, 9-4-2012)

State law reference— Instruction in craft or fine art is a required home occupation, MCL 125.3204.

Sec. 44-286. - Yearround solid waste trash container areas.

Truck-lifted or transported yearround trash container areas shall not be located within the required yard areas and shall be designed to prevent the unsightly deposit or collection of solid waste and prevent children and pets from having access to these areas. The screening of trash containers shall be in accordance with section 44-425, landscaping, greenbelts and buffers, and screening.

(Code 1992, § 24-276; Ord. No. 304, § 821, 6-2-2003)

Sec. 44-287. - Outdoor displays of products or materials intended for retail sale or rental.

- (a) *General standards.*

- (1) An outdoor display shall be considered an accessory to the principal business use conducted on the premises.
- (2) The exterior of the premises shall be kept clean, orderly and maintained.
- (3) The city shall not be held liable or responsible for any type of damage, theft or personal injury which may occur as a result of an outdoor display.

(b) *Standards within CBD district.*

- (1) An outdoor display may be located in front of or adjacent to the establishment.
- (2) Outdoor display and sale areas shall be subject to all setback requirements and shall not be placed within the public right-of-way or sidewalk areas unless otherwise permitted by the city.

(c) *Standards within WF and HSC districts.*

- (1) An outdoor display shall not be located within any required yard and shall not be located within any public street right-of-way.
- (2) An outdoor display shall not occupy or obstruct the use of any fire lane, required off-street parking or landscaped area required to meet the requirements of this chapter.

(Code 1992, § 24-277; Ord. No. 304, § 822, 6-2-2003)

Sec. 44-288. - Sidewalk cafe service.

A sidewalk cafe service operated by a restaurant or other food establishment which sells food for immediate consumption may be permitted subject to the following conditions:

- (1) An application depicting the location and layout of the cafe facility shall be submitted to the planning commission. Site plan approval shall be required. A permit shall remain in effect, unless there is a change in ownership or the operation of the cafe fails to meet the standards contained herein.
- (2) A sidewalk cafe may be located in front of or adjacent to the establishment. A sidewalk cafe that extends beyond the property lines of the applicant shall require the written permission of the affected property owners.
- (3) A sidewalk cafe shall be allowed only during normal operating hours of the establishment.
- (4) The exterior of the premises shall be kept clean, orderly and maintained or the permit may be revoked. All food preparation shall be inside the premises.
- (5) The city shall not be held liable or responsible for any type of damage, theft or personal injury which may occur as a result of a sidewalk cafe operation.
- (6) All sidewalk cafes shall comply with applicable health department regulations.

(Code 1992, § 24-278; Ord. No. 304, § 823, 6-2-2003)

Sec. 44-289. - Use of recreation vehicles as temporary dwellings by visitors.

Travel trailers, motor homes and recreation vehicles shall be permitted to be parked by visitors in a side or rear yard of a permitting dwelling owner or lessee without charge, upon application by the owner or the issuance of a temporary permit by the zoning administrator. Application shall be made within seven days after the date of arrival. The property owner or lessee shall present a written agreement with the application to furnish the occupants of the travel trailer, motor home or recreation vehicle with sanitary facilities. A temporary permit may only be issued to one travel trailer, motor home or recreation vehicle at a time in any one location and shall be valid for a maximum period of 30 days in any one calendar year. Extensions of time shall not be permitted and the travel trailer, motor home or recreation vehicle shall be removed from the property on or before the 30th day of the permit period.

(Code 1992, § 24-279; Ord. No. 304, § 824, 6-2-2003)

Sec. 44-290. - Building grades.

The finished surface of the ground areas outside the walls of any building constructed or altered shall be so designed that surface waters shall flow away from the building walls in such a direction and collection that inconvenience or damage to adjacent properties shall not occur.

(Code 1992, § 24-280; Ord. No. 304, § 825, 6-2-2003)

Sec. 44-291. - Moving buildings.

Buildings may not be relocated within or moved into the city unless the building design and construction are compatible with the general architectural character of other structures located in the immediate area of the proposed site. Approval shall be required from the planning commission prior to the moving of such buildings.

(Code 1992, § 24-281; Ord. No. 304, § 826, 6-2-2003)

Sec. 44-292. - Television satellite dish antennas.

Television satellite dish antennas shall be subject to the following requirements when being installed or constructed in any zoning districts:

- (1) Satellite dishes shall be considered accessory structures and must comply with all yard and height requirements in this chapter.
- (2) No satellite dish that exceeds 24 inches in diameter shall be constructed or installed on any roof area.
- (3) No satellite dish antenna including any platform or structure upon which the antenna is mounted shall extend more than three feet above the highest portion of a roof.
- (4) The satellite dish antenna shall be permanently attached to a foundation or structure.
- (5) No part of the satellite dish antenna shall exhibit any commercial advertising other than a name or symbol not exceeding two square feet.
- (6) A zoning permit must be obtained before any satellite dish antenna is constructed or installed.

(Code 1992, § 24-282; Ord. No. 304, § 827, 6-2-2003)

Sec. 44-293. - Yard sales.

The sale of goods on a residential parcel by the owner or occupant is permitted, provided that the duration of such sales shall not be for more than three days at any one time period and such sales shall not occur more than two times each calendar year.

(Code 1992, § 24-283; Ord. No. 304, § 828, 6-2-2003)

Sec. 44-294. - Household pets.

Small domesticated household pets, such as dogs, cats and birds existing in dwelling units in the city are limited to a maximum number of four over the age of six months, provided all such pets are kept or harbored to not disturb neighboring properties.

(Code 1992, § 24-286; Ord. No. 304, § 831, 6-2-2003; Ord. No. 330, 9-7-2010)

Sec. 44-295. - Ratio of lot width to depth.

Except as specifically provided relative to platted lots in the Central Business District in article IV of chapter 16 of this Code, as amended, all lots and parcels created subsequent to June 24, 2003, shall have a ratio which shall not exceed a depth of four times the width.

(Code 1992, § 24-287; Ord. No. 304, § 832, 6-2-2003; Ord. No. 330, 9-7-2010)

Sec. 44-296. - Condominium project regulations.

- (a) *Intent.* Pursuant to the authority conferred by section 141 of the condominium act (MCL 559.241), preliminary and final site plans shall be regulated by the provisions of this chapter and approved by the planning commission.
- (b) *General requirements.*
- (1) Each condominium unit shall be located within a zoning district that permits the proposed use.
 - (2) For the purposes of this chapter, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which it is located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.
 - (3) In the case of a condominium containing single-family detached dwelling units, not more than one dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use. Required yards shall be measured from the boundaries of a condominium lot.
- (c) *Site plan approval requirements.* Preliminary approval of the site plan and final approval of the site plan and condominium documents by the planning commission shall be required as a condition to the right to construct, expand or convert a site condominium project. No permits for erosion control, building construction, grading, or installation of public water or sanitary sewerage facilities shall be issued for property in a site condominium development until a final site plan has been approved by the planning commission and is in effect. Preliminary and final approval shall not be combined.
- (1) The applicant shall submit a site plan pursuant to the standards and procedures set forth in article XI of this chapter, site plan review procedures.
 - (2) In addition to the final site plan, the draft condominium documents shall be submitted to the city for review by the city attorney and other appropriate staff.
 - (3) The applicant shall submit detailed engineering plans to the planning commission.
 - (4) The planning commission shall approve or deny the final site plans based upon conformance with all applicable laws, ordinances and design standards.
 - (5) The planning commission, as a condition of final approval of the site plan, shall require the applicant to provide a financial guarantee as set forth in section 44-404, financial guarantees, for the completion of improvements associated with the proposed use.
 - (6) Following approval of the final site plan, the final condominium documents and engineering plans may also be approved by the planning commission.
- (d) *Required improvements.*
- (1) All design standards and required improvements that apply to a subdivision, under the subdivision regulations adopted by the city council, shall apply to any condominium development.
 - (2) Each condominium unit shall be connected to the city water, sanitary and storm sewers. Utility standards stated in the building code shall apply to all condominium units proposed for location on any property which is not subdivided and recorded, or any property which is to be further subdivided.

- (3) Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines. The city may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year, on condition that the developer deposit with the city treasurer, cash, a certified check, or an irrevocable bank letter of credit running to the city, whichever the developer selects, in an amount as determined from time to time by resolution of the planning commission. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the state that the monuments and irons have been set as required, within the time specified. If the developer defaults, the planning commission shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.
 - (4) Road rights-of-way shall be described separately from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing public utilities. The developer shall declare easements to the city for all public water and sanitary sewer lines and appurtenances.
 - (5) All improvements in a site condominium shall comply with the design specifications as adopted by the city and any amendments thereto.
- (e) *Information required prior to occupancy.* Prior to the issuance of occupancy permits for any condominium units, the applicant shall submit the following to the zoning administrator:
- (1) A copy of the recorded condominium documents (including exhibits).
 - (2) A copy of any recorded restrictive covenants.
 - (3) A copy of the site plan on laminated photostatic copy or Mylar sheet.
 - (4) Evidence of completion of improvements associated with the proposed use, including two copies of an as-built survey.
- (f) *Revision of site condominium plan.* If the site condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the planning commission before any building permit may be issued, where such permit is required.
- (g) *Amendment of condominium documents.* Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the city attorney and planning commission before any building permit may be issued, where such permit is required. The planning commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.
- (h) *Relocation of boundaries.* Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in section 48 of the condominium act (MCL 559.148), shall comply with all regulations of the zoning district in which it is located and shall be approved by the planning commission upon recommendation of the city assessor. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
- (i) *Subdivision of condominium lot.* Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in section 49 of the condominium act (MCL 559.149), shall comply with all regulations of the zoning district in which it is located, and shall be approved by the planning commission upon recommendation of the city assessor. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.

(Code 1992, § 24-288; Ord. No. 304, § 833, 6-2-2003)

State law reference— Condominium act, MCL 559.101 et seq.

Sec. 44-297. - Fences, walls and screens.

Any person desiring to build a fence shall first apply to the zoning administrator for a permit. Application for such permit shall contain any and all information, including site plan information, which is required and necessary for the determination of whether the erection of such fence would be contrary to the provisions of this chapter. The fee for such permit shall be set by council resolution. Except as otherwise required by this chapter, the following regulations shall apply:

- (1) In a residential district, fences shall not exceed six feet in height. However, fences in the required front yard shall not exceed four feet in height and 50 percent opacity. Opacity is the degree to which a fence is impervious to rays of light. This condition shall be measured by the observation of any two-square-yard area of fence between one foot above the ground level and the top of the fence. The observation shall be from a direction perpendicular to the place of the fence.
- (2) In a commercial, industrial, or office district, no fence, wall, or other screening structure shall exceed eight feet in height.
- (3) The use of barbed wire, spikes, nails, or any other sharp point or instrument of any kind on top or on the sides of any fence is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or wherever deemed necessary in the interests of public safety.
- (4) No fence shall be constructed or maintained which is charged or connected with an electrical current.
- (5) Retaining walls shall be designed and constructed in accordance with applicable building code requirements.
- (6) Temporary construction fences and fences required for protection around excavations shall comply with the building code. Such fences shall not remain in place for a period greater than one year.
- (7) Clear vision requirements.
 - a. No fence, wall, screen, hedge, sign, or other structure or planting shall obstruct visibility, as provided in section 44-280
 - b. On any interior lot, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of a driveway, either on a parcel or on an adjacent parcel, between the height of 30 inches and ten feet measured a distance of 20 feet back from the point where the driveway intersects the street.

(Code 1992, § 24-289; Ord. No. 304, § 834, 6-2-2003)

Secs. 44-298—44-327. - Reserved.

ARTICLE IX. - OFF-STREET PARKING, LOADING AND UNLOADING REQUIREMENTS

Sec. 44-328. - Purpose.

It is the purpose of this article to improve and maintain the safety of the streets and highways in the city by requiring off-street parking, loading and unloading spaces for all uses permitted by this chapter in order to provide for the proper function and safety in the use of streets and highways as trafficways which are intended to be limited to moving automotive vehicles.

(Code 1992, § 24-311; Ord. No. 304, § 901, 6-2-2003)

Sec. 44-329. - Off-street parking requirements.

In all districts except the CBD, at the time any building or structure is erected, or uses established, enlarged or increased in capacity, off-street parking spaces shall be provided for automotive and motorized vehicles with the requirements specified as follows. Residential uses in the CBD shall, however, be subject to off-street parking requirements as listed in [section 44-331](#).

- (1) Plans and specifications showing required off-street parking places shall be submitted to the zoning administrator for review at the time of application for a zoning permit. Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within 300 feet thereof, except that this distance shall not exceed 150 feet for single-family and two-family dwellings.
- (2) Outdoor parking of motor vehicles in all residential districts shall be limited to five passenger vehicles, four nonresidential-type recreational vehicles per dwelling unit, and not more than one commercial vehicle of the light delivery type, not to exceed one rear axle and a three-ton payload capacity, per dwelling unit. The outdoor parking of any other type of commercial vehicle, or bus, except for those parked on school or church property, is prohibited in all residential districts. Parking space requirements for all types of vehicles may be provided either in garages or covered or outdoor parking areas conforming to the provisions of this article.
- (3) Required off-street parking facilities for churches located in nonresidential districts may be reduced by an equivalent number of off-street parking spaces located within 300 feet, if they are directly accessible and usable as off-street parking spaces.
- (4) Off-street parking facilities for trucks at restaurants, service stations and other similar and related uses shall be of sufficient size to adequately serve trucks and not interfere with other vehicles that use the same facilities. Such truck spaces shall not be less than ten feet in width and 80 feet in length.
- (5) Combined parking facilities are allowed when two or more uses occur on one property or when a building on one property contains two or more uses, provided that the permanent allocation of the required number of parking spaces shall be the sum of the requirements for all the uses computed in accordance with this article. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except churches. Where two or more uses are present on the premises, parking requirements shall be calculated for each use, unless specifically provided otherwise herein.
- (6) An area designated as required off-street parking shall not be changed to any other use unless and until equal facilities meeting the standards of this section are provided elsewhere, or the parking requirements of the site change.
- (7) Parking lot deferment. Where the property owner can demonstrate that the required amount of parking is excessive, the planning commission may approve a smaller parking area, provided that area of sufficient size to meet the parking space requirements of this article is retained as open space, and the owner agrees to construct the additional parking at the direction of the planning commission based on observed usage within six months of being informed of such request in writing by the zoning administrator. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.
- (8) For the purpose of determining off-street parking requirements, the following units of measurement shall apply: Floor area. In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, the unit shall mean the total floor area, except that such floor area need not include any area used for incidental service, storage installations of mechanical equipment, penthouses, housing ventilators and heating systems and similar uses.
- (9) No commercial repair work, servicing, selling or other commercial activities of any kind shall be conducted on any

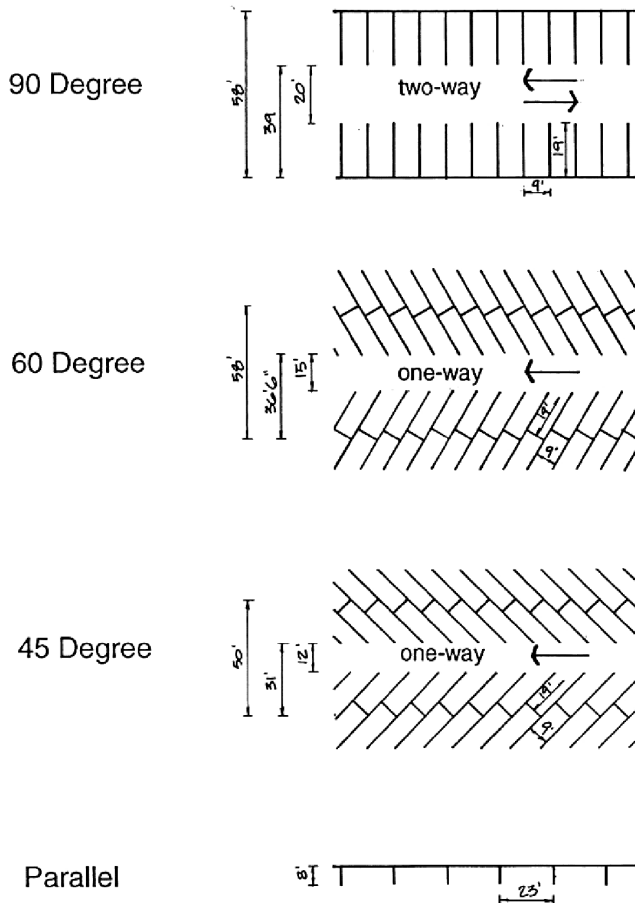
required parking area except that which is specifically permitted by this chapter.

(Code 1992, § 24-312; Ord. No. 304, § 902, 6-2-2003)

Sec. 44-330. - Design standards for off-street parking.

- (a) Each off-street parking space for automobiles shall not be less than 171 square feet in area, exclusive of access drives or parking space access aisle, and shall be of usable shape and condition. There shall be provided a minimum access drive of ten feet in width, and where a turning radius is necessary it will be of such an arc as to reasonably allow an unobstructed flow of vehicles. Parking space access aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of a parking space. The minimum dimensions shall be as follows:

PARKING LAYOUTS



PARKING LOT STRIPING LAYOUT

4" Wide Yellow or White Paint Stripes
 Double Striping (Optional)
 Single Striping

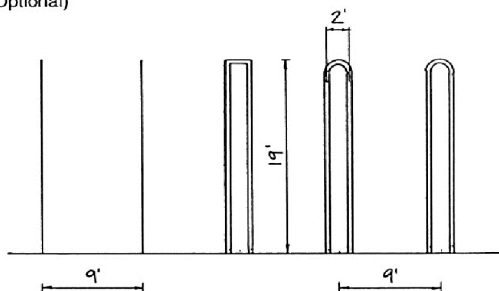


Fig. 9-1

- (b) All off-street parking spaces, except in the CBD, shall not be closer than ten feet to any property line.
- (c) All off-street parking areas shall be drained so as to prevent any increase in drainage to abutting properties and shall be constructed of hard-surfaced paving materials.
- (d) Any lighting fixtures used to illuminate any off-street parking area shall be installed so as to divert the light away from any adjoining premises and public streets, and no source of light shall be observable beyond the lot lines of the property upon which it is located. All site lighting shall be down-directed and shielded. Light levels shall not exceed one footcandle at perimeter property lines. The maximum height of parking lot light fixtures and poles shall be 20 feet.

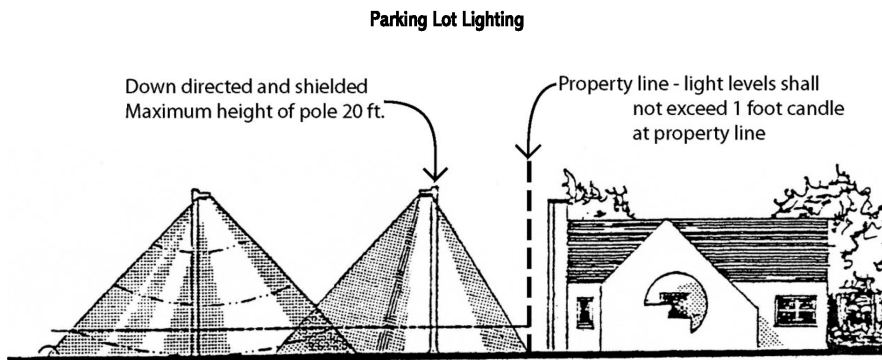


Fig. 9-2

- (e) Any off-street parking area providing space for five or more vehicles shall be effectively screened on any side which adjoins a residential lot or institution by a berm, wall, fence, or compact evergreen planting not less than four feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
- (f) All off-street parking areas that make it necessary for vehicles to back out directly onto a public street are prohibited, except for single-family and duplex residential driveways.
- (g) All such parking lots, driveways, or loading areas required for uses other than single- or two-family residential shall be hard-surfaced with asphalt or concrete pavement, shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a certificate of occupancy being issued. Drainage for parking lots shall conform to the standards set forth in this chapter.
- (h) Not more than 20 parking spaces shall be permitted in a continuous row in commercial and industrial districts without being interrupted by landscaping.
- (i) Curbing or bumper blocks shall be provided where parking spaces abut landscaping, property lines, sidewalks or required setback areas.

Off-Street Parking Standards

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Average Total Width of One Tier of Space Plus Maneuvering Lane	Average Total Width of Two Tiers of Spaces Plus Maneuvering Lane

O degrees (parallel curb parking)	—	8'	23'	—	—
30 degrees to 53 degrees	12'	9'	19'	31'	50'
54 degrees to 74 degrees	15'	9'	19'	36'6"	56'
75 degrees to 90 degrees	20'	9'	19'	39'	58'

(Code 1992, § 24-313; Ord. No. 304, § 903, 6-2-2003)

Sec. 44-331. - Off-street parking space requirements.

The minimum required off-street parking spaces are set forth as follows:

	Use	Minimum Number of Parking Spaces per Unit of Measure
A. Residential		
1.	One-family and two-family.	Two for each dwelling unit.
2.	Multiple-family.	Two for each dwelling unit containing one bedroom; <u>2.5</u> for each dwelling unit containing two bedrooms; three for each dwelling unit containing three bedrooms or more plus at least five spaces for any office building or clubhouse facility.
3.	Housing designed specifically for the elderly either through federal, private, or public nonprofit sponsorship.	One for each one unit. Should dwelling units revert to general occupancy, then multiple-family standards shall be met. A minimum of one visitor space shall be required for each six dwelling units.
<u>4</u>	Dwelling units in the CBD.	One for each dwelling.

	5.	Mobile home park/manufactured housing community.	Two for each mobile home and one for each three mobile homes for visitor parking.
B. Institutional			
	1.	Auditoriums, assembly halls, gyms, outdoor arenas for institutional uses, stadiums and sports arenas.	One space per each three seats of permitted capacity or one space per six feet of bleachers, whichever is greater.
	2.	Churches or places of worship.	One for each two seats or four feet of pews in the main unit of worship, plus any additional spaces needed for any day care, school, recreational facilities and other uses determined by calculation by other sections. An operations plan shall be submitted to support the amount of parking provided.
	3.	Elementary, junior high schools.	One for each classroom and office, in addition to the requirements of the auditorium or gym or assembly hall.
	<u>4</u>	Group day care home.	Two in addition to the two required for the residence. Such additional spaces may be located in the front or side yard setback.
	5.	Homes for the aged, convalescent and retirement homes.	One for each two beds.
	<u>6</u>	Hospitals, including emergency rooms.	2½ spaces per each licensed bed; or one space per each two licensed beds, plus one space per each staff doctor and employee during peak shifts, plus one space for each five outpatients on a typical peak outpatient weekday.
	7.	Municipal recreation centers.	Five spaces per 1,000 square feet of floor area plus parking required for outdoor courts, fields and facilities, or 0.33 spaces per person of permitted capacity, whichever is greater.
	8.	Nursery schools, day nurseries, or child care centers.	One for each 150 square feet of usable floor space.

	9.	Private clubs or lodge halls.	One for each two persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes or 15 spaces per 1,000 square feet of usable floor area, whichever is greater.
	10.	Senior high schools.	Four for each classroom and one for each office, in addition to the requirements of the auditorium or gym or assembly hall.
C. Business and commercial			
	1.	Auto wash (automatic).	One for each one employee. In addition, reserve parking spaces equal in number to five times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possibly undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by 20.
	2.	Auto wash (self-service or coin-operated).	Five for each washing stall in addition to the stall itself.
	3.	Automobile service stations.	Two for each service bay and one for each gasoline pump in addition to the requirements of a car wash and convenience store listed in this section.
	<u>4</u>	Bars, nightclubs, lounges (majority of sales consist of alcoholic beverages).	One space for each 75 square feet of usable floor area.
	5.	Beauty parlor or barbershop.	Three spaces for each of the first two beauty or barber chairs, and 1½ spaces for each additional chair.
	<u>6</u>	Bowling alleys.	Five for each one bowling lane, plus the requirements for accessory facilities such as bars and restaurants.

7.	Building hardware and household equipment when not part of a department store. Otherwise see retail general.	One space for each 500 square feet of gross floor area.
8.	Club warehouses.	Six spaces per 1,000 square feet of usable floor area.
9.	Commercial outdoor recreation centers not specified elsewhere.	To be determined by the planning commission in consideration of the expected types of activities, number of participants, spectators, accessory uses and occupants per vehicle.
10.	Convenience store, with or without gasoline service.	Four spaces per 1,000 square feet of usable floor area, plus spaces required for an auto service station activities or gasoline sales.
<u>11.</u>	Custom workshops such as furniture, refinishing or custom designed furniture manufacturing.	One space for each 800 square feet of gross floor area.
12.	Dance halls, pool or billiard parlors, roller or skating rinks, exhibition halls and assembly halls without fixed seats.	One for each two persons allowed within the load established by the building code.
<u>13.</u>	Discount store.	Five spaces per 1,000 square feet of usable floor area.
14.	Driving range.	One space per two tees plus parking required for any other uses.
15.	Dry cleaners.	Two spaces per each 1,000 square feet of usable floor area, plus two stacking spaces for each drive-through lane.
<u>16.</u>	Food stores/grocery stores.	One space for each 250 square feet of gross floor area.
<u>17.</u>	Funeral homes and mortuaries.	One space per 50 square feet of service parlors, chapels, and reception areas, plus one space per each funeral vehicle stored on the premises.

	<u>18.</u>	Appliance, household equipment sales and service when not part of a department store. Otherwise, see retail, general.	One space for each 800 square feet of gross floor area.
	19.	Furniture/carpet store.	1½ spaces per 1,000 square feet of usable floor area.
	20.	General retail sales and service establishments, not elsewhere classified.	One space for each 200 square feet of gross floor area.
	<u>21.</u>	Golf course, par 3.	Three spaces per each course hole, plus parking required for accessory uses such as arcades or batting cages, plus one space for each employee at the peak shift.
	<u>22.</u>	Golf courses (public or private) except miniature or par 3 courses.	Four spaces for each golf hole and one space for each employee, plus any spaces required for banquet rooms, restaurant and other uses.
	23.	Hypermarkets (combined grocery and department stores).	Six spaces per 1,000 square feet of usable floor area.
	<u>24.</u>	Laundromats.	One space for each two machines.
	25.	Marinas and waterfront developments.	One space per boat slip and one space per 150 square feet of floor area in buildings and structures.
	<u>26.</u>	Mini-, self-storage warehouses.	Minimum of six spaces.
	<u>27.</u>	Motels, hotels, or bed and breakfast inns.	One for each one occupancy unit, plus extra spaces for dining rooms, ballrooms, meeting rooms, etc., as required herein.

	<u>28.</u>	Motor vehicle sales and service establishments.	One space for each 200 square feet of usable floor space of salesroom and two spaces for each one auto service stall in the service room. The areas devoted to customer service and employee parking shall be clearly delineated on the parking plan and reserved for that purpose. Parking space is exclusive of the requirement for new vehicle storage and display.
	<u>29.</u>	Oil change facilities.	A minimum of three spaces for employees, but not less than two for each lubrication stall, rack, pit, or similar service area. In addition, two waiting spaces for each service area shall be provided.
	30.	Planned commercial or shopping centers in which the prime tenants are supermarkets and/or department stores.	One for each 150 square feet of usable floor space.
	31.	Racquetball/tennis centers.	One space per 1,000 square feet floor area or six spaces per court, whichever is greater.
	<u>32.</u>	Restaurant (including restaurants with or without dancing, lounges, bars and entertainment facilities, which provide only seated table service).	One space per 100 square feet of gross floor area, plus any spaces required for any banquet and meeting rooms.
	<u>33.</u>	Restaurant, family (without a bar or lounge area which provides food delivered to tables or dining counters and only incidental carry-out service).	One space per 100 square feet of gross floor area plus any spaces required for any banquet or meeting rooms.
	<u>34.</u>	Restaurant, take out, fast food (including drive-through and drive-in, providing quickly or previously prepared foods. The patron typically carries the food out to separate indoor or outdoor seating area).	One space per 100 square feet of gross floor area, plus three stacking spaces per order pick-up station, plus spaces for employees of a peak shift, minimum of three spaces.

	<u>35.</u>	Shopping centers.	Six spaces per 1,000 square feet of usable floor area, plus spaces required for supermarket or restaurant, if included.
	36.	Swimming pools.	One space per each three persons of capacity authorized by the building code.
	<u>37.</u>	Theaters, cinemas, or auditoriums.	One space for each three seats or six feet of benches.
	<u>38.</u>	Video arcades.	One space per 50 square feet of usable floor area, with a minimum of six spaces required.
	39.	Video rental establishments.	15 spaces per 1,000 square feet of usable floor area with a minimum of six spaces provided.

D. Office

	1.	Branch banks, credit unions or savings and loans.	One space per each 200 square feet of usable floor area plus two spaces per each 24 hour teller, plus two stacking spaces for each drive-up teller.
	2.	Business and professional.	One space for each 200 square feet of gross floor space.
	3.	Medical clinics: outpatient care centers, emergency care/24-hour med stations, etc.	Two spaces per exam or outpatient procedure/operating room, plus one for laboratory or recovery room, plus one space for each two rooms for employee parking.
	<u>4</u>	Medical/dental offices.	One space for each 150 square feet of gross floor area.

E. Industrial

	1.	Light industrial, manufacturing, testing labs, research and development centers.	Five spaces plus two spaces per 1,000 square feet of usable floor area, or <u>1.2</u> spaces per employee at peak shift, whichever is greater; plus one space for each corporate vehicle, plus spaces required for any sales area or office. Space on site shall also be provided for all construction workers during periods of plant construction.
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2.	Wholesale/warehouse establishments (non-retail warehouse).	Five spaces plus one space for every employee in the largest working shift, or one space for every 1,700 square feet of usable floor area, whichever is greater, plus spaces required for any sales area or office.
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(Code 1992, § 24-314; Ord. No. 304, § 904, 6-2-2003)

Sec. 44-332. - Off-street loading and unloading requirements.

In connection with every use, except in the CBD, single-family, two-family and multiple-family dwelling unit structures, there shall be provided on the same lot with such buildings, off-street loading and unloading spaces for permitted or special uses which customarily receive or distribute materials or merchandise or provide services by vehicle as follows:

- (1) Plans and specifications showing required loading and unloading spaces, including the means of ingress and egress and interior circulation, shall be submitted to the planning commission for review at the time of application for a zoning permit for the establishment or enlargement of a use of land, building or structure.
- (2) Each off-street loading-unloading space shall not be less than ten feet in width, 80 feet in length, and, if a roofed space, 15 feet in height.
- (3) A loading/unloading space may occupy all or any part of any required side or rear yard. No part of a required front yard may be occupied by a loading space.
- (4) A loading/unloading space shall not be located closer than 50 feet to any residential lot or parcel unless wholly within a completely enclosed building, or unless enclosed on all sides by a berm, wall, fence, or compact planting not less than six feet in height.
- (5) When two or more uses are located on a lot or parcel, the total requirements for off-street loading/unloading facilities shall be the sum of all the uses computed separately.
- (6) All off-street loading/unloading facilities that make it necessary to back out directly into a public street shall be prohibited.
- (7) Off-street loading spaces and access drives shall be hard-surface paved, drained, lighted and shall have appropriate bumper or wheel guards where needed.
- (8) All lights used for illumination shall be so arranged as to reflect the light away from the adjoining premises and streets, and no light source shall be visible beyond the property lines of a lot or parcel upon which they are located.
- (9) Off-street loading/unloading requirements for motels, hospitals, funeral homes and mortuaries, public assembly structures, offices, retail, wholesale, industrial or other uses similarly involving the receipt or distribution by trucks, having over 5,000 square feet of gross floor area, shall be provided with at least one off-street loading/unloading space, and for every additional 20,000 square feet of gross floor space or fraction thereof shall provide one additional loading/unloading space.
- (10) If a use is not specifically listed, the requirements of a similar or related use shall apply, as determined by the zoning board of appeals.

(Code 1992, § 24-315; Ord. No. 304, § 905, 6-2-2003)

Secs. 44-333—44-352. - Reserved.

ARTICLE X. - SIGNS

FOOTNOTE(S):

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State Law reference— Highway advertising act, MCL 252.301 et seq.

Sec. 44-353. - Purpose.

- (a) The purpose of this article is to regulate on-site signs and outdoor advertising so as to protect the health, safety, and general welfare, to protect property values, and to protect the character of the various neighborhoods and the city generally.
- (b) The principal features are the restriction of advertising to the use of the premises on which the sign is located and the restrictions of the total sign area permissible per site. Any sign placed on land or on a building for the purpose of identification or for advertising a use conducted on the premises shall be deemed an accessory use. It is intended that the display of signs will be appropriate to the land, building, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification or advertisement. With respect to signs advertising business uses, it is specifically intended, among other things, to avoid excessive competition and clutter among sign displays. Outdoor advertising signs (billboards), which advertise products or businesses not connected with the site or building on which they are located, are deemed to constitute a principal use of a lot.

(Code 1992, § 24-341; Ord. No. 304, § 1001, 6-2-2003)

Sec. 44-354. - Definitions.

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

Abandoned sign means a sign which no longer advertises or identifies a business, lessor, owner, or activity conducted upon or product available on or off the premises where such sign is displayed.

Accessory sign means an accessory structure used for advertising and located on the same lot or parcel as the principal building.

Animation means a rapid display or a sequence of images or blinking lights in order to create an illusion of movement.

Announcement bulletin means a sign related to a public school, parochial school, private school, clubs or organizations, public park or recreation facility, church or other religious institution which identifies activities or events to take place involving the patrons of such specific use.

Billboard means a surface whereon advertising matter is set in view conspicuously and which advertising does not apply to premises or any use of premises wherein it is displayed or posted (an off-site sign) and is regulated in accordance with regulations governed by the Highway Advertising Act of 1972, Public Act No. 106 of 1972 (MCL 252.301 et seq.).

Canopy sign means any sign attached to or constructed within or on a canopy or on an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy and a protective roof over gasoline filling station areas shall not be considered a canopy for purposes of this article.

Changeable copy sign means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this article.

Copy area means the area of the sign upon which the message is displayed or illustrated.

Directory sign means an off-premises ground sign listing only the names of tenants or occupants of a building, group of buildings, and/or business district, their professions or business activities, and their direction or location. (See figure 10-1.)



Directory Sign

Fig. 10-1

Electronic message sign/LED means a sign with a fixed or changing message composed of a series of lights or light-emitting diodes (LED) that may be changed through electronic means. A time and/or temperature sign shall not be considered as an LED sign.

Facade means a continuous area on the front or back of the building which is free of windows and doors.

Face area means the area of the sign face that shall be computed by means of measuring the smallest square or rectangle that will encompass the extreme perimeter of the writing, representation or emblem.

Footcandle means a unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot and originally defined with reference to a standardized candle burning at one foot from a given surface.

Freestanding sign means a sign which is attached to or part of a completely self-supporting structure. The supporting structure shall be placed in or below the ground surface and not attached to any building or any other structure, whether portable or stationary.

Identification sign means a sign which carries only the name of the firm, the major enterprise, the principal product or service offered for sale on the premises, or a combination of these things, only to identify location of said premises and not to advertise. Such signs shall be located only on the premises on which the firm or major enterprise is situated, or on which the principal product is offered for sale.

Inflatable sign means a sign consisting of a balloon or other gas-filled structure.

Marquee sign means a permanent roof-like projection over the entrance to a theater, movie house, etc.

Monument sign means a sign extending upward from grade which is attached to a permanent foundation for a distance not less than 50 percent of its length, and which may be attached or dependent for support from any pole, posts, or similar uprights, provided such supports are concealed within the sign structure.

Off-premises sign means a display sign, including billboards, that contains a message unrelated to or not advertising a business transacted or goods sold or produced on the premises on which the sign is located.

On-premises sign means a sign which advertises or identifies only goods, services, facilities, events, or attractions on the premises where located.

Portable temporary sign means a single or double surface painted or poster panel type sign or some variation thereof, which is temporary in nature, easily movable, and not permanently attached to the ground or a building.

Projecting sign means a sign which is perpendicularly attached to and projects from a structure or building wall not specifically designed to support the sign.

Real estate sign means a temporary sign placed upon property for the purpose of advertising to the public the sale or lease of said property.

Roof sign means any sign wholly erected, constructed or maintained on the roof structure of any building.

Sign means a device which is affixed to, or otherwise located or set upon a building, structure or parcel of land which directs attention to an activity or business. This includes interior signs which are directed at persons outside the premises and exterior signs, but not signs primarily directed at persons within the premises. This definition does not include goods for sale displayed in a business window.

Sign area means the area of a sign that shall be computed by means of the smallest square, circle, triangle, rectangle, or combination thereof, that will encompass the extreme limits of the representation, writing, emblem, or other display, together with any material or color forming the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. Frames and structural members not bearing copy shall not be included in computation of sign area. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except where two such faces are placed back-to-back, parallel to one another, and less than 24 inches apart, the area of the sign shall be the area of one face. That portion of the sign structure connecting the sign face shall not be used for display purposes. (See figure 10-2.)

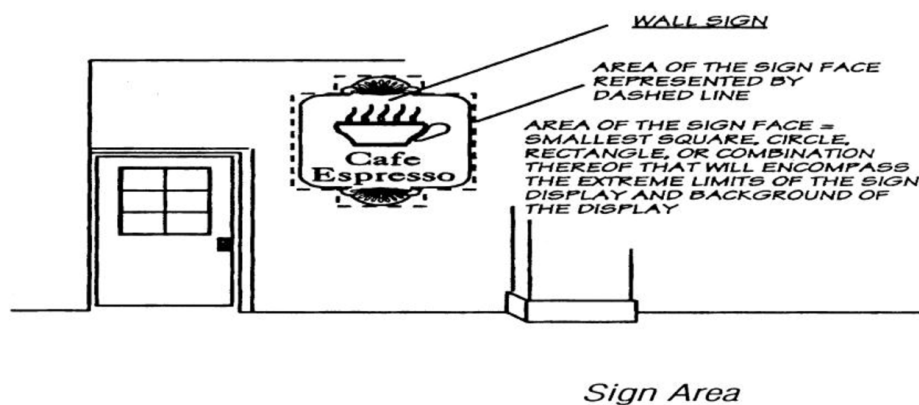


Fig. 10-2

Sign height means the height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of existing grade prior to construction or mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoning lot, whichever is lower.

Sign surface means any part of the sign upon, against, or through which the message is displayed or illustrated.

Temporary sign means a sign that is intended to be displayed for a limited period of time.

Wall sign means a sign that shall be affixed parallel to the wall or printed or painted on the wall of any building; provided, however, said wall sign shall not project above the top of the wall or beyond the end of the building. For the purpose of this chapter, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign.

Welcome sign means a sign displaying the name of the owner or a sign saying "Welcome."

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

(Code 1992, § 24-342; Ord. No. 304, § 1002, 6-2-2003; Ord. No. 321, 8-17-2009; Ord. No. 339, § 1002, 7-16-2012)

Sec. 44-355. - Exempted signs.

The following types of signs are exempted from all provisions of this chapter, except for construction and safety regulations and the following standards:

- (1) Signs of a noncommercial nature and in the public interest, erected by, or on the order of a public officer in the performance of a public duty, such as directional signs, regulatory signs, warning signs, and informational signs including electronic message signs (LED) used for right-of-way or public utility improvements.
- (2) Names of brands, manufacture's labels and logos, date of erection, monument citations, commemorative tablets, and the like, when carved into stone, concrete, metal, or similar material or made of permanent type construction and made an integral part of the structure.
- (3) Historic signs designating sites recognized by the state historical commission or local government body or agency.
- (4) Signs directing traffic on private property, but bearing no advertising matter except logos not exceeding one square foot in area.
- (5) Signs displayed for the direction or convenience of the public, including signs which identify restrooms, location of public telephones, public entrances, freight entrances, or the like, with a total surface area not to exceed six square feet per sign on any lot or parcel.
- (6) Yard sale signs, provided that no person shall in any way attach posters, notices or advertisements to utility poles, meter posts, or trees in or along any street right-of-way within the city, and that no person shall put up any notice upon any building, wall or fence or other property of another person without having first obtained the consent of the owner of such property. The maximum time limit for all yard sale signs is three consecutive days.
- (7) Gasoline price signs; provided the total sign area is less than five square feet. These signs may include light-emitting diode (LED) signs subject to [section 44-362](#)
- (8) At gasoline stations, corporate identification signs of less than ten square feet each, attached directly to a canopy providing coverage to pump islands.

- (9) Wall murals and similar graphics containing no direct advertisement, subject to the review and approval of the plan commission.
- (10) Real estate signs advertising the single parcel of land on which the sign is located, provided such signs are smaller than nine square feet for residential sales and 32 square feet for commercial sales.
- (11) Home security signs and welcome signs not exceeding two square feet in area.
- (12) In all districts, one sign for each public street frontage advertising a recorded subdivision or development shall be permitted. Each sign shall not exceed 25 square feet in area. Each sign shall be removed within one year after the sale of 70 percent of all lots or units within said subdivision or development.
- (13) Temporary signs announcing any public, charitable, educational or religious event or function, located entirely within private premises as approved by the zoning administrator, shall be permitted. Maximum sign area for all signs shall not exceed 25 square feet. Signs advertising not more than two events per year shall be allowed for a period not to exceed 14 consecutive days for each event. If building mounted, signs shall be flat wall signs and shall not exceed six feet in height. Signs shall be set back a minimum of one-half the front yard requirements as measured from the street right-of-way line.
- (14) Portable signs are permitted in WF, HSC, LI and I districts for a period not to exceed 14 consecutive days and not more than two times in any calendar year. Maximum sign area shall not exceed 25 square feet. Such signs and objects shall not obstruct pedestrian or vehicular view.
- (15) Political campaign signs announcing candidates seeking public political office and other data pertinent thereto, providing that these signs shall be removed within 24 hours after the date of the election for which they were posted, and shall not exceed nine square feet in area.
- (16) One "for rent" or "vacancy" sign may be placed on each public street frontage of a rental residential development, provided that such sign shall not exceed nine square feet in area and is incorporated into the identification sign. Signs shall be located behind the right-of-way line of any public street.
- (17) One unlighted nameplate identifying the name of the occupant, not to exceed two square feet in area. The sign shall be attached flat against the front wall of the building.
- (18) Drive-through restaurant menu boards, not to exceed 48 square feet in area or 8½ feet in height.
- (19) Temporary electronic message sign/LED announcing any public, charitable, educational or religious event or function, located entirely within private premises as approved by the zoning administrator shall be permitted. Maximum sign areas for all signs shall not exceed 25 square feet. Signs advertising not more than two events per year shall be allowed for a period not to exceed 14 consecutive days for each event.

(Code 1992, § 24-343; Ord. No. 304, § 1003, 6-2-2003; Ord. No. 313, 7-5-2005; Ord. No. 317, 2-4-2008; Ord. No. 321, 8-17-2009)

Sec. 44-356. - Prohibited signs.

The following types of signs are prohibited:

- (1) Tacking, pasting, or otherwise affixing of signs or posters visible from a public way except "no trespassing," "no hunting," "beware of animal" warning or danger signs, and other legal postings as required by law, located on the walls of buildings, barns, sheds, on trees, poles, posts, or fences is prohibited.
- (2) Pennants, banners, searchlights, twirling signs, sidewalk or curb signs, balloons, or other gas-filled figures are prohibited except as provided in section 44-362, temporary signs.
- (3) No sign or any portion thereof which moves or assumes any motion constituting a non-stationary or non-fixed condition shall be permitted.

- (4) As defined in this article, abandoned signs shall be prohibited and removed within 30 days of receipt of city written notification.
- (5) A sign which displays flashing or blinking lights of changing degrees of intensity except as permitted in section 44-360(5), permitted signs in WF, HSC, LI, and I districts.
- (6) A sign or illumination that causes any direct glare into or upon any building other than the building to which the sign may be accessory.
- (7) Signs which are of a size, location, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic, street sign or signal that obstructs the view in any direction at a street or road intersection.
- (8) Signs which contain statements, words, or pictures of an obscene, pornographic or immoral character.
- (9) Signs which emit audible sound or odor.
- (10) A sign which obstructs any window or door opening.
- (11) Signs attached to fences, printed directly on, attached to, or affixed to any tree, rock, or similar inorganic natural matter. For purposes of this chapter, the etching of advertising copy directly on a boulder or rock, or the affixing of a placard directly thereto, shall be permitted and regulated as a freestanding sign pursuant to section 44-360(3), freestanding signs.
- (12) Roof sign, except as provided in section 44-360(4), roof signs.
- (13) Off-premises signs, except as provided in section 44-358, signs permitted in all districts, or except in accordance with section 44-367
- (14) Temporary electronic message (LED) signs except as permitted in subsection 44-355(19).

(Code 1992, § 24-344; Ord. No. 304, § 1004, 6-2-2003; Ord. No. 313, 7-5-2005; Ord. No. 315, 7-24-2007; Ord. No. 321, 8-17-2009; Ord. No. 339, § 1004, 7-16-2012)

Sec. 44-357. - General sign regulations.

The following regulations shall apply to all signs:

- (1) Illumination.
 - a. In LDR, MDR, HDR, TLWFR and MFR zoning districts, only indirectly illuminated signs shall be allowed, provided such signs are so shielded as to prevent direct light rays from the source of light being visible from the public right-of-way or any adjacent residential property.
 - b. In HSC, OSC, CBD, WF, LI and I districts, indirectly or internally illuminated signs are permitted, provided such signs are so shielded as to prevent direct light rays from the source of light from being visible from the public right-of-way or any adjacent residential property.
 - c. Exposed neon or gaseous light tubing shall be permitted.
 - d. In no case shall any sign exceed a level of illumination of 0.08 footcandles and a luminaire brightness of 2,400-foot lamberts, when measured at the property line.
- (2) No freestanding sign or roof sign shall exceed 20 feet in height.
- (3) Except where specified otherwise in sections 44-355, exempted signs; 44-360(3), freestanding signs; 44-360(6), exceptions, and 44-361(3), permitted signs in the CBD, all signs shall be set back a minimum of one-half the front yard requirements as measured from the street right-of-way line.
- (4) All signs, except those exempted by sections 44-355, exempted signs; 44-361(4), signs permitted in the CBD; 44-

362(2), shall be reviewed and approved by the city planning commission as part of the site plan review process and/or sign application, as required in article XI of this chapter, site plan review procedures.

- (5) No sign, except for projecting, canopy, marquee signs allowed in the CBD and those maintained by the city, county, state or federal government, shall be located in or overhang a public right-of-way or dedicated easement.
- (6) One sandwich board sign not exceeding 12.5 square feet per sign face and not more than 54 inches in height may be permitted in addition to the other permitted signs, provided the sign is located on private property of a commercial business. (See figure 10-3.) Refer also to section 44-362, temporary signs, for regulations pertaining to temporary sandwich board signs.

*SIGN MUST BE LOCATED
ON PRIVATE PROPERTY
OF A COMMERCIAL BUSINESS.*



Fig. 10-3

(Code 1992, § 24-345; Ord. No. 304, § 1005, 6-2-2003; Ord. No. 313, 7-5-2005)

Sec. 44-358. - Signs permitted in all districts.

Subject to the other conditions of this chapter, the following signs shall be permitted in any zoning district within the city:

- (1) Off-premises signs which bear names, information and emblems of service clubs, places of worship, civic organizations, and quasi-public uses shall be permitted on private property with written permission of the property owner and approval of the planning commission. Each sign shall be no more than nine square feet in area, shall not exceed a height of eight feet, and shall be set back a minimum of ten feet from the street right-of-way line.
- (2) One announcement bulletin sign shall be permitted on any site which contains a church, regardless of the district in which it is located, provided said bulletin sign does not exceed 25 square feet in area and a height of six feet, and is set back a minimum of ten feet from the street right-of-way line.

(Code 1992, § 24-346; Ord. No. 304, § 1006, 6-2-2003)

Sec. 44-359. - Permitted signs in LDR, MDR, HDR, TLWFR and MFR districts.

The following provisions shall apply to signs in the LDR, MDR, HDR, TLWFR and MFR zoning districts:

- (1) Each sign shall not exceed 25 square feet in area. Signs shall be located behind the right-of-way line of any public street.
- (2) One unlighted sign announcing a home occupation or professional service, not to exceed two square feet in area. The sign shall be attached flat against the front wall of the building.
- (3) One unlighted sign announcing a bed and breakfast establishment or similar use not to exceed four feet in area.

The sign shall be attached flat against the front wall of the building.

- (4) Scoreboards or non-accessory signs made an integral part of a recreational building or stadium, provided that such signs do not exceed a maximum area of 100 square feet for each such sign so provided.

(Code 1992, § 24-347; Ord. No. 304, § 1007, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-360. - Permitted signs in the WF, HSC, OSC, LI and I districts.

The following provisions shall apply to signs in the WF, HSC, OSC, LI and I zoning districts. (Refer also to section 44-361, permitted signs in the CBD, for additional signs permitted in the CBD and subsection 44-357(6), general sign regulations, for permitted commercial sandwich board signs.) Signs shall be limited to one flat wall sign or canopy sign, and one freestanding sign on the premises of a business establishment or composite of businesses under single ownership by an individual, firm, or corporation, subject to the following conditions and/or exceptions:

(1) *Wall signs.*

- a. Flat wall signs may not project above the roof or parapet line and may not project more than one foot beyond the face of the wall of the building. Wall signs shall be attached to, and be parallel to, the wall of the building. (See figure 10-4.)

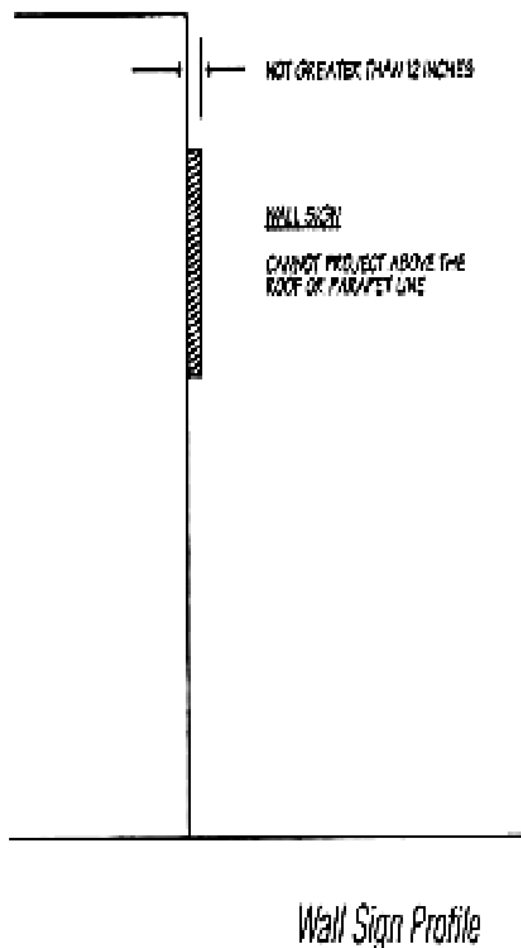
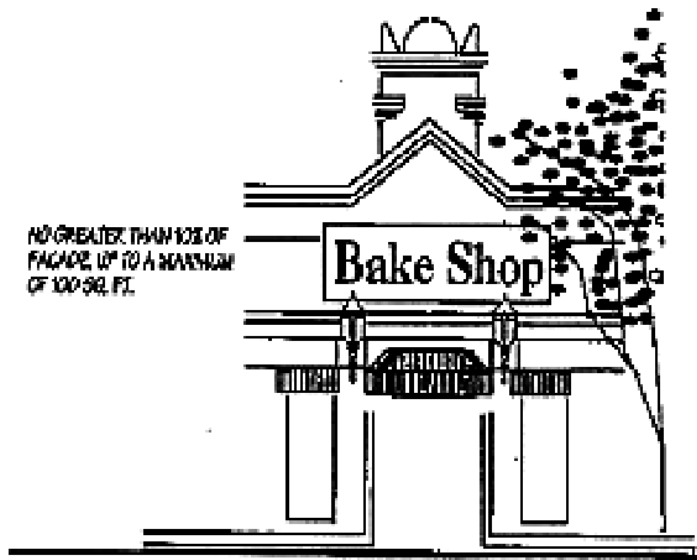


Fig. 10-4

- b. Wall signs shall be limited to one wall sign per business on each wall abutting a public right-of-way. The

maximum size of any such sign shall not exceed ten percent of the building face area abutting a public right-of-way. No such sign shall exceed 100 square feet. (See figure 10-5.)



Wall Sign Area

Fig. 10-5

- c. In the instance of several tenants utilizing a common public entranceway, such as in the case of a shopping mall or multi-story office building, one additional common wall sign shall be permitted, provided any such sign shall not exceed one square foot in area for each tenant listed, or 100 square feet, whichever is more restrictive. One such sign per side of building shall be permitted. This subsection shall not be interpreted to apply to businesses initially providing individual customer access points to the exterior subsequently enclosed by means of enclosed sidewalks or similar enclosures designed to provide climatic control.
 - d. Nonresidential use structures containing a gross floor area of 10,000 square feet or more and having multiple tenants may have one wall sign identifying only the name and/or business for each tenant, provided no single sign is greater than 100 square feet and, provided further, that the total sign area on any wall does not exceed ten percent of the building face area to which it is attached.
- (2) *Canopy signs.*
- a. Canopy signs may be installed in lieu of wall signs, provided the canopy structure to which they are a part does not extend into a public right-of-way or encroach over abutting property lines.
 - b. The maximum size of any canopy sign shall not exceed ten percent of the building facade where so provided; however, no such sign shall exceed 100 square feet.
 - c. Any such canopy structure shall be at least two feet from any vehicular parking space or maneuvering lane.
 - d. A minimum clearance of seven feet shall be maintained above the sidewalk by all canopy structures. (See figure 10-6.)
 - e. Canopies hereafter erected shall, whenever practicable, match the established under clearance height and projection of canopies which exist on abutting parcels and/or businesses.
 - f. Where a building has a canopy constructed as an integral part of such building, one additional sign may be

permitted per customer access under the canopy and perpendicular to the building, provided it is not more than two square feet in area and, further provided, that a minimum clearance of seven feet shall be maintained above the sidewalk.

- g. Only the copy area of the canopy should be identified as sign area used for calculation purposes. (See figure 10-6.)

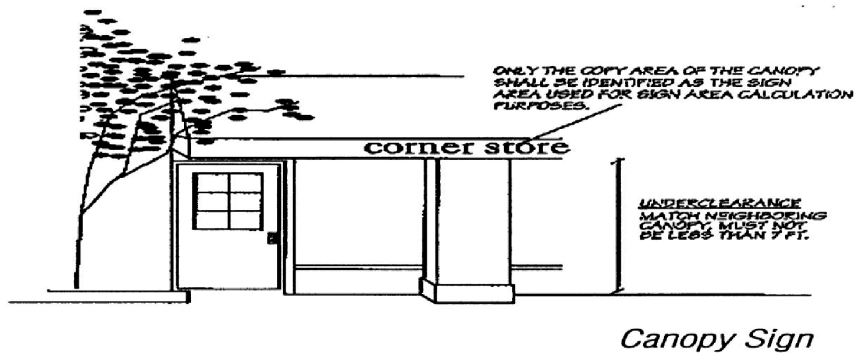


Fig. 10-6

- h. If a canopy sign is used in place of a freestanding sign as provided in [section 44-361](#), permitted signs in the CBD, the combined square footage of the canopy sign and wall sign may not exceed one square foot or 15 percent of the building facade. Each sign must still comply with the square footage requirements as specified in section subsection (1)c. and (2)b. of this section.

(3) *Freestanding signs.*

- a. A maximum of one freestanding sign shall be permitted per structure or planned grouping of structures where a building does not cover the full area of the property. Signs may be freestanding ground supported and shall be setback at least five feet from the property line. Such signs shall not be placed closer than 25 feet to any residential district or another freestanding sign.
- b. The maximum allowable height from grade for such signs shall be 20 feet. (See figure 10-7.)

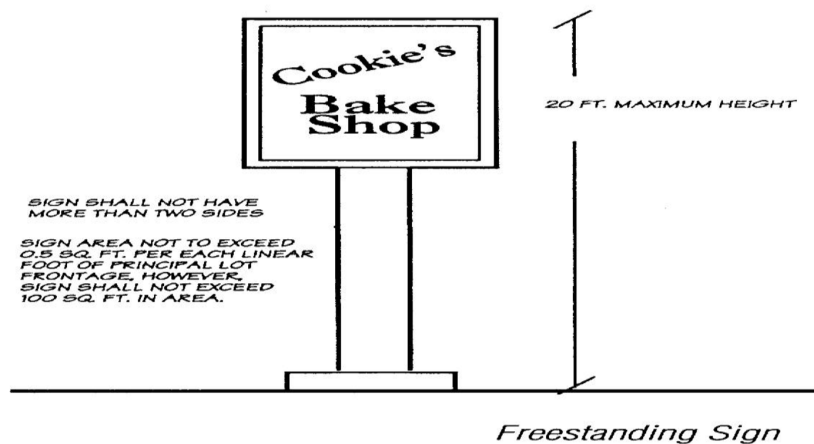


Fig. 10-7

- c. Freestanding signs shall not have more than two sides.
- d. Freestanding signs shall not exceed a size per face of 0.5 square foot per each one linear foot of principal lot frontage as determined by the planning commission. In no instance shall a freestanding sign face exceed 100 square feet. (See figure 10-7.)
- e. One additional freestanding sign shall be permitted for corner lots having frontage on two or more public

roads.

(4) *Roof signs.*

- a. A maximum of one roof sign shall be permitted per structure or planned grouping of structures solely for businesses having frontage along US-23.
- b. Roof signs shall not have more than two sides.
- c. Roof signs shall not project beyond the face of the building walls.
- d. Roof signs shall not exceed a height of 20 feet, as measured from street grade.
- e. Roof signs shall be subject to the same size requirements as wall signs as specified in subsection (1)b., c. and d. of this section.

- (5) *Electronic message sign.* An electronic message sign may not display light of such intensity or brilliance to cause glare, impair the vision of an ordinary driver, or constitute a nuisance. Maximum sign luminance shall not exceed 0.3 footcandles above ambient light measurement based upon the size of the sign (in square feet) and distance measured perpendicular to the sign face in accordance with the following table:

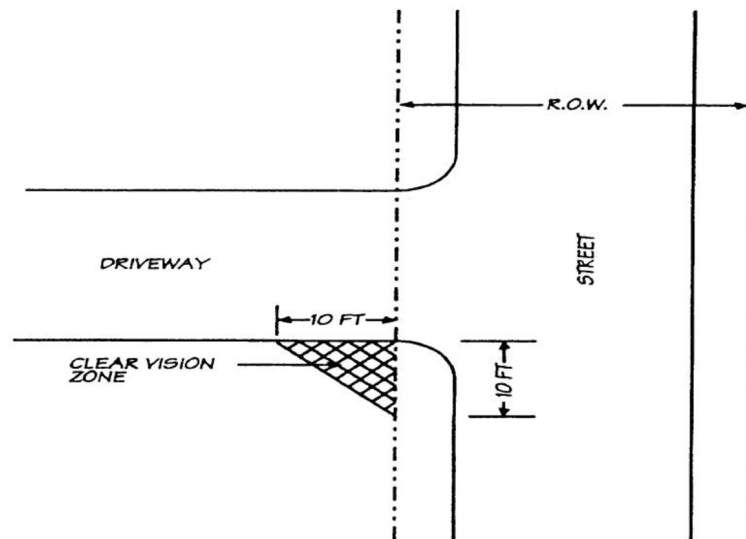
Table 1008-1. Maximum Light Levels of Electronic Signs

Maximum Allowed Ambient Light Level	Area of Sign (sq. ft.)	Measurement of Distance (ft.)*
0.3 footcandles	10	<u>32</u>
0.3 footcandles	15	39
0.3 footcandles	20	45
0.3 footcandles	25	50
0.3 footcandles	30	55
0.3 footcandles	<u>35</u>	59
0.3 footcandles	40	63
0.3 footcandles	45	67
0.3 footcandles	50	71
0.3 footcandles	55	74
0.3 footcandles	60	77

*Measured in feet, perpendicular to the face of the sign. Source: Model Code, Illuminating Engineering Society of North America

(6) *Exceptions.*

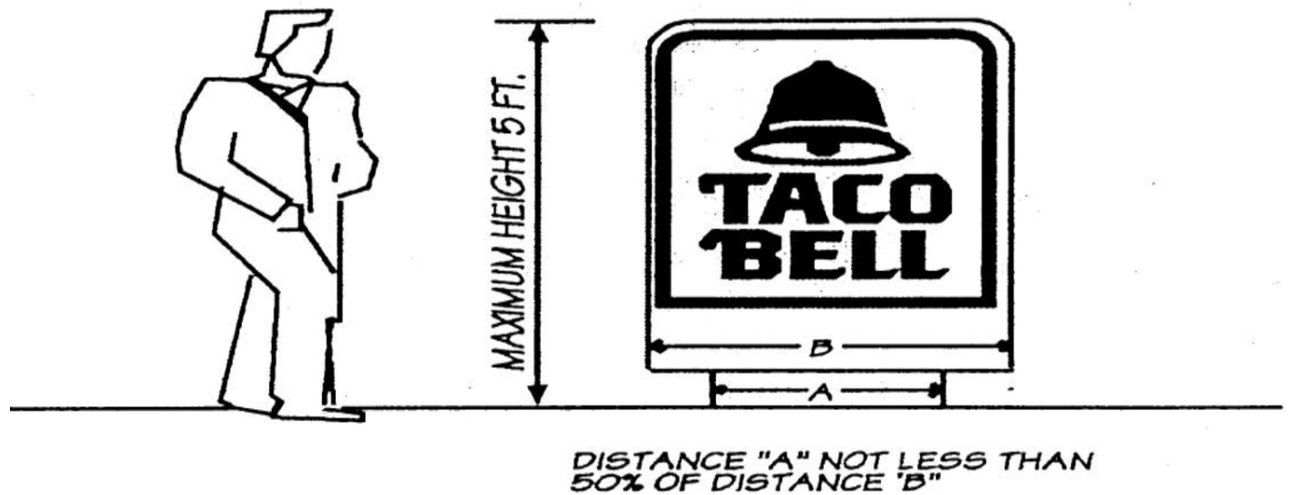
- a. Window signs shall be permitted and shall not be included in total sign area computation if said signs do not occupy more than 50 percent of the total window area of the floor level on which displayed or exceed a total of 100 square feet for any one building. If window signs occupy more than 50 percent of said window area or exceed a total of 100 square feet for any one building, they shall be treated as exterior signs and shall conform to subsection (1) of this section, wall signs. Electronic message signs/LED, as permitted in subsection (5) of this section, displayed within a window shall comply with the maximum size regulations of this section and the zoning district, frequency of change and illumination restrictions of subsection (5) of this section. Window signs which flash or blink shall be prohibited.
- b. A time and temperature sign shall be permitted in addition to the above conditions, provided that ownership identification or advertising copy does not exceed ten percent of the total sign area and further provided that the total area of the sign does not exceed 30 square feet.
- c. Monument signs may be substituted for an equal number of freestanding signs. They shall not exceed a height of five feet. They shall not be placed closer than five feet to the front lot line. The monument sign shall also be located outside of a clear vision sight triangle. This area is defined as the area formed at the corner intersection of a public right-of-way and a driveway, two sides of the triangle area being ten feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two sides. (See figure 10-8.) The area of a monument sign may be increased in size by 20 percent over that allowed for freestanding signs.



Clear Vision Sight Triangle

Fig. 10-8

**MAY INCREASE SIGN AREA BY 20% IF
SUBSTITUTED FOR AN EQUAL NUMBER
OF FREESTANDING SIGNS**



Monument Sign

Fig. 10-9

(Code 1992, § 24-348; Ord. No. 304, § 1008, 6-2-2003; Ord. No. 313, 7-5-2005; Ord. No. 315, 7-24-2007; Ord. No. 321, 8-17-2009; Ord. No. 339, § 1008(5), 7-16-2012)

Sec. 44-361. - Permitted signs in the CBD.

Sign regulations for any new use or expanded use of property located entirely or partially within the CBD shall be determined as set forth in section 44-360, permitted signs in the WF, HSC, OSC, LI and I districts. Instead, a canopy sign, a projecting sign, marquee sign, or a monument sign may be substituted for prohibited freestanding signs within the CBD as stipulated below:

- (1) Projecting signs may be allowed, subject to the following requirements:
 - a. Projecting signs shall clear grade level below the sign by a minimum of seven feet.
 - b. Projecting signs shall not exceed a display area of four square feet per face.
 - c. Only one projecting sign per business is permitted.
 - d. Projecting graphics shall project no more than five feet from the building or one-third of the sidewalk width, whichever is less.
 - e. Projecting graphics shall be pinned away from the wall at least six inches.
 - f. Projecting graphics shall project from the wall at an angle of 90 degrees.
 - g. Angular projection at the corner of a building is prohibited.
- (2) Marquee signs may be allowed for places of public assembly, subject to the following requirements:
 - a. Marquee signs shall not extend into any public right-of-way more than seven feet or over the sidewalk more than one-half the width of the sidewalk, whichever is less.
 - b. The minimum height of such sign is eight feet, six inches, measured from the sidewalk surface to the bottom edge of the sign.

- (3) Monument signs may be allowed within the front yard in accordance with the requirements of section 44-360(6)c., for signs in the WF, HSC, OSC, LI and I Districts. Canopy signs may be allowed in accordance with the requirements of section 44-360(2).
- (4) Banners containing messages or slogans promoting the CBD, charitable organization, civic events, and other public activities may be displayed by the city subject to review by the zoning administrator.
- (5) Design requirements.
 - a. All signs within the CBD shall be designed to be compatible with the architectural style of the district and consistent with the CBD sign guidelines provided herein. Logos shall be exempt from the design requirements with the exception of non-registered portions of a sign, which shall be subject to said design guidelines, including poles, standard brackets, decorative trim, associated landscaping, and other appurtenances.
 - b. Standards shall include compatibility with building architecture; use of antique lighting, and identifying symbology; signs should be easy to read and uncluttered; and text should be sized for the respective distance of the readers. (See figure 10-10.)

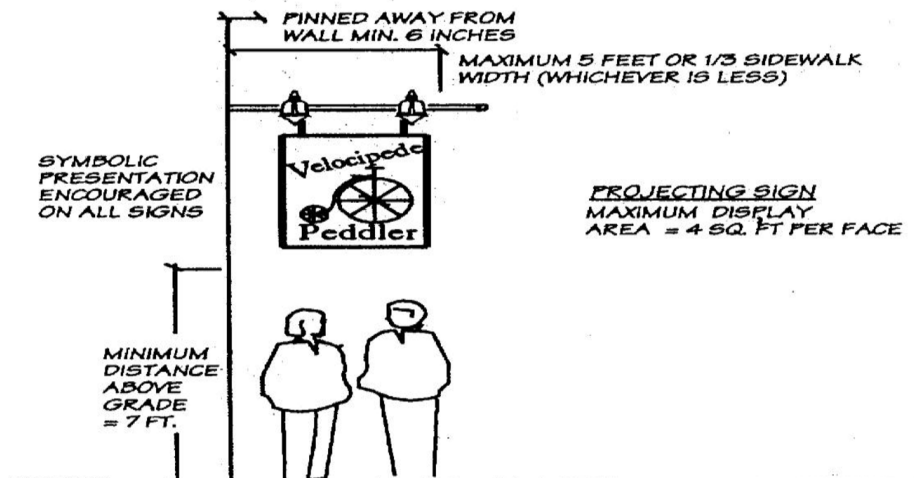


Fig. 10-10. Projecting Sign

(Code 1992, § 24-349; Ord. No. 304, § 1009, 6-2-2003)

Sec. 44-362. - Temporary signs.

On-site temporary signs may be erected in accordance with the regulations of this chapter.

- (1) Temporary construction identification signs identifying building contractors, professional design firms or lending institutions for construction projects to occur or occurring are subject to the following regulations:
 - a. One temporary on-site construction sign for each project or development, except where a project or development abuts two or more streets, additional such signs, one oriented to each street abutting street, shall be permitted.
 - b. On-site temporary construction signs shall not exceed 32 square feet.
 - c. Temporary construction signs may be located in any required yard but shall not extend over any lot line or within 12 feet of any point of vehicular access or public roadway.
 - d. Temporary construction signs shall not project higher than 12 feet.
 - e. Temporary construction signs shall be permitted only as an accessory to an approved project or development. Temporary construction signs may be erected and maintained for not more than a six-month

period and shall be removed within 14 days of the termination of construction of the project or development, except that the planning commission may at its discretion, upon application by the owner and for cause shown, provide one extension, not longer than six months in duration.

- (2) Banners, pennants, search lights, twirling signs, sandwich board signs, balloons, or other gas filled figures may be approved by the zoning administrator at the opening of a new business in a commercial or industrial district for a period not to exceed 14 consecutive days. Street banners advertising a public entertainment or event may be displayed 14 days prior to and through the completion of such event. Street banners shall be removed within 24 hours following such event. As approved by the zoning administrator, banners and pennant displays shall be permitted in commercial districts only to call attention to a sale or promotion for a period not to exceed 14 consecutive days. No more than three banner and pennant displays shall be permitted for any one business during a calendar year commencing on January 1. Banners or pennants shall be restricted to 30 square feet per such sign and shall be attached only to the exterior walls of the building itself. (See figure 10-11.) In no instance shall more than one banner or pennant be allowed per approved event period. (Refer to subsection 44-357(6) for regulations pertaining to permanent sandwich board signs.)

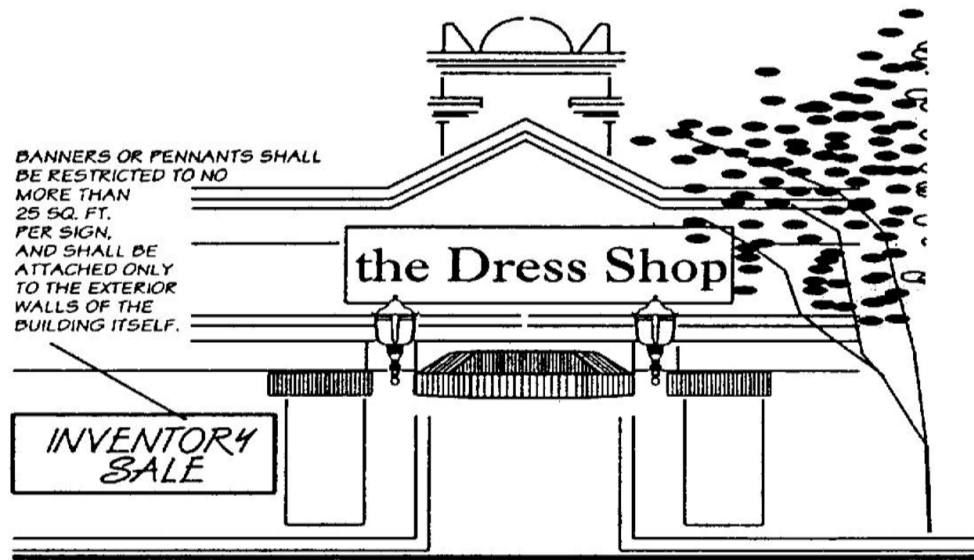


Fig. 10-11. Banner Sign

(Code 1992, § 24-350; Ord. No. 304, § 1010, 6-2-2003; Ord. No. 313, 7-5-2005)

Sec. 44-363. - Nonconforming signs and sign structures.

Nonconforming signs and sign structures may remain except as qualified below:

- (1) No nonconforming sign shall be reconstructed, remodeled, relocated, or changed in size unless such action will make the sign conforming in all respects.
- (2) Nothing in this section shall be deemed to prevent keeping a nonconforming sign in good repair, including sign maintenance, repainting, and replacement of broken or deteriorated parts of the sign itself. Supporting structures for nonconforming signs shall not be replaced unless such replacement will make the sign and sign structure conforming in all respects.
- (3) A nonconforming sign or sign structure which is destroyed or damaged by any casualty may be restored within six months after such destruction or damage only after the owner has shown that the damage did not exceed 50 percent of its replacement cost.
- (4) A nonconforming sign or sign structure shall be removed within 30 days if the building containing the use is

demolished or destroyed to an extent exceeding 50 percent of the building's appraised value.

- (5) Nonconforming signs shall not be reestablished after the activity, business, or use to which it relates has been discontinued for 30 days or longer.
- (6) Change of copy. A nonconforming sign may undergo a change of copy or the replacement of names, logos, symbols, numbers or other graphic items of information as long as the structural characteristics, including size, shape, frame, and method of illumination are not modified.

(Code 1992, § 24-351; Ord. No. 304, § 1011, 6-2-2003; Ord. No. 323, 9-21-2009)

Sec. 44-364. - Maintenance of signs.

- (a) All signs and sign components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
- (b) If the zoning administrator or building department shall find that any sign is unsafe or insecure, or is a menace to the public, written notice shall be given to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Correction of the condition which caused the zoning administrator or building department to give such notice shall be effected within ten days after receipt of the notice. If such condition is not corrected after the conclusion of such ten-day period, the building department is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. Notwithstanding the foregoing provision, the zoning administrator is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located, whenever he determines that such sign is an immediate peril to persons or property.
- (c) If the message portion of a sign is removed, leaving only the supporting shell of a sign, the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the effect of section 44-363, nonconforming signs and sign structures, which prohibits the replacement of a nonconforming sign, nor shall this subsection be construed to prevent the changing of the message of a sign.

(Code 1992, § 24-352; Ord. No. 304, § 1012, 6-2-2003)

Sec. 44-365. - Permits and fees.

- (a) Application for a permit to erect or replace a sign shall be made by the owner of the property, or his authorized agent, to the zoning administrator by submitting the required forms, fees, exhibits, and information. Fees for sign permits for all signs erected pursuant to this article shall be established by resolution of the city council.
- (b) A zoning permit for a sign shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit. Said permit may be extended for a period of 30 days upon request by the applicant and approval of the planning commission.
- (c) Painting, repainting, cleaning, and other normal maintenance and repair of a sign or a sign structure, unless a structural or size change is made, shall not require a sign permit.
- (d) After receiving approval from the planning commission for the installation of freestanding signs, a permit must be obtained from the county building department.

(Code 1992, § 24-353; Ord. No. 304, § 1013, 6-2-2003)

Sec. 44-366. - Appeals.

An appeal may be taken to the zoning board of appeals by any person aggrieved by an order, requirement, decision, determination, or interpretation of the zoning administrator, planning commission or other city official acting within the authority of the provisions of this chapter.

(Code 1992, § 24-354; Ord. No. 304, § 1014, 6-2-2003)

Sec. 44-367. - Billboards/off-premises signs.

- (a) *Districts.* Billboards shall only be allowed in the US-23 Sign Overlay District as depicted on the City of East Tawas Zoning Map.
- (b) *Area.* The total sign area of any billboard shall not exceed 672 square feet per face. A triangular or V-shaped billboard shall not have more than two sign faces.
- (c) *Setback.* No billboard shall be located closer than 25 feet to a non-right-of-way property line. No billboard shall project over public property. Billboard signs shall be no closer than 500 feet to any adjacent residential property line. Billboards shall be set back a minimum of 25 feet from any other structure on or off the premises upon which the billboard is located.
- (d) *Distance from other signs.* Billboards shall be spaced no closer than 1,250 feet to any other billboard sign on the same side of the right-of-way.
- (e) *Height.* The top of any billboard shall not be higher than 25 feet above normal grade.
- (f) *Illumination.* A billboard shall possess automatic dimming capabilities so that the maximum luminescence level is not more than 0.3 footcandles over ambient light levels measured at a distance of 150 feet for those sign faces less than or equal to 300 square feet, measured at a distance of 200 feet for those sign faces greater than 300 square feet but less than or equal to 378 square feet, measured at a distance of 250 feet for those sign faces greater than 378 square feet and less than 672 square feet, and measured at a distance of 350 feet for those sign faces equal to or greater than 672 square feet, and in accordance with the Michigan highway advertising act, Public Act No. 86 of 2009, as amended, and Public Act No. 106 of 1972, as amended. The frequency of a message change for an electric billboard shall be restricted to no more than once every six seconds. Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory-programmed not to exceed the above-listed light levels, and that the intensity level is protected from end-user manipulation by password-protected software or other method satisfactory to the city zoning administrator.
- (g) *Construction.* A billboard shall be self-supported and pole-mounted.
- (h) *Letter of credit; cost of removal assessed.* An irrevocable, automatically renewing letter of credit from a bank chartered and located in the United States of America in an amount established by the city council or city manager shall be required for continued maintenance. In the event that a billboard is vacated, the cost of removal, if that burden is placed on the city, shall be assessed to the property owner.

(Ord. No. 339, § 1015, 7-16-2012)

Secs. 44-368—44-392. - Reserved.

ARTICLE XI. - SITE PLAN REVIEW PROCEDURES

FOOTNOTE(S):

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State Law reference— Submission and approval of site plan, MCL 125.3501.

Sec. 44-393. - Purpose.

The purpose of this article is to establish uniform requirements of procedures for all developments in the city so that the provisions of this chapter can be equitably and fairly applied to all persons seeking to add to the existing development, so that both those developing property and the responsible city officials can be assured that compliance with the chapter is both possible and correct prior to the issuance of the zoning permit and the start of construction.

(Code 1992, § 24-376; Ord. No. 304, 6-2-2003)

Sec. 44-394. - Where required.

- (a) Site plan review is required for all proposed uses and certain existing uses within the city where an alteration, addition, expansion, change or conversion constitutes an increase or reduction to the existing structure or use of more than 500 square feet or ten percent of floor area, whichever is less, or would require a variance from the provisions of this chapter, regardless of its size. Site plan review shall also be required prior to the paving of any off-street parking for any use for which off-street parking is required by this chapter.
- (b) Site plan review shall not be required for individual single-family developments.
- (c) The city shall not issue a zoning permit until a final site plan has been approved and is in effect. A use, or construction of or addition to a building, shall not be commenced or expanded, nor shall the zoning administrator or duly appointed agent issue an occupancy permit for such use until a final site plan has been approved and is in effect.
- (d) No granting, removing trees or other vegetation, landfilling or construction of improvements shall commence for any development which requires site plan approval until a final site plan is approved and is in effect, except as otherwise provided in section 44-395(d), effect of approval.
- (e) In addition to the requirements of this article, all developments must adhere to the current standards of design as adopted by the city council.

(Code 1992, § 24-377; Ord. No. 304, § 1101, 6-2-2003; Ord. No. 319, 1-5-2009)

Sec. 44-395. - Preliminary site plan.

- (a) *Application.* Any applicant may submit a request for preliminary site plan review by filing the completed forms with the zoning administrator along with payment of the review fee and ten copies of the preliminary site plan drawing. The zoning administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan drawings to the planning commission prior to its next regular meeting. The purpose of such preliminary review is to confirm general compliance with the standards of this chapter as well as to suggest changes, if necessary, for final site plan approval.
- (b) *Information required.* Each preliminary site plan submitted for review shall provide the following information:
 - (1) Property owner's and applicant's name and address.
 - (2) Scale, north arrow, and date of plan.
 - (3) Location, description, dimensions, and area of the site; zoning classification; and demonstration of compliance

with lot area, width, coverage and setback requirements.

- (4) General topography and soils information and existing natural and manmade features to be retained or removed.
 - (5) Location and dimensions of proposed buildings/structures, including floor area, number of floors, height, number and type of dwelling units (where applicable).
 - (6) Proposed streets/drives, including general alignment, right-of-way, surface type, and width.
 - (7) Proposed parking, including location and dimensions of spaces and aisles, and surface type.
 - (8) Adjacent land uses, property owners, and zoning and location of adjacent buildings and drives/streets.
 - (9) Proposed phasing.
 - (10) Location and width of any easements on the site.
- (c) *Planning commission action.* The planning commission shall make a recommendation to approve, approve with conditions or deny the preliminary site plan. The planning commission shall set forth the reason for its action in the record of the meeting at which action is taken. The time limit may be extended upon a written request by the applicant and approval by the planning commission.
- (d) *Effect of approval.* Approval of a preliminary site plan by the planning commission shall indicate its general acceptance of the proposed layout of buildings, streets and drives, parking areas, other facilities and overall character of the proposed development. The planning commission may, at its discretion and with appropriate conditions attached, authorize issuance of grading and foundation permits on the basis of the approved preliminary site plan. The authorization, however, will be used only in those situations in which reasonable conditions, such as the onset of frost, or other severe time limitations might, in the planning commission's opinion, unduly delay the commencement of construction until after the final site plan is approved. The planning commission shall attach appropriate conditions to such authorization.
- (e) *Expiration of approval.* Approval of a preliminary site plan shall be valid for a period of 180 days from the date of approval and shall expire and be of no effect unless an application for a final site plan is filed with the zoning administrator within that time period. The zoning administrator or duly appointed agent shall, within ten days of the date of approval of the preliminary site plan by the planning commission, transmit a written certification of such approval to the applicant.

(Code 1992, § 24-378; Ord. No. 304, § 1102, 6-2-2003)

Sec. 44-396. - Final site plan.

- (a) *Application.* Following approval of a preliminary site plan, the applicant shall submit to the zoning administrator ten copies of a final site plan as well as other data and exhibits hereinafter required, the review fee, and a completed application form. The zoning administrator, upon receipt of the application, shall transmit only complete submittals of the final site plan drawing to the planning commission prior to its next regular meeting.
- (b) *Information required.* A final site plan submitted for review and approval shall contain all of the following data presented in a clear and legible format. Site plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24 inches by 36 inches with plan view drawn to a scale of no greater than one inch equals 50 feet for property less than three acres or no greater than one inch equals 100 feet for property three or more acres.
 - (1) *General information.*
 - a. Proprietor's, applicant's, and owner's names, addresses and telephone numbers.
 - b. Date of preparation, including revisions.

- c. Scale.
 - d. North point.
 - e. Location map drawn at a scale of one inch equals 2,000 feet with north point indicated.
 - f. Architect's, engineer's, surveyor's, landscape architect's, or planner's seal.
 - g. Existing and proposed lot lines, building lines, structures, parking areas, etc., on the parcel and within 100 feet of the site.
 - h. Centerline and existing and proposed right-of-way lines of any street.
 - i. Zoning classification of applicant's parcel and all abutting parcels.
 - j. Gross acreage figure.
- (2) *Physical features.*
- a. Acceleration, deceleration and passing lanes and approaches.
 - b. Proposed locations of access drives, street intersections, driveway locations, sidewalks, and curbing.
 - c. Location of existing and proposed service facilities above and below ground, including:
 - 1. Chemical and fuel storage tanks and containers.
 - 2. Water supply facilities.
 - 3. Sanitary sewage disposal facilities.
 - 4. Stormwater control facilities and structures.
 - 5. Location of all easements.
 - d. Location of all structures, with setback and yard dimensions.
 - e. Location, number and size of parking spaces, drives and method of surfacing.
 - f. Exterior lighting locations and illumination patterns.
 - g. Location and description of all existing and proposed landscaping, berms, fencing and walls.
 - h. Trash receptacle pad location and method of screening.
 - i. Transformer pad location and method of screening.
 - j. Dedicated road or service drive locations.
 - k. Entrance details, including sign locations and sizes.
 - l. Designation of fire lanes.
 - m. Any other pertinent physical features.
- (3) *Natural features.*
- a. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Iosco County, Michigan.
 - b. Existing topography with a maximum contour interval of two feet. Topography on the site and beyond the site for a distance of 100 feet in all directions should be indicated. Grading plan, showing finished contours at a maximum interval of two feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.
 - c. Locations of existing drainage courses and associated bodies of water, on and off site, and their elevations.
 - d. Locations of existing wetlands.
 - e. Locations of natural resource features, including woodlands and areas with slopes greater than ten percent (one foot of vertical elevation for every ten feet of horizontal distance).

- (4) *Additional requirements for multiple-family residential developments.*
 - a. Density calculations by type of unit.
 - b. Designation of units by type and number of units in each building.
 - c. Carport locations and details where proposed.
 - d. Specific amount and locations of recreation spaces.
- (5) *Additional requirements for commercial and industrial developments.*
 - a. Loading/unloading areas.
 - b. Total and useable floor area.
 - c. Number of employees in peak usage.
- (c) *Standards for review.* In reviewing the final site plan, the planning commission shall determine whether the plan meets the following specifications and standards. All engineering drawings and plans shall be reviewed by the city engineer, DPW, or fire chief if deemed necessary and appropriate by the planning commission before a final site plan may be considered.
 - (1) The plan conforms to the approved preliminary site plan and with all zoning ordinance regulations.
 - (2) All required information is provided.
 - (3) The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare and character of the city.
 - (4) There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be arranged so as to permit emergency vehicle access by some practical means to all sides.
 - (5) The locations of buildings are such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas.
 - (6) Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, groundwater and woodlands.
 - (7) Stormwater management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body or water course, or cause alterations which could increase flooding or water pollution on or off site.
 - (8) Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet county and state standards.
 - (9) Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies in accordance with county and state standards.
 - (10) Landscaping, including grass, trees, shrubs and other vegetation, is provided to maintain and improve the aesthetic quality of the site and area.
 - (11) The proposed use is in compliance with all city ordinances and any other applicable laws.
- (d) *Planning commission action.* The planning commission shall approve, approve with conditions, or deny the final site plan. The planning commission may suggest and/or require modifications in the proposed final site plan as are needed to gain approval.

- (e) *Effect of approval.* Approval of a final site plan authorizes issuance of a zoning permit and application for a building per
- (f) *Expiration of approval.* Approval of a final site plan shall expire and be of no effect one year following the date of approval unless construction has begun on the property in conformance with the approved final site plan. Approval shall also expire and be of no effect unless a building permit shall have been taken out within 180 days of the date of approval of the final site plan.

(Code 1992, § 24-379; Ord. No. 304, § 1103, 6-2-2003)

Sec. 44-397. - Combining preliminary and final site plans.

An applicant may, at his discretion and risk, combine a preliminary and final site plan in an application for approval. In such a situation, the portion of the review process concerning preliminary site plan application and review may be waived by the planning commission. The planning commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan where, in its opinion, the complexity and/or scale of the site for the proposed development so warrants. A preliminary and final site plan shall not be combined for any development consisting of phases.

(Code 1992, § 24-380; Ord. No. 304, § 1104, 6-2-2003)

Sec. 44-398. - Amendment of approved site plan.

The zoning administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The zoning administrator may approve minor changes in an approved final site plan, provided that a revised final site plan drawing is submitted showing such minor changes, for purposes of record. A minor site plan may be considered for any of the following site modifications or modifications of an approved site plan:

- (1) The proposed addition constitutes less than 1,000 square feet or not more than 20 percent of the existing floor area.
- (2) The building modification or change of use does not require additional off-street parking.
- (3) The building or site modification does not encroach upon an existing parking lot.
- (4) The building or site modification is not adjacent to single-family zoned properties.
- (5) A building or site modification will not have a significant impact upon adjoining land uses.

(Code 1992, § 24-381; Ord. No. 304, § 1105, 6-2-2003)

Sec. 44-399. - Modification of plan during construction.

All improvements shall conform to the final site plan. It shall be the responsibility of the applicant to notify the zoning administrator of any such changes prior to such changes being made. Any changes which result in an alteration of the site plan not addressed in section 44-398, amendment of approved site plan, approved by the planning commission shall require re-submittal to the planning commission. The planning commission or zoning administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

(Code 1992, § 24-382; Ord. No. 304, § 1106, 6-2-2003)

Sec. 44-400. - Phasing of development.

The applicant may, at his discretion, divide the proposed development into phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, size, and character of each phase. A final site plan may be submitted for review and approval for each phase.

(Code 1992, § 24-383; Ord. No. 304, § 1107, 6-2-2003)

Sec. 44-401. - Inspection.

The building inspector shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements such as utilities, sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspections.

(Code 1992, § 24-384; Ord. No. 304, § 1108, 6-2-2003)

Sec. 44-402. - Violations.

The approved final site plan shall regulate development of the property and any violation of this article, including any improvement not in conformance with the approved final site plan, shall be deemed a violation of this chapter as provided in article XIII of this chapter, administration and enforcement, and shall be subject to all penalties therein.

(Code 1992, § 24-385; Ord. No. 304, § 1109, 6-2-2003)

Sec. 44-403. - Fees.

Fees for the review of site plans and inspections as required by this article shall be established, and may be amended by resolution of the city council upon the recommendation of the planning commission.

(Code 1992, § 24-386; Ord. No. 304, § 1110, 6-2-2003)

Sec. 44-404. - Financial guarantees.

- (a) Surety bonds, cash deposits, bank letters of credit, certified checks or other acceptable forms of security may be required of the applicant after a final site plan is approved and prior to issuance of a zoning permit for certain site improvements such as, but not limited to, streets or drives, parking lots, grading, landscaping, and buffers. A schedule for such security shall be established by resolution of the city council upon the recommendation of the planning commission, and shall be administered by the city treasurer. Such security may be released in proportion to work completed and approved upon inspection as complying with the approved final site plan.
- (b) In the event that the applicant shall fail to provide improvements according to the approved final site plan, the city council shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the depositing security, or may require performance by the bonding company.

(Code 1992, § 24-387; Ord. No. 304, § 1111, 6-2-2003)

State law reference— Performance guarantee, MCL 125.3505.

Sec. 44-405. - Use of financial guarantees when necessary to temporarily delay meeting construction requirements.

If in the judgment of the planning commission, during the course of site plan review procedures, it appears prudent to permit the delay of constructing certain provisions as required in this chapter, the planning commission may grant such a delay to a specific future date, provided that the applicant/owner submits a satisfactory financial guarantee to the city council. The financial guarantee shall remain in effect prior to or coincident with the issuance of the zoning permit and shall remain in effect until the requirements so delayed are fully completed and approved by the zoning administrator.

(Code 1992, § 24-388; Ord. No. 304, § 1112, 6-2-2003)

Secs. 44-406—44-423. - Reserved.

ARTICLE XII. - ENVIRONMENTAL PROTECTION AND DESIGN STANDARDS

FOOTNOTE(S):

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State Law reference— Natural resources and environmental protection act, MCL 324.101 et seq.

Sec. 44-424. - Purpose.

Environmental standards are established in order to preserve the short- and long-term environmental health, safety, and quality of the city. No parcel, lot, building or structure in any district shall be used or occupied in any manner so as to create any unreasonably dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards. No use otherwise allowed shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation. These standards are established as minimum requirements to be maintained.

(Code 1992, § 24-411; Ord. No. 304, § 1201, 6-2-2003)

Sec. 44-425. - Landscaping, greenbelts and buffers, and screening.

- (a) *Intent.* The intent of this section is to:
- (1) Protect and preserve the appearance, character, and value of the community.
 - (2) Minimize noise, air, and visual pollution.
 - (3) Improve the overall aesthetics and appearance, divide the expanse of pavement, and define parking areas and vehicular circulation within off-street parking lots and other vehicular use areas.
 - (4) Require buffering of residential areas from more intense land uses and public street rights-of-way.
 - (5) Prevent soil erosion and soil depletion and promote sub-surface water retention.
 - (6) Encourage an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce a more aesthetic and cohesive design.
 - (7) Encourage the integration of existing woodlands in landscape plans.
- (b) *Application of requirements.* These requirements shall apply to all uses for which site plan review is required under article XI of this chapter, site plan review procedures, of this chapter and subdivision plat review as required under the subdivision control ordinance. No site plan, site condominium plan, or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein. The planning commission shall have the authority to waive or modify the requirements of this section if any of the following conditions apply:
- (1) The site lacks sufficient area for the planting of landscape materials.
 - (2) The required screening or buffering will serve no useful purpose.
 - (3) The site presents unique features involving parking, circulation or building configuration which warrants special consideration or waivers.
- (c) *Landscape plan requirements.* A separate detailed landscape plan shall be submitted to the city as part of the site plan review or tentative preliminary plat review. The landscape plan shall demonstrate that all requirements of this

article are met.

(d) *Screening between land uses.*

- (1) Upon any improvement for which a site plan is required, a landscape buffer shall be constructed to create a visual screen at least six feet in height along all adjoining boundaries between either a conflicting nonresidential or conflicting residential land use and residentially zoned property. A landscape buffer may consist of landscaped earthen berms and/or living materials so as to maintain a minimum opacity of at least 80 percent. Opacity shall be measured by observation of any two square yard area of landscape screen between one foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three years.
- (2) Where the planning commission reasonably determines there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall or screening fence shall be required. Such wall or screening fence shall be a minimum of six feet in height as measured on the side of the proposed wall having the higher grade. A required wall shall be located on the lot line except where underground utilities interfere and in instances where this chapter requires conformity with front yard setback requirements. Upon review of the landscape plan, the planning commission may approve an alternate location of a wall. The planning commission and the building official shall approve the construction materials of the wall or fence which may include face brick, poured-in-place simulated face brick, precast brick face panels having simulated face brick, stone or wood.

(e) *Parking lot landscaping.*

- (1) *Required landscaping within parking lots.* Separate landscape areas shall be provided within parking lots in accordance with the following requirements:
 - a. There shall be a minimum of one tree for every eight parking spaces, provided that a landscape island shall be provided for no more than 16 continuous spaces.
 - b. Landscaping shall be arranged in curbed islands within the parking lot which shall not be less than 50 square feet in area.
 - c. A minimum distance of three feet from the backside of the curb and the proposed landscape plantings shall be provided. Where vehicles overhang a landscape island or strip, a minimum distance of five feet from the backside of the curb and the proposed landscape plantings shall be provided.
 - d. The planning commission, at its discretion, may approve alternative landscape plantings at the perimeter of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing.
 - (2) *Required landscaping at the perimeter of parking lots.* Separate landscape areas shall be provided at the perimeter of parking lots in accordance with the following: parking lots which are considered to be a conflicting land use as defined by this article shall meet the screening requirements set forth in subsection (d) of this section.
- (f) *Greenbelts.* A greenbelt, which is an area established at a depth of the required front yard setback within a zoning district, shall be landscaped in accordance with the following requirements:
- (1) The greenbelt shall be landscaped with a minimum of one tree for every 30 lineal feet, or fraction thereof, of frontage abutting a public street right-of-way. Non-ornamental deciduous trees within a greenbelt shall be a minimum caliper of 2½ inches or greater. Evergreen trees within a greenbelt shall be in accordance with the list of recommended plant species (chart 1).
 - (2) If ornamental deciduous trees are substituted for either non-ornamental deciduous trees or evergreen trees,

they shall be provided at a minimum of one tree for every 20 lineal feet, or fraction thereof, of frontage abutting a public street right-of-way. Ornamental deciduous trees within a greenbelt shall be in accordance with the list of recommended plant species (chart 1).

- (3) In addition to the required trees within the greenbelt, the remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and other natural landscape materials.
- (4) Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.
- (g) *Site landscaping.* In addition to any landscape greenbelt and/or parking lot landscaping required by this section, ten percent of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing tree cover, planting of new trees and plant material, landscape plazas and gardens and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air-conditioning units, and loading areas.
- (h) *Subdivision and site condominium landscaping.* Landscaping for single-family residential subdivisions and site condominiums shall be provided in accordance with the following requirements:
 - (1) *Street trees.* The frontage of all internal public or private streets shall be landscaped with a minimum of one tree for every 50 lineal feet, or fraction thereof. Such street trees shall meet the minimum size and spacing requirements set forth in subsection (l) of this section.
 - (2) *Screening between land uses.* Where a subdivision or site condominium contains uses which are defined as conflicting land uses by this section, the screening requirements set forth in subsection (d) of this section shall be met.
 - (3) *Screening from public roads.* Where a subdivision or site condominium abuts a public road right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in subsection (d) (1) of this section shall be met.
 - (4) *Other site improvements.* A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the development, stormwater retention and/or detention areas, community buildings and other recreational areas, and any other site improvement which would be enhanced through the addition of landscaping.
- (i) *Screening of trash containers.*
 - (1) Outside trash disposal containers shall be screened on all sides with an opaque fence or wall, and gate at least as high as the container, but no less than six feet in height, and shall be constructed of material which is compatible with the architectural materials used in the site development.
 - (2) Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably equalize the distance from the buildings they serve.
 - (3) Containers and enclosures shall be located away from public view insofar as possible.
 - (4) Containers and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
 - (5) Concrete pads of appropriate size and construction shall be provided for containers or groups of containers having a capacity of six 30-gallon cans or more. Aprons shall be provided for loading of bins with a capacity of 1.5 cubic yards or more.
 - (6) For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate

the extra materials and their containers.

- (7) Screening and gates shall be of a durable construction.
- (j) *Landscape elements.* The following minimum standards shall apply:
 - (1) *Quality.* Plant materials shall be of generally acceptable varieties and species, free from insects and diseases, hardy to Iosco County, conform to the current minimum standards of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.
 - (2) *Composition.* A mixture of plant material, such as evergreen and deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
 - (3) *Berms.* Berms shall be constructed with slopes not to exceed a 1:3 gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.
 - (4) *Existing trees.* The preservation and incorporation of existing trees is encouraged. Where existing trees are used to satisfy the requirements of this article, the following requirements shall apply:
 - a. Paving or other site improvements shall not encroach upon the dripline of the existing tree to be preserved.
 - b. If existing plant material is labeled "to remain" on site plans by the applicant or required by the city, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the city.
 - c. In the event that healthy trees which are used to meet the minimum requirements of this chapter or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the city, the contractor shall replace them with trees which meet the requirements of this article.
- (k) *Installation, maintenance, and completion.*
 - (1) All landscaping required by this chapter shall be planted before obtaining a certificate of occupancy or the appropriate financial guarantee, as set forth in this chapter, shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.
 - (2) All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.
 - (3) The owner of property required to be landscaped by this chapter shall maintain such landscaping in a strong and healthy condition, free from refuse, debris and insects. All materials used to satisfy the requirements of this chapter which become unhealthy or dead shall be replaced within one year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.
- (l) *Minimum size and spacing requirements.* Where landscaping is required, the following schedule sets forth minimum size and spacing requirements for representative landscape materials:

Chart 1. List of Recommended Plant Species

The Following Trees are Representative:	Minimum Size Allowable	
	Height	Caliper

			6'	3'—4'	1.75"	2.5"
Trees						
Evergreen Trees:						
		Fir	*			
		Spruce	*			
		Pine	*			
		Hemlock	*			
Narrow Evergreen Trees:						
		Red Cedar		*		
		Arborvitae		*		
		Juniper (selected varieties)		*		
Large Deciduous Canopy Trees:						
		Oak				*
		Maple				*
		Beech				*
		Linden				*
		Gingko (male only)				*
		Honey locust (seedless, thornless)				*
		Birch				*
Small Deciduous Ornamental Trees:						
		Pagoda or Kousa Dogwood			*	
		Flowering Cherry, Pear			*	

		Hawthorn			*	
		Redbud			*	
		Magnolia			*	
		Flowering Crabapple			*	
		Serviceberry			*	
		Hornbeam			*	

The Following Trees are Representative:		Minimum Size Allowable				
		Height			Spread	
		6'	3'—4'	24"—36"	18"—24"	
Shrubs						
Evergreen Trees:						
		Pyramidal Yew		*		
		Hicks Yew				*
		Brown's Spruce Ward			*	
		Alberta Spruce		*		
		Chinensis Juniper Varieties			*	
		Sabina Juniper				*
		Mugho Pine				*
		Horizontal Juniper Varieties				*
		Boxwood				*

		Euonymous varieties				*
	Deciduous Shrubs:					
		Honeysuckle				*
		Lilac				*
		Sumac				*
		Pyracantha				*
		Weigela				*
		Flowering Quince				*
		Cotoneaster				*
		Dogwood				*
		Viburnum varieties				*
		Spirea				*
		Fragrant Sumac				*
		Potentilla				*

(Code 1992, § 24-412; Ord. No. 304, § 1202, 6-2-2003)

State law reference— Municipal forests, MCL 324.52701 et seq.

Sec. 44-426. - Airborne emissions.

- (a) *Smoke and air contaminants.* It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of air quality standards adopted by federal and/or state regulatory authorities.
- (b) *Odors.* Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor. The provisions of this section are not intended to apply to farming activities and the same shall be cumulative in nature and in addition to the provision of any other ordinance applicable to such odors.
- (c) *Gases.* The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

(Code 1992, § 24-413; Ord. No. 304, § 1203, 6-2-2003)

State law reference— Air resources protection, MCL 324.5501 et seq.

Sec. 44-427. - Noise and vibration.

- (a) Noise which is objectionable as determined by the city due to volume, frequency, or beat shall be muffled, attenuated, or otherwise controlled and shall be subject to the noise regulations as contained in chapter 20 of this Code.
- (b) In addition, objectionable sounds of an intermittent nature, or sounds characterized by high frequencies, shall be so controlled so as not to become a nuisance to adjacent uses. Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.
- (c) No use shall generate any ground-transmitted vibration in excess of the limits set forth below. Vibration shall be measured at the nearest adjacent lot line. The vibration maximums set forth below are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following standards shall apply:

Particle Velocity (inches per second)	
Frequency in Cycles (per second)	Displacement (in inches)
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

- (d) Vibrations resulting from temporary construction activity shall be exempt from the requirements of this section.

(Code 1992, § 24-414; Ord. No. 1204, § 101, 6-2-2003)

Sec. 44-428. - Use, storage and handling of hazardous substances; storage and disposal of solid, liquid and sanitary wastes.

- (a) *General prohibition.* It shall be unlawful for any person, firm, corporation or other entity to pollute, impair or destroy the air, water, soils or other natural resources within the city through the use, storage and handling of hazardous substances and/or wastes or the storage and disposal of solid, liquid, gaseous and/or sanitary wastes.
- (b) *Required permits or approval.* Any person, firm, corporation or other entity operating a business or conducting an

activity which uses, stores or generates hazardous substances shall obtain the necessary permits or approval from the appropriate federal, state or local authority having jurisdiction.

- (c) *Hazardous chemicals survey.* Any person, firm, corporation or other entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall complete and file a hazardous chemicals survey on a form supplied by the city in conjunction with the following:
- (1) Upon submission of a site plan.
 - (2) Upon any change of use or occupancy of a structure or premise.
 - (3) Upon any change of the manner in which such substances are handled, and/or in the event of a change in the type of substances to be handled.
- (d) *Compliance to storage and use standards.* All business and facilities which use, store, or generate hazardous substances in quantities greater than 100 kilograms per month (equal to or greater than 25 gallons or 220 pounds) shall comply with the following standards:
- (1) *Aboveground storage and use areas for hazardous substances.*
 - a. Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficiently impervious to contain the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - b. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
 - c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains.
 - d. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff.
 - (2) *Underground storage tanks.* Existing and new underground storage tanks shall be registered, installed, operated, maintained, and removed in accordance with requirements of the appropriate federal, state or local authority having jurisdiction.
 - (3) *Loading and unloading areas.* Areas used for loading and unloading hazardous substances shall be designed and constructed to prevent the harmful release to the environment of hazardous materials which may be spilled or leaked.
- (e) *Site plan review required.* All site plans for businesses or facilities which use, store or generate hazardous substances shall be reviewed by the fire department, city engineer and any other appropriate experts determined necessary by the planning commission prior to approval by the planning commission.

(Code 1992, § 24-415; Ord. No. 304, § 1205, 6-2-2003)

State law reference— Waste management, MCL 324.11101 et seq.

Sec. 44-429. - Electrical disturbance, electromagnetic or radio frequency interference.

No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(Code 1992, § 24-416; Ord. No. 304, § 1206, 6-2-2003)

Sec. 44-430. - Glare and exterior lighting.

(a) *Light and glare from indirect sources.*

- (1) Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines.
- (2) The design and/or screening of the development shall ensure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.
- (3) Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

(b) *Exterior lighting from direct sources.*

- (1) Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.
- (2) Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner which creates a nuisance or safety hazard to operators of motor vehicles, pedestrians and neighboring land uses. This provision is not intended to apply to public street lighting.
- (3) The following additional standards shall apply:
 - a. Only white, non-glare lighting such as metal halide, color-corrected high-pressure sodium, or other types of lighting which achieve the same effect shall be permitted. Lighting shall be placed and shielded so as to direct the light onto the site and away from adjoining properties. Lighting shall be shielded so that it does not cause glare for motorists.
 - b. The light intensity provided at ground level shall be a minimum of 0.3 footcandle anywhere in the area to be illuminated. Light intensity shall average a minimum 0.5 footcandle over the entire area, measured five feet above the surface. Not more than one footcandle shall be allowed at the property line.
 - c. Except as noted below, lighting fixtures shall not exceed a height of 25 feet. In portions of a site adjacent to residential areas, lighting fixtures shall not exceed a height of 20 feet.
 - d. All lighting, including ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties and traffic safety. Building- or roof-mounted lighting intended to attract attention to the building and/or use and not strictly designed for security purposes is not permitted. Temporary holiday lighting and decorations are exempt from the aforementioned provision.

(Code 1992, § 24-417; Ord. No. 304, § 1207, 6-2-2003)

Sec. 44-431. - Fire hazard.

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

(Code 1992, § 24-418; Ord. No. 304, § 1108, 6-2-2003)

State law reference— State fire prevention act, MCL 29.1 et seq.; explosives act, MCL 29.41 et seq.

Sec. 44-432. - Safety.

Existing hazards or potential hazards and nuisances, such as construction sites, junkyards, landfills, sanitary landfills, demolition sites, unused basements, abandoned wells or cisterns and sand, gravel, and stone pits or piles are to be enclosed by suitable fencing or barriers (section [44-297](#)) so as not to endanger public health, safety and welfare.

(Code 1992, § 24-419; Ord. No. 304, § 1109, 6-2-2003)

Sec. 44-433. - Stormwater management.

All developments and earth changes subject to review under the requirements of this chapter shall be designed, constructed, and maintained to prevent flooding and protect water quality. The particular facilities and measures required on site shall reflect the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site.

- (1) *Compliance to city standards.* Stormwater management shall comply with the following standards:
 - a. The design of storm sewers, detention facilities, and other stormwater management facilities shall comply with the standards of the city.
 - b. Stormwater management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to stormwater runoff and soil erosion from the proposed development.
 - c. The use of swales and vegetated buffer strips is encouraged in cases where the planning commission deems to be safe and otherwise appropriate as a method of stormwater conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants.
 - d. Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent or downstream property owners.
 - e. Discharge of runoff from any site which may contain oil, grease, toxic chemicals, or other polluting materials is prohibited. If a property owner desires to propose measures to reduce and trap pollutants, the owner must meet the requirements of the state department of environmental quality; such a proposal shall be submitted and reviewed by the city engineer, with consultation of appropriate experts.
 - f. Drainage systems shall be designed to protect public health and safety and to be visually attractive.
- (2) *On-site stormwater detention.* For the purpose of controlling drainage to off-site properties and drainage ways, all properties which are developed under this chapter, whether new or improved, shall provide for on-site detention storage of stormwater in accordance with the current city standards.

(Code 1992, § 24-420; Ord. No. 304, § 1210, 6-2-2003)

State law reference— Soil erosion and sedimentation control, MCL 324.9101 et seq.; soil conservation districts law, MCL 324.9301 et seq.

Sec. 44-434. - Building grades.

- (a) Any building requiring yard space shall be located at such an elevation that a finished grade shall be maintained to cause the flow of surface water to run away from the walls of the building. All grades shall be established and maintained so that surface water runoff damage does not occur to adjoining properties prior to, during, and after construction.
- (b) When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing

building, the building official shall use the existing established finished grade or the minimum established grade in determining the proper grade around the new building. The yard around the new building shall be graded in such a manner as to meet existing codes and to preclude normal runoff of surface water to flow onto the adjacent property.

- (c) Final grades shall be approved by the building official who may require a grading plan which has been duly completed and certified by a registered engineer or land surveyor.

(Code 1992, § 24-421; Ord. No. 304, § 1211, 6-2-2003)

Secs. 44-435—44-451. - Reserved.

ARTICLE XIII. - ADMINISTRATION AND ENFORCEMENT

Sec. 44-452. - Purpose.

The purpose of this article is to provide for the organization of personnel and procedures for the administration of this chapter, including the submittal and review of land use and development plans, issuance of land and structural use zoning permits, inspections of properties for compliance with the zoning map and regulations, establishment and collection of permit fees, handling of violators and enforcement of the provisions of this chapter and any amendments to it.

(Code 1992, § 24-446; Ord. No. 304, § 1301, 6-2-2003)

Sec. 44-453. - Administration.

- (a) The provisions of this chapter shall be administered by the city council, the planning commission and such personnel as designated by the city council in accordance with the Michigan planning enabling act, Public Act No. 33 of 2008 (MCL 125.3801 et seq.) the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and this chapter.
- (b) The city council shall employ a zoning administrator who shall act as the officer to carry out the enforcement of this chapter. The person selected, the terms of employment and the rate of compensation shall be established by the city council.

(Code 1992, § 24-447; Ord. No. 304, § 1302, 6-2-2003)

Sec. 44-454. - Duties of zoning administrator.

- (a) The zoning administrator shall receive and review all applications for zoning permits and approve or disapprove applications that do not require site plan or sign review in accordance with article XI of this chapter, site plan review procedures.
- (b) The zoning administrator shall assist the city council, the planning commission and the zoning board of appeals in the processing and administering of all zoning appeals and variances, site plan review, special uses and planned unit development applications and amendments to this chapter.
- (c) The zoning administrator shall assist the city clerk in updating the zoning map and keeping it current.
- (d) The zoning administrator shall keep a written record of all zoning permits issued during each month and submit it to the city council and the planning commission at their request. The record shall state the owner's name, location of property, intended use and estimated cost of construction for each permit.
- (e) The zoning administrator shall maintain written records of all actions taken.

(Code 1992, § 24-448; Ord. No. 304, § 1302, 6-2-2003)

Sec. 44-455. - Zoning permit.

- (a) *When required.* A zoning permit is required for all developments (including the construction, enlargement, alteration or moving of any dwelling, building or structure or any part thereof, being used or to be used for agricultural, residential, commercial, industrial, public or semi-public purposes) and shall be obtained from the office of the zoning administrator or his agent by the owner.
- (b) *When not required.* A zoning permit is not required for repairs of a minor nature or minor alterations which do not change the use, occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building.
- (c) *Application; required information.* Application for a zoning permit shall be made in writing upon a form furnished by the zoning administrator, and shall include the following information:
- (1) The location, shape, area and dimensions for the parcel, lot or acreage, and all existing improvements on the lot or parcel.
 - (2) The location of the proposed construction on the parcel, lot or acreage affected.
 - (3) The dimensions, height and bulk of all structures.
 - (4) The nature of the proposed construction, alteration or repair and the intended use.
 - (5) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other uses.
 - (6) The present use of any structure affected by the construction or alteration.
 - (7) The yard, open area and parking space dimensions, if applicable.
 - (8) The proposed plan and specifications of off-street parking spaces, if applicable.
 - (9) The proposed plan and specifications of off-street loading and unloading spaces, if applicable.
 - (10) Any other information deemed necessary by the zoning administrator to determine and provide for the compliance with and the enforcement of this chapter. If the information included in and with the application is in compliance with these requirements and all other provisions of this chapter, the zoning administrator shall issue a zoning permit upon payment of the required zoning permit fee.
- (d) *Voiding of permit.* A zoning permit shall be voided if work approved under the provisions of this zoning chapter fails to meet the following schedule:
- (1) If an applicant has not requested the approval by the zoning administrator of the staking out of an approved project within 90 days from the date of the issuance of a zoning permit by the zoning administrator.
 - (2) If an applicant has not started construction of an approved project within six months of the date of approval of the staking out of an approved project for which a zoning permit has been issued.
 - (3) If an applicant has not completed construction within one year from the date of the approval of the staking out of a project by the zoning administrator, the applicant shall be required either:
 - a. To apply or an extension of up to one year for the purpose of completing all construction approved under the zoning permit issued for the project; or
 - b. Shall put the property back into its original condition in accordance with the provisions of a zoning permit to be issued by the zoning administrator for this purpose.
 - (4) If an applicant fails to complete the construction for which a zoning permit is issued within the above prescribed schedule, and does not seek additional time by applying for a zoning permit extension and does not upon notification by the zoning administrator proceed to put the property back into its original condition, then the city

shall have the option of seeking whatever legal manner possible to put the property back into its original condition and place a tax lien upon the property for all costs involved in administrative and legal procedures and construction costs.

- (5) The zoning administrator may suspend or revoke a permit issued in error or on a basis of incorrect information supplied by the applicant or his agent or in violation of any of the ordinances or regulations of the city.
- (e) *Fees, charges and expenses.* The city council shall establish a schedule of fees, charges, and expenses, and a collection procedure for zoning permits, appeals and other matters pertaining to this chapter. The schedule of fees shall be posted in the city office and may be altered or amended only by the city council. No permit, certificate, special use or planned unit development approval, or variance shall be issued until such costs, charges, fees or expenses listed in this chapter have been paid in full, nor shall any action be taken on proceedings before the zoning board of appeals, until preliminary charges and fees have been paid in full.
- (f) *Inspection.*
- (1) The construction or use affected by any zoning permit shall be subject to the following inspections:
 - a. At the time of staking out a building foundation or location of a structure or activity area.
 - b. Upon completion of the construction authorized by the permit.
 - (2) The permit holder shall provide 48 hours' notice for the requested inspections.
 - (3) It shall be the duty of the holder of every permit to notify the zoning administrator when construction is ready for inspection. Upon receipt of such notification for the first inspection, the zoning administrator shall determine whether the location of the proposed building, as indicated by corner stakes, is in accordance with yard setbacks and other requirements of this chapter. The zoning administrator shall issue written approval at the time of inspection if the building or proposed construction meets the requirements of this chapter.
 - (4) Should the zoning administrator determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provision of this chapter or any other applicable law, he shall notify, in writing, the holder of the permit. Further construction shall be stayed until correction of the defects set forth has been accomplished and approved upon notice and request for re-inspection by the applicant and those inspections completed and compliance certified by the zoning administrator.
 - (5) Should a zoning permit holder fail to comply with the requirements of the zoning administrator at any inspection stage, the zoning administrator shall cause notice of such permit cancellation. The cancellation shall be securely and conspicuously posted upon or affixed to the construction site and shall specify those items not conforming to the requirements of this chapter. Such posting shall be considered as service upon the notice to the permit holder of cancellation thereof, and no further work upon such construction shall be undertaken or permitted until such time as the requirements of this chapter have been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed.

(Code 1992, § 24-449; Ord. No. 304, § 1304, 6-2-2003)

Sec. 44-456. - Violations.

Any building or structure, including mobile homes, which is erected, constructed, reconstructed, altered, converted, maintained or changed without following the provisions of this chapter is a violation of this chapter and subject to penalties and enforcement procedures.

(Code 1992, § 24-450; Ord. No. 304, § 1305, 6-2-2003)

Sec. 44-457. - Penalties.

Any person or agent in charge of a building or land who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this chapter, or any amendment thereof, shall be responsible for a municipal civil infraction. Each and every day during which any illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. The city council, or any owner or owners of real estate within the district in which such buildings, structures or land use is situated, may institute injunction, mandamus abatement or any other appropriate action, actions or proceedings to prevent, enjoin, abate or remove any such unlawful erection, construction, maintenance or use of land, buildings or structures. The rights and remedies provided herein are cumulative, and in addition to all other remedies provided by law.

(Code 1992, § 24-451; Ord. No. 304, § 1306, 6-2-2003)

Secs. 44-458—44-482. - Reserved.

ARTICLE XIV. - ZONING BOARD OF APPEALS

FOOTNOTE(S):

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State Law reference— Zoning board of appeals, MCL 125.3601 et seq.

Sec. 44-483. - Establishment.

There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided by Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and as provided in this chapter in such a way that the objectives of this chapter shall be enforced, the public health and safety secured, and substantial justice done.

(Code 1992, § 24-476; Ord. No. 304, § 1401, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-484. - Membership and terms of office.

(a) The zoning board of appeals shall consist of five members, to be appointed by the city council. One member shall be a member of the planning commission; four members shall be citizens who shall be representative of the various interests and population distribution of the city. The mayor shall appoint a representative from city council to the zoning board of appeals. The council representative shall not serve as the chair, and shall not have voting rights in accordance with section 44g of the city Charter.

(b) Terms of office:

(1) The member of the planning commission shall serve terms concurrent with his term on the commission.

(2) The four additional members shall serve for three-year terms. These three-year terms shall be staggered so that not more than two members are appointed each year.

(3) Should a vacancy occur, the city council shall appoint a replacement within 60 days to fill the unexpired term.

(Code 1992, § 24-477; Ord. No. 304, § 1402, 6-2-2003)

Sec. 44-485. - Rules of procedure; majority vote.

The zoning board of appeals shall adopt its own bylaws of rules and procedures as may be necessary to properly conduct its meetings and activities. The concurring vote of a majority of the full membership of the zoning board of appeals shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator or to decide in favor of the applicant any matter upon which they are required to pass under this chapter or to effect any variation in this chapter due to unnecessary hardship or practical difficulties.

(Code 1992, § 24-478; Ord. No. 304, § 1403, 6-2-2003)

Sec. 44-486. - Meetings.

Meetings of the zoning board of appeals shall be held at the call of the city clerk and at such other times as the board may specify in its bylaws.

(Code 1992, § 24-479; Ord. No. 304, § 1404, 6-2-2003)

Sec. 44-487. - Public meetings and minutes.

All meetings of the zoning board of appeals shall be open to the public. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered, together with the record of the vote of each member by name of the board and the final disposition of each case. The grounds of every determination shall be stated in writing and recorded as part of the official minutes and record of the board. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the zoning board of appeals' permanent records. Such minutes shall be filed in the office of the city clerk and the planning commission and shall be sent to the applicant or appellant and to the zoning administrator. The city clerk shall act as the depository for all official files of the board.

(Code 1992, § 24-480; Ord. No. 304, § 1405, 6-2-2003)

Sec. 44-488. - Powers and duties.

- (a) The zoning board of appeals shall have powers to interpret the provisions of this chapter and to grant variances from the strict application of any provisions of this chapter, except as otherwise provided in this chapter.
- (b) The zoning board of appeals shall hear and decide appeals from any order, requirement, decision or determination made by the city council, planning commission or zoning administrator in the administration of this chapter as hereinafter provided. They shall have power:
 - (1) To interpret the provisions of this chapter and to grant variances from the strict application of any of the provisions of this chapter;
 - (2) To decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with regard thereto.
 - (3) To grant variances from any of the regulations or provisions contained in this chapter in cases in which there are practical difficulties or unnecessary hardships in the way of their strict application.
 - (4) Determine the classification of off-street parking and loading requirements in article IX of this chapter.

(Code 1992, § 24-481; Ord. No. 304, § 1406, 6-2-2003)

Sec. 44-489. - Variances.

- (a) The zoning board of appeals shall have the power to authorize upon appeal, specific variances for non-use standards.
- (b) Non-use variances. Variances from lot area and width regulations, building height and bulk regulations, yard width

and depth regulations, off-street parking, loading space and landscaping standards and such requirements shall be permitted only if a practical difficulty in complying with this chapter can be demonstrated by the applicant.

Furthermore, any non-use variance shall meet each of the following standards:

- (1) The property for a permitted purpose.
- (2) The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation than that requested would not give substantial relief to the owner of the property or be more consistent with justice to other property owners.
- (3) The plight of the landowner is due to the unique circumstance of the property.
- (4) The alleged practical difficulty has not been created by any person presently or previously having an interest in the property.
- (5) The variance will not be contrary to the public interest.
- (6) The variance will not cause any adverse effect to property in the vicinity or in the zoning district in which the property is located.
- (7) The variance will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the zoning district in which the property is located.
- (8) The variance will be designed to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.

(Code 1992, § 24-482; Ord. No. 304, § 1407, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-490. - Voiding of and reapplication for variances.

- (a) Each variance granted under the provisions of this chapter shall become null and void unless the construction authorized by such variance has been commenced within one year after the granting of such variance.
- (b) No application for a variance which has been denied wholly or in part by the zoning board of appeals shall be resubmitted for a period of one year from such denial, except on grounds of new evidence or proof of changed conditions found by the zoning board of appeals to be valid.

(Code 1992, § 24-483; Ord. No. 304, § 1408, 6-2-2003)

Sec. 44-491. - Procedure for appeals.

- (a) *How taken.* Appeals from the ruling of the zoning administrator, planning commission or city council may be made to the zoning board of appeals in the following manner:
 - (1) The person, firm or agent thereof making the appeal, shall file in writing with the city clerk a letter stating what the specific appeal is and the reasons for such appeal.
 - (2) The city clerk shall submit the written appeal, along with all papers constituting the record from which the action appealed was taken to the zoning board of appeals.
- (b) *Who may appeal.* Appeals to the zoning board of appeals may be taken by any person aggrieved or by an officer, department, board, agency or bureau of the city, county, state, federal or other legally constituted form of government.
- (c) *Fee for appeal.* A fee as determined by the city council shall be submitted to the city clerk at the time of filing the letter of appeals. The appeals fee shall be immediately deposited in the city's general fund.
- (d) *Effect of appeal.* An appeal stays all proceedings in furtherance of the action appealed from unless the officer from

whom the appeal is taken certifies to the zoning board of appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning board of appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

- (e) *Notice of hearing.* The clerk's office shall schedule a public hearing and shall publish a notice of the public hearing as required by sections 103 and 604 of Public Act No. 110 of 2006 (MCL 125.3103, 125.3604).
- (f) *Representation at hearing.* During a hearing, any party or parties may appear in person or by agent or by attorney.
- (g) *Decision.* The zoning board of appeals shall decide upon all appeals within a reasonable time and 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 premise, and to that end, shall have all the powers of the zoning administrator, city council and planning commission from whom the appeal is taken. The zoning board of appeals' decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the zoning board of appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the circuit court on questions of law and fact.

(Code 1992, § 24-484; Ord. No. 304, § 1409, 6-2-2003; Ord. No. 315, 7-24-2007)

Secs. 44-492—44-520. - Reserved.

ARTICLE XV. - AMENDING THE ZONING ORDINANCE

FOOTNOTE(S):

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State Law reference— Zoning adoption and enforcement, MCL 125.3401 et seq.

Sec. 44-521. - Changes and amendments.

- (a) Only the city council may amend this chapter. Proposals for amendments or changes may be initiated by the city council on its own motion, by the planning commission, or by petition of one owner or more of property seeking the proposed amendment.
- (b) The city council may adopt a proposed amendment, supplement or change with or without amendments, or refer same again to the planning commission for further study and report. Provided, however, that if the city council proposes to adopt any such proposal with an amendment enlarging its scope, then such proposal shall be referred again to the planning commission for further hearing, study and report on such proposal as enlarging in scope, and final action thereon shall not be taken prior to the receiving of such report from the planning commission.

(Code 1992, § 24-506; Ord. No. 304, § 1501, 6-2-2003)

Sec. 44-522. - Procedures.

The procedure for making amendments to this chapter shall be in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

(Code 1992, § 24-507; Ord. No. 304, § 1502, 6-2-2003; Ord. No. 315, 7-24-2007)

Sec. 44-523. - Notice of hearing.

The city clerk shall give notice of hearing in the manner required by Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

(Code 1992, § 24-508; Ord. No. 304, § 1503, 6-2-2003)

Sec. 44-524. - Information required.

The petitioner shall submit a detailed description of the request to the city clerk. When the petition involves a change in the zoning map, the petitioner shall submit the following information:

- (1) A legal description of the property.
- (2) A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- (3) The name and address of the petitioner.
- (4) The petitioner's interest in the property, and, if the petitioner is not the owner, the name and address of the owner.
- (5) Date of filing with the city clerk.
- (6) Signature of petitioner and owner certifying the accuracy of the required information.
- (7) The desired change and reasons for such change.

(Code 1992, § 24-509; Ord. No. 304, § 1504, 6-2-2003)

Sec. 44-525. - Steps.

The following steps shall be followed in making a change under this article:

- (1) Petitioner submits application and fee.
- (2) The city clerk transmits application to planning commission, sets hearing date and publishes notices of hearing.
- (3) Planning commission holds hearing, makes a decision, transmits decision to the city council as a recommendation to approve or not to approve the proposed amendment.
- (4) City council either enacts or rejects proposed change as an ordinance amendment, and publishes the text of the change in the newspaper.

(Code 1992, § 24-510; Ord. No. 304, § 1505, 6-2-2003)

Sec. 44-526. - Findings of facts required.

- (a) In reviewing any petition for a zoning amendment, the planning commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition to the city council within 60 days of the filing date of the petition.
- (b) The facts to be considered by the planning commission shall include, but not be limited to, the following:
 - (1) Whether the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.
 - (2) The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition.
 - (3) The ability of the city or other government agencies to provide any services, facilities, and/or programs that might be required if the amendment petition were approved.

- (4) Effect of approval of the amendment petition on the adopted development policies of the city and other governmer
- (c) All findings of fact shall be made a part of the public records of the meetings of the planning commission and city council. An amendment shall not be approved, unless these and other identified facts be affirmatively resolved in terms of the general health, safety, welfare, comfort and convenience of the citizens of the city, or of other civil divisions, where applicable.

(Code 1992, § 24-511; Ord. No. 304, § 1506, 6-2-2003)