

Chapter 32 - ZONING

Footnotes:

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State Law reference— *Michigan Zoning Enabling Act, MCL 125.3101 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.*

ARTICLE I. - IN GENERAL

Sec. 32-1. - Definitions—Scope.

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

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text of this chapter shall control.
- (3) The terms "used" or "occupied" include the terms "intended," "designated," or "arranged" to be used or occupied; the term "building" includes the term "structure" and any part thereof; the term "dwelling" includes the term "residence;" the term "lot" includes the terms "plot" or "parcel."
- (4) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either ... or," the conjunction shall be interpreted as follows:
 - a. The term "and" indicates that all the connected items, conditions, provision, or events shall apply.
 - b. The term "or" indicates that the connected items, conditions, provisions, or events shall apply.
 - c. The term "either ... or" indicates that the connected items, conditions, provisions, or events may apply singularly but not in combination.
- (5) The terms "abutting" and "adjacent to" include property along the lot lines of the subject site, including those in another community, but do not include lands separated by a public street right-of-way.
- (6) Terms not herein defined shall have the meaning customarily assigned to them.

(Code 2009, § 40-1; Ord. No. 53-A, § 2.01, 8-16-1982; Ord. No. 170, § 1, 4-11-2013)

Sec. 32-2. - Definitions—A and B.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section through section 32-6, except where the context clearly indicates a different meaning:

Accessory apartment means apartment units which are either above the first floor of a commercial building or at the rear of a commercial building.

Accessory building or structure means a structure or building on the same lot or parcel of land as the principal structure or building, the use of which is customarily associated with and subordinate or incidental to the use of the principal building or structure. Accessory buildings and structures include, but are not limited to:

- (1) Detached garages;
- (2) Detached storage buildings;

- (3) Sheds;
- (4) Carports;
- (5) Metal canopy structures; and
- (6) Outdoor wood burners, as described in section 16-51.

Accessory use means a use which is customarily associated with, incidental, and subordinate to the principal use of any land, lot, parcel, building or structure.

Adult care facility means a facility for the care of adults, over 18 years of age, as licensed and regulated by the state under Public Act No. 218 of 1979 (MCL 400.701 et seq.), and rules promulgated by the state department of human services or its successor agency. The organizations shall be defined as follows:

Adult foster care facility means a governmental or nongovernmental establishment that provides foster care to adults.

- a. The term "adult foster care facility" 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.
- b. The term "adult foster care facility" does not include:
 - 1. Nursing homes;
 - 2. Homes for the aged;
 - 3. Hospitals;
 - 4. Alcohol or substance abuse rehabilitation centers; or
 - 5. Residential centers for persons released from or assigned to a correctional facility.

Adult foster care family home means a private home with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

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.

Adult foster care small group home means a private home 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.

Congregate facility means a residence for more than 20 adults.

Adult care institution means a state licensed adult residential facility which provides care and supervision on a 24-hour basis for the treatment of mental health, alcohol abuse, substance abuse or other long-term illness or rehabilitation program. The term "institutions for mentally handicapped, drug or alcohol patients" or "correctional institutions," or "mental health facilities" means the same, regarding persons 18 years of age or older.

Adult day care facility means an unlicensed facility which provides care for elderly or functionally impaired adults in a protective setting for a portion of a 24-hour day.

Alley means a public way designated as an alley on a recorded plat or other recorded instrument, or if not so designated, then a public way which does not exceed 20 feet in width.

Auto (automobile) means any motorized vehicle intended to be driven on roads or trails, such as cars, trucks, vans and motorcycles.

Automobile gasoline station means an establishment which includes buildings and premises for the primary purpose of retail sales of gasoline. An automobile gasoline service station may also include an area devoted to sales of automotive items and convenience goods (mini-mart) primarily sold to patrons purchasing gasoline. An establishment which provides vehicle maintenance or repair is not included within this definition.

Automobile or vehicle dealership means a building or premises used primarily for the sale of new and used automobiles and other motor vehicles, such as motorcycles, boats and recreational vehicles. Such a dealership may include outdoor display and accessory indoor maintenance and repair.

Automobile repair establishment (major repair) means an automotive repair establishment which may conduct, in addition to activities defined below as "minor repairs," one or more of the following: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles, major overhauling of engine requiring removal of cylinder head or crank case pan, recapping or retreading of tires, steam cleaning and similar activities.

Automobile service establishments (routine maintenance and minor repair) means a building or premises used primarily to provide general maintenance on automobiles, such as oil changes and lubrication; servicing and repair or spark plugs, batteries, pumps, belts, hoses, air filters, windshield wipers and distributor; replacement of mufflers and exhaust systems, brakes and shock absorbers; radiator cleaning and flushing; sale and installation of automobile accessories, such as tires, radios and air conditioners; wheel alignment, balancing and undercoating; but excluding tire recapping or grooving or any major mechanical repairs, collision work, or painting. An automobile maintenance/service establishment may also sell gasoline but is distinct from an automobile gasoline station.

Automobile wash means any building or structure or portion thereof containing facilities for washing motor vehicles using production line methods with a conveyor, blower, steam cleaning device or other mechanical washing devices; and shall also include coin- and attendant-operated drive-through, automatic self-serve, track-mounted units and similar high-volume washing establishments, but shall not include hand washing operations.

Basement means a portion of a building having more than one-half of its height below grade.

Bed and breakfast means a use which is subordinate and incidental to a principal use of a single-family dwelling and a use in which guests are provided a sleeping room and board in return for payment and are permitted within any district.

Berm means a mound of soil graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

Board of appeals means the city zoning board of appeals.

Boardinghouse means a dwelling where meals, or lodging and meals, are provided for compensation to three or more persons by prearrangement for definite periods of time not less than one week in duration.

Brew pub means a restaurant that sells alcoholic liquors brewed on the premises. The term "brew pub" also includes uses licensed by the state as "micro brewer," "small wine maker," "small distiller," and "licensed tasting room."

Building or structure means an independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the enclosure of persons, animals, or chattels, or carrying on business activities or other uses.

Building height means the vertical distance measured from the established grade at the front of the building to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.

Building, principal, means a building in which is conducted the principal uses of the lot on which such building is located.

Building setback line means the line situated at the outer surface of a building or enclosure wall, at the ground surface level, pertaining to the minimum setback distance established from the front street right-of-way or property line, thus defining an area of the lot adjacent to the front line in which no part of a building shall project or be located, except as otherwise provided for in this chapter.

(Code 2009, § 40-2; Ord. No. 53-A, § 2.03, 8-16-1982; Ord. of 8-30-1985, § 2.02(HH); Ord. of 9-10-1987, § 2.02(I); Ord. No. 90, § 1, 8-17-1999; Ord. No. 105, § 1, 11-9-2000; Ord. No. 121, § 1, 4-8-2004; Ord. No. 141, § 1, 11-9-2006; Ord. No. 147, § 1, 4-12-2007; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(2.02), 7-9-2009; Ord. No. 170, § 1, 4-11-2013; Ord. No. 218, § 1, 4-11-2019; Ord. No. 216, § 1(40-2), 5-14-2019)

Sec. 32-3. - Definitions—C and D.

Caliper means the diameter of a trunk measured as follows:

- (1) Existing trees are measured at four and one-half feet above the average surrounding grade; and
- (2) Trees which are to be planted shall be measured 12 inches above the average surrounding grade if the tree caliper is more than four inches or, if the tree caliper is less than four inches, it shall be measured at six inches above the average surrounding grade.

Canopy tree means a deciduous tree whose mature height and branch structure provide foliage primarily on the upper half of the tree. The purpose of a canopy tree is to provide shade to adjacent ground areas.

Carport means a shelter for vehicles consisting of a roof extended from a wall of a building or a partially open structure consisting of a roof and possibly walls.

Childcare facility means a facility having as its principal function as the receiving of minor children for care, maintenance, training, and supervision notwithstanding that educational instruction may be given.

Childcare center or day care center means a facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day and for not less than two consecutive weeks and where the parents or guardians are not immediately available to the child.

Family child day care home means a private home in which one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term "family day care home" includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

Foster family group home means a private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, are provided care for 24 hours a day, for four or more days a week for two or more

consecutive weeks, unattended by a parent or legal guardian.

Foster family home means a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage or who are not placed in the household pursuant to the adoption code, are given care and supervision for 24 hours a day, for four or more days a week for two or more consecutive weeks, unattended by a parent or legal guardian.

Group child day care home means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to the adult member of the family by blood, marriage, or adoption. The term "group child day care home" includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

Childcare institution means a childcare facility which is organized for the purpose of receiving children for care, maintenance and supervision usually on a 24-hour basis to more than six children in a building maintained for that purpose and operates throughout the year. The term "childcare institution" includes a maternity home for the care of unmarried mothers and institutions for orphaned, mentally, emotionally or developmentally challenged or disturbed children.

Clinic, medical or dental, means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients but may not include facilities for overnight patient care or major surgery.

Co-location means location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, to reduce the overall number of structures required to support wireless communication antennas within the city.

Commercial care center means a facility other than a private residence, required to be licensed by the state, in which:

- (1) Provides care to adults who are aged, mentally ill, disabled, or physically handicapped who require supervision on an ongoing basis, but who do not require continuous nursing care;
- (2) One or more children are given care and supervision for periods of less than 24 hours per day, and where a parent or legal guardian is not immediately available to the child;

The term "commercial care facility" includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day.

Commercial vehicle means any vehicle bearing or required to bear commercial license plates and which falls into one or more of the categories listed below:

- (1) Truck tractor.
- (2) Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures.
- (3) Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending-supply or delivery trucks. This category shall include vehicles of a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling and other construction-oriented contractors.
- (4) Tow trucks.
- (5) Commercial hauling trucks.
- (6) Vehicle repair service trucks.

- (7) Snow plowing trucks.
- (8) Any other vehicles with a commercial license plate having a gross vehicle weight in excess of 10,000 pounds or a total length of 22 feet.

Convalescent or nursing home means a home for children or the aged or infirm, or a place of rest for those suffering bodily disorders wherein seven or more persons are cared for. Said home shall conform to, and qualify for license under, applicable state law.

Development permit means a permit signifying that a proposed use or structure complies with the provisions of city ordinances, including, but not limited to:

- (1) Design;
- (2) Use;
- (3) Activity;
- (4) Height;
- (5) Setbacks;
- (6) Density;
- (7) Stormwater;
- (8) Infrastructure;
- (9) Site planning;
- (10) Special use status; or
- (11) Planned unit development status.

Drive-through business means a commercial business establishment whose principal retail or service character is dependent on providing a driveway approach and parking spaces for motor vehicles so as to serve patrons while in or momentarily stepped away from their motor vehicles. The term "drive-through business" includes, but is not limited to:

- (1) Banks;
- (2) Cleaners;
- (3) Restaurants; and
- (4) Laundry pickup; etc.

Drive-through restaurant means a drive-through establishment that furnishes the patron with food in a ready-to-consume state, primarily in plastic, paper or other disposable containers, and where the consumption of food is allowed either:

- (1) In the main building;
- (2) In a motor vehicle parked on the premises;
- (3) In another facility on the premises outside the main building; or
- (4) Off the premises.

Dwelling unit means a single unit providing independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Multiple-family dwelling means a building or portion thereof, used or designated to use as a residence for three or more families living independently of each other and each doing their own cooking in said building. The term "multiple-family dwelling" includes:

- a. Three-family buildings;
- b. Four-family buildings;
- c. Apartments; and
- d. Townhouses.

One-family dwelling (also called a single-family dwelling) means a building containing one dwelling unit.

Townhouse means a dwelling unit in a structure containing at least three such units, each unit having its own main entrance on the first floor and sharing a common wall but not having a common floor/ceiling.

Two-family dwelling (also called a duplex) means a detached building containing two dwelling units, and is designed for use by two families living independently of each other and each doing their own cooking in each unit.

(Code 2009, § 40-3; Ord. No. 53-A, § 2.03, 8-16-1982; Ord. No. 105, § 2, 11-9-2000; Ord. No. 121, § 1, 4-8-2004; Ord. No. 126, § 1, 8-12-2004; Ord. No. 129, § 1, 6-9-2005; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(2.03), 7-9-2009; Ord. No. 170, § 1, 4-11-2013)

Sec. 32-4. - Definitions—E through J.

Essential public services means the erection, construction, alteration or maintenance of public utilities or municipal department or commissions of underground, surface, or overhead gas, electrical, steam or water transmission or distribution systems; collection communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles and other similar equipment and accessories reasonably necessary to provide adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare; but not including buildings other than those that are primarily enclosures or shelters for the above essential service equipment.

Family means an individual or two or more persons related by blood, marriage or adoption living together as a housekeeping unit; or a group of not more than three persons who need not be related living together as a single housekeeping unit; or a foster family home, foster family group home or adult foster care family home, as defined in section 32-3.

Frontage means the length of a single continuous front lot line.

Garage, private, means accessory building or portion of a main building used primarily for the storage of three passenger vehicles.

Garage, public, means any building used for the storage of more than three vehicles or where vehicles are equipped, repaired, stored or kept for remuneration, hire or sale.

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

Home occupation means an occupation conducted in a dwelling unit, as regulated in section 32-550.

Hotel means a building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five sleeping rooms and in which rooms there is no provision for cooking.

Incubator means a facility which provides one or more of the following to more than one new commercial business venture within a single building: business operating and management assistance, administrative support, shared equipment or technical services or similar assistance to new businesses.

Junk means any immobile or unlicensed motor vehicles, auto parts, inoperable machinery, appliances, products, or merchandise with parts missing; scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use for the purpose of which they were manufactured.

(Code 2009, § 40-4; Ord. No. 53-A, § 2.04, 8-16-1982; Ord. No. 105, § 2, 11-9-2000; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(2.04), 7-9-2009; Ord. No. 195, 7-13-2017; Ord. No. 211, § 1, 10-11-2018)

Sec. 32-5. - Definitions—K through M.

Light industrial means manufacturing facilities whose external, physical effects have a minimum detrimental effect on the adjacent land uses such that noise and emissions are not detectable from the property lines and trucking activities are limited.

Lodginghouse means primarily a dwelling where lodging, with or without meals, is furnished on a weekly or monthly basis to three or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.

Lot means a parcel of land occupied or intended to be occupied by one main building and the accessory buildings and uses customarily incident to such main building, and, including such open spaces, parking spaces, and loading spaces as are required by this chapter. The term "lot" includes the term "plot" or "parcel." A lot need not be a lot of record.

Lot characteristics.

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

Lot coverage means the part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot depth means the mean horizontal distance from the front street line to the rear lot line. In the case of an acreage lot, the lot depth is measured from the front right-of-way line to the rear property line.

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

Lot lines.

Front lot line, in the case of an interior lot, means the line separating such lot from the abutting street right-of-way. In the case of a corner lot, both street frontages shall be considered the front lot line and shall be subject to all applicable front yard setbacks. In the case of a double frontage lot, the front lot line shall be that line separating said lot from that street which provides access to the lot.

Rear lot line means, ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the zoning administrator shall designate the rear lot line.

Side lot line means any lot line which is neither a front lot line nor a rear lot line.

Lot of record means a lot which is part of a legally approved subdivision plat as shown on the records of the county register of deed, or a lot or parcel described by metes and bounds that is legally divided and approved by the city assessor pursuant to the Land Division Act, MCL 560.101 et seq.

Lot types.

Corner lot means a lot located at the intersection of two or more streets and at an angle of intersection of not more than 135 degrees.

Double frontage lot means a lot extending through a block from one street to another.

Interior lot means a lot other than a corner or double frontage lot with only one lot abutting a street.

Main building means the building in which is conducted the principal use of the lot upon which it is situated.

Manufactured home means a residential building, dwelling unit, dwelling room, or a building component, which is designated for long-term occupancy as a dwelling unit or portion of a dwelling unit, and is wholly or substantially constructed at an off-site location, transported to a site and erected.

Marihuana means marihuana as defined in section 7601 of the Michigan Public Health Code, Public Act No. 368 of 1978 (MCL 333.7106 et seq.), as amended.

Marihuana establishment means a marihuana establishment as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.

Marihuana facility means marihuana facility as defined in the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., as amended.

Motel means groups of furnished rooms or separate structures providing sleeping and parking accommodations for transients.

(Code 2009, § 40-5; Ord. No. 53-A, § 2.05, 8-16-1982; Ord. No. 105, § 2, 11-9-2000; Ord. No. 126, § 1, 8-12-2004; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(2.05), 7-9-2009; Ord. No. 167, § 1, 8-11-2011; Ord. No. 2020-224, § 1, 6-11-2020)

Sec. 32-6. - Definitions—N through Z.

Nonconforming building means a building or portion thereof lawfully existing at the effective date of the ordinance from which this chapter is derived, or amendments thereto, and which does not conform to the provisions of the ordinance 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.

Open/outdoor storage means the storage of any materials or objects outside the confines of a building for a continuous period longer than 24 hours or more, other than for outdoor display.

Outdoor display means the temporary, repeated placement of objects that are for the purpose of retail sale outside the confines of a building.

Principal use means the primary or predominant use of land, building or structure.

Public and quasi-public institutional buildings, structures and uses means buildings, structures, and uses of governmental agencies and nonprofit organizations, including, but not limited to, office buildings, police stations, municipal parking lots, post offices, museums, libraries and community centers.

Reception antenna means an exterior apparatus capable of receiving communication for radio or television purposes, including satellite dishes and other satellite reception antennae but excluding facilities considered to be essential public services or those preempted from city regulation by applicable state, Federal Communication Commission (FCC) or federal laws or regulations.

Restaurant means a structure that is maintained, operated, and advertised or held out to the public as a place where food and beverage are served, and consumed, primarily within the structure. The majority of the restaurant's income derives from food and non-alcoholic liquor sales but may serve alcohol if properly licensed by the state and may also include areas dedicated for the use of stages, dance floors, standing-room areas, seating, pool tables and other mechanical amusement devices.

Tavern means a restaurant licensed by the state to sell at retail and serve alcoholic liquors on the premises using a barrier or counter at which any alcoholic liquors and food are sold or served to and consumed by customers, and the majority of their income derives from alcohol sales and may also include areas dedicated for the use of stages, dance floors, standing-room areas, seating, pool tables and other mechanical amusement devices.

(Code 2009, § 40-6; Ord. No. 53-A, § 2.06, 8-16-1982; Ord. No. 105, § 2, 11-9-2000; Ord. No. 121, § 1, 4-8-2004; Ord. No. 122, § 1, 6-24-2004; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(2.06), 7-9-2009; Ord. No. 161, § 1, 3-11-2010; Ord. No. 170, § 1, 4-11-2013; Ord. No. 218, § 1, 4-11-2019; Ord. No. 216, § 1(40-6), 5-14-2019)

Sec. 32-7. - Purpose.

The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare. Among other purposes, the provisions of this chapter are intended to:

- (1) Provide for adequate light, air, and convenience of access;
- (2) Lessen congestion in the streets;
- (3) Secure safety from fire and other dangers;
- (4) Avoid undue concentration of population by regulating and limiting the use and location of land and buildings and the height and bulk of buildings wherever erected;
- (5) Limit and determine the size of yards and other open spaces;
- (6) Regulate the density of population;
- (7) Conserve the value of property; and
- (8) Encourage the most appropriate use of land throughout the city.

(Code 2009, § 40-8; Ord. No. 53-A, § 1.02, 8-16-1982)

Sec. 32-8. - Scope.

It is not intended by this chapter to repeal, abrogate, annul or in any other way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by this chapter, or any private restrictions placed upon property by covenant, deed or other agreement; provided, however, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or lot coverage, or specifies a definite land use or requires greater lot area or larger yards or other open spaces than are imposed or required by such rules, regulations or permits or by such private restrictions, the provisions of this chapter shall control.

(Code 2009, § 40-9; Ord. No. 53-A, § 1.03, 8-16-1982)

Sec. 32-9. - Interpretation.

- (a) In the interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, and general welfare.
- (b) It is not intended by this chapter to repeal, abrogate, annul, or in any way impair or interfere with any existing provision of law or ordinance other than the zoning ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this chapter imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits, the provisions of this chapter shall control.
- (c) Nothing in this chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modifications as may be necessary to the preservation of protection of public health, safety, and welfare.

(Code 2009, § 40-108; Ord. No. 53-A, § 24.02, 8-16-1982)

Secs. 32-10—32-36. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 32-37. - Zoning administration.

The provisions of this chapter shall be administered and enforced by the city council, planning commission, board of appeals, zoning administrator, and deputies of same. The zoning administrator shall, among other duties, issue all permits and notices of violations provided for in this chapter.

(Code 2009, § 40-19; Ord. No. 53-A, § 23.01, 8-16-1982)

Sec. 32-38. - Fees and costs.

- (a) Except as may be provided for otherwise in this chapter, the city council shall, by resolution, determine and set

fees to be charged for all permits and certificates and official actions required, such as appeals, insofar as this chapter provides for charges to be made in each instance. There shall be no fee for the renewal or extension of permits. The fees shall be collected by the appropriate official prior to the issuance of any permit or certificate. No permit shall be valid until the proper fee has been paid. There shall be no charge for the renewal or extension of permits.

- (b) A person applying for a permit or certificate shall reimburse the city its costs for reviewing plans or performing any inspections or testing required by the city prior to issuing the permit or certificate.
- (c) Fees, costs or expenses charged pursuant to subsections (a) and (b) of this section may include, but are not limited to:
 - (1) Attorney fees;
 - (2) Engineering fees and costs;
 - (3) Fees for the services of outside consultants and other professionals who may assist the city;
 - (4) Costs and fees for studies and reports pertaining to the matters in question;
 - (5) Special meeting costs; and
 - (6) Other reasonable costs and expenses.

Such costs or expenses may not include costs for the time expended by city employees (except when authorized by the appropriate provisions of the Freedom of Information Act) or for incidental costs or expenses.

- (d) The city may, in its discretion, require a person to tender to the city an amount of money determined by the city to be a reasonable estimate of the fees, expenses or costs charged pursuant to subsections (a) through (c) of this section. Such monies shall be retained by the city for reimbursement of such fees, costs and expenses. Any monies paid or deposited in accordance with this subsection which are not used or spent by the city shall be refunded.

(Code 2009, § 40-20; Ord. No. 53-A, § 23.02, 8-16-1982; Ord. No. 111, § 3, 8-9-2001)

Sec. 32-39. - Development permit.

Except as provided for elsewhere in this section, no dwelling or building shall be erected, demolished, altered, enlarged or moved upon or from any land subject to the provisions of this chapter, nor any new use created, unless and until a development permit has been properly applied for and issued by the city manager or the city manager's authorized designee, whereupon the applicant may apply for the permits required by the building inspector. A development permit shall remain valid for 12 months from the date of issuance.

(Code 2009, § 40-21; Ord. No. 53-A, § 23.03, 8-16-1982; Ord. No. 129, § 1, 6-9-2005)

Sec. 32-40. - Building permits.

Except as provided for elsewhere in this section, no dwelling or building shall be erected, demolished, altered, enlarged or moved upon or from any land subject to the provisions of this chapter, nor any new principal use created, unless and until a building permit shall have been properly applied for and issued by the building inspector. It is required that all building permit applications include a duly issued and valid development permit.

(Code 2009, § 40-22; Ord. No. 53-A, § 23.04, 8-16-1982; Ord. No. 129, § 1, 6-9-2005)

Sec. 32-41. - Certificate of occupancy required.

No dwelling or building or mobile home, subject to the provisions of this chapter, shall be occupied or used until the zoning administrator has issued a certificate of occupancy to the owner or applicant who made application for the building permit. At least ten days prior to being ready for use or occupancy, the owner or applicant shall notify the zoning administrator who shall, within five days, ensure that the building is in proper conformity and, if so, issue a certificate of occupancy. If a certificate or application is disapproved for cause, the owner or applicant shall be so notified in writing.

(Code 2009, § 40-23; Ord. No. 53-A, § 23.05, 8-16-1982; Ord. No. 129, § 1, 6-9-2005)

Sec. 32-42. - Amendments to this chapter authorized.

The city council is authorized and empowered to cause this chapter to be amended, supplemented or changed, pursuant to the authority and according to the procedure set forth in this chapter. Proposals for amendments may be initiated by the city council, the planning commission or by petition of one or more owners of property in the city affected by such proposed amendment.

(Code 2009, § 40-24; Ord. No. 53-A, § 23.06, 8-16-1982; Ord. No. 129, § 1, 6-9-2005; Ord. No. 147, § 1, 4-12-2007)

State Law reference— Zoning adoption and enforcement, MCL 125.3401 et seq.

Sec. 32-43. - Procedure for amendments.

The procedure for amending this chapter shall be as follows:

- (1) Each petition shall be submitted to the zoning administrator, accompanied by a fee as established by the city council, and then referred to the city clerk to set a hearing date and provide proper notification.
- (2) The planning commission shall conduct a public hearing, notice of which shall be given as provided in section 32-44.
- (3) Following the public hearing, the planning commission shall make a recommendation to the city council to approve, deny, or approve with conditions, the subject request, stating reasons for its action.
- (4) The city council shall consider the amendment request, the planning commission's recommendation, and all comments made at the public hearing, and shall make a decision to approve, deny, or approve with conditions the subject request, stating reasons for its action.
- (5) No petition for an amendment to this chapter which has been denied by the city council, shall be resubmitted for a period of one year from the date of such denial, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

(Code 2009, § 40-25; Ord. No. 53-A, § 23.07, 8-16-1982; Ord. No. 129, § 1, 6-9-2005; Ord. No. 147, § 1, 4-12-2007)

Sec. 32-44. - Hearing requirements.

- (a) *Notice*. All applications for development approval, amendments, variances or other deliberations requiring a public hearing under the terms of this chapter shall comply with the Michigan Zoning Enabling Act, MCL 125.3101 et seq., and the other provisions of this section with regard to public notification.
- (b) *Responsibility*. When the provisions of this chapter or the state Zoning Enabling Act require that notice be published, the zoning administrator shall be responsible for preparing the content of the notice, having it

published in a newspaper of general circulation in the city and mailed or delivered as provided in this section.

(c) *Contents.* All mail, personal and newspaper notices for public hearings shall:

- (1) Describe the nature of the request by identifying whether the request is for a rezoning, text amendment, special land use, planned development, variance, appeal, ordinance interpretation or other purpose and describing the procedures to be followed in evaluating the request.
- (2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number, identifying the nearest cross street, or, including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
- (3) Indicate the date, time and place of the public hearing.
- (4) Indicate when and where written comments will be received concerning the request.

(d) *Timing of notice.* Unless otherwise provided in the state Zoning Enabling Act, or this chapter where applicable, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned development, variance, appeal, or ordinance interpretation publication shall be provided as follows:

- (1) Notice by publication shall occur not less than 15, nor more than 45, days before the date the application or other matter will be considered for approval.
- (2) Personal notice by mail or delivery shall occur not less than 15, nor more than 45, days before the date the application or other matter will be considered for approval.

(e) *Distribution of notice.* If the public hearing involves a request for an interpretation of this chapter by the zoning board of appeals, an appeal of an administrative decision by the zoning board of appeals or consideration of a zoning map change involving ten or fewer adjacent properties, in addition to publication of the notice in a newspaper of general circulation as required, notice shall be provided by mail or personal delivery to:

- (1) The property owner for which approval is being considered or to the person requesting the interpretation or appealing the decision, as applicable;
- (2) All persons to whom real property is assessed within 300 feet of the property, regardless of whether the property is located within the city;
- (3) Occupants of all structures within 300 feet of the property, regardless of whether the occupants are located within the city. If the names of said occupants is not known, the notice may be addressed to "occupant"; and
- (4) Notice by publication shall occur not less than 15, nor more than 45, days before the date the application or other matter will be considered for approval.

(Code 2009, § 40-26)

Sec. 32-45. - Conditional rezoning.

(a) *Application.* An applicant for a rezoning may voluntarily offer a conditional rezoning along with an application for rezoning before or following the public hearing for a proposed rezoning. An election to submit a conditional rezoning shall be pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 et seq., and this section.

- (1) A conditional rezoning shall be a written agreement executed by the applicant and the city, shall be in

recordable form and shall be recorded with the county register of deeds after execution.

- (2) An applicant may impose limitations on the use of their property, specify lower or varying density or less intensity of development and use, or may offer more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features as part of their offer for conditional rezoning.
 - (3) A conditional rezoning may not authorize uses or developments of greater intensity or density, or which are not permitted in a proposed zoning district; nor may a conditional rezoning permit variations from height, area, setback or similar dimensional requirements that are less restrictive than a proposed zoning district.
- (b) *Content of agreement.* In addition to any limitations on use or development of the property or preservation of property features or improvements as described in subsection (a) of this section, an agreement for conditional rezoning shall include the following:
- (1) An acknowledgement that the conditional rezoning was proposed voluntarily by the applicant.
 - (2) An agreement and understanding that the property shall not be developed or used in any manner that is not consistent with a conditional rezoning.
 - (3) An agreement and understanding that the approval of a rezoning and a conditional rezoning shall be binding upon and inure to the benefit of the property owner and the city, and their respective heirs, successors, assigns, receivers or transferees.
 - (4) An agreement and understanding that, if a rezoning with a conditional rezoning becomes void for any reason, including, but not limited to, the reasons identified in this section, then no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established.
 - (5) An agreement and understanding that no part of a conditional rezoning shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.
 - (6) A legal description of the land to which the agreement pertains.
 - (7) Any other provisions as are agreed upon by the parties.
- (c) *Process.* A conditional rezoning shall be reviewed concurrently with a petition for rezoning following the process in section 32-43 and the following:
- (1) A conditional rezoning may be submitted prior to or following the planning commission public hearing. If the agreement is submitted following the planning commission public hearing, it must be reviewed by the planning commission and a second public hearing shall be held prior to the planning commission making its recommendation on the rezoning and conditional rezoning to the city council. A conditional rezoning shall be reviewed by the city attorney to determine that it conforms with the requirements of this section, this chapter, and the Michigan Zoning Enabling Act, MCL 125.3101 et seq., and that the conditional rezoning is in a form acceptable for recording with the county register of deeds.
 - (2) Following a public hearing for a proposed zoning amendment, the planning commission shall make a recommendation to the city council. In addition, following a public hearing to consider a conditional rezoning, the planning commission shall consider and address in written findings whether a proposed conditional rezoning:
 - a. Is consistent with the intent of this article.

- b. Bears a reasonable and rational connection or benefit to the property being proposed for rezoning.
 - c. Is necessary to ensure that the property develops in such a way that protects the surrounding neighborhood.
 - d. Leads to a better development than would have been likely if the property had been rezoned without a conditional rezoning, or if the property were left to develop under the existing zoning classification.
 - e. Is clearly in the public interest.
- (3) If a rezoning and conditional rezoning are approved, the zoning classification of the rezoned property shall be noted on the official zoning map, with reference to the conditional rezoning agreement. The city clerk shall maintain a listing of all properties subject to zoning agreements and shall provide copies of the agreements upon request.
- (4) An approved conditional rezoning shall be recorded with the county register of deeds.
- (5) All other use or development requirements of this chapter or any other city ordinances shall apply to the property to which a conditional rezoning applies.
- (d) *Expiration.*
- (1) Unless extended by the city council for good cause, a rezoning and conditional rezoning shall expire two years after adoption of the rezoning and conditional rezoning, unless substantial construction on the approved development of the property pursuant to building and other required permits issued by the city commences within the two-year period and proceeds diligently to completion.
 - (2) In the event that substantial construction on the approved development has not commenced within the aforementioned two years, or if construction and development does not proceed diligently to completion thereafter, a conditional rezoning and rezoning shall be void and of no effect.
 - (3) Should a conditional rezoning become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the city is taken to bring the property into compliance with this chapter, the city may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
 - (4) Notwithstanding subsections (d)(1) through (3) of this section, if the property owner applies in writing for an extension of a rezoning and a conditional rezoning at least 30 days prior to the expiration date, the city council may, in its sole discretion, grant an extension of up to one year. Future extensions may be granted, although the number of previous extensions granted to a particular rezoning and conditional rezoning shall be considered by the city council.
- (e) *Reversion of zoning.* If a rezoning and conditional rezoning become void as outlined in subsection (d) of this section, then the zoning classification of the property shall revert back to its previous zoning classification. The reversion process shall be initiated by the city council by requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests, including the notice and hearing as required by the Michigan Zoning Enabling Act, MCL 125.3101 et seq., and this chapter. No building or other permit shall be issued or valid during the process described in this subsection.
- (f) *Continuation.* Provided that all development or use of the property in question is in compliance with a conditional rezoning, a use or development authorized thereunder may continue indefinitely, provided that all terms of a conditional rezoning continue to be adhered to.

(g) *Amendment.*

- (1) During an initial two-year period, or during any extension granted by the city as permitted in subsection (d) of this section, the city shall not add to or alter a conditional rezoning, even with the landowner's consent.
- (2) A conditional rezoning may be amended after the expiration of an initial two-year period and any extensions, in the same manner as was prescribed for the original rezoning and conditional rezoning.

(h) *Violation of agreement.* The failure to comply with a conditional rezoning at any time after approval will constitute a breach of the agreement and also a violation of this chapter and further use of the property may be subject to legal remedies available to the city. Any violation of a conditional rezoning that is not cured within 30 days after written notice of the violation is given shall permit the city council, in its sole discretion, to declare a conditional rezoning void ab initio and of no effect.

(i) *Subsequent rezoning of land.* Nothing in a conditional rezoning, nor any statement or other provision, shall prohibit the city from later rezoning all or any portion of the property that is the subject of a conditional rezoning to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

(j) *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this chapter.

(Code 2009, § 40-27; Ord. No. 53-A, § 23.08, 8-16-1982; Ord. No. 156, § 1(23.08), 7-9-2009)

Secs. 32-46—32-63. - Reserved.

DIVISION 2. - SITE PLAN REVIEW

Footnotes:

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Editor's note— Ord. No. 205, § 1, adopted April 12, 2018, amended Div. 2 in its entirety to read as herein set out. Former Div. 2, §§ 40-47—40-58, pertained to similar subject matter and derived from Ord. No. 53-A, §§ 18.01—18.12, 22.01, adopted Aug. 16, 1982; Ord. No. 116, §§ 1—3, adopted Dec. 12, 2002; Ord. No. 127, § 1, adopted Jan. 13, 2005; Ord. No. 129, § 1, adopted June 9, 2005; Ord. No. 149, § 1, adopted Sep. 13, 2007; Ord. No. 156, § 1(18.03, 18.08, 18.11, 18.12), adopted July 9, 2009; and Ord. No. 199, adopted Sep. 7, 2017.

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

Sec. 32-64. - Scope.

The purposes of site plan review are to:

- (1) Determine compliance with the provisions of this chapter;
- (2) Promote the orderly development of the city;
- (3) Prevent the depreciation of land value through uses or structures which do not give proper attention to siting or area protection;
- (4) Provide consultation and cooperation between the applicant and the city planning commission and city staff in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this zoning chapter; and
- (5) Achieve the purposes of the city master plan.

(Code 2009, § 40-47; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-65. - Site plans reviewed by planning commission.

A site plan shall be submitted for review and approval by the planning commission prior to the issuance of a building permit as follows:

- (1) Planning commission review is required for the following:
 - a. New construction of permitted nonresidential or multiple family uses.
 - b. Special land uses. See also section 32-692.
 - c. Planned unit developments.
 - d. Mobile home parks.
 - e. Site condominiums.
 - f. A change in the use of a building or property or an expansion of a building which results in the need for more parking spaces.
 - g. All other uses requiring site plan approval by the planning commission as required by this division.
- (2) Site plans subject to review by the planning commission shall comply with the application and submittal requirements of sections 32-67 and 32-68.

(Code 2009, § 40-48; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-66. - Sketch plans reviewed by the zoning administrator.

- (a) All developments not described in section 32-65 and for which a development permit is required according to section 32-39 shall be subject to sketch plan review by the zoning administrator. The zoning administrator, however, may refer any sketch plan to the planning commission to be reviewed in accordance with the requirements for planning commission review required herein.
- (b) Projects which require sketch plan review include, but are not limited to, the following:
 - (1) Accessory buildings.
 - (2) Enlargements or modifications of existing nonresidential buildings or multiple-family buildings which do not increase the need for additional parking as required by this division.
 - (3) Single- and two-family dwellings.
 - (4) Grading, excavation, filling, soil removal, creation of a swimming pool, creation of a pond or tree clearing over 100 square feet.
 - (5) Temporary uses.
 - (6) Outdoor dining areas for businesses which serve food as the principal permitted use.
 - (7) Co-location of a wireless communication antenna upon an existing tower.
- (c) Sketch plan requirements. An application for a sketch plan shall include the following:
 - (1) An application form providing the information set forth in section 32-67(b).
 - (2) An accurate scaled drawing containing the following information unless such items are not required by the zoning administrator. The zoning administrator may also require additional items in order to conduct an accurate review.

- a. North arrow.
- b. Date of site plan preparation.
- c. The actual shape, location and dimensions of the lot. A survey of the property is acceptable.
- d. The dimensions of all existing buildings and structures and any alterations or expansions proposed.
- e. Square footage of existing buildings and proposed additions.
- f. The existing and intended use of the lot and buildings.
- g. Existing and proposed front, rear and side yard setbacks.
- h. Adjacent streets.
 - i. Location and width of existing and proposed driveways.
 - j. Existing parking areas and type of parking lot surface.
 - k. Existing parking spaces and barrier free spaces, including their length and width and number.
 - l. Existing and proposed exterior building and parking lot lights and type of fixture.
- m. Existing and proposed landscaping: Type, location and general size.
- n. Note if the building is served by public water and sanitary sewer or private well and septic system.
- o. Location and screening of existing or proposed waste containers.
- p. Adjacent or on-site drainage ways, wetlands or creeks.

(Code 2009, § 40-49; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-67. - Planning commission submittal requirements.

- (a) Before submitting a formal application for site plan review an applicant is encouraged to meet with the city zoning administrator to review procedures and ask questions.
- (b) An application for planning commission site plan review along with five sets of the site plan and a high-resolution electronic copy shall be submitted to the zoning administrator in accordance with the submittal schedule established by the planning commission along with the fee as set by the city council. The application shall, at a minimum, contain the following information:
 - (1) The applicant's name, address of residence, phone number and email address.
 - (2) Proof that the applicant is the owner of the property or has a legal or financial interest in the property, such as a purchase agreement.
 - (3) The name, address and phone number of the owners of record if different than the applicant.
 - (4) The address of the property.
 - (5) Legal description of the property, including the permanent parcel number.
 - (6) Current zoning.
 - (7) Project description.
 - (8) Size of the parcel in acres.
 - (9) Current and proposed use of the property.
 - (10) Signature of the applicant and owner of the property.
 - (11) An electronic version of the site plan and all other items submitted in a form acceptable to the city.
- (c) Site plans shall be drawn at a scale of not more than one inch to 50 feet for a site of less than three acres and

one inch to 100 feet for a site of three or more acres and shall contain the following information unless specifically waived by the planning commission or zoning administrator:

- (1) A title block. The title block shall contain the following:
 - a. The project name, if any.
 - b. The name, address and telephone number of the applicant.
 - c. The name, address, telephone number and seal of the professional individual who prepared the site plan.
 - d. The dates of submission and any revisions to the site plan.
- (2) Property information.
 - a. Scale and north arrow.
 - b. A locational diagram of the site drawn to scale.
 - c. A legal description of the subject property.
 - d. The net acreage (minus right-of-way) and total acreage.
 - e. The land uses and zoning classifications of adjoining parcels and parcels located across the street.
 - f. The location and dimensions of proposed or existing lot lines.
 - g. All required building setbacks.
 - h. Existing contour lines at five-foot intervals on site and for a distance of 50 feet on adjacent parcels.
 - i. The location and elevations of existing water courses and water bodies, including county drains and manmade surface drainage ways, 100-year floodplains and all wetlands and other unbuildable areas.
 - j. The location and type of significant vegetation, including woodlots and individual trees of six inches in diameter or greater.
- (3) Building and land use information.
 - a. The location and setbacks of all on-site existing and proposed buildings, as well as the length, width, height, total square footage and use of each building and distances between structures and lot lines.
 - b. The location and use of all off-site buildings or structures within 100 feet of the subject property.
 - c. Building facade elevations for all sides of all proposed buildings, drawn at an appropriate scale and descriptions of exterior building materials and colors (samples may be required.) See section 32-552.
 - d. The proposed location of accessory structures, buildings and uses and of the method of screening, where applicable.
- (4) Streets, vehicle and pedestrian circulation, and parking.
 - a. The name, location, dimensions and associated right-of-way of all existing and proposed on-site and adjoining off-site streets (public or private,) and typical cross section of same (cross section shall show location and typical details of curbs; location, dimensions, tapers of lanes; the location, width, surface elevations, radii and grade of all access points to the site; and, for proposed streets, the surface, base and sub-base materials.
 - b. All driveways within 200 feet of the site on both sides of the street.
 - c. The information necessary to demonstrate that the driveway spacing standards of section 32-623 will be met.
 - d. The location, design and number of all parking spaces and unloading areas, including information on proposed curbing, barrier-free access design and dimensions for parking spaces, circulation aisles and

unloading spaces. Calculations to demonstrate compliance with the required number of parking spaces shall be provided. See section 32-614.

- e. The location and design of all existing and proposed sidewalks, walkways, bicycle paths and areas for public use. See section 32-553.

(5) Lighting.

- a. The location, height and type of fixture of all exterior lights, including building lights. Lights fixtures shall be fully shielded and placed to avoid light spillover onto adjacent properties and roadways. See section 32-616(c).
- b. A photometric plan showing areas of illumination at all property lines measured in footcandles and complying with the illumination requirements of the city.

(6) Utilities, grading, stormwater management.

- a. The location, design, sizing and easements related to all existing and proposed utility systems to be located on the site, above and below ground, including, but not limited to:
 1. Electric;
 2. Telephone and gas distribution lines;
 3. Water mains;
 4. Fire hydrants and well sites;
 5. Storm sewer lines;
 6. Sanitary sewer lines;
 7. Septic systems, if applicable;
 8. Retention and detention areas (inverts, hydrants, drainage flow patterns, locations of manholes and catch basins, calculations for size of storm drainage facilities, underground tanks and transportation pipelines.
- b. The grading plan showing finished contours at a minimum interval of five feet and correlated with existing contours so as to clearly indicate cut and fill required.
- c. The description of measures to be taken to control soil erosion and sedimentation during and after completion of grading and construction operations.

(7) Landscaping. See section 32-536.

- a. Number of plants, type, size, location and spacing for:
 1. Greenbelts;
 2. Front yard along all streets abutting property;
 3. Parking lots, including landscaping within islands and on perimeter;
- b. Computations for all required landscaping;
- c. Berms, walls and fences.

(8) Waste disposal. The location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities. See section 32-551.

(9) Residential developments. See section 32-474.

- a. The total number of residential units proposed by type (e.g., one-bedroom units, two-bedroom units,

etc.).

- b. Floor area per unit for each type of unit.
 - c. Proposed density calculations for the completed project (dwelling units per acre).
 - d. Location, use, dimensions and elevations of all common or community buildings.
 - e. Garage or carport locations and details.
 - f. Location, type, size and dimensions of the recreation and open space areas.
- (10) Signs. The location, size and specifications of all signs, including signs to be placed on buildings. A separate sign permit is required. See article VII of this chapter.
- (11) Written statements. The planning commission may require written statements relative to the effects of the proposed use on the traffic capacity and safety of existing streets, and the proposed development's impact on schools, existing utilities, the environment and natural features. In addition, the commission may request additional studies, graphics or other written materials from the applicant in order to assist in determining the appropriateness of the site plan.

(Code 2009, § 40-50; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-68. - Site plan review and approval procedures.

- (a) The planning commission or zoning administrator shall review the final site plan according to the standards for site plan review as contained in this chapter and any other applicable regulations of this division. Based on these standards and regulations, the planning commission or zoning administrator shall approve, deny, or approve with conditions the final site plan.
- (b) If approved, the applicant shall revise the site plan as necessary and submit the final site plan to the zoning administrator, planner, engineer, city departments or others as necessary to ensure that all revisions as required by the planning commission have been made.
- (c) Upon approval of the final site plan, three copies of this plan shall be approved, dated, and signed by the zoning administrator. One copy of the approved plan shall be retained by the applicant, one shall be retained by the building inspector as part of the building permit review process, and one copy shall be kept by the zoning administrator.

(Code 2009, § 40-51; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-69. - Standards for site plan approval.

The following standards shall be utilized by the planning commission in reviewing all site plans and by the zoning administrator in reviewing all minor site plans. Site plan approval shall be granted only if the site plan meets all applicable standards set forth by law, in this article and in the general criteria outlined in subsections (1) through (17) of this section. The planning commission and the zoning administrator may each adopt procedures to encourage preliminary informal review of proposed site plans with the applicant. The preliminary review shall not, however, affect the applicability of the standards and requirements for formal approval of site plans as required by this article.

- (1) *Organization of elements.* All elements of the site plans shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

- (2) *Relation of buildings to environment.* Buildings shall be sited to protect natural features, such as natural grade, trees, vegetation, water bodies, and others. Proposed structures shall be related harmoniously to the terrain and to the existing buildings in the vicinity that have a visual relationship to proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features, or other buildings.
- (3) *Architecture.* With the exception of single-family and two-family dwellings, all proposed development subject to site plan approval shall comply with the design and architectural standards of section 32-552.
- (4) *Landscape preservation.* The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas. Use of existing, prime nature features (woodlots, wetlands, attractive vegetation, etc.) shall be preserved and allocated for required open space areas where feasible.
- (5) *Surface water drainage.* Special attention shall be given to proper site drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. If practical, stormwater shall be removed from all roofs, canopies, and paved areas and carried away in an underground drainage system. Temporary on-site storage to reduce rapid runoff from the site is encouraged. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved areas.
- (6) *Soil preservation.* Proposed development or uses shall not result in soil erosion or sedimentation problems.
- (7) *Utility services.* Electric and telephone distribution lines shall be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relationship to neighboring properties and to the site. Mechanical equipment and service areas shall be visually screened from adjacent properties, public roadways, or other public areas. Architectural designs for buildings shall include design features to contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.
- (8) *Privacy provisions.* The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of the subject property and for the privacy of its occupants.
- (9) *Emergency vehicle accessibility.* All buildings or groups of buildings shall be so arranged as to permit emergency vehicle accesses, by some practical means, to all sides.
- (10) *Connective access to public streets.* Every structure or dwelling unit shall have connective access to a public street by some form of pedestrian sidewalk or pathway.
- (11) *Pedestrian circulation system.* There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- (12) *Compatibility with existing or planned streets and pathways.* The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in any formally adopted street plan or platted right-of-way.
- (13) *Efficient and safe traffic systems.* Vehicular and pedestrian traffic ways within the site, as well as to and from the site, shall be designed in a manner which is both efficient and safe.

- (14) *Advertising features.* The size, location and lighting of all permanent signs and outdoor advertising structures shall be located so as to have a harmonious relationship to neighboring properties and the site.
- (15) *Compliance with all applicable statutes.* Site plans shall conform to all applicable requirements of state and federal statutes. Site plan approval and an occupancy permit may be conditioned on the applicant receiving necessary state and federal permits.
- (16) *External effects generally.* Noise, odor, light, dust, dirt, smoke, or other external effects from any aspect of the proposed structures or uses shall not adversely affect adjacent and neighboring properties or uses.
- (17) *Special features.*
- a. Storage areas, mechanical areas, service areas, truck loading areas, utility buildings and structures, and similar features shall be located, buffered, or screened so as to be unobtrusive and not interfere with access to, or circulation within, the site. Said areas, buildings, structures, and features shall not detract from the visual impression of the site.
 - b. Trash containers shall be enclosed on at least three sides by a structure aesthetically compatible with the development and surrounding property. The waste storage area shall be maintained free from litter and in a sanitary condition.
- (18) *Exterior lighting.* Exterior lighting shall be arranged so that illumination is deflected downward and away from adjacent properties so that it does not interfere with the vision of the motorist along adjacent streets. Flashing or intermittent lights shall not be permitted. Excessive lighting of buildings or structures shall be minimized to reduce light pollution.
- (19) *Maximum footcandle measurement.* Maximum footcandle measurement at the property line shall not exceed 0.5 footcandle if the adjacent property is zoned or planned for residential use or 1.0 footcandle if the adjacent property is zoned or planned for nonresidential use or abuts a public right-of-way. Measurement standards of the Illuminating Engineering Society of North America (IES) shall be used.

(Code 2009, § 40-52; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-70. - Conditions of approval.

- (a) As part of an approval to any site plan, the planning commission or zoning administrator, as applicable, may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review standards of section 32-69 are met. Any conditions imposed shall meet the following standards:
 - (1) Will ensure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service facility loads caused by the land use or activity;
 - (2) Will protect the natural environment and conserve natural resources and energy;
 - (3) Will ensure compatibility with adjacent uses of land;
 - (4) Will promote the use of land in a socially and economically desirable manner.
- (b) The planning commission shall have the authority to limit the number of driveways for a site, to require that parking lots on contiguous parcels be connected, that driveways for contiguous parcels be shared, and that opposite driveways be directly aligned.
- (c) Approval of a site plan, including conditions made as part of the approval, shall apply to the property described in the application, regardless of subsequent changes in ownership or control.

- (d) A record of conditions imposed shall be maintained by the zoning administrator. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this division.
- (e) A record of the decision of the planning commission, the reasons for the decision reached and any conditions attached to such decision shall be kept as a part of the minutes of the planning commission.
- (f) The zoning administrator may make periodic investigations of developments for which site plans have been approved.
- (g) Noncompliance with the requirements and conditions of the approved site plan shall be violations of this division.

(Code 2009, § 40-53; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-71. - Changes to an approved site plan.

- (a) Any person who has been granted site plan approval shall notify the zoning administrator of any proposed amendment to the approved site plan.
- (b) A minor change in the site plan may be approved by the zoning administrator who shall notify the planning commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the commission. The following items shall be considered as minor changes:
 - (1) Reduction of the size of any building or sign.
 - (2) Movement of buildings or signs by no more than ten feet.
 - (3) Plantings approved in the site plan landscape plan being replaced by similar types of landscaping.
 - (4) Changes in floor plans which do not alter the character of the use.
 - (5) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (6) Changes required or requested by the city officials for safety reasons.
 - (7) Changes which will preserve the natural features of the site without changing the basic site layout.
 - (8) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the zoning administrator to be not material or significant in relation to the entire site and which the zoning administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health.

The zoning administrator may refer any decision regarding any proposed change to an approved site plan to the planning commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the planning commission for approval, the zoning administrator may consult with the chairperson of the planning commission.

- (c) Should the zoning administrator determine that the requested modification to the approved site plan is not minor, re-submission to the planning commission for an amendment shall be required and conducted in the same manner as an original application.

(Code 2009, § 40-54; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-72. - Expansion of existing use, structure, or building.

It is recognized that land uses, buildings, and structures are existing which do not conform to the current regulations of this division and as such do not achieve the intended purposes of this division. When these uses, buildings, and structures are proposed to be expanded, enlarged, or increased in intensity so that planning commission site plan review or zoning administrator sketch plan review is required, the following regulations shall apply:

- (1) The site development standards used in reviewing site plans shall be applied to existing uses, structures or buildings when they are affected by any expansions, enlargements or increases in intensity. These standards shall be applied if it is determined that, as a result of such expansions, enlargements or increases in intensity, any of the following situations exist:
 - a. Existing stormwater drainage provisions on site are inadequate to protect nearby lakes, streams or creeks from runoff contaminants or to prevent drainage onto adjoining properties and do not substantially comply with the Kent County Stormwater Management Ordinance.
 - b. There is insufficient on-site parking to satisfy current zoning ordinance requirements or a hard surface parking area is needed to reduce dust, and to reduce gravel and soil runoff into the public stormwater drainage system.
 - c. Existing driveways may result in hazardous vehicle movements.
 - d. Additional plantings are needed in order to comply with the intent of the city landscape regulations or to replace trees and shrubs previously removed, or screening is needed in the form of fencing or landscaping to provide a buffer between uses, particularly to screen materials stored outside.
 - e. Access to adjoining properties is inadequate and can be improved by way of parking lot connections or installation of service drives to improve traffic circulation and reduce the number of turning movements onto the public street system.
 - f. Safety for pedestrians can be improved and better emergency vehicle access can be provided.
 - g. Less bright lighting conditions are needed to reduce or eliminate nuisance lighting situations for drivers and nearby properties.
 - h. Screening of dumpsters is needed to improve the appearance of a site and reduce the likelihood of windblown trash.
 - i. Sidewalks are needed to improve pedestrian safety.
- (2) In determining how to apply the site plan review standards to address the above deficiencies found on a site, the planning commission or zoning administrator shall be guided by the following criteria:
 - a. Whether or not compliance would ensure safer on-site conditions, protect the natural environment, improve traffic circulation, achieve compatibility with adjacent land uses, promote the use of the land in a socially and economically desirable manner and generally accomplish the purposes of site plan review as described in this chapter.
 - b. The practicality of requiring complete compliance with the applicable regulations of this division based on the existing design, layout, and operation of the existing use and size of the site or if only partial compliance would be more practical.
 - c. Whether or not requiring compliance would have a negative impact on the character, safety, and welfare of the neighborhood or surrounding area.

(Code 2009, § 40-55; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-73. - Appeals.

If any person shall be aggrieved by the action of the zoning administrator with regard to a minor site plan or sketch plan, that person may appeal such action in writing to the planning commission. The appeal must be filed within ten days after the date of such action. The planning commission shall consider the appeal at its next regular meeting at which time all parties in interest shall be afforded the opportunity to be heard. The planning commission shall thereafter affirm or reverse the action of the zoning administrator, stating its findings and the reasons for its action and a written copy of such findings, reasons, and action shall be given to the appellant.

(Code 2009, § 40-56; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-74. - Expiration of site plan approval.

- (a) *Expiration due to failure to initiate.* Approval of a site plan shall expire and be of no effect one year following the date of planning commission approval, which is considered to be the date of approval for any administrative reviews required to ensure all conditions of approval are met, unless a zoning compliance permit and a building permit have been issued and construction has begun on the property and is diligently pursued to completion in conformance with the approved site plan.
- (b) *Extensions.* The expiration date for site plan approval or project completion may be extended for an additional one-year period, if applied for in advance of the expiration date by the petitioner in writing and granted by the planning commission. Failure on the part of the owner to secure the written extension shall result in a stoppage of all construction and shall require a new application and review.
- (c) *Continuance requirements.* If an approved site plan has expired as set forth herein, no permits for development or use of the subject property shall be issued until the site plan has been resubmitted and approved, subject to the provisions of this article.

(Code 2009, § 40-57; Ord. No. 205, § 1, 4-12-2018)

Sec. 32-75. - Property maintenance after approval.

- (a) It shall be the responsibility of the owner of the property for which site plan approval has been granted, to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. This maintenance requirement includes:
 - (1) Healthy landscaping;
 - (2) Walls;
 - (3) Fences;
 - (4) Pavement;
 - (5) Pavement markings;
 - (6) Signs;
 - (7) Building exterior;
 - (8) Drainage facilities; and
 - (9) All other elements of a site.
- (b) Any property owner who fails to so maintain an approved site plan shall be deemed in violation of the provisions

of this article and shall be subject to the same penalties appropriate for a violation.

- (c) With respect to condominium projects, the master deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. The master deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association.

(Code 2009, § 40-58; Ord. No. 205, § 1, 4-12-2018)

Secs. 32-76—32-93. - Reserved.

DIVISION 3. - ZONING BOARD OF APPEALS

Footnotes:

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State Law reference— *Zoning board of appeals, MCL 125.3601 et seq.*

Sec. 32-94. - Established.

In order that the objectives of this chapter may be more fully and equitably achieved, that there shall be provided a means of competent interpretation of this chapter, that adequate but controlled flexibility be provided in the application of this chapter, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a city board of appeals.

(Code 2009, § 40-78; Ord. No. 53-A, § 22.01, 8-16-1982)

Sec. 32-95. - Membership.

Sixty days following the effective date of the ordinance from which this chapter amendment is derived, or March 1, 2014, whichever is earlier, the city council shall cease to act as the zoning board of appeals for the city and will be replaced by a zoning board of appeals appointed by the city council as authorized by the Michigan Zoning Enabling Act, MCL 125.3101 et seq. The zoning board of appeals to be appointed shall be comprised of five members consistent with the following:

- (1) One of the members shall be a member of the city council, whose term of office shall coincide with that member's term on the city council.
- (2) One of the members shall be a member of the city planning commission, whose term of office shall coincide with that member's term on the planning commission.
- (3) The three remaining members appointed shall be selected from the electors of the city and representative of the population and various interests in the city and the term of office for these members shall be three years except that with respect to those members first appointed, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years and one member shall be appointed for a term of three years so as to provide for staggered terms.

The member who is also a member of the city council may not serve as chairperson of the board.

(Code 2009, § 40-79; Ord. No. 53-A, § 22.02, 8-16-1982; Ord. No. 147, § 1, 4-12-2007; Ord. No. 153, § 1, 9-11-2008; Ord. No. 156, § 1(22.02), 7-9-2009; Ord. No. 185, § 1, 1-9-2014)

Sec. 32-96. - Voting requirements.

The final disposition of any matter of the zoning board of appeals shall require the concurring vote of the majority of all its members, except the concurring vote of two-thirds of all its members shall be necessary to grant a use variance under section 32-103(c).

(Code 2009, § 40-80; Ord. No. 53-A, § 22.03, 8-16-1982; Ord. No. 114, § 1, 7-11-2002)

Sec. 32-97. - Conflicts of interest when voting.

A member of the zoning board of appeals who is also a member of the planning commission or the legislative body shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the legislative body. However, the member may consider and vote on other unrelated matters involving the same property.

(Code 2009, § 40-81; Ord. No. 53-A, § 22.02, 8-16-1982)

Sec. 32-98. - Meetings.

Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the board may determine, and shall be at sufficiently frequent intervals, at the discretion of the board, for the efficient conduct of its business. All meetings shall be open to the public. A quorum shall consist of a majority of the members.

(Code 2009, § 40-82; Ord. No. 53-A, § 22.04, 8-16-1982)

Sec. 32-99. - Records kept in city clerk's office.

Minutes of the zoning board of appeals shall be recorded of all proceedings which shall contain evidence and data relevant to every case together with votes of the members and final disposition of each case. Such minutes shall be filed in the office of the city clerk and shall become matters of public record.

(Code 2009, § 40-83; Ord. No. 53-A, § 22.05, 8-16-1982)

Sec. 32-100. - Appeals.

- (a) *Filing.* Appeals to the zoning board of appeals in any matter over which it may have jurisdiction may be taken by any party aggrieved by the decision or order appealed from, or by an officer, department, board or agency of the municipality affected by such decision or order.
- (b) *Notice; service.* A notice of appeal, specifying the grounds thereof, shall be filed with the secretary of the board within 30 days after the date of the action appealed from. A copy of the notice of appeal shall promptly be served upon the officer from whom the appeal is taken, who shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- (c) *Effect of stay.* An appeal shall stay all proceedings in furtherance of the action in respect to which the decision or order appealed from was made, unless the officer from whom the appeal is taken certified to the board that by

reason of the facts stated in the certificate, a stay would, in the officer's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order granted by the board of zoning appeals or by the circuit court by application of notice to the officer from whom the appeal is taken and on due cause shown.

(Code 2009, § 40-84; Ord. No. 53-A, § 22.06, 8-16-1982)

Sec. 32-101. - Hearings.

Upon the filing of any appeal as hereinafter provided, or other application in any matter or proceedings over which the zoning board of appeals shall have jurisdiction by law or ordinance, the board shall hold a hearing on such appeal or application at its next meeting. Notice shall be given as required by section 32-44.

(Code 2009, § 40-85; Ord. No. 53-A, § 22.07, 8-16-1982; Ord. No. 147, § 1, 4-12-2007)

Sec. 32-102. - Decisions.

The board of appeals shall render its decision upon each case within 60 days of the hearing on such case, unless a further extension is agreed to by the parties concerned. The decision of the zoning board of appeals shall be final; however, any person having an interest affected by the decision shall have the right of appeal to the circuit court.

(Code 2009, § 40-86; Ord. No. 53-A, § 22.08, 8-16-1982)

Sec. 32-103. - Variances.

- (a) *Generally*. Subject to the provisions of this section, and in addition to other duties and powers specified herein, the board of appeals, after public hearing, shall have the power to decide applications for variances where it is demonstrated by the applicant that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter relating to the construction, alteration, or use of buildings, structures, or land so that the spirit of this chapter shall be observed, public safety secured and substantial justice done.
- (b) *Nonuse variances*. A nonuse variance may be allowed by the zoning board of appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and all of the following conditions are met:
- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived;
 - b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure;
 - c. By reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this chapter would involve practical difficulties; or
 - d. Any other physical situation on the land, building or structure deemed by the board of appeals to be extraordinary.
 - (2) The condition or situation of the specific piece of property for which the variance is sought is not of so

general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

- (3) Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 - (4) The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 - (5) The variance will not impair the intent and purpose of this chapter.
 - (6) The immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.
- (c) *Use variances.* A use variance may be allowed by the board of appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing and all of the following conditions are met:
- (1) There is no financially viable use for the building, structure, or land if it is required to be used for a use allowed in the zone district in which it is located.
 - (2) The condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is unique to that property and not commonly present in the general vicinity or in the zone district. Such unique conditions or situations may include:
 - a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived;
 - b. Exceptional topographic conditions or other extraordinary situation on the land, building or structure;
 - c. The use or development of the property immediately adjoining the property in question; or
 - d. Any other physical situation on the land, building or structure deemed by the board of appeals to be extraordinary.
 - (3) The proposed use will not alter the essential character of the neighborhood or the intent of the master plan.
 - (4) The immediate unnecessary hardship causing the need for the variance request was not created by any affirmative action of the applicant.

(Code 2009, § 40-87; Ord. No. 53-A, § 22.09, 8-16-1982; Ord. No. 114, § 2, 7-11-2002)

Secs. 32-104—32-134. - Reserved.

DIVISION 4. - ENFORCEMENT

Sec. 32-135. - Violations.

- (a) *Declared nuisance.* Any person who violates this chapter shall be responsible for a municipal civil infraction. Any building which is erected, repaired, altered, moved or converted, or any use of land which is begun or changed subsequent to the effective date of the ordinance from which this chapter is derived and in violation of any of the provisions thereof is hereby declared a nuisance per se.
- (b) *Abatement.* Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of

competent jurisdiction.

- (c) *Owner subject to fines or imprisonment.* The owner of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided. A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(Code 2009, § 40-109; Ord. No. 53-A, §§ 24.03—24.05, 8-16-1982)

Sec. 32-136. - Rights and remedies.

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Code 2009, § 40-110; Ord. No. 53-A, § 24.06, 8-16-1982)

Sec. 32-137. - Duty of council to enforce.

The city council or its duly authorized representative is hereby charged with the duty of enforcing this chapter and said council is hereby empowered, in the name of the city to commence and pursue any and all necessary and appropriate actions or proceedings in the Circuit Court of Kent County, Michigan, or any other court having jurisdiction, to restrain or prevent any noncompliance with or violation of any of the provisions of this chapter, and to correct, remedy or abate such noncompliance or violation. And it is further, provided that any person aggrieved or adversely affected by such a noncompliance or violation may institute suit or join the board in such a suit to abate the same.

(Code 2009, § 40-111; Ord. No. 53-A, § 24.08, 8-16-1982)

Secs. 32-138—32-157. - Reserved.

ARTICLE III. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 32-158. - Zoning districts.

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

- (1) Rural Residential (RR).
- (2) Single-Family Residential (R-1).
- (3) Single-Family and Two-Family Residential (R-2).
- (4) Multiple-Family Residential (R-3).
- (5) Mobile Home Residential (R-4).
- (6) Neighborhood Business (B-1).
- (7) Central Business (B-2).
- (8) Highway Business (B-3).
- (9) Highway Commercial (HC).

(10) Mixed-Use (MU).

(11) Industrial (I-1).

(Code 2009, § 40-131; Ord. No. 53-A, § 7.01, 8-16-1982; Ord. No. 156, § 1(7.01), 7-9-2009)

Sec. 32-159. - The zoning map.

- (a) The locations and boundaries of these districts are hereby established on a map entitled, "The Zoning Map of Cedar Springs" which is hereby adopted and declared to be a part of this chapter.
- (b) Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located in the office of the zoning administrator and shall be the final authority as to the current zoning status in the city. No amendment to this chapter which involves matters portrayed on the official zoning map shall become effective until such change and entry has been made on said map.
- (c) The official zoning map shall be identified by the signature of the zoning administrator, attested to by the city clerk.
- (d) Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules shall apply:
 - (1) Where the boundaries are indicated as approximately following the streets, alleys, or highways, the centerlines of said streets, alleys, or highways, or such lines extended shall be construed to be such boundaries.
 - (2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following city boundary lines shall be construed as following such city boundaries.
 - (4) Boundaries indicated as approximately following railroad lines shall be construed to be the centerline of the railroad right-of-way.

(Code 2009, § 40-132; Ord. No. 53-A, § 7.02, 8-16-1982)

Sec. 32-160. - Table of uses.

Uses allowed in the city shall be considered according to the following table of uses:

Table of Uses

P = Permitted Use

SLU = Special Land Use

NA = Specifically Not Allowed

USE	RR	R-1	R-2	R-3	R-4	B-1	B-2	B-3	MU	HC	I-1	USE STANDARDS
RESIDENTIAL USES												
Accessory apartments.	NA	NA	NA	NA	NA	NA	SLU	NA	NA	NA	NA	<u>32-695(a)</u>

Accessory apartments as part of an office or commercial use.	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	NA	NA	<u>32-695(a)</u>
Adult and childcare.	Allowed as noted in <u>section 32-547</u>												
Agriculture, including farms for both general and specialized farming.	P	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	
Bed and breakfast operation.	SLU	SLU	SLU	SLU	SLU	NA	NA	NA	SLU	NA	NA		<u>32-695(e)</u>
Boardinghouses.	NA	NA	NA	NA	NA	NA	SLU	NA	NA	NA	NA		<u>32-695(f)</u>
Home occupations.	P	P	P	P	P	NA	NA	NA	P	NA	NA		<u>32-4</u>
Housing for seasonal labor.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA		<u>32-697(c)</u>
Mobile home located in a licensed mobile home park.	NA	NA	NA	NA	P	NA	NA	NA	NA	NA	NA		<u>chapter 32, article X</u>
Multiple-family dwellings.	NA	NA	NA	P	NA	NA	SLU	NA	SLU	NA	NA		
Residential planned unit developments.	NA	SLU	SLU	SLU	SLU	NA	SLU	NA	SLU	NA	NA		<u>32-698(e), chapter 32, article IX</u>
Residential uses that do not have Main Street frontage.	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	NA	NA		<u>32-699(e)</u>
Riding and breeding stables.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA		<u>32-699(h)</u>
Single-family dwellings.	P	P	P	P	NA	NA	NA	NA	P	NA	NA		

Townhouse or row houses.	NA	NA	NA	P	NA	NA	NA	NA	SLU	NA	NA	
Two-family dwellings.	NA	NA	P	P	NA	NA	NA	NA	P	NA	NA	
RETAIL, COMMERCIAL AND SERVICE USES												
Airports and landing fields.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	<u>32-695(b)</u>
Automobile service station.	NA	NA	NA	NA	NA	NA	NA	SLU	NA	SLU	NA	
Automobile repair.	NA	NA	NA	NA	NA	NA	NA	SLU	NA	NA	SLU	<u>32-698(g)</u>
Brew pubs.							P	P		P		
Building supply and equipment establishments.	NA	NA	NA	NA	NA	NA	NA	SLU	NA	NA	SLU	<u>32-695 (b)</u>
Commercial uses of over 10,000 square feet of gross floor area.	NA	NA	NA	NA	NA	NA	NA	SLU	SLU	P	NA	<u>32-701(f)</u>
Commercial uses under 10,000 square feet of gross floor area.	NA	NA	NA	NA	NA	SLU	SLU	P	SLU	P	NA	<u>32-701 (f)</u>
Conversion of existing single-family dwellings to a commercial, office or nonresidential use, including the enlargement of the existing dwelling shall comply with the following:									P			

- (1) The proposed use shall be subject to site plan review by the planning commission.
- (2) The primary entrance to the building shall face the street from which the address of the building is derived or be located on the side of the building.
- (3) The building shall comply with the requirements of the city building and construction regulations.
- (4) Exterior defects in the building or property, such as cracked, chipped or peeling siding or paint, cracked sidewalk, unkempt lawn or landscaping shall be identified as part of the site plan review process and corrected before the building is occupied.
- (5) A walkway shall be provided from the existing or proposed sidewalk within the right-of-way to the primary building entrance.
- (6) Required parking shall be provided on the site or within a city-owned parking lot located within 300 feet of the site.
- (7) Retail items offered for sale on the site may be displayed outdoors behind the front lot line but only during business hours of operation.

Drive-through businesses.	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	SLU	NA	<u>32-696(e), (f)</u>
Drive-in theaters.	NA	NA	NA	NA	NA	NA	NA	SLU	NA	NA	NA	<u>32-696(g)</u>
Establishments for the repair of small engines, appliances and similar equipment.									P			
Establishments which produce alcoholic liquors primarily for distribution off site and which also engage in one or more of the following as a small percentage of the overall sales of the business and which devote a small portion of the square footage of the building to the following:									SLU			

- a. The retail sale of alcoholic liquors produced on site to the general public for consumption on the site or on a retail take-out basis, including the limited sale of snacks, pre-packaged foods, and non-alcoholic liquors;
- b. Conducting tours for the general public of the facility;
- c. The retail sale of items related to the company and its products, such as glasses, posters, and clothing.

Farmer's market.	NA	NA	NA	NA	NA	NA	P	P	P	NA	NA	
Greenhouse and nurseries.	P	NA	NA	NA	NA	NA	NA	SLU	NA	NA	NA	
Health and athletic facilities							P	P	P	P		
Housing for seasonal labor.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	<u>32-697(c)</u>
Incubator facilities.									P			
Kennels.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	
Nonresidential planned unit developments.	NA	NA	NA	NA	NA	SLU	SLU	SLU	SLU	NA	NA	<u>32-698(e)</u> , <u>chapter 32</u> , <u>article IX</u>
Open air businesses.	SLU	NA	NA	NA	NA	NA	NA	SLU	NA	NA	NA	<u>32-698(a)</u>
Outdoor storage, as either the principal use or accessory to another use.	SLU	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	SLU	<u>32-698(a)</u>
Parking lots, including municipal and private facilities not directly associated with a principal use.	NA	NA	NA	NA	NA	NA	SLU	NA	SLU	NA	NA	<u>32-698(c)</u>
Pet boarding facility.	SLU	NA	NA	NA	NA	NA	NA	SLU	NA	SLU	SLU	

Radio or television transmitters and relay stations.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	<u>32-699(a)</u>
Raising of fur bearing animals or game birds.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	<u>32-699(c)</u>
Repair of motorcycles, snowmobiles, all-terrain vehicles, boats and similar vehicles which are required to be licensed by the State of Michigan.									P				
Restaurant, clubs or other establishments which provide food or drink for consumption on the premises, excluding drive-through restaurants.	NA	NA	NA	NA	NA	NA	P	P	P	P	NA		
Restaurants excluding drive-through restaurants and not permitting dancing, live entertainment or the consumption of alcoholic liquors on the premises.	NA	NA	NA	NA	NA	SLU	P	P	P	P	NA		<u>32-699(g)</u>

Retail businesses, such as drug, variety, dry goods, clothing, notions, music, book, or hardware stores which supply commodities on the premises.	NA	NA	NA	NA	NA	P	P	P	NA	P	NA	<u>32-699(f)</u>
Sales lots and showrooms for new and used motor vehicles, boats, trailers, mobile homes and similar items.	NA	NA	NA	NA	NA	NA	NA	SLU	NA	SLU	NA	
Sexually oriented businesses.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	<u>32-700(c)</u>
Tattoo and piercing parlors.	NA	NA	NA	NA	NA	NA	P	P	NA	P	NA	
Veterinary hospitals and animal clinics.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	SLU	SLU	<u>32-697(e)</u>
Warehouses selling retail on the premises, provided there is no outside storage or stockpiling and the site does not abut any residential district nor lie within 100 feet of any residential district.	NA	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	SLU	<u>32-700(e)</u>
OFFICE, MEDICAL AND CARE USES												
Adult and childcare.	Allowed as noted in <u>section 32-547</u>											

Hospitals, clinics, or rehabilitation facility but not including institutions for mentally challenged, epileptic, drug or alcoholic patients, or correctional institutions of any type.	NA	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	NA	<u>32-697(b)</u>
Medical and dental office buildings and clinics.	NA	NA	NA	NA	NA	P	P	P	SLU	P	NA	
Mortuaries and funeral homes.	NA	NA	NA	NA	NA	SLU	SLU	SLU	SLU	SLU	NA	<u>32-696(g)</u>
Banks and financial institutions without drive-through facilities.	NA	NA	NA	NA	NA	NA	P	P	P	P	NA	
Drive-through banks and financial institutions.	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	SLU	NA	<u>32-696(e)</u>
Professional or business office buildings.	NA	NA	NA	NA	NA	P	P	P	NA	P	NA	
RECREATION AND ENTERTAINMENT USES												
Amusement parks.	NA	NA	NA	NA	NA	NA	NA	SLU	NA	NA	NA	<u>32-695(c)</u>
Commercial recreation facilities, such as indoor theaters, bowling alleys, indoor skating rinks or similar uses.	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	SLU	SLU	<u>32-696(d)</u>

Community centers owned and operated by a public or nonprofit agency.	NA	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU	NA	
Golf course and country clubs, including par 3 golf and driving ranges.	SLU	NA	NA	NA	NA	NA	NA	SLU	NA	NA	NA	<u>32-697(a)</u>
Indoor recreation establishments.									P			
Outdoor recreation courts, including a basketball, tennis or shuffleboard court which is noncommercial, incidental and devoted exclusively to a single-family (residential) use on an adjoining lot with single ownership of both lots.	SLU	SLU	SLU	SLU	SLU	NA	NA	NA	NA	NA	NA	
Miniature golf, go-karting and outdoor recreation.	SLU	NA	NA	NA	NA	NA	NA	SLU	NA	SLU	NA	<u>32-698(b)</u>
Parks, public open spaces, swimming pools and community buildings.	P	P	P	P	P	P	P	P	P	NA	NA	
Private noncommercial recreation (only if part of a residential development).	NA	P	P	P	P	NA	NA	NA	NA	NA	NA	

Recreational camps and campgrounds.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	<u>32-699(d)</u>
CIVIC USES													
Assembly buildings, including dance pavilions, auditoriums, and private clubs.	NA	NA	NA	NA	NA	SLU	P	SLU	SLU	NA	NA		
Churches.	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU	NA	NA		<u>32-697(b)</u>
Municipal buildings, utility buildings and regulating substations and pressure control stations.	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU	SLU		<u>32-697(h)</u>
Public garages and automobile repair establishments.	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	NA	NA		<u>32-698(g)</u>
Public or private schools or colleges.	SLU	SLU	SLU	SLU	SLU	SLU	P	P	SLU	SLU	SLU		<u>32-700(b)</u>
Trade schools.	NA	NA	NA	NA	NA	NA	SLU	SLU	SLU	SLU	P		
INDUSTRIAL USES													

Building contractors, such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, and similar uses, provided that any materials or equipment kept outside shall be screened from the view of nearby properties and roadways.										SLU			
Central dry-cleaning plant.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	P	
Contractor yards, building materials storage.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	P	<u>32-698(a)</u>
Junkyards and salvage yards.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	<u>32-697(d)</u>
Light industrial uses, provided that warehousing and trucking activities shall only be accessory to production activities and not the primary use activity.	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	NA	P	<u>Chapter 32,</u> article VIII
Machine shops and tool and die establishments										SLU			

<p>Manufacturing, compounding, processing, packaging, treating and assembly from previously prepared materials in the production of: food products; textile mill products; apparel, lumber and wood products; furniture and fixtures; paperboard containers, building paper, building board, and bookbinding; printing and publishing; chemical products, such as plastics, perfumes, synthetic fibers; manufacturing of engineering, measuring, optic, medical, lenses, photographic, and similar instruments; jewelry, silverware, toys, athletic, office and tobacco goods; musical instruments; signs and displays; lampshades; and similar manufacturing.</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>NA</p>	<p>P</p>	
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<p>Manufacturing, compounding, processing, packaging, treating, assembly, and bulk storage of: chemical products, such as drugs, soaps, detergents, paints, enamels, wood chemicals, agricultural and allied chemicals; rubber manufacturing or reclaiming, such as tires, tubes, footwear; stone, clay, glass, cement, brick, pottery, abrasives, tile, and related products; primary metal industries, including blast furnaces, steel works, foundries, smelting or refining of nonferrous metals or alloys, rolling and extruding; fabricated metal manufactured, including ordinance, engines, machinery, electrical equipment, transportation equipment, metal stamping, wire products and structural metal products.</p>	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	<p><u>32-697(f)</u></p>
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Mining, processing, and transporting of stone, sand or gravel aggregate.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	<u>32-700(a)</u>
Motor freight terminal, including garaging and maintenance of equipment, freight forwarding, packing and crating services.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	P	
New building materials sales and storage, including contractor's showrooms and related storage yards.									SLU			
Pari-mutuel horse tracks on size of at least 35 acres in area.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	
Petroleum refining, paving materials, roofing materials, and other related industries.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	

Production of merchandise on the premises, provided that not more than 15 persons are employed on the premises and such production shall not be detrimental either by odor, noise, vibration, or smoke to the nearest occupied dwelling.	NA	NA	NA	NA	NA	NA	SLU	SLU	SLU	NA	P	
Pulp and paper manufacturing.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	
Rail yards, marshaling yards.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	
Research establishments, laboratories.	NA	NA	NA	NA	NA	NA	NA	SLU	SLU	NA	P	
Sand, gravel and mineral extraction.	SLU	NA	NA	NA	NA	NA	NA	NA	NA	NA	P	<u>32-700(a)</u>
Slaughter house, rendering plant.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	<u>32-700(d)</u>
Warehouses, cartage businesses.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	
Waste disposal and treatment facilities.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	P	<u>32-700(f), (g)</u>
Water supply and treatment facilities.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SLU	<u>32-700(h)</u>

Wholesale establishments, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	P	
Accessory buildings and uses.	P	P	P	P	P	P	P	P	P	P	P	<u>32-530</u>

(Code 2009, § 40-133; Ord. No. 53-A, § 7.03, 8-16-1982; Ord. No. 156, § 1(7.03), 7-9-2009; Ord. No. 162, § 1, 4-8-2010; Ord. No. 184, § 1, 1-9-2014; Ord. No. 195, 7-13-2017; Ord. No. 194, 3-9-2017; Ord. No. 203, § 2, 2-8-2018)

Sec. 32-161. - Prohibited uses.

Where a use is defined or listed as a permitted use or a special land use in a given zoning district, such use shall not be permitted in any zoning district where it is not listed. This is true even if such use might be similar to a listed permitted use.

(Code 2009, § 40-134; Ord. No. 167, § 1, 8-11-2011)

Secs. 32-162—32-190. - Reserved.

DIVISION 2. - RURAL RESIDENTIAL (RR)

Sec. 32-191. - Purpose.

This district is intended for large semi-rural open areas lacking public water and sewer facilities. The regulations set forth herein are designed to allow low intensity residential and related uses as well as the continuation of existing agricultural operations within the city limits.

(Code 2009, § 40-153; Ord. No. 53-A, § 8.01, 8-16-1982)

Sec. 32-192. - Uses permitted.

Land or buildings in this district may be used by right for the permitted uses listed in section 32-160.

(Code 2009, § 40-154; Ord. No. 53-A, § 8.02 8-16-1982; Ord. No. 156, § 1(8.02), 7-9-2009)

Sec. 32-193. - Special approval uses.

Land or buildings in this district may be used for the special approval uses listed in section 32-160, when the applicable standards and requirements of article VIII of this chapter are met.

(Code 2009, § 40-155; Ord. No. 53-A, § 8.03, 8-16-1982; Ord. of 8-30-1985, § 8.03(J), (K); Ord. No. 126, § 1, 8-12-2004; Ord. No. 156, § 1(8.03), 7-9-2009)

Sec. 32-194. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474 shall be met for every structure and land use.

(Code 2009, § 40-156; Ord. No. 53-A, § 8.04, 8-16-1982)

Secs. 32-195—32-211. - Reserved.

DIVISION 3. - SINGLE-FAMILY RESIDENTIAL (R-1)

Sec. 32-212. - Purpose.

This district is intended to provide for a sound and stable residential environment with its neighborhood-related utilities, facilities, and services. Through this district, relatively low- density urban development will be permitted. This R-1 district includes the older established neighborhoods of the city and applies to large undeveloped areas planned for residential development in the master plan. R-1 zoned areas should be served by public water and sanitary sewer with sidewalks, street lights and street trees to create a quality residential environment.

(Code 2009, § 40-176; Ord. No. 53-A, § 9.01, 8-16-1982; Ord. No. 216, § 1(40-176), 5-14-2019)

Sec. 32-213. - Uses permitted.

- (a) Single-family dwellings.
- (b) Home occupations in accordance with section 32-550.
- (c) The following uses are permitted in accordance with section 32-547:
 - (1) Adult foster care family home (one to six adults).
 - (2) Family day care home (one to six minor children).
 - (3) Group day care homes (seven to 12 minor children).
 - (4) Foster family home (four or fewer foster children).
 - (5) Foster family group home (five or six foster children).
- (d) Public parks, playgrounds, community buildings, swimming pools and open spaces.
- (e) Private noncommercial recreation facilities which are located within and accessory to a platted subdivision or site

condominium and are owned and maintained by a legal entity, such as a homeowner's association per section 32-698(f).

(f) Accessory uses and structures customarily incidental to the principal use.

(Code 2009, § 40-177; Ord. No. 53-A, § 9.02, 8-16-1982; Ord. No. 156, § 1(9.02), 7-9-2009; Ord. No. 216, § 1(40-177), 5-14-2019)

Sec. 32-214. - Special approval uses.

The following uses may be permitted in the R-1 district upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter:

- (1) Bed and breakfast operations per section 32-697(e).
- (2) Residential planned unit developments per section article IX of this chapter.
- (3) Community centers owned and operated by a public or nonprofit agency.
- (4) Churches, mosques, synagogues and similar places of religious worship per section 32-697(b).
- (5) Municipal buildings, utility buildings and regulating substations and pressure control stations per section 32-697(h)in.
- (6) Private schools.
- (7) Adult day care home (one to six adults).
- (8) The following uses are permitted in accordance with section 32-547:
 - a. Adult foster care small group home (seven to 12 adults).
 - b. Adult foster care large group home (13 to 20 adults).
 - c. Childcare center and day care center (more than six children less than 24 hours/day).

(Code 2009, § 40-178; Ord. No. 53-A, § 9.03, 8-16-1982; Ord. of 8-30-1985, § 9.03(l); Ord. No. 78, § 1, 11-10-1994; Ord. No. 126, § 1, 8-12-2004; Ord. No. 156, § 1(9.03), 7-9-2009; Ord. No. 216, § 1(40-178), 5-14-2019)

Sec. 32-215. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474, shall be met for every structure and land use.

(Code 2009, § 40-179; Ord. No. 53-A, § 9.04, 8-16-1982)

Secs. 32-216—32-238. - Reserved.

DIVISION 4. - SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL (R-2)

Sec. 32-239. - Purpose.

The district is intended to provide the same character stability, and sound residential environment as intended for the R-1 district. The difference is that a higher residential density is permitted in the R-2 district through the construction of single-family dwellings on smaller lots and by permitting two-family dwellings.

(Code 2009, § 40-200; Ord. No. 53-A, § 10.01, 8-16-1982; Ord. No. 216, § 1(40-200), 5-14-2019)

Sec. 32-240. - Uses permitted.

- (a) Single-family dwellings.
- (b) Two-family dwellings, including the conversion of a single-family dwelling.
- (c) Home occupations in accordance with section 32-550.
- (d) The following uses are permitted in accordance with section 32-547:
 - (1) Adult foster care family home (one to six adults).
 - (2) Family day care home (one to six minor children).
 - (3) Group day care homes (seven to 12 minor children).
 - (4) Foster family home (four or fewer foster children).
 - (5) Foster family group home (five or six foster children).
- (e) Public parks, playgrounds, community buildings, swimming pools and open spaces.
- (f) Private noncommercial recreation facilities which are located within and accessory to a platted subdivision or site condominium and are owned and maintained by a legal entity, such as a homeowner's association per section 32-698(f).
- (g) Accessory uses and structures customarily incidental to the principal use.

(Code 2009, § 40-201; Ord. No. 53-A, § 10.02, 8-16-1982; Ord. No. 156, § 1(10.02), 7-9-2009; Ord. No. 216, § 1(40-201), 5-14-2019)

Sec. 32-241. - Special approval uses.

The following uses may be permitted in the R-2 district upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter:

- (1) Bed and breakfast operations per section 32-695(e).
- (2) Residential planned unit developments per article IX of this chapter.
- (3) Community centers owned and operated by a public or nonprofit agency.
- (4) Churches, mosques, synagogues and similar places of religious worship per section 32-697(b).
- (5) Municipal buildings, utility buildings and regulating substations and pressure control stations per section 32-697(h).
- (6) Private schools.
- (7) Adult day care home (one to six adults).
- (8) The following uses are permitted in accordance with section 32-547:
 - a. Adult foster care small group home (seven to 12 adults).
 - b. Adult foster care large group home (13 to 20 adults).
 - c. Childcare center and day care center (more than six children less than 24 hours/day).

(Code 2009, § 40-202; Ord. No. 53-A, § 10.03, 8-16-1982; Ord. of 8-30-1985, § 10.03(F); Ord. No. 126, § 1, 8-12-2004; Ord. No. 156, § 1(10.03), 7-9-2009; Ord. No. 216, § 1(40-202), 5-14-2019)

Sec. 32-242. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474, shall be met for every structure and land use.

(Code 2009, § 40-203; Ord. No. 53-A, § 10.04, 8-16-1982)

Secs. 32-243—32-262. - Reserved.

DIVISION 5. - MULTIPLE-FAMILY RESIDENTIAL (R-3)

Sec. 32-263. - Purpose.

This district is intended primarily for a variety of multiple-family and attached dwelling units of sustained desirability and stability which will be compatible with adjacent properties. Single- and two-family dwelling units are also permitted to allow for infill development on individual lots that are not suitable for multifamily buildings. R-3 developments shall be served by public water and sanitary sewer with sidewalks, street lights, street trees, and landscaped grounds to create a quality residential environment.

(Code 2009, § 40-223; Ord. No. 53-A, § 11.01, 8-16-1982; Ord. No. 216, § 1(40-223), 5-14-2019)

Sec. 32-264. - Uses permitted.

- (a) Single-family dwellings.
- (b) Two-family dwellings, including the conversion of a single-family dwelling.
- (c) Multiple-family dwellings.
- (d) Single-family attached dwellings, such as townhouses and row houses.
- (e) Home occupations in accordance with section 32-550.
- (f) The following uses are permitted in accordance with section 32-547:
 - (1) Adult foster care family home (one to six adults).
 - (2) Family child day care home (one to six minor children).
 - (3) Group day care homes (seven to 12 minor children).
 - (4) Foster family home (four or fewer foster children).
 - (5) Foster family group home (five or six foster children).
- (g) Public parks, playgrounds, community buildings, swimming pools and open spaces.
- (h) Private noncommercial recreation facilities which are located within and accessory to a platted subdivision, site condominium, or multifamily development and are owned and maintained by a legal entity, such as a homeowner's association per section 32-698(f).
- (i) Accessory uses and structures customarily incidental to the principal use.

(Code 2009, § 40-224; Ord. No. 53-A, § 11.02, 8-16-1982; Ord. No. 156, § 1(11.02), 7-9-2009; Ord. No. 216, § 1(40-224), 5-14-2019)

Sec. 32-265. - Special approval uses.

The following uses may be permitted in the R-3 district upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter:

- (1) Bed and breakfast operations per section 32-697(e).
- (2) Residential planned unit developments per article IX of this chapter.
- (3) Community centers owned and operated by a public or nonprofit agency.
- (4) Churches, mosques, synagogues and similar places of religious worship per section 32-474(b).
- (5) Municipal buildings, utility buildings and regulating substations and pressure control stations per section 32-697(h).
- (6) Private schools.
- (7) Adult day care home (one to six adults).
- (8) The following uses are permitted in accordance with section 32-547:
 - a. Adult foster care small group home (seven to 12 adults).
 - b. Adult foster care large group home (13 to 20 adults).
 - c. Childcare center and day care center (more than six children less than 24 hours/day).
 - d. Congregate care facility (more than 20 adults).

(Code 2009, § 40-225; Ord. No. 53-A, § 11.03, 8-16-1982; Ord. No. 156, § 1(11.03), 7-9-2009; Ord. No. 216, § 1(40-225), 5-14-2019)

Sec. 32-266. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474, shall be met for every structure and land use.

(Code 2009, § 40-226; Ord. No. 53-A, § 11.04, 8-16-1982)

Secs. 32-267—32-295. - Reserved.

DIVISION 6. - MOBILE HOME RESIDENTIAL (R-4)

Sec. 32-296. - Purpose.

The purpose of this district is to allow for the establishment of mobile home parks and related accessory uses. A mobile home park within this zoning district shall comply with all applicable procedures and requirements of the Mobile Home Commission Act, MCL 125.2301 et seq., and the Michigan Administrative Code.

(Code 2009, § 40-246; Ord. No. 53-A, § 12.01, 8-16-1982; Ord. No. 216, § 1(40-246), 5-14-2019)

Sec. 32-297. - Uses permitted.

- (a) Mobile home parks as regulated by article X of this chapter and the requirements of the MCL 125.2301 et seq., and the Michigan Administrative Code.

(b) Home occupations in accordance with section 32-550.

(c) Family child day care home (one to six minor children) in accordance with section 32-547.

(d) Accessory uses and structures customarily incidental to the principal use.

(Code 2009, § 40-247; Ord. No. 53-A, § 12.02, 8-16-1982; Ord. No. 156, § 1(12.02), 7-9-2009; Ord. No. 216, § 1(40-247), 5-14-2019)

Sec. 32-298. - Special approval uses.

The following uses may be permitted in the R-4 district upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter. The following uses are permitted in accordance with section 32-547:

(1) Adult foster care family home (one to six adults).

(2) Group day care homes (seven to 12 minor children).

(3) Foster family home (four or fewer foster children).

(4) Foster family group home (five or six foster children).

(Code 2009, § 40-248; Ord. No. 53-A, § 12.03, 8-16-1982; Ord. No. 156, § 1(12.03), 7-9-2009; Ord. No. 216, § 1(40-248), 5-14-2019)

Sec. 32-299. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474 and article X of this chapter (where applicable), shall be met for every structure and land use.

(Code 2009, § 40-249; Ord. No. 53-A, § 12.04, 8-16-1982)

Secs. 32-300—32-316. - Reserved.

DIVISION 7. - NEIGHBORHOOD BUSINESS (B-1)

Sec. 32-317. - Purpose.

This district is intended to accommodate those retail sales and service facilities designed to provide convenient day-to-day retail shopping and service to persons living in adjacent neighborhoods with minimal impact upon surrounding residential development. In order to promote good business development, uses are prohibited which would create hazards, offensive or loud noises, vibration, smoke, glare, heavy truck traffic, or late hours of operation.

(Code 2009, § 40-269; Ord. No. 53-A, § 13.01, 8-16-1982)

Sec. 32-318. - Uses permitted.

Land or buildings in this district may be used by right for the permitted uses listed in section 32-160.

(Code 2009, § 40-270; Ord. No. 53-A, § 13.02, 8-16-1982; Ord. No. 156, § 1(13.02), 7-9-2009)

Sec. 32-319. - Special approval uses.

Land or buildings in this district may be used for the special approval uses listed in section 32-160, when the applicable standards and requirements of article VIII of this chapter are met.

(Code 2009, § 40-271; Ord. No. 53-A, § 13.03, 8-16-1982; Ord. No. 136, § 1, 6-8-2006; Ord. No. 156, § 1(13.03), 7-9-2009)

Sec. 32-320. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474, shall be met for every structure and land use.

(Code 2009, § 40-272; Ord. No. 53-A, § 13.04, 8-16-1982)

Secs. 32-321—32-343. - Reserved.

DIVISION 8. - CENTRAL BUSINESS (B-2)

Sec. 32-344. - Purpose.

This district is intended to concentrate community retail and service activities in a single core area. The creation of this district reflects the city's commitment to strengthening the central business district as an economic center for the city and the neighboring communities.

(Code 2009, § 40-292; Ord. No. 53-A, § 14.01, 8-16-1982; Ord. No. 216, § 1(40-292), 5-14-2019)

Sec. 32-345. - Uses permitted.

- (a) Generally recognized retail businesses that supply commodities on the premises within a completely enclosed building, such as, but not limited to, foods, pharmacy, liquor, furniture, clothing, dry goods, appliances or hardware.
- (b) Personal service establishments that performs services on the premises within a completely enclosed building, such as, but not limited to, repair shops for electronics, watches, shoes and similar items, tailor shops, print shops, hair and nail salons, barbershops, therapeutic massage pet grooming, and photographic studios but excluding tattoo or piercing parlors.
- (c) Professional and business offices.
- (d) Banks, credit unions, and other financial institutions, but not including those with drive-through facilities.
- (e) Health and fitness establishments, martial arts and boxing schools.
- (f) Offices and showrooms of plumbers, electricians, decorators, or other similar trades.
- (g) Commercial schools, including art, music, dance business, professional and trade.
- (h) Restaurants, coffee shops, bakeries, taverns and similar retail food establishments, including those with walk up window service and those which allow dancing, live entertainment, or the consumption of alcoholic liquors on the premises but not including such establishments with drive-through facilities. Outdoor dining is permitted in

accordance with sections 32-554 and 32-559. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers, provided they do not exceed a height of 36 inches, including plant material.

- (i) Brew pubs.
- (j) Farmers market per chapter 24.
- (k) Medical, optical, dental, and veterinary offices and clinics.
- (l) Government office buildings and post office.
- (m) Public and institutional uses, such as libraries, museums, civic centers, and auditoriums.
- (n) Catering establishments.
- (o) Video gaming establishments.
- (p) Dwelling units located above a nonresidential use subject to the following requirements except that any single-family detached dwelling units and other residential uses existing as of the effective date of this ordinance are exempt from these requirements:

- (1) A dwelling unit shall not be located on the ground floor.
- (2) Each dwelling unit shall contain a minimum of 600 square feet of floor area.
- (3) One parking space shall be provided for each bedroom within the dwelling unit. These spaces may be provided as follows:
 - a. On-site; or
 - b. In a city-operated parking lot as may be approved by the city council. The off-street space or spaces may be within 300 feet of the dwelling unit served. The 300 feet measurement shall be taken in a straight line from the parking space to the building containing the dwelling unit.

Documentation of the required parking spaces shall be provided to the zoning administrator prior to issuance of a building permit.

- (4) Direct access to dwelling units shall be provided by a doorway located on the outside of the building, which is separate from the doorway used to access the first-floor use.
- (5) Window air conditioning units shall not project beyond the face of the building for that portion of the building that fronts on a street.
- (6) Prior to establishing an upper story dwelling unit, approval must be obtained from the zoning administrator to determine compliance with the requirements of this section.
- (7) A building permit shall be obtained from the city in order to establish a dwelling unit in an upper story. All units shall comply with the requirements of the Americans with Disabilities Act.
- (q) Outdoor display of merchandise subject to section 32-533(5).
- (r) (1) Conversion of existing single-family dwellings to a commercial, office or non-residential use, including the enlargement of an existing dwelling shall comply with subsection (r)(2) of this section.
- (2) The proposed use shall be subject to site plan review by the planning commission.
 - a. The primary entrance to the building shall face the street from which the address of the building is derived or be located on the side of the building.
 - b. The building shall comply with the requirements of the city building and construction regulations.

- c. Exterior defects in the building or property, such as cracked, chipped or peeling siding or paint, cracked side lawn or landscaping shall be identified as part of the site plan review process and corrected before the build occupied.
 - d. A walkway shall be provided from the existing or proposed sidewalk within the right- of-way to the primary building entrance.
 - e. Required parking shall be provided on the site, on the street or within a city-owned parking lot located within 300 feet of the site.
 - f. Retail items offered for sale on the site may be displayed outdoors behind the front lot line but only during business hours of operation.
- (s) Municipal parking lots not directly associated with a principal use.
 - (t) Fraternal or social club or lodge.
 - (u) Incubator facilities.
 - (v) Parks, public open spaces, swimming pools and community building.
 - (w) Accessory uses and structures customarily incidental to the principal use.

(Code 2009, § 40-293; Ord. No. 53-A, § 14.02, 8-16-1982; Ord. No. 156, § 1(14.02), 7-9-2009; Ord. No. 216, § 1(40-293), 5-14-2019)

Sec. 32-346. - Special approval uses.

The following uses may be permitted in the B-2 district upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter:

- (1) Establishments with drive-through facilities per section 32-696(e), (f).
- (2) Nonresidential planned unit developments per article IX of this chapter.
- (3) Private parking lots not directly associated with a principal use per section 32-698(c).
- (4) Indoor commercial recreation facilities, such as theaters, bowling alleys, skating rinks, rock climbing, ball sports, pool and billiard hall, but excluding firearm and archery ranges per section 40- 574(d).
- (5) Community centers owned and operated by a public or nonprofit agency.
- (6) Churches, mosques, synagogues and similar places of religious worship per section 32-697(b).
- (7) Municipal buildings, utility buildings and regulating substations and pressure control stations per section 32-697(h).
- (8) Public garages and automobile repair establishments per section 32-698(g).
- (9) Hotel and motel.
- (10) Hotels and motels, including accessory uses, such as restaurants, taverns, conference rooms, exercise rooms, swimming pools, and banquet facilities.
- (11) Gas station/convenience stores with or without restaurants.
- (12) Establishments for the repair of small engines, appliances and similar equipment.
- (13) Repair of motorcycles, snowmobiles, all-terrain vehicles, boats and similar vehicles that are required to be licensed by the state.
- (14) Residential uses that do not have Main Street frontage per section 32-699(e).

- (15) Production of merchandise on the premises, provided that such production shall not be detrimental either by vibration, or smoke to the nearest occupied dwelling.
- (16) Childcare or day care center per section 32-547.
- (17) Adult foster care large group home per section 32-547.
- (18) Marihuana retailer as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.

(Code 2009, § 40-294; Ord. No. 53-A, § 14.03, 8-16-1982; Ord. No. 134, § 1, 11-10-2005; Ord. No. 141, § 2, 11-9-2006; Ord. No. 156, § 1(14.03), 7-9-2009; Ord. No. 216, § 1(40-294), 5-14-2019; Ord. No. 2020-224, § 3, 6-11-2020)

Sec. 32-347. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474, shall be met for every structure and land use.

(Code 2009, § 40-295; Ord. No. 53-A, § 14.04, 8-16-1982)

Sec. 32-348. - Sandwich board signs.

The owner of a business fronting on Main Street in the B-2, Central Business District may be issued an annual permit to display one sandwich board sign along Main Street in front of that business in accordance with the city downtown development authority's established sandwich board sign program.

(Code 2009, § 40-296; Ord. No. 53-A, § 14.05, 8-16-1982; Ord. No. 99-88, § 1, 8-12-1999; Ord. No. 156, § 1(14.05), 7-9-2009)

Secs. 32-349—32-369. - Reserved.

DIVISION 9. - MIXED USE (MU)

Sec. 32-370. - Purpose.

- (a) The Mixed-Use Zoning District is a recommendation of the 2016 Cedar Springs Master Plan and applies to the existing lands west of the Central Business District primarily along the west side of Second Street with additional lots fronting on West Beech, West Church, Third Street, and Muskegon Street.
- (b) The existing physical form of much of this area is a neighborhood of primarily single-family houses mixed with houses converted to two-family and multifamily use with a pedestrian scale; proximity to retail and service uses in the CBD; houses with front porches extending into the front setback; sidewalks; street trees; and detached garages.
- (c) The mixed-use classification is designed to retain this form with new uses being compatible with and supportive of the retail uses of the Central Business District. The closeness to the CBD makes this area attractive for a new type of residential use, such as townhouses and lofts, and for mixed-use buildings with ground floor retail and living units above.
- (d) The 2016 plan envisions the re-development of this area with a mix of uses. The mixed-use category would permit small retail or offices within existing houses, live work units where the first floor contains the business

with the second floor serving as living quarters for the business owner, or other residents, and multifamily buildings with no more than four units per building.

(Code 2009, § 40-316; Ord. No. 149, § 1(14.01A), 9-13-2007; Ord. No. 216, § 1(40-316), 5-14-2019)

Sec. 32-371. - Uses permitted.

- (a) Single-family dwellings.
- (b) Two-family dwellings.
- (c) Live-work units. For the purposes of this section, a live-work unit is defined as a dwelling unit containing both a single-family residential use and a nonresidential use, such as a commercial or office use or uses. The residential portion shall not occupy less than 400 square feet of gross floor area and shall not be located on the same floor as the nonresidential use.
- (d) Home occupations per section 32-4.
- (e) The sale of retail items. However, any new building constructed or any existing building enlarged after the effective date of the ordinance from which this section is derived shall not devote more than 2,000 square feet of gross floor area in the building to the sale and storage of such retail items. Outdoor display of merchandise shall be subject to section 32-533(5).
- (f) Health and fitness facilities.
- (g) Personal service establishments that performs services on the premises within a completely enclosed building, such as, but not limited to, repair shops for electronics, watches, shoes and similar items, tailor shops, print shops, hair and nail salons, pet grooming, therapeutic massage and barbershops.
- (h) Restaurants, taverns, coffee shops, bakeries and similar retail food establishments, including those with walk up window service but not including those with drive-through facilities. Outdoor dining is permitted in accordance with sections 32-554 and 32-559. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers, provided they do not exceed a height of 36 inches, including plant material.
- (i) Farmers market per chapter 10.
- (j) Medical and dental offices and clinics.
- (k) Banks and financial institutions without drive-through facilities.
- (l) Professional and business offices.
- (m) Conversion of existing single-family dwellings to a commercial, office or nonresidential use, including the enlargement of the existing dwelling shall comply with the following:
 - (1) The proposed use shall be subject to site plan review by the planning commission.
 - (2) The primary entrance to the building shall face the street from which the address of the building is derived or be located on the side of the building.
 - (3) The building shall comply with the requirements of the city building and construction regulations.
 - (4) Exterior defects in the building or property, such as cracked, chipped or peeling siding or paint, cracked sidewalk, unkempt lawn or landscaping shall be identified as part of the site plan review process and corrected before the building is occupied.
 - (5) A walkway shall be provided from the existing or proposed sidewalk within the right- of-way to the primary

building entrance.

- (6) Required parking shall be provided on the site or within a city-owned parking lot located within 300 feet of the site.
 - (7) Retail items offered for sale on the site may be displayed outdoors behind the front lot line but only during business hours of operation.
- (n) Dwelling units located above a nonresidential use subject to the following:
- (1) Each dwelling unit shall contain a minimum of 600 square feet of floor area.
 - (2) One parking space shall be provided for each bedroom within the dwelling unit. These spaces may be provided as follows:
 - a. On-site;
 - b. In a city-operated parking lot as may be approved by the city council;
 - c. The off-street space or spaces may be within 300 feet of the dwelling unit served. The 300 feet measurement shall be taken in a straight line from the parking space to the building containing the dwelling unit;
 - d. Documentation of the required parking spaces shall be provided to the zoning administrator prior to issuance of a building permit.
 - (3) Direct access to dwelling units shall be provided by a doorway located on the outside of the building, which is separate from the doorway used to access the first-floor use.
 - (4) Prior to establishing an upper story dwelling unit, approval must be obtained from the zoning administrator to determine compliance with the requirements of this section.
 - (5) A building permit shall be obtained from the city in order to establish a dwelling unit in an upper story. All units shall comply with the requirements of the Americans with Disabilities Act, 42 USC 12101 et seq.
- (o) Public parks, playgrounds, community buildings, swimming pools, and open spaces.

(Code 2009, § 40-317; Ord. No. 149, § 1(14.02A), 9-13-2007; Ord. No. 156, § 1(14.02A), 7-9-2009; Ord. No. 216, § 1(40-317), 5-14-2019)

Sec. 32-372. - Special approval uses.

The following uses may be permitted in the MU district upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter:

- (1) Bed and breakfast operation per section 32-695(e).
- (2) Multiple-family dwellings and single-family attached dwellings, such as townhouses with no more than four units in any building.
- (3) Churches, mosques, synagogues per section 32-696(b).
- (4) Commercial schools, including art, music, dance business, professional and trade.
- (5) Childcare or day care center per section 32-547.
- (6) Adult foster care large group home per section 32-547.
- (7) Adult Day Care Facility (one to six adults).
- (8) Parking lots, including municipal and private facilities not directly associated with a principal use per section

32-698(c).

(9) Residential and nonresidential planned unit developments per article IX of this chapter.

(Code 2009, § 40-318; Ord. No. 149, § 1(14.03A), 9-13-2007; Ord. No. 156, § 1(14.03A), 7-9-2009; Ord. No. 216, § 1(40-318), 5-14-2019)

Sec. 32-373. - Design standards.

(a) Land use placement.

(1) Retail and personal service uses shall be:

- a. Adjacent to the B-2 district;
- b. North of Beech Street; and
- c. East of the White Pine Trail.

(2) New industrial uses may only be placed north of Church Street and west of White Pine Trail.

(b) Parking. Parking areas for commercial, retail, office and multifamily uses shall be provided in rear or side yards only and shall comply with section 32-536(d)(3).

(c) Buildings.

(1) All residential buildings shall have architectural features that provide visual interest, including, but not limited to:

- a. Porches;
- b. Balconies;
- c. Bay windows;
- d. Cupolas; or
- e. Dormers.

(2) The first floor of all multifamily structures shall be a minimum of 50 percent brick.

(3) The facade of all residential structures shall be at least 30 percent windows.

(4) Outdoor space shall be provided for each multifamily or accessory apartment at a minimum of 50 square feet per unit, which may be a balcony.

(5) The upper stories of all structures shall be a minimum of 30 percent windows on each story of the facade of the building.

(6) The first floor of the facade of an office, and professional buildings shall have:

- a. A minimum of 40 percent glass;
- b. A minimum of 50 percent brick, stone or split block on the remaining surface area of the building facade (less glass);
- c. Awnings, cantilevered structure or covered porches which protect inhabitants from the elements.

(7) The first floor of the facade of retail buildings shall have:

- a. A minimum of 60 percent glass;
- b. A minimum of 50 percent brick, stone, or split block on the remaining surface area of the building facade (less glass);
- c. Awnings, cantilevered structure, or covered porches which protect inhabitants from the elements.

(d) Site amenities may be required for multifamily, commercial, office and industrial uses, including, but not limited to:

- (1) Bike racks;
- (2) Benches; and
- (3) Trash receptacles.

(e) Landscaping and screening shall meet the standards of section 32-536.

(f) Parking and loading facilities shall meet the additional standards of article VI of this chapter.

(Code 2009, § 40-319; Ord. No. 149, § 1(14.05A), 9-13-2007; Ord. No. 156, § 1(14.05A), 7-9-2009)

Sec. 32-374. - District regulations.

The requirements for lot area, yard height and other dimensions, as specified in section 32-474, shall be met for every structure and land use.

(Code 2009, § 40-320; Ord. No. 149, § 1(14.06A), 9-13-2007; Ord. No. 156, § 1(14.06A), 7-9-2009)

Secs. 32-375—32-391. - Reserved.

DIVISION 10. - HIGHWAY BUSINESS (B-3)

Sec. 32-392. - Purpose.

This zoning district is intended to provide for an orderly and concentrated development of business primarily along Main Street as designated in the city master plan in order to serve the needs of the motoring public and local residents. A wide range of retail, service, office, governmental, and institutional uses are permitted.

(Code 2009, § 40-340; Ord. No. 53-A, § 15.01, 8-16-1982; Ord. No. 216, § 1(40-340), 5-14-2019)

Sec. 32-393. - Uses permitted.

- (a) Permitted uses allowed in the B-2 zone.
- (b) Personal service establishments which perform services on the premises within a completely enclosed building, such as, but not limited to, repair shops for electronics, watches, shoes and similar items, tailor shops, print shops, hair and nail salons, barbershops, therapeutic massage, pet grooming, photographic studios and tattoo and piercing parlors.
- (c) Gas station/convenience stores with or without restaurants.
- (d) Mortuaries and funeral homes per section 32-697(h).

(Code 2009, § 40-341; Ord. No. 53-A, § 15.02, 8-16-1982; Ord. No. 156, § 1(15.02), 7-9-2009; Ord. No. 216, § 1(40-341), 5-14-2019)

Sec. 32-394. - Special approval uses.

The following uses may be permitted in the B-3 district upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter:

- (1) Special land uses as permitted in the B-2 zone.
- (2) Open air businesses, including, but not limited to, the sale and servicing of motor vehicles, boats, trailers, farm implements, yard decorations, nursery stock, storage buildings, recreational vehicles, lawn and garden equipment, mobile or modular homes, and similar uses per section 32-698(a)
- (3) Retail building supply and equipment stores.
- (4) Retail nurseries and garden centers, including display of landscaping products, such as mulch, woodchips, sod, dirt, and plant material and yard accessories.
- (5) Automobile repair establishments per section 32-698(g).
- (6) Pet boarding facility.
- (7) Hospitals, clinics, or rehabilitation facility but not including institutions for mentally challenged, epileptic, drug or alcoholic patients, or correctional institutions of any type.
- (8) Outdoor commercial recreation establishments, such as miniature golf, go cart tracks, golf driving ranges, batting cages and athletic fields.
- (9) Ambulance service establishments.
- (10) Automatic and self-serve vehicle wash facilities.
- (11) Mini-warehouse and self-storage facilities.
- (12) Building contractors, such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, snow plowing, lawn service, landscaping and similar uses, provided that any materials or equipment kept outside shall be screened from the view of nearby properties and roadways per section 32-698(a).
- (13) Establishments which produce alcoholic liquors primarily for distribution off site and which must also engage in one or more of the following as a small percentage of the overall sales of the business and which devote a small portion of the square footage of the building to the following:
 - a. The retail sale of alcoholic liquors produced on site to the general public for consumption on the site or on a retail take-out basis, including the limited sale of snacks, pre-packaged foods, and non- alcoholic liquors;
 - b. Conducting tours for the general public of the facility;
 - c. The retail sale of items related to the company and its products, such as glasses, posters, and clothing.
- (14) Childcare or day care center per section 32-547.
- (15) Adult foster care large group home per section 32-547.
- (16) Nonresidential planned unit developments per article IX of this chapter.
- (17) Child caring institution (unlimited number of children 24 hours/day).
- (18) Marihuana microbusiness as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.
- (19) Marihuana retailer as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.

(Code 2009, § 40-342; Ord. No. 53-A, § 15.03, 8-16-1982; Ord. No. 90, § 2, 8-17-1999; Ord. No. 107, § 1, 3-24-2001; Ord. No. 121, § 1, 4-8-2004; Ord. No. 134, § 1, 11-10-2005; Ord. No. 156, § 1(15.03), 7-9-2009; Ord. No. 216, § 1(40-342), 5-14-2019; Ord. No. 2020-224, § 4, 6-11-2020)

Sec. 32-395. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474, shall be met for every structure and land use.

(Code 2009, § 40-343; Ord. No. 53-A, § 15.04, 8-16-1982)

Secs. 32-396—32-418. - Reserved.

DIVISION 11. - HIGHWAY COMMERCIAL (HC)

Sec. 32-419. - Intent and purpose.

- (a) The intent of the Highway Commercial District is to provide specific standards for the roadways leading to the U.S. 131 interchange in order to preserve the traffic carrying capacity of these roadways. The regulations of this district are also intended to maintain the city's character while accommodating a reasonable amount of commercial development necessary to serve the traveling public as well as area residents.
- (b) The specific purposes of the Highway Commercial District are:
 - (1) To ensure the efficient flow of traffic by minimizing conflicts from turning movements.
 - (2) To utilize the site plan review process to limit number and location of driveways and provide alternate means of access through shared driveways, service drives, and access from cross streets.
 - (3) To sustain the traffic carrying capacity of the roadway in order to delay or avoid premature widening which would detract from the character of the city.
 - (4) To ensure that distractions to motorists are minimized by avoiding blight and clutter, promoting aesthetics, and providing property owners and businesses with appropriate design flexibility and visibility.
 - (5) To promote the rural and small-town character of the city, as expressed through the master plan, by requiring appropriate setbacks for buildings and parking.
 - (6) To ensure that proper landscaping is provided along the roadways as development occurs to improve the appearance of the roadways and create a pleasant view for drivers entering and leaving the city.

(Code 2009, § 40-363; Ord. No. 53-A, § 15A.01, 8-16-1982; Ord. No. 105, § 3, 11-9-2000; Ord. No. 216, § 1(40-363), 5-14-2019)

Sec. 32-420. - Uses permitted.

- (a) Generally recognized retail businesses that supply commodities on the premises within a completely enclosed building, such as, but not limited to, foods, pharmacy, liquor, furniture, clothing, dry goods, appliances or hardware.
- (b) Personal service establishments that performs services on the premises within a completely enclosed building, such as, but not limited to, repair shops for electronics, watches, shoes and similar items, tailor shops, print shops, hair and nail salons, barbershops, therapeutic massage pet grooming, tattoo and piercing parlors and photographic studios.
- (c) Professional and business offices.
- (d) Banks, credit unions, and other financial institutions, but not including those with drive-through facilities.

- (e) Health and fitness establishments, martial arts and boxing schools.
- (f) Offices and showrooms of plumbers, electricians, decorators, or other similar trades.
- (g) Commercial schools, including art, music, dance business, professional and trade.
- (h) Restaurants, coffee shops, bakeries and similar retail food establishments, including those with walk-up window service, but not including those with drive-through facilities. Outdoor dining is permitted in accordance with sections 32-554 and 32-559. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers, provided they do not exceed a height of 36 inches, including plant material.
- (i) Brew pubs.
- (j) Medical, optical, dental, and veterinary offices and clinics.
- (k) Gas station/convenience stores with or without restaurants.
- (l) Catering establishments.
- (m) Video gaming establishments.
- (n) Fraternal or social club or lodge.
- (o) Hotel and motel.
- (p) Indoor commercial recreation facilities, such as theaters, bowling alleys, skating rinks, rock climbing, ball sports, pool and billiard hall, but excluding firearm and archery ranges per section 32-696(d).
- (q) Dwelling units located above a nonresidential use subject to the following requirements except that any single-family detached dwelling units and other residential uses existing as of the effective date of the ordinance from which this division is derived are exempt from these requirements:
 - (1) A dwelling unit shall not be located on the ground floor.
 - (2) Each dwelling unit shall contain a minimum of 600 square feet of floor area.
 - (3) One parking space shall be provided for each bedroom within the dwelling unit. These spaces may be provided as follows:
 - a. On-site;
 - b. In a city-operated parking lot as may be approved by the city council;
 - c. The off-street spaces may be within 300 feet of the dwelling unit served. The 300 feet measurement shall be taken in a straight line from the parking space to the building containing the dwelling unit;
 - d. Documentation of the required parking spaces shall be provided to the zoning administrator prior to issuance of a building permit.
 - (4) Direct access to dwelling units shall be provided by a doorway located on the outside of the building, which is separate from the doorway used to access the first-floor use.
 - (5) Window air conditioning units shall not project beyond the face of the building for that portion of the building that fronts on a street.
 - (6) Prior to establishing an upper story dwelling unit, approval must be obtained from the zoning administrator to determine compliance with the requirements of this section.
 - (7) A building permit shall be obtained from the city in order to establish a dwelling unit in an upper story. All units shall comply with the requirements of the Americans with Disabilities Act, 42 USC 12101 et seq.
 - (8) Outdoor display of merchandise subject to section 32-533(5).
 - (9) Accessory uses and structures customarily incidental to the principal use.

(Code 2009, § 40-364; Ord. No. 53-A, § 15A.02, 8-16-1982; Ord. No. 105, § 3, 11-9-2000; Ord. No. 156, § 1(15A.02), 7-9-2009; Ord. No. 216, § 1(40-364), 5-14-2019)

Sec. 32-421. - Special approval uses.

The following uses may be permitted in the HC district upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter:

- (1) Establishments with drive-through facilities per section 32-696(e), (f).
- (2) Open air businesses, including, but not limited to, the sale and servicing of motor vehicles, boats, trailers, farm implements, yard decorations, nursery stock, storage buildings, recreational vehicles, lawn and garden equipment, mobile or modular homes, and similar uses per section 32-698(a).
- (3) Retail building supply and equipment stores.
- (4) Retail nurseries and garden centers, including display of landscaping products, such as mulch, woodchips, sod, dirt, and plant material and yard accessories.
- (5) Pet boarding facility.
- (6) Veterinary hospitals and animal clinics.
- (7) Outdoor commercial recreation establishments, such as miniature golf, go cart tracks, golf driving ranges, batting cages and athletic fields.
- (8) Ambulance service establishments.
- (9) Automatic and self-serve vehicle wash facilities.
- (10) Mini-warehouse and self-storage facilities.
- (11) Building contractors, such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, snow plowing, lawn care, landscaping and similar uses, provided that any materials or equipment kept outside shall be screened from the view of nearby properties and roadways per section 32-698(a).
- (12) Community centers owned and operated by a public or nonprofit agency.
- (13) Municipal buildings, utility buildings and regulating substations and pressure control stations per section 32-697(h).
- (14) Repair of motorcycles, snowmobiles, all-terrain vehicles, boats and similar vehicles which are required to be licensed by the state.
- (15) Establishments for the repair of small engines, appliances and similar equipment.
- (16) Mortuaries and funeral homes per section 32-697(g).
- (17) Hotels and motels, including accessory uses, such as restaurants, taverns, conference rooms, exercise rooms, swimming pools, and banquet facilities.
- (18) Marihuana excess grower as defined in the Adult-Use Marihuana Establishment Emergency Rules, as amended and promulgated by the state department of licensing and regulatory affairs or its successor agency.
- (19) Marihuana grower as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.
- (20) Marihuana microbusiness as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.

- (21) Marihuana processor as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.
- (22) Marihuana retailer as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.
- (23) Marihuana safety compliance facility as defined in the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended.

(Code 2009, § 40-365; Ord. No. 53-A, § 15A.03, 8-16-1982; Ord. No. 105, § 3, 11-9-2000; Ord. No. 156, § 1(15A.03), 7-9-2009; Ord. No. 216, § 1(40-365), 5-14-2019; Ord. No. 2020-224, § 5, 6-11-2020)

Secs. 32-422—32-440. - Reserved.

DIVISION 12. - INDUSTRIAL (I-1)

Sec. 32-441. - Purpose.

This district is intended for intensive industrial activity, including manufacturing, processing, assembly and packaging. It is also intended to permit related businesses and services while prohibiting retail sales, residential dwellings, and other incompatible uses. This district is designed to promote high quality industrial development through the use of industrial performance standards and other regulations contained herein.

(Code 2009, § 40-385; Ord. No. 53-A, § 16.01, 8-16-1982; Ord. No. 216, § 1(40-385), 5-14-2019)

Sec. 32-442. - Uses permitted.

- (a) The manufacture, compounding, processing, packing, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products.
- (b) The manufacture, compounding, assembly, or treatment of articles from previously prepared materials, such as aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, paperboard, plastics, precious or semiprecious metals or stones, shell rubber, tin, iron, steel, tobacco, wood and yam, and food products.
- (c) Manufacturing or fabrication of products, components, devices, equipment, systems and parts, such as the following: Ceramic products; communication transmission and reception equipment; electronic processing equipment and systems; electrical appliances; electronic instruments, devices and components; automotive parts and components, glass molding, edging, beveling and silvering; graphics and art equipment; jewelry, including products from precious or semi-precious stones or metals; medical or dental equipment; metering instruments; optical devices, equipment and systems; photographic equipment; furniture assembly or manufacturing; processing and packaging of agricultural products.
- (d) Wholesale establishments, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishing and lumber and building products.
- (e) Research and development facilities, including production activities.
- (f) Trade or industrial schools.

- (g) Motor freight terminal, including garaging and maintenance of equipment.
- (h) Municipal buildings, utility buildings and regulating substations and pressure control stations per section 32-697(h).
- (i) Grain storage and milling, feed store, storage and sales of agricultural products and similar uses.
- (j) Body shops, wrecker services, vehicle repair facilities per section 32-698(g).
- (k) Building contractors, such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, snow plowing, lawn service, landscaping and similar uses, provided that any materials or equipment kept outside shall be screened from the view of nearby properties and roadways.
- (l) Wholesale distribution and display of landscaping products, such as mulch, woodchips, sod, dirt, and plant material and yard accessories.
- (m) Machine shops.
- (n) Professional and business offices.
- (o) Tool and die establishments.
- (p) Commercial fuel depot.
- (q) Indoor recreation establishments per section 32-696(d).
- (r) Park and ride lots operated by a public agency.
- (s) Building supply and equipment establishments.
- (t) Municipal parking lots not directly associated with a principal use.
- (u) Buildings, structures, and uses accessory to the permitted and special land uses.

(Code 2009, § 40-386; Ord. No. 53-A, § 16.02, 8-16-1982; Ord. No. 156, § 1(16.02), 7-9-2009; Ord. No. 216, § 1(40-386), 5-14-2019)

Sec. 32-443. - Special approval uses.

The following uses may be permitted in the Industrial District upon authorization as a special land use by the planning commission in accordance with the requirements of article VIII of this chapter:

- (1) Uses listed in section 32-442 which are located or are proposed to be located on a parcel that has frontage on the White Pine Trail, including the expansion of an existing use or structure on such parcel.
- (2) Manufacturing, compounding, processing, packaging, treating, assembling and bulk storage of:
 - a. Chemical products, such as paint enamels, wood chemicals agricultural.
 - b. Rubber manufacturing or reclaiming, such as tires, tubes, footwear.
 - c. Stone, clay, glass, cement, brick, pottery, abrasive, tile and related products.
 - d. Primary metal industries, including blast furnaces, steel works, foundries, smelting or refining of nonferrous metals or alloys rolling and extruding.
 - e. Fabricated metal manufacturing, including ordnance, engines, machinery, electrical equipment, metal stamping, wire products and structural metal products.
- (3) Pulp and paper manufacturing.
- (4) Heating and electric power generating plants.
- (5) Junk and salvage yards and recycling facilities per section 32-697(d).

- (6) Veterinary hospitals or clinics per section 32-697(e).
- (7) Kennels and pet boarding facilities.
- (8) Slaughterhouse, rendering plant.
- (9) Petroleum refining, paving materials, roofing materials and other related industries.
- (10) Waste treatment facilities.
- (11) Water supply and treatment facilities.
- (12) Sexually oriented businesses per section 32-700(c).
- (13) Warehouses, distribution and storage facilities, including mini-warehouses.
- (14) Outdoor storage, as either the principal use or accessory to another use per section 32-698(a).
- (15) Warehouses, distribution and storage facilities, including mini-warehouses.
- (16) Freight forwarding packing and crating services.
- (17) Central dry-cleaning plant.
- (18) Rail yards.
- (19) Solid waste processing facility, including composting as an incidental use.
- (20) Refuse and garbage incinerators.
- (21) Crematoriums.
- (22) Sale/rental and display of the following: temporary mobile storage units (pods) and temporary refuse collection units; farm and garden products, including fencing and equipment; pre-cast concrete products; utility trailers, animal trailers, and similar trailers; and granite or marble or similar products or raw materials.
- (23) Lumberyards.
- (24) Establishments which produce alcoholic liquors primarily for distribution off site and which may also engage in one or more of the following as a small percentage of the overall sales of the business and which devote a small portion of the square footage of the building to the following:
 - a. The retail sale of alcoholic liquors produced on site to the general public for consumption on the site or on a retail take-out basis, including the limited sale of snacks, pre-packaged foods, and non-alcoholic liquors;
 - b. Conducting tours for the general public of the facility;
 - c. The retail sale of items related to the company and its products, such as glasses, posters, and clothing.
- (25) Marihuana excess grower as defined in the Adult-Use Marihuana Establishment Emergency Rules, as amended and promulgated by the state department of licensing and regulatory affairs or its successor agency.
- (26) Marihuana grower as defined in the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951 et seq.), as amended.
- (27) Marihuana microbusiness as defined in the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951 et seq.), as amended.
- (28) Marihuana processor as defined in the Michigan Regulation and Taxation of Marihuana Act (MCL 333.27951 et seq.), as amended.
- (29) Marihuana safety compliance facility as defined in the Michigan Regulation and Taxation of Marihuana Act

(MCL 333.27951 et seq.), as amended.

(Code 2009, § 40-387; Ord. No. 53-A, § 16.03, 8-16-1982; Ord. of 6-11-1987, § 16.03(M); Ord. No. 156, § 1(16.03), 7-9-2009; Ord. No. 216, § 1(40-387), 5-14-2019; Ord. No. 2020-224, § 6, 6-11-2020)

Sec. 32-444. - District regulations.

The requirements for lot area, yards, height, and other dimensions, as specified in section 32-474, shall be met for every structure and land use.

(Code 2009, § 40-388; Ord. No. 53-A, § 16.04, 8-16-1982)

Sec. 32-445. - Performance standards.

Before the issuance of any building or occupancy permit in this district, the applicant shall sign an agreement that the use of the property will meet the following performance standards, or that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts for compliance to be borne by the applicant:

- (1) *Fire and explosion hazards.* All activities shall be carried on only in buildings conforming to the state construction code, and the operation shall be carried on in such a manner and with such precaution against fire and explosion hazards as to produce no explosion hazards as determined by the state department of labor to a use on an adjacent property. Flammable liquids other than fuels used for heating shall be stored in an entirely enclosed building which shall be used for no other purpose, or in underground tanks provided:
 - a. Said storage building is not closer than 100 feet to any building occupied by one or more persons.
 - b. Every factory or manufacturing building or other buildings permitted only in the industrial area shall be equipped with automatic sprinklers or other automatic fire extinguishers approved by the zoning administrator and the chief of the fire department as being sufficient in view of the nature and extent of the fire risk.
- (2) *Smoke, fumes, gases, dust, odors.* There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to create a public nuisance.
- (3) *Liquid or solid waste.* The discharge of untreated industrial waste into a reservoir, pond, or stream is prohibited. All methods of salvage and industrial waste treatment and disposal shall be approved by the city, the county health department and the state department of natural resources and environment. No effluent shall contain any acids, oils, dust, toxic metals, corrosives or other toxic substance in solution or suspension which would create odors or discolor, poison, or otherwise pollute the stream in any way.
- (4) *Vibration.* There shall be no vibration which is discernible to the human senses beyond the property line of the site on which such use is conducted.
- (5) *Noise.* There shall be no noise emanating from the operation which will be more audible beyond the boundaries of the site than the volume of traffic noise on the nearest adjacent street.
- (6) *Glare.* There shall be no direct or sky-reflected glare exceeding 1½ footcandles or which would be damaging to the human eye measured at the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrance or exit of service drives leading to a parking lot. Exterior lighting sources shall be directed away from any neighboring residential district.

- (7) *Automatic screw machines.* No such machine shall be located closer than 300 feet to any residential district.
- (8) *Stamping machines, punch presses, and press brakes.* All such machinery shall be mounted on shock absorbing materials and on reinforced concrete. No such machinery shall be located closer than 500 feet to any residential district.

(Code 2009, § 40-389; Ord. No. 53-A, § 16.05, 8-16-1982)

Secs. 32-446—32-473. - Reserved.

DIVISION 13. - SCHEDULE OF DISTRICT REGULATIONS

Sec. 32-474. - Table of district regulations.

(a) The following table illustrates the district regulations:

<i>District</i>	<i>Minimum Lot Size per Unit (a)</i> <i>(b)</i>		<i>Maximum Lot Coverage</i> <i>(in percent)</i>	<i>Minimum Yard Setbacks (ft.)</i>			<i>Max. Building Height</i>	
	<i>Area (in sq. ft.)</i>	<i>Width (in ft.)</i>		<i>Front (b)</i>	<i>Each Side (c)</i>	<i>Rear</i>	<i>Stories</i>	<i>Feet</i>
RR	20,000	100	20	40	20	40	2½	35
R-1	8,712(f)	66	30	30	10	30	2½	35
R-2	6,600(g), (h)	50	40	30	6	30	2½(v)	35(v)
R-3	(g), (h), (i), (j), (k)	—	40	40	15(e)	30	2½(v)	35(v)
R-4(p)	(g)	—	35	40	15	30	2½	35
B-1	11,050	85	—	30(m)	(n)	50(n)	2½	35
B-2	—	—	—	(l)	—	—	3	45
B-3(q)	15,000	100	—	30(m)	10(n)(s)	20(n)	2½	35

MU	5,000 sq. ft. each single-family unit, 3,000 sq. ft. per multifamily unit, 5,000 for nonresidential uses	50	—	(u)	(u)	45(u)	2½	35
HC	20,000	100	40	40(m)	10(n)(s) (t)	20(n)(t)	4	50
I-I	40,000	150	40	40(o)	20(n)	25(n)	2½	35

(b) The following notes are an integral part of these district regulations and should be read in conjunction with the schedule contained in subsection (a) of this section.

(1) Each dwelling unit shall have a minimum floor area in accordance with the following schedule:

<i>Dwelling Type</i>	<i>Required Floor Area</i>
(1) Single-family dwelling	1,000 square feet with a minimum of 650 square feet on the ground floor for units of more than one story.
(2) Two-family and townhouses	900 square feet with a minimum of 300 square feet on the ground floor.
(3) Multiple-family dwellings (not including townhouses)	
(a) Efficiency	350 square feet.
(b) One-bedroom	600 square feet.
(c) Two-bedroom	800 square feet.
(d) Three-bedroom	900 square feet, plus an additional 100 square feet for each bedroom in excess of three.

- (2) Where a front yard of lesser depth than required herein exists in front of dwellings on more than 60 percent of the lots of record on one side of the street in any one block in a residential district, the front yard setback for any building thereafter erected need not be greater than the average setback of existing buildings.
- (3) In the case of a corner lot, where the rear yard abuts the side yard of an adjoining lot, the minimum side yard on the street side shall be equal to the required front setback for the adjoining lot.
- (4) The maximum density per acre permitted in the residential districts is as follows:

<i>District</i>	<i>Maximum Density (per acre)</i>
RR	2 units
R-1	4 units
R-2	8 units
R-3	11 units
R-4	7 units

- (5) There shall be a minimum distance of 25 feet between ends of contiguous buildings.
- (6) Lots not serviced by public water or sanitary sewer shall have a minimum size of 12,000 square feet and a minimum width of 95 feet.
- (7) All lots shall be serviced by public water and sanitary sewer.
- (8) All two-family dwellings shall have a minimum lot area of 10,000 square feet and a minimum lot width of 80 feet.
- (9) Townhouses shall be located on a minimum site of one acre. The minimum lot area per unit shall equal 5,000 square feet and the minimum site width shall be 150 feet.
- (10) Multiple-family dwellings, not including townhouses, shall be located on a minimum site of one acre. The minimum lot area per unit shall equal 4,000 square feet and the minimum site width shall be 150 feet.
- (11) All single-family and two-family dwellings shall conform to the requirements of the R-2 district.
- (12) Required off-street loading areas shall not be provided in the front yard.
- (13) When a side or rear yard abuts a residential or mixed-use district, there shall be a minimum yard of 25 feet, exclusive of parking and drives. Such yard shall contain at least a ten-foot greenbelt as specified in section 32-536(4). No commercial or industrial building shall be located nearer than 50 feet to any main building in a residential or mixed-use district. A minimum rear yard setback of ten feet may be permitted for an industrial building if both of the following exist:
 - a. The industrial building abuts only on other industrial sites; and
 - b. No fence or other structure will be placed within the rear yard setback.
- (14) Except for landscaping and necessary drives or walks, the front yard shall remain clear and shall not be used for parking, loading, storage, or accessory structures. The planning commission may modify this requirement to allow for parking in the front yard upon a proper showing of necessity and practicability. Side and rear yards, except for a ten-foot-wide strip along the lot boundary, may be used for parking and loading. Storage shall only be permitted in such rear yard area. The side or rear yard requirement shall not apply where railroad service to the site abuts such lot line.
- (15) Minimum requirements and district regulations for the R-4 district are further explained in article X of this chapter.
- (16) In the B-3 district, no driveway opening onto a public street shall be permitted within 200 feet of any other driveway opening. Frontage roads, shared driveways, joint parking lots and other common facilities shall be encouraged.
- (17) The minimum front yard setback for buildings in the HC district shall be 40 feet for parcels not utilizing a service drive and 60 feet for parcels utilizing a service drive.
- (18) The side yard setback in the B3 and HC district shall be zero feet where the buildings on adjoining parcels have a common wall.
- (19) The side and rear yard setbacks in the HC district shall be 50 feet for a parcel the rear yard of which abuts a residential district.
- (20) Table illustrating lot lines.

<i>Setbacks for various uses in the MU District</i>	<i>Build-to line (front setback)</i>	<i>Side minimum (in feet)</i>	<i>Rear minimum (in feet)</i>

Single-family dwelling	Shall align with neighbors, setback no less than 5 ft.	15 total, 10 on one side	25
Two-family dwelling	Shall align with neighbors, setback no less than 5 ft.	15 total, 10 on one side	25
Multifamily dwelling	10 ft. min. no more than 15 ft.	20 total, 10 on one side**	35
Office or professional	10 ft. min. no more than 15 ft.	**	35
Retail	10 ft. min. no more than 15 ft.	**	35

**Zero lot line for side lot lines are permissible under the following conditions:

- a. The building has an approved fire rating for zero-lot line development under the state construction code.
- b. The building has adequate fire lane access preserved pursuant to fire code requirements.
- c. The zero lot line side is not adjacent to a street or single-family use.
- d. The zero lot line side is not adjacent to wetlands, or waterfront.

(21) The maximum height for multiple-family buildings shall be three stories or 45 feet, whichever is less.

(22) Section 32-529(c) allows for the creation of lots which do not have sufficient frontage on a public or private street if the proposed use is subject to the site plan review.

(Code 2009, § 40-408; Ord. No. 53-A, § 17.01, 8-16-1982; Ord. of 6-12-1991, § 4; Ord. No. 105, § 4, 11-9-2000; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(17.01), 7-9-2009; Ord. No. 172, § 1, 4-11-2013; Ord. No. 207, § 1, 4-12-2018; Ord. No. 211, § 1, 10-11-2018; Ord. No. 229, § 1, 6-10-2021)

Secs. 32-475—32-501. - Reserved.

ARTICLE IV. - SUPPLEMENTAL REGULATIONS

DIVISION 1. - GENERALLY

Secs. 32-502—32-525. - Reserved.

DIVISION 2. - YARD, USE, HEIGHT, ETC., REQUIREMENTS

Sec. 32-526. - The effect of zoning.

- (a) For the purposes of this chapter, except as hereinafter specifically provided otherwise, no lot or land or premises shall hereafter be used, maintained or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in

conformity with the regulations herein specified for the zoning district in which it is located; these limitations being construed as the minimum legislation necessary to promote and protect the general safety and welfare of the community.

- (b) In case any building or part thereof is used, erected, altered or occupied contrary to law or to the provisions of this chapter, such building shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance.
- (c) If construction on a building is lawfully begun prior to adoption of the ordinance from which this chapter is derived, nothing in this chapter shall be deemed to require any change in the planned or designed use of any such building, provided that actual construction is being diligently carried on, and further, provided that such building shall be entirely completed for its planned or designed use within two years from the effective date of the ordinance from which this chapter is derived.

(Code 2009, § 40-437; Ord. No. 53-A, § 3.01, 8-16-1982)

Sec. 32-527. - Restoring unsafe buildings.

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any building or structure, or part thereof, declared unsafe by the zoning administrator, or required to comply with the zoning administrator's lawful order.

(Code 2009, § 40-438; Ord. No. 53-A, § 3.02, 8-16-1982)

Sec. 32-528. - Required area or space.

No lot or lots in single ownership, and no yard, court, parking area or other space shall be so divided, altered, or reduced to make said area or dimension less than the minimum required under this chapter. If already less than the minimum required under this chapter, said area or dimension shall not be further divided or reduced.

(Code 2009, § 40-439; Ord. No. 53-A, § 3.03, 8-16-1982)

Sec. 32-529. - Frontage requirements.

- (a) On streets less than 66 feet in width, the required front yard shall be increased by one-half the difference between the width of the street and 66 feet.
- (b) All lots created after the effective date of the ordinance from which this division is derived shall have frontage on a public or private street in accordance with the lot width requirements of the zoning district in which it is located.
- (c) The planning commission may permit a lot to be created which does not have any or only has some frontage on a public or private street if the proposed use of such lot is subject to the site plan review procedures of section 32-65. The planning commission shall consider the following criteria and standards in determining whether to allow such lot to be created as part of the site plan review approval process:
 - (1) Whether the proposed lot has vehicle access to the public road system by virtue of a recorded easement or other legal instrument which ensures continued access;
 - (2) Whether the proposed access to the lot will be sufficiently constructed and located so as to be capable of safely accommodating projected vehicle traffic to and from the lot as well as safely accommodating

emergency vehicles;

- (3) Whether the creation of the lot will result in the need for variances both on and off the proposed lot in order to accommodate the proposed use of the lot;
 - (4) Whether the proposed lot and the proposed use meets all other applicable requirements of the zoning ordinance, including, but not limited to, minimum lot width, lot area and building setbacks;
 - (5) Whether the creation of the proposed lot will result in difficulties in achieving the orderly development of nearby lands;
 - (6) Whether the creation of the proposed lot will create difficulties in serving the proposed lot or nearby lots with public utilities;
 - (7) In allowing a lot to be created with no street frontage the planning commission shall designate the front lot line for building setback purposes.
- (d) On a corner lot, each lot line which abuts a public or private street is a front lot line and the required front yard setback from each front lot line shall be met, subject to section 32-532. The owner shall elect, and so designate in the application for a permit, which of the remaining two lot lines shall be the side lot line and which the rear lot line. For a corner lot with three front lot lines, the remaining lot line shall be a rear lot line.

(Code 2009, § 40-440; Ord. No. 53-A, § 3.04, 8-16-1982; Ord. No. 156, § 1(3.04), 7-9-2009; Ord. No. 211, § 1, 10-11-2018)

Sec. 32-530. - Accessory buildings and structures.

- (a) No person shall place an accessory building or structure without first obtaining a valid permit issued by the city pursuant to this article unless specifically exempted from permitting under this article.
- (b) Accessory buildings or structures consist of, but are not limited to:
 - (1) Garages.
 - (2) Sheds.
 - (3) Porches.
 - (4) Decks.
 - (5) Gazebos.
 - (6) Picnic pavilions.
 - (7) Boathouses.
 - (8) Pole barns.
 - (9) Car ports.
 - (10) Playhouse/studio.
 - (11) Swingset/play structure.
 - (12) Pool house/cabana.
 - (13) Permanent pool/hot tub.
 - (14) Greenhouse.
 - (15) Storage building.
 - (16) Garden storage/barn.
 - (17) Hobbyshop/workshop.

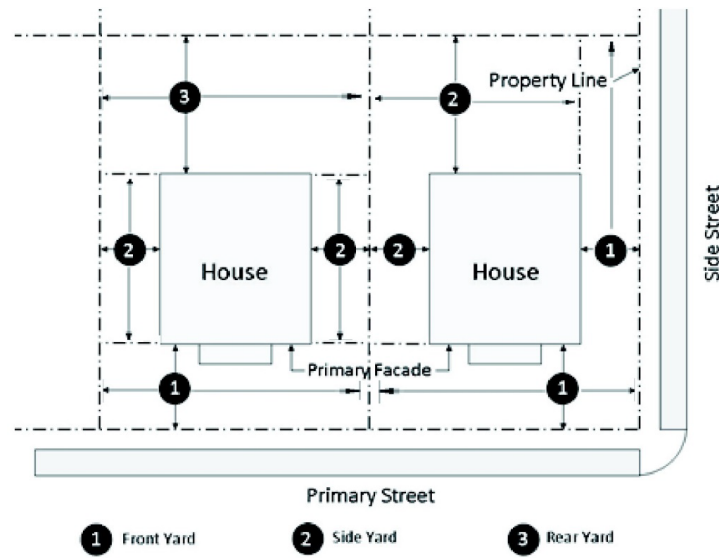
(18) BBQ, outdoor kitchen, chimney, fire pit.

(19) Permanent sporting equipment or fields of play.

(20) Other similar structures customarily incidental and subordinate to the principal building on the property.

The terms "accessory buildings" and "accessory structure" may be used interchangeably in this division and shall both encompass the above structures.

- (c) Where accessory buildings or structures, such as enclosed porches or garages, are attached to a main building in a substantial manner, they shall be made structurally a part of the main building, such as by a wall or roof, and they shall conform to all regulations of the zoning ordinances applicable to a principal building. Any such attached building or structure that is used for the storage of motor vehicles or flammable substances shall utilize fire-resistance-rated walls as required by the residential code provisions of the state construction code.
- (d) Accessory buildings shall not be permitted in a front yard. When an accessory building or structure is located on a corner lot, where the side lot line is a continuation of the front lot line of the lot to its rear, the accessory building or use shall be located no nearer than the required front yard setback line on the lot behind the corner lot.



- (e) Certain structures, traditionally found in the front yard, such as mailboxes, art displays, ornamental lights, birdfeeders, mobility ramps, free little libraries or similar, are specifically permitted in a front yard but shall otherwise follow the requirements of this division.
- (f) Accessory buildings that are used for the storage of motor vehicles shall be connected to a public street via a driveway meeting the requirements of the city.
- (g) Accessory buildings and structures in excess of 100 square feet must be designed, constructed, and finished such that the exterior appearance is compatible in terms of materials, color and general construction with that of the principal structure.
- (h) Accessory buildings or structures shall not be permitted on a lot or parcel which does not have a principal use or main building.
- (i) All accessory buildings or structures larger than 65 square feet floor space, with a height more than nine feet at the peak above grade or with a floor more than 30 inches above grade shall require a Zoning Permit prior to construction or installation. All accessory buildings or structures smaller than 65 square feet floor space, with a

height less than nine feet at the peak above grade or with a floor less than 30 inches above grade are exempt from zoning permit approval but must still adhere to all requirements of this division that apply to accessory building or structures generally and specifically, including setback and front yard placement requirements.

- (j) Detached accessory building or structures shall be located a minimum of ten feet away from any principal building unless it is attached to the principal building, excepting permanent carports. No detached accessory building or structure may be located closer than ten feet to a street right-of-way line except for mailboxes.
- (k) Detached accessory buildings or structures with a height up to nine feet tall at the peak or up to 100 square feet floor space shall be a minimum of three feet at the drip-edge or closest point from any property line. Detached accessory buildings or structures up to 15 feet tall at the peak or up to 300 square feet floor space shall be a minimum of six feet from any property line at the drip-edge or closest point. Any detached accessory buildings or structures over 300 square feet must be a minimum of ten feet from any property line at the drip-edge or closest point. Height shall be measured from ground level for structures placed on the ground or from the concrete base for structures placed on a concrete base.
- (l) The planning commission, by a majority vote and with findings on the record, may permit or deny an accessory building up to a maximum height of either the maximum height of the existing primary building on the same lot or 25 feet tall, whichever is less, if it finds by a preponderance of the evidence that the proposed building or structure will not:
 - (1) Have a demonstrated reduction of privacy on adjoining properties;
 - (2) Have a negative aesthetic effect on adjoining properties;
 - (3) Cause a reduction in air flow onto adjoining properties;
 - (4) Affect the shading of an adjoining property that may reduce vegetative use or solar access of said property.
- (m) The planning commission may require a greater setback than is otherwise required in this chapter to compensate for the permitted additional height of the accessory building or structure granted herein up to a maximum requirement of the setback applied to the primary building in the zoning district.
- (n) Any accessory building or structure on a residential lot that is over 200 square feet shall obtain a building permit and shall meet the foundation requirements of the residential code provisions of the state construction code, any accessory building or structure on a commercial or industrial lot that is over 150 square feet shall obtain a building permit and shall meet the foundation requirements of the state construction code.
- (o) Accessory buildings and structures shall not be occupied for dwelling purposes.
- (p) The installation of electrical or plumbing in or on an accessory building shall require building inspection and permitting.
- (q) The maximum floor space of any one accessory building shall be 720 square feet unless otherwise approved by the planning commission. The total area of all accessory buildings shall not, in combination with all other principal and accessory structures, exceed the maximum lot coverage of the zoning district.
- (r) The planning commission, by a majority vote and with findings on the record, may permit or deny an accessory building larger than 720 square feet of floor space if it finds by a preponderance of the evidence that the proposed building or structure will not:
 - (1) Have a demonstrated reduction of privacy on adjoining properties;
 - (2) Have a negative aesthetic effect on adjoining properties;
 - (3) Cause a reduction in air flow onto adjoining properties;

- (4) Affect the shading of an adjoining property that may reduce vegetative use or solar access of said property;
- (5) Exceed the zoning district's maximum lot coverage;
- (6) Intrude upon the setback requirements;
- (7) Be disproportionate in size in comparison to the principal building.

The planning commission may require a greater setback than is otherwise required to compensate for the additional height of the accessory building or structure granted herein up to a maximum requirement of the setback applied to the primary building in the zoning district.

- (s) In no instance shall an accessory building or structure be within a public right-of-way or easement, unless otherwise permitted in an easement agreement. Any such structure in the right-of-way or easement shall be subject to removal by the city and the costs for removal shall be paid by the encroaching real property owner.
- (t) No accessory building or structure shall be constructed with a tubular frame construction or with canvas, plastic film, or similar exterior material that does not provide long-term durability excepting greenhouses, whose primary purpose and use is the growing of plants and storage of gardening equipment.
- (u) All accessory buildings shall be well maintained and kept in a clean and safe condition; rips in the cover, hanging cover material, leaning frames and other visual detriments that present an unkept image shall not be permitted. Accessory buildings not kept in clean and safe conditions shall be promptly repaired or removed.
- (v) The construction of all accessory buildings shall be completed in such a way that it does not drain to a neighboring property but must maintain its runoff on the property it is constructed on. This may include one or all of the following items: eave and drain spouts, location of drain spout discharge, grading of the property to the shared property line back to the new structure or a physical curb/gutter type structure.
- (w) Nothing in this division shall be construed to interfere with other state or federal laws, such as the Americans with Disabilities Act, 42 USC 12101 et seq.
- (x) In addition to the penalties and remedies available under this article, violations of this division shall be punishable as a municipal civil infraction, including, but not limited to, abatement of the violating condition or the granting of any injunctive relief.

(Code 2009, § 40-441; Ord. No. 53-A, § 3.05, 8-16-1982; Ord. No. 156, § 1(3.05), 7-9-2009; Ord. No. 212, § 1, 10-11-2018)

Sec. 32-531. - Existing platted lots.

- (a) Where an existing platted lot has an area of not less than 90 percent of its zoning district requirements and where such lot can provide the side and front yard requirements of its zone, the permitted uses of the district shall be allowed.
- (b) An existing platted lot, in single ownership, of less than 90 percent of its zoning district requirements may be utilized for such permitted uses, and for such purpose the required side yards may be reduced by the same percentage the area of such lot bears to its zone district requirements, provided that no side yard provision may be reduced to less than ten feet and that off-street parking requirements are also met.
- (c) Where four or more adjacent lots are in single ownership and where such lots individually contain less than 90 percent of its zoning district requirements, such lots shall be utilized only in complete conformance with the zoning district's unreduced minimum requirements.
- (d) In the event two or three adjacent lots are in single ownership and the board of appeals shall find that there is no practical possibility of obtaining additional land, it may permit their use as separate lots having less than the

required lot area if it shall determine that they can be so used without adversely affecting the character of the neighborhood; provided, however, that no side yard provision may be reduced to less than ten feet and that off-street parking requirements are also met.

(Code 2009, § 40-442; Ord. No. 53-A, § 3.06, 8-16-1982)

Sec. 32-532. - Basis for determining front yard requirements.

The required front yard shall be measured from the right-of-way line to the nearest foundation or building wall of the building or structure, provided that where an existing setback line has been established by existing buildings occupying 50 percent or more of the frontage within the same block or, where unplatted, within 200 feet of the proposed building, such established setback shall apply. Unenclosed porches, steps, or similar facilities may project into a required front or rear yard for a distance not to exceed ten feet.

(Code 2009, § 40-443; Ord. No. 53-A, § 3.07, 8-16-1982)

Sec. 32-533. - Temporary uses.

Temporary permits may be authorized by the zoning administrator for a period not to exceed one year for the following:

- (1) Nonconforming uses incidental to construction projects on the same premises and, including such uses as storage of building supplies and machinery, signs and the assembly of building materials.
- (2) The temporary use of a mobile home on a lot as living quarters while a house is being reconstructed as a result of fire or natural disaster.
- (3) The use of a dwelling to be temporarily used as a sales and management office for the sale of homes within a subdivision for a period of one year, provided all the following are complied with:
 - a. The house to be used as such office is built upon a lot approved as part of the approved subdivision and is of substantially similar design as those houses to be sold within the subdivision.
 - b. No retail sales or business other than that accessory to the management and sales of the land in the subdivision owned by the applicant shall be permitted.
 - c. Said dwelling house shall meet all other zoning restrictions of the zone in which it is located. Review and approval by the planning commission is required. A hearing may be required by the planning commission.
- (4) Temporary and portable storage units and structures may be permitted on a temporary basis within residential districts under the following conditions:
 - a. All temporary or portable storage units and structures may be permitted only upon written authorization by the zoning administrator.
 - b. No more than one such unit or structure may be located on any residential property.
 - c. The structure or unit may be no larger than ten feet wide, 20 feet long and ten feet high.
 - d. A storage structure or unit may not remain on any residentially zoned property for a period of time in excess of 30 consecutive days. Such structures or units may be permitted a maximum of three times per calendar year. A minimum of 60 calendar days shall elapse between the end of one registration period and the beginning of another. An extension may be granted by the zoning administrator, subject to conditions, for a reasonable additional time period in an amount not to exceed 30 days per occurrence.

- e. The portable storage structure must be set back a minimum of five feet from all side and rear property lines set back a minimum of 20 feet from the front property line.
 - f. The portable storage structure must be set back a minimum of five feet from the nearest wall of a building.
 - g. Temporary units and structures placed within the front yard must be placed on an asphalt or concrete surface. In cases of multiple-family or commercial developments, no such structure or unit may be placed within any required parking space.
 - h. Additional units or structures may be permitted on commercial property when associated with construction at a site where a building permit has been issued. Such units or structures may be permitted for the duration of construction and shall be removed from the site within 14 days of the end of construction.
 - i. No temporary storage unit shall be used to store illegal or hazardous material, solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, or goods for use at property other than the property where the temporary storage unit is located. Upon reasonable notice to the property owner or occupant, the city may inspect the contents of any temporary storage unit to ensure compliance with this regulation.
- (5) Sidewalk displays. The owner of a business fronting on Main Street in the B-2 Central Business District, or the MU Mixed-Use District when part of a traditional development, may be issued an annual permit to display goods on the sidewalks along Main Street in front of that business in accordance with this provision.
- a. The application, along with an annual permit fee in an amount established from time to time by resolution of the city council, shall be filed with the city clerk and shall be in a form provided by the city clerk but which shall contain the following information:
 - 1. The name, address, telephone number, facsimile number (if any) and e-mail address (if any) of the business, the business owner and the officer or manager in charge of the Main Street premises.
 - 2. A description of the goods and services sold on the Main Street premises, a description of the goods to be displayed pursuant to the permit and drawings and photographs showing the display racks, tables or other means of display to be used and where they will be located.
 - 3. A copy of the commercial general liability policy covering the business and the Main Street premises with coverage in an amount of at least \$1,000,000.00 and a copy of the certificate of insurance showing the premium to be fully paid through the permit term.
 - 4. A certification by and the signature of an owner, officer, manager or someone else with the authority to bind the business entity attesting to the veracity of the information in the application and acknowledging and agreeing to comply with the requirements of this provision.
 - 5. Such other information as the city clerk may deem appropriate.
 - b. The permit application shall be reviewed by the city manager who may issue a permit if it is possible for any resulting display of goods to comply with the requirements of this provision. However, a permit shall not be issued if the business has previously violated this provision or section 32-348, if the business is in default to the city in the payment of any taxes, rates, fees or charges, if the city manager determines that the display of goods as would be allowed under a permit would constitute a hazard or otherwise be contrary to the public health, safety or general welfare. If the city manager denies the issuance of a

permit, the applicant may appeal the denial to the board of zoning appeals. Any permit issued pursuant to this section, regardless of when it is issued during any calendar year, shall expire on December 31 of the calendar year in which it is issued.

- c. The following requirements shall apply to any outdoor displays of goods:
1. No furniture, benches or other seating fixtures may be on the sidewalks unless they are for sale by the business they are in front of or a permit has been obtained from the city per section 32-558.
 2. Displays shall be placed against the front wall of the building and shall not extend more than 36 inches from the building facade, provided that the sidewalk in front of the display shall remain unobstructed for a continuous width of at least 48 inches.
 3. Displays may be no taller than five feet high, no longer than 20 feet long, or the length of the store's facade, whichever is less.
 4. Buildings situated on a corner must also set the display at least three feet from the edge of the building to allow for traffic visibility.
 5. Displays are allowed only during business hours and must be entirely removed at closing time.
 6. Displays shall be removed during periods of inclement weather, such as high winds or heavy rains during which the display may create a safety hazard.
 7. Potentially dangerous merchandise, such as gasoline, kerosene, guns, knives, breakable glass and similar goods shall not be displayed outdoors.
 8. The merchandise displayed must be the offer on the premises in front of which it is displayed.
 9. This display permit may be subject to revocation if the display is not in compliance.

(Code 2009, § 40-444; Ord. No. 53-A, § 3.08, 8-16-1982; Ord. No. 156, § 1(3.08), 7-9-2009; Ord. No. 169, § 1, 6-29-2012; Ord. No. 173, § 1, 1-9-2014)

Sec. 32-534. - Illegal dwellings.

The use of a basement or the basement of a partially built or planned building as a residence or dwelling unit is prohibited in all zones.

(Code 2009, § 40-445; Ord. No. 53-A, § 3.09, 8-16-1982)

Sec. 32-535. - Walls and fences.

- (a) The placement of a fence shall be approved by the zoning administrator. Applications for zoning approval which propose fences or walls on property lines shall include a land survey. The zoning administrator may require the property be staked based on the land survey prior to issuing zoning approval.
- (b) Fences shall be installed in a workmanlike manner and be maintained at all times in a state of good repair, with all braces, fasteners, supporting frames, etc., free from deterioration, insect infestation, rot and rust. All fences shall be kept neatly finished, including all metal parts and supports that are not galvanized or made of rust-resistant metals.
- (c) No person shall place, string or maintain chicken wire, agricultural fencing barbed wire, or razor wire as part of any fence, or structure in any zoning district.
- (d) Unless specifically provided for elsewhere in this chapter, no fence may exceed a height of three feet for

substantially solid or opaque fences and four feet for chain-link, wrought iron or picket fences within the front yard. No fence may exceed a height of six feet behind the front building line of principal structures in residential or commercial districts and eight feet behind the required front setback line in the industrial district.

- (e) Fences constructed of wood or other material having one side designed and considered the decorative side shall be erected with that side facing the adjoining street or abutting property owner's premises.
- (f) It shall be unlawful to construct any fence in any public right-of-way or across a utilities easement.
- (g) No fence shall be erected or maintained on any corner lot or parcel that will, in the opinion of the zoning administrator, obstruct the view of a vehicle drive approaching the intersection.
- (h) A required wall shall be located on the property line. When approved by the zoning board of appeals and used to screen features taller than six feet, required walls may be constructed to a height up to 12 feet, provided that all such walls shall be of uniform height around the premises. The design of all walls, including openings for vehicular traffic or other purposes, shall only be as permitted by the zoning administrator.

(Code 2009, § 40-446; Ord. No. 53-A, § 3.10, 8-16-1982; Ord. No. 123, § 1, 10-14-2004)

Sec. 32-536. - Landscaping requirements.

The purpose of this section is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping in parking lots, as greenbelts between uses and along roadways. Landscaping is considered by the city to be an important element of land development and is a critical factor in maintaining an attractive community character and conserving the value of land and buildings in the city. Landscaping also serves to buffer incompatible land use, moderate harsh or unpleasant sounds, remove air pollutants, reduce the glare from vehicle headlights and separate vehicular and pedestrian circulation. The landscape standards of this section are considered the minimum necessary to achieve the objectives noted above. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of their property.

(1) *Applicability.*

- a. The standards contained in this section shall be applicable to any site plan, special land use request, or PUD submitted for review and approval under this section.
- b. The regulations of this section shall not apply to individual single-family and two-family dwelling units.

(2) *Modification of required landscaping.* For existing and proposed uses that require site plan approval to either expand or be built, landscaping shall be installed insofar as practical. The planning commission in its review of the site plan has the authority to increase, decrease or otherwise modify the requirements of this section. In doing so, the commission shall consider the following criteria:

- a. The amount of space on the site available for landscaping.
- b. Existing landscaping on the site and on adjacent properties.
- c. The type of use on the site and size of the development.
- d. Existing and proposed adjacent land uses.
- e. The effect the required landscaping would have on the operation of the existing or proposed land use.
- f. Whether additional landscaping is necessary to mitigate the adverse effects of adjoining land uses, to reduce headlight glare, reduce noise and to otherwise achieve the objectives of this section.

- (3) *Plan approval required.* The planting plans for required protective screening shall first be submitted to the zoning administrator for approval as to suitability of planting material and arrangement thereof. Excluded from approval are:
- a. Ailanthus (Tree of Heaven);
 - b. Elm trees, except disease resistant cultivars, such as Regal, Pioneer, Homestead, Jacan and Accolade;
 - c. Acer saccharinum (Soft/Silver Maple);
 - d. Salix (Willows);
 - e. Populus (Poplars);
 - f. Aesculus (Horse Chestnut);
 - g. Acer negundo (Box Elders);
 - h. Catalpa;
 - i. Elaeagnus;
 - j. Ginkgo biloba;
 - k. Robinia pseudoacacia (Black Locust);
 - l. Morus (Mulberry);
 - m. Fraxinus (Ash Tree);
 - n. Gleditsia Triacanthos (Honey Locust);
 - o. Any plant or tree species suffering from widespread disease, infestation or is listed on the Midwest Invasive Species Information Network.
- (4) *Greenbelts and screening.* A greenbelt or screening shall be provided as follows:
- a. Wherever a nonresidential zoning district or a nonresidential use in a PUD zoning district abuts a residential zoning district or a PUD or mixed-use zone containing residential uses or an area recommended for residential land use in the city master plan.
 - b. Wherever a nonresidential zoning district abuts a parcel containing a residential use, such as a dwelling in a commercial or industrial zone.
 - c. Wherever a nonresidential use, such as a church, school, hospital, or governmental service building which may be allowed in a residential zone, abuts a parcel containing a residential use or a residential zoning district, or PUD or mixed-use zone containing residential land uses or an area recommended for residential land use in the city master plan.
 - d. Wherever multifamily buildings abut an R-1, R-2, R-4, RR or PUD zone containing single- or two-family dwellings or an area recommended for single- or two-family land use in the city master plan.
 - e. Whenever a nonresidential use or multifamily use abuts the White Pine Trail.
 - f. The greenbelt shall be installed between the different zoning districts or uses.
 - g. The greenbelt requirements of this section shall not apply where adjacent zoning districts or uses are separated by a public or private street. In such case, the front yard landscaping requirements subsection (7) of this section shall apply.
 - h. Additional screening may be required by the planning commission, including additional greenbelt width, a wall, landscaping berm or fencing to prevent the creation of any nuisance, avoid annoyance by artificial lighting or incompatible activity.
- (5) *Landscaped greenbelts and screening.* Where landscaped greenbelts or screening are required one of the

following shall be provided:

- a. A greenbelt a minimum of ten feet in width. For each 20 linear feet abutting the adjacent property, one tree shall be planted within the greenbelt. Trees shall be a mixture of evergreen, canopy and ornamental trees. Two shrubs shall be planted for each tree and each shrub shall be a minimum of 30 inches at planting and reach a minimum height of five feet at maturity. Vegetation shall maintain its density and screening effect year-round.
- b. A greenbelt a minimum of ten feet in width measured from the property line with a privacy fence and canopy or ornamental trees on 30-foot centers with an allotment of three shrubs per 30 feet of buffer strip.
- c. A four-foot brick, stone, or split block wall located along the property line with canopy trees planted on 30-foot centers located within ten feet of the property line.
- d. A five-foot brick, stone or split block wall located along the property line with an adjoining five feet wide grassed area provided. No additional plantings are required.
- e. Berms are permitted in all zoning districts except for the B-2 district. Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion. Slopes shall be protected with sod, seed, shrubs or other forms of natural groundcover. Berms shall be sculpted to provide interest. Berms shall be no more than four feet in height. Installation of a berm may be used to reduce perimeter plantings by 25 percent at the berm location.

(6) *Parking lot landscaping.*

- a. Off-street parking areas for uses containing more than ten parking spaces shall provide the following landscaping within a parking lot:
 1. For parking, display, or storage areas measuring greater than 2,000 square feet, interior planting areas in above ground or sunken landscape islands, bump-outs near the perimeter of the parking lot or as boulevards shall be provided equal to not less than ten percent of the total parking, display, or storage area unless otherwise approved by the planning commission. Such plantings shall be evenly disbursed throughout the parking, display or storage area according to a plan approved by the planning commission.
 2. A minimum of one deciduous shade tree or ornamental tree shall be provided for each ten parking spaces or for each planting island. Shrubs or live groundcover plantings shall be used to cover remaining areas of the island. A minimum of one tree shall be provided within each island.
 3. Planting islands shall be located at the ends of each parking row, unless otherwise approved by the planning commission. However, a landscape island shall be required within the interior of a parking row so that there shall not be more than 20 contiguous parking spaces within any parking row.
 4. When parking lot islands are used they shall be at least 100 square feet in area, nine feet in width and two feet shorter than adjacent parking space. Sunken landscape islands with rolled curb or curbing with drainage gaps are encouraged to help manage stormwater runoff.
 5. All landscaping and perimeter screening, except designated snow storage areas, shall be protected from vehicle encroachment with concrete curbing or similar permanent means.

(7) *Front yard landscaping.* Except for the B-2 zone where any off-street parking area directly abuts or faces a public street, a screen shall be required between the parking area and the road right-of-way. Such screen shall consist of, at a minimum, one of the following:

- a. A strip of land at least five feet in width and a solid screen comprised of a vegetative hedge or decorative wall, or any combination thereof, which measures at least three feet in height; or
 - b. A strip of land at least ten feet in width within which for each 50 feet in length of road frontage two trees shall be planted. A mixture of evergreen, canopy and ornamental trees is encouraged to provide a variety of plantings along the street. Driveways shall not be counted in the determination of road frontage. Shrubs at a rate of one per each tree required. Earthen berms may be permitted within the required front yard landscape area. Credit of up to 25 percent may be received against providing the required plantings through the use of berms three feet in height or greater.
- (8) *Irrigation*. All landscaped areas, including all planting beds, lawn areas, rights-of-way, and parking lot islands shall be provided with an underground irrigation system. The planning commission may permit other means of irrigation where site conditions dictate, provided drought resistant or other xeriscaping is provided.
- (9) *Maintenance*. Landscaped areas and plant materials required by this section, including shall be kept free from refuse and debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance in accordance with the approved site plan. If any plant material dies or becomes diseased, it shall be replaced within a reasonable period of time upon written notice from the city or within an extended time period as specified in said notice.
- (10) *Landscape elements*.
- a. *Quality*. Plant materials shall be of generally acceptable varieties and species, free from harmful insects and diseases, and hardy to Kent County, Michigan. The American Standard for Nursery Stock (2014) should be used as a reference to meet this requirement. Artificial plants are prohibited as a landscaping material under this section.
 - b. *Composition*. A mixture of plant material, such as evergreens, and deciduous trees, and shrubs are 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. No more than 50 percent of landscape plant materials shall consist of any one species. This requirement may be waived by the zoning administrator if written documentation is received from a professional botanist, horticulturist, or other applicable professional outlining justification of why this requirement should be waived for a specific property.
 - c. *Existing trees*. The proposed landscape plan shall integrate existing significant trees, tree stands, and natural vegetation to the greatest extent possible and shall be included in the minimum landscape requirements of this section. Where existing trees are used to satisfy the requirements of this section, the following requirements shall apply:
 1. Paving or other site improvements shall not encroach upon the dripline of the existing trees to be preserved.
 2. If existing plant material is labeled "to remain" on the site plan, 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 materials, 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 methods are approved by the zoning administrator.
 3. In the event that healthy trees which are used to meet the minimum requirements of this zoning code

or those labeled "to remain" are cut down, destroyed, damaged, or excavated at the dripline, as determined by the zoning administrator, the contractor shall replace them with trees at a one-to-one ratio: for example, for every inch in diameter of tree that is removed, one inch diameter of new tree shall be planted; or, if one 20-inch diameter tree is removed: it shall be replaced with ten two-inch diameter trees, or replaced with five four-inch-diameter trees, as approved by the zoning administrator.

- d. *Size requirements.* Where landscaping is required, the following schedule sets forth minimum size requirements for representative landscape materials:

Tree Type Minimum Size at Time of Planting

<i>Tree Type</i>	<i>Size at Time of Planting</i>
Coniferous Evergreen Trees:	4 feet in height
Deciduous Shade/Canopy Tree:	2½ caliper inches
Deciduous Ornamental Tree:	1½ caliper inches or 6 feet in height
Deciduous Shrubs:	24 inches in height or 30 inches in spread
Upright Coniferous Shrub:	24 inches in height
Spreading Coniferous Shrub:	18 inches spread
Caliper inches measured six inches above grade, height measured above grade.	

- e. *Installation, maintenance and completion.*

1. All landscaping required by this section shall be planted before obtaining a certificate of occupancy or the appropriate financial guarantee may be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed. A temporary certificate of occupancy may be issued for projects needing additional time planting the approved landscaping elements based on seasonal limitations.
2. All landscaping and landscape elements shall be planted in a sound workmanlike manner in accordance with accepted planting procedures.

- f. *Groundcover.*

1. Lawn areas shall be planted in species of grass normally grown as permanent lawns in Michigan. Grass may be sodded, terra-seeded, or slot-seeded on a two-inch topsoil base (after settling and compaction), provided that adequate measures are taken to minimize soil erosion. Sod or seed shall be clean and free of weeds and noxious pests or disease.
2. The creative use of groundcover alternatives is encouraged. Groundcover used in lieu of grass shall be planted to present a finished appearance after one complete growing season. Prairie grass and natural wildflower and grass mix may be used where appropriate.
3. Synthetic materials shall not be used as a permitted groundcover. Use of stone and gravel as a groundcover may be permitted, subject to planning commission approval.
4. Mulch shall consist of shredded hardwood bark mulch or similar natural material at a minimum depth of three inches. Mulch used around trees and shrubs shall be a minimum of four inches deep and shall be pulled one inch away from tree and shrub trunks. An effective edge treatment shall be provided to contain and prevent migration of the mulch.
5. Plant materials shall not be placed closer than eight feet to a fence line or property line.

6. Landscaping materials need not be uniformly arranged on site.
7. Plantings near utility lines and fire hydrants and clear vision requirements.
 - (i) Required plant materials and screening shall be arranged to avoid conflicts with underground and overhead utility lines and access to or visibility of fire hydrants. The anticipated height at maturity of trees planted near overhead utility lines shall not exceed the line height above grade.
 - (ii) Clear vision requirements.
 - A. No plantings shall be established or maintained on any lot which will obstruct the view of a vehicle driver approaching an intersection. Such unobstructed area shall mean a triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended.
 - B. This shall not prohibit the establishment of shrubbery less than 30 inches in height. Landscaping shall be arranged so as not to obscure traffic signs or obstruct drivers' sight distance within the parking area and at driveway entrances.
8. Snow storage area. Adequate snow storage area shall be provided within the site. Plant materials in snow storage areas shall be hardy, salt-tolerant species characterized by low maintenance requirements.
9. Loading, storage, and service area screening. Loading, storage, and service areas, public utility and essential service uses and structures, ground equipment shelters, ground-mounted transformers, generators, and HVAC units, electric sub-stations, gas regulator stations, and similar facilities shall be screened from road rights-of-way and adjacent residential uses subject to review and approval of the zoning administrator and the planning commission.
10. The American Standard for Nursery Stock (2014) may be used to assist in the interpretation of this section.

(Code 2009, § 40-447; Ord. No. 53-A, § 3.11, 8-16-1982; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(3.11), 7-9-2009; Ord. No. 204, § 1, 4-12-2018)

Sec. 32-537. - Height exceptions.

Subject to other provisions of law, the requirements of all zones shall be subject to the following exceptions: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lots, water tanks, monuments, cupolas, domes, spires, steeples, penthouses housing necessary mechanical appurtenances, and similar structures, provided they are located the same distance as their height from any adjoining property line.

(Code 2009, § 40-448; Ord. No. 53-A, § 3.12, 8-16-1982)

Sec. 32-538. - Essential public services.

The erection, construction, alteration or maintenance of essential services shall be permitted as authorized or regulated by law and other ordinances in any use district, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this chapter, except those which may be considered a danger to the community health, safety and welfare.

(Code 2009, § 40-449; Ord. No. 53-A, § 3.13, 8-16-1982)

Sec. 32-539. - Sewer and water.

No building permit shall be issued for any building to be occupied by human beings unless provision has been made to provide public sewer and water to such building. In the absence of public sewer or water, plans and necessary soil test data shall be presented to the zoning administrator who shall ensure that the proposed plans for water and sewage disposal meet state and municipal standards before issuing a permit.

(Code 2009, § 40-450; Ord. No. 53-A, § 3.14, 8-16-1982)

Sec. 32-540. - Refuse.

It shall be unlawful for any person to dump rubbish or waste materials or store junk on any land in the city except in private or public dumping grounds approved for this purpose. Junkyards shall only be permitted in industrial zoning districts.

(Code 2009, § 40-451; Ord. No. 53-A, § 3.15, 8-16-1982)

Sec. 32-541. - Removal of aboveground or underground storage tanks.

In the event that previously used underground and aboveground storage tanks used for gasoline or other liquids have been abandoned or not used for a period of more than one year, all storage tanks shall be removed from the premises. Upon a finding by the zoning administrator that practical difficulties or unnecessary hardships preclude removal of the tanks, the applicant may be permitted to fill the underground tank with sand, liquid concrete or other noncombustible solid material approved by the zoning administrator.

(Code 2009, § 40-452; Ord. No. 53-A, § 3.16, 8-16-1982)

Sec. 32-542. - Mixed occupancy.

Before issuing a building permit for any construction on any premises intended for a combination of dwelling and commercial occupancy, or which would result in an increased area devoted to business and industrial usage within a building partly occupied as a dwelling, the zoning administrator shall refer the plans to the fire chief and the health officer and request their report as to any fire or health hazards that exist or may be expected to exist and their recommendations as to desirable additional provisions or changes in the interest of safety or health shall be complied with before issuance of a permit.

(Code 2009, § 40-453; Ord. No. 53-A, § 3.17, 8-16-1982)

Sec. 32-543. - Reversion of rezoned areas.

If no construction has commenced and been diligently pursued within one year from the effective date of rezoning any residentially zoned land to a commercial or industrial designation, such rezoned land shall revert back to the zone designation that existed prior to the rezoning; provided, however, that the board of appeals may grant an extension of this time period upon written request for such extension.

(Code 2009, § 40-454; Ord. No. 53-A, § 3.18, 8-16-1982)

Sec. 32-544. - Outdoor storage in residential districts.

- (a) The outdoor storage or parking of automobiles or recreational vehicles, such as trailers, camping or travel trailers, motorized homes, detachable travel equipment and other equipment or vehicles of a similar nature, shall be prohibited in all residential districts, unless the following minimum conditions are met:
- (1) Any automobile or recreational vehicle stored outside must be less than 30 feet in length.
 - (2) The only commercial vehicles that may be stored outside are work vehicles that are used by the occupant as their primary vehicle or means of transportation to work.
 - (3) The outdoor storage or parking of not more than two snowmobiles or one recreational vehicle may be permitted subject to the following:
 - a. The lot or parcel of land upon which the vehicle or equipment will be stored or parked must contain an occupied principal dwelling unit. Storage of vehicles on vacant sites is prohibited, unless permitted by the planning commission as part of a site plan or special land use review.
 - b. The vehicle or equipment stored or parked must be owned by the occupant of the property.
 - c. Any vehicle so stored or parked must be located in the rear yard, or within a side yard where it can be stored or parked on a hard surface driveway.
 - (4) Travel trailers and other vehicles or equipment intended or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection electricity, water or gas.
 - (5) All vehicles and equipment may be stored or parked for up to 13 days in any residential district. After the 13th day all vehicles shall be properly licensed and in an operable condition, as determined by the zoning administrator.
 - (6) Detachable camper units shall not be stored in any residential district except in accordance with the guidelines contained in subsections (a)(1) through (5) of this section. Further, camper units that are not installed on a licensed and operable vehicle must be placed on the ground and stabilized on raised blocks to prevent attraction of rodents.
 - (7) A recreational vehicle or recreational equipment which is officially licensed as a vehicle for a disabled person in accordance with state law and which is used as the regular means of transportation by or for a disabled person may be parked within the required setback area. Appropriate landscaping must be provided to screen the recreational vehicle from adjacent residential structures.
- (b) Items stored outdoors must be kept in a manner so as not to attract disease carrying vermin or other pests that can cause a nuisance.

(Code 2009, § 40-455; Ord. No. 53-A, § 3.19, 8-16-1982; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(3.19), 7-9-2009)

Sec. 32-545. - Satellite dish antennas.

Wireless communication facilities, such as cellular antenna, wireless internet antenna, and commercial broadcasting antenna, shall be subject to the requirements of article VIII of this chapter, special approval standards, hereinafter referred to as "regulated reception antenna," may be installed in any zoning district as an accessory structure to a permitted use, and shall comply with the following requirements:

- (1) *Roof-mounted antennas.* Regulated reception antenna having a diameter of one meter (or approximately

3.28 feet) or less in residential districts and two meters (or approximately 6.56 feet) in nonresidential districts may be attached to the roof of a building, provided that no portion of the antenna extends more than 12 inches above the highest point of the roof.

(2) *General mounting, display and design specifications.*

- a. No advertising or identification display shall be placed on any portion of an antenna or tower, including a satellite dish antenna, except for the name of the manufacturer and serial number.
- b. A maximum of one satellite dish antenna, per unit shall be located on the same lot as a principal building. Antennas are permitted only in connection with, incidental to, and on the same lot as a principal building, structure, or use.
- c. The color of the antennas shall be gray or earth tones.
- d. All electrical and antenna wiring shall be placed underground where applicable.
- e. Antennas shall be securely mounted and anchored in accordance with manufacturer's specifications and state construction code requirements.
- f. The antenna shall be located and designed to meet the manufacturer's specifications to withstand a wind force of 100 miles per hour.

(Code 2009, § 40-456; Ord. No. 53-A, § 3.20, 8-16-1982; Ord. of 6-13-1985, § 3.20; Ord. No. 156, § 1(3.20), 7-9-2009; Ord. No. 175, § 1, 4-11-2013)

Sec. 32-546. - Minimum standards for all dwellings located outside of mobile home parks.

- (a) All dwellings not located in a mobile home park must adhere to the state construction code.
- (b) The minimum width of any dwelling at the narrowest point of its principal portion shall be 24 feet.
- (c) All dwellings shall be firmly attached and anchored to a foundation that meets the requirements of the state construction code.
- (d) All dwellings shall have their exterior building materials extend to the foundation on all sides. Siding shall be the same gauge for manufactured and mobile homes as for on-site-built homes.
- (e) No dwelling shall have an exposed undercarriage, towing mechanism or chassis.
- (f) All dwellings shall comply with the state construction code.
- (g) All dwellings shall be aesthetically compatible in design and appearance with other dwellings within 600 feet. The review shall include, but not be limited to, roof pitch, scale, size, mass, minimum transparency, orientation to the street, and overhangs. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as, but not limited to, solar energy, view, or unique land contour.
- (h) The compatibility of design and appearance shall be determined in the first instance by the zoning administrator upon review of the plans submitted for a particular dwelling unit. The zoning administrator's decision may be appealed, to the zoning board of appeals within a period of 15 days from the receipt of notice to the official's decision.
- (i) Mobile homes used as dwellings shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development (24 CFR 3280.1).
- (j) Where the home design involves a roof pitch, it shall be at a minimum pitch of 5/12 (i.e., for every 12 inches of

lateral run, the roof shall rise five inches).

- (k) The roof shall have a snow load rating of 40 pounds per square foot.
- (l) Roof drainage in the form of a roof overhang of at least 12 inches shall be provided to direct storm or meltwater away from the foundation, unless a gambrel roof or other design elements necessitate an alternative roof drainage system.
- (m) A structure with a front elevation view of over 40 linear feet shall have a design offset, including, but not limited to: bay windows, covered porches, or structural offsets from the principal plane of the building.
- (n) Any single-story, residential structure shall not be more than two times longer than its width (exclusive of an attached garage).
- (o) Storage space of at least 15 percent of the interior living space of the dwelling unit, exclusive of auto storage or attic storage, shall be provided within the structure.
- (p) Each dwelling unit shall have a garage or a shed providing a minimum of 64 square feet of yard storage for each dwelling unit. Said area shall be calculated separately from the required interior storage space.
- (q) The dwelling unit shall contain no additional rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

(Code 2009, § 40-457; Ord. No. 53-A, § 3.21, 8-16-1982; Ord. of 6-13-1985, § 3.21; Ord. No. 126, § 1, 8-12-2004; Ord. No. 156, § 1(3.21), 7-9-2009)

State Law reference— Higher standards for mobile homes prohibited, MCL 125.2307(6).

Sec. 32-547. - Adult and childcare.

- (a) Adult and childcare facilities, as defined in article I of this chapter, are allowed only as provided for in the following table. Applicable conditions are listed as footnotes to the table.

Adult and Childcare Facilities Regulations

<i>Type of Facility</i>	<i>Zoning District</i>				
	RR	R-1, R-2, R-3, R-4	B-1, B-2, B-3, MU	HC	I-1
Adult day care facilities	NA	SLU	SLU	NA	NA
Adult foster care family home (6 or fewer adults 24 hours per day) (1, 2, 3, 4, 5)	P	P	NA	NA	NA
Adult foster care small group home (12 or fewer adults 24 hours per day) (1, 2, 3, 4, 5)	SLU	SLU	NA	NA	NA

Adult foster care large group home (13 to 20 adults 24 hours per day) (1, 2, 3, 4, 5)	NA	SLU	SLU	NA	NA
Congregate facility (more than 20 adults 24 hours per day) (1, 2, 3, 4, 5)	NA	SLU	SLU	NA	NA
Foster family home (4 or fewer children 24 hours per day)	P	P	NA	NA	NA
Foster family group home (5 to 6 children 24 hours per day) (1, 2, 3, 4, 5)	SLU	P	NA	NA	NA
Family day-care home (6 or fewer children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8, 9)	P	P	NA	NA	NA
Group day-care home (7 to 12 children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8, 9)	SLU	P	NA	NA	NA
Childcare center or day-care center (more than 6 children less than 24 hours per day) (1, 2, 3, 4, 5, 6, 7, 8, 9)	SLU	SLU	SLU	NA	NA
Child caring institution (care for an unlimited number of children 24 hours a day) (1, 2, 3, 4, 5, 6, 7, 8)	NA	SLU	NA	NA	NA

P: Permitted use

SLU: May be allowed upon review and approval of a special land use, in accordance with the general standards in article VIII of this chapter, special land uses, section 32-693.

SLU as accessory: May be allowed as an accessory to an approved use, such as a church, school, office, or other place of employment, upon review and approval of a special land use.

NA: Not allowed in zoning district.

Footnotes:

- (1) The use shall be registered with the city clerk's office and shall continually have on file with the city documentation of a valid license as required by the state.
- (2) Since the state law preempts in this area, the facility shall be brought into compliance with all state construction and fire codes pursuant to State Licensing Rules R400.1831—R400.1835. Documentation of such compliance with state requirements shall be provided.
- (3) The site shall comply with the sign provisions of article VII of this chapter, signs.

- (4) Off-street parking shall be provided for the maximum number of employees on-site at any one time.
 - (5) The building shall have an appearance which is non-intrusive and consistent in color, materials, roofline, and architecture with the single-family or multiple-family residential district in which it is located, as determined by the planning commission.
 - (6) Documentation of sufficient indoor classroom, crib, or play area meeting state requirements shall be provided. Documentation of approved areas, as licensed by the state, shall be provided.
 - (7) There shall be sufficient outdoor play area to meet state regulations. All required outdoor play areas shall be fenced with a four-foot-tall fence, provided that no fenced outdoor play area shall be located in a front yard.
 - (8) There shall be sufficient drop-off parking spaces to allow maneuvers without creating a hazard to traffic flow.
 - (9) The facility shall operate not more than 16 hours per day.
- (b) A state-licensed residential adult or childcare facility existing prior to the effective date of the ordinance from which this chapter is derived, that has been operating under a valid state license and is registered with the city no later than 60 days following the effective date of the ordinance from which this chapter is derived, shall be considered an approved special land use, provided such use conforms with the conditions of this section. Any change in class of the use to a larger care facility shall require approval in accordance with the requirements of this chapter. Any modification to the use shall require approval following the standards of article II, division 2, of this chapter, site plan review, as applicable.

(Code 2009, § 40-458; Ord. No. 53-A, § 3.22, 8-16-1982; Ord. No. 121, § 2, 4-8-2004; Ord. No. 156, § 1(3.22), 7-9-2009)

Sec. 32-548. - Private streets.

Any private development serving three or more structures shall provide the minimum frontage for each lot along the front lot line of an approved public or private street. Structures with frontage on a private street shall take access off that private street. Private streets shall be developed to the design, construction, inspection, approval and maintenance standards for public streets within the city. All private streets in the development shall have a paved driving surface of asphalt or concrete.

(Code 2009, § 40-459; Ord. No. 53-A, § 3.23, 8-16-1982; Ord. No. 122, § 2, 6-24-2004)

Sec. 32-549. - Land disturbances.

- (a) *Development permit required for land clearing.* Unless associated with a bona fide public works project, no person, individual, partnership, corporation, association or other legal entity shall engage in land clearing, including the stripping and removal of topsoil, from any site, parcel, or lot within the city without first receiving a development permit.
- (b) *Not considered land clearing activities.* The term "land clearing" does not include residential landscaping, agricultural planting or temporary excavation for plumbing, sewer or utility maintenance or repairs.
- (c) *Development permit in addition to stormwater or other permits.* A development permit for land disturbances is required in addition to and not in lieu of a stormwater permit and any applicable approval or permit required by the state department of natural resources, the county drain commissioner or any other authority with jurisdiction. A violation of this section is a municipal civil infraction.

(Code 2009, § 40-460; Ord. No. 53-A, § 3.24, 8-16-1982; Ord. No. 129, § 2, 6-9-2005)

Sec. 32-550. - Home occupations.

- (a) The regulations of this section are intended to ensure that home occupations remain subordinate to the residential use, that the residential viability of the dwelling is maintained, and that home occupations shall not be a detriment to the character and livability of the surrounding neighborhood.
- (b) Home occupations may be approved by the zoning administrator, who shall issue a permit upon receipt of an application from the applicant stating the applicant's intent to comply with the requirements of this section, payment of a permit processing fee as established by resolution of the city council from time to time, and a determination that the requirements of this section have been met.
- (c) As part of the review process, the applicant for a home occupation permit shall submit an accurate drawing illustrating the property, the dwelling on the property, the dimensions and square footage of the dwelling, the dimensions and square footage within the dwelling to be devoted to the home occupation and the area proposed for on-site parking.
- (d) Home occupations must meet and be continually compliant with the following standards throughout the life of the home occupation, unless otherwise provided herein:
 - (1) No person other than immediate members of the family residing on the premises shall be engaged in such occupation.
 - (2) The dwelling unit used for the home occupation shall conform to all applicable zoning district requirements.
 - (3) The home occupation shall not violate any state or local building, housing, fire or other codes or ordinances.
 - (4) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the gross floor area of the dwelling unit shall be used in the conduct of the borne occupation. For the purposes of this section, the term "gross floor area" means the total floor area of the dwelling unit as measured from the interior faces of the exterior walls excluding the attic, porch, breezeway, patio, deck, attached garage and an unfinished or uninhabitable basement as defined by the applicable state construction code. No part of an accessory building, either attached or detached, shall be included in gross floor area.
 - (5) There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the wall of the main building.
 - (6) The home occupation shall be operated entirely within the main building and no home occupation shall be conducted in any accessory building.
 - (7) There shall be no sale of products or services except as are produced on the premises by such home occupation.
 - (8) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
 - (9) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall

be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in line voltage off the premises.

- (10) No home occupation shall be permitted which would increase traffic, create fire or safety hazards, noise, dirt, odor, dust, gas, glare, fumes, vibration or other nuisance elements.
- (e) Clinics, hospitals, nurseries, day care centers, veterinarian's offices, animal hospitals, kennels, millinery shops, among other uses, shall not be considered as home occupations.
- (f) A registered primary caregiver, as defined by and in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq. (the "Act"), the State Administrative Rules issued in connection with that Act, being Mich. Admin. Code R. 333.101 through 333.133, as amended (the "Administrative Rules"), and the requirements of this section, shall be allowed as a home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this article, is intended to grant, nor shall they be construed as granting, immunity from prosecution for the growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the Act and the Administrative Rules. Also, since federal law is not affected by the Act or the Administrative Rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this article, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act, 21 USC 801 et seq. In addition to the requirements set forth in subsections (a) through (e) of this section, the following requirements shall apply to a registered primary caregiver and where these requirements conflict with the requirements in subsection (d) of this section, these requirements shall govern:
- (1) The medical use of marihuana shall comply at all times and in all circumstances with the Act and the Administrative Rules, as amended from time to time.
 - (2) A registered primary caregiver must be located outside of a 1,000-foot radius from any school property or library, as defined in MCL 333.7410, to ensure community compliance with federal "drug-free school zone" requirements.
 - (3) Not more than one registered primary caregiver shall be permitted to service qualifying patients per dwelling unit.
 - (4) All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the city's building inspector and the city's police department.
 - (5) All medical marihuana transmitted, dispensed, given, delivered, provided or distributed by a registered primary caregiver pursuant to the Act shall be transmitted, dispensed, given, delivered, provided or distributed by the registered primary caregiver at the patient's residence or other location of the patient and shall not be transmitted, dispensed, given, delivered, provided or distributed by the registered primary caregiver at the location of the home occupation.
 - (6) Because marihuana dispensaries, collectives and cooperatives are prohibited in the city pursuant to section 32-557, and due to the increased potential for crime, nuisance conditions, and demands for utility services arising out of a medical marihuana home occupation, such home occupations shall be permitted only in single-family dwellings.

- (7) Inspections of dwellings units used for home occupations shall be made by the city's building inspector as follow
- a. Upon the filing of an application for a home occupation permit, an inspection shall be made during which there shall be noted any observed violations of the applicable state construction codes and fire code. Re-inspections shall be made as necessary to ensure such noted violations have been corrected.
 - b. An inspection may be made upon a complaint made by any owner, adjacent property owner or occupant of a building, or in the event of a visible defect in the building. During any such inspection, there shall be noted any observed violations of the applicable state construction codes and fire code. Re-inspections shall be made as necessary to ensure such noted violations have been corrected.
 - c. Municipal civil infraction citations may be issued during any inspection or re-inspection.
 - d. Every dwelling unit used for a home occupation shall be inspected at least once every five years. Unless otherwise notified by the city, it shall be the responsibility of the owner of the dwelling unit to schedule and pay for these re-inspections.
 - e. Between inspections required by this section, the city may conduct additional inspections in the manner best calculated to secure compliance with this section and this Code upon one or more of the following basis:
 1. A complaint basis: As provided within subsection (7)b of this section.
 2. A violation basis: If the city has reasonable cause to believe a dwelling unit is in violation of a city ordinance or applicable law or regulation, the dwelling unit will be inspected within a reasonable time.
 3. A recurrent violation basis: Dwelling units that are found to have a high incidence of recurrent or uncorrected violations may be inspected more frequently.
 - f. Unless otherwise agreed, the property owner or occupant shall schedule the necessary inspections to take place during regular business hours and all applicable inspection fees shall be paid by the property owner or occupant prior to inspection.

(Code 2009, § 40-461; Ord. No. 156, § 1(3.25), 7-9-2009; Ord. No. 167, § 1, 8-11-2011)

Sec. 32-551. - Waste receptacles (dumpsters).

- (a) All outdoor waste receptacles shall be enclosed on three sides and screened to be opaque or substantially opaque to the outside. The enclosure shall be constructed of brick, decorative concrete, vinyl, steel, aluminum or composite boards. Other high-quality and durable decorative materials consistent with the building materials of the principal building may be approved by the planning commission or zoning administrator on a case-by-case basis. Chain-link fence is prohibited as an enclosure material. The bottom of the enclosed three sides shall be within two inches of the waste receptacle base at all points of the enclosure.
- (b) The enclosure shall also include an opaque or substantially opaque to the outside gate or gates, made of metal, wood or other high-quality material on the fourth side. Chain-link fence is prohibited as a gate material. The bottom of the gate shall be within four inches of the waste receptacle base at all points. The gates shall have a closing latch and shall remain closed at all times except during servicing. The waste receptacle must have an enclosing lid or cover.
- (c) The enclosure shall have a minimum height of six feet or one foot above the height of the waste receptacle, whichever is greater. The enclosure must be spaced at least three feet from the waste receptacle.
- (d) Waste receptacles and enclosures shall be located in the rear yard, not closer than three feet from the rear lot

line, or nonrequired side yard, unless otherwise approved by the planning commission and shall be as distant from the property line as practical. The waste receptacle enclosure should be placed a minimum 20 feet from all residential uses.

- (e) Waste receptacles shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces or interfering with the normal movement of vehicles on or off the site. If possible, the opening shall not directly face the driveway.
- (f) The waste receptacle base shall be at least nine feet by six feet in area, constructed of six inches of reinforced concrete pavement. The base shall extend six feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.
- (g) Curbing or bollards shall be utilized at the rear of the inside of the enclosure as bump guards to prevent damage to the enclosure during the emptying process. Bollards are recommended as bump guards for use in other areas subject to damage from vehicles, during the emptying process or to prevent the gates from swinging into parked vehicles or travel lanes. The planning commission or zoning administrator may require the installation of additional bollards to meet site plan objectives.
- (h) The shared use of receptacles shall be allowed by adjoining businesses where sharing will not create a health or safety concern and where it does not result in the accumulation of visibly excessive quantities of waste. Necessary shared use agreements are required.
- (i) Where grease disposal receptacles are used, curbing shall be provided around the enclosure base to contain any spillage.
- (j) Areas provided for waste receptacles must be maintained in a clean and sanitary fashion. Where deemed necessary for restaurant uses, a drain may be installed to collect any liquids or for use in cleaning.
- (k) The enclosure shall be constructed in such a manner that all structural members, including braces, posts, poles and other projections, shall be on the interior side of the fence unless of a decorative nature. The decorative side of the screening side and gate shall face to the outside.
- (l) All waste receptacle or dumpster enclosures shall be installed in a workmanlike manner and be maintained at all times in a state of good repair, with all braces, fasteners, supporting frames, etc., free from deterioration, insect infestation, rot and rust. All waste receptacles or dumpster enclosures shall be kept neatly finished, including all metal parts and supports that are not galvanized or made of rust-resistant metals.
- (m) Whenever land uses, buildings, and structures are proposed to be expanded, enlarged, or increased in intensity, the zoning administrator shall determine whether the screening of dumpsters is needed to improve the appearance of a site and reduce the likelihood of windblown trash and may require compliance with this section under the requirements of section 32-72.

(Code 2009, § 40-462; Ord. No. 156, § 1(3.26), 7-9-2009; Ord. No. 220, § 1, 7-11-2019)

Sec. 32-552. - Nonresidential design requirements.

- (a) *Design and construction standards for building quality.* The following building design standards ensure that new construction in the city reflects a high level of building quality that will endure over time and will incorporate timeless design details. The requirements also ensure that all new construction is consistent because character is not reflected in just one structure, but in all the buildings combined. The regulations herein are intended to ensure proper building form, relationship to the street and compatibility with other buildings. The regulations are not intended to dictate a particular style of architecture.

(b) *Design specifications of nonresidential buildings.* The following design requirements for nonresidential buildings shall be applied during site plan review.

(1) *Building design.*

- a. Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and foundation plantings.
- b. Buildings with exterior walls greater than 100 feet in length shall be broken up with varying building lines, windows, architectural accents and trees. Building entrances shall:
 1. Utilize windows, canopies and awnings;
 2. Provide unity of scale, texture, and color; and
 3. Provide a sense of place.
- c. Any side of a building facing a public or private road which can be viewed from public streets shall be designed using landscaping and at least 50 percent of the building wall area shall be constructed of materials that are characteristic of the state, such as earth-toned brick, wood, native stone or other high-quality products approved by the city.

(2) *Building materials.*

- a. Durable building materials which provide an attractive, quality appearance must be utilized.
- b. Buildings shall be constructed of quality materials that are characteristic of the state, such as earth-toned brick, wood, native stone or other high-quality products approved by the city.
- c. Other materials, such as smooth-faced or decorative concrete block, dryvit, or prefabricated steel panels should only be used as accents and not dominate the building exterior of the structure.
- d. Metal roofs may be allowed if deemed by the planning commission to be compatible with the overall architectural design of the building. The applicant shall use quality architecture to ensure that buildings are compatible with surrounding uses, protect the investment of adjacent landowners, blend harmoniously into the streetscape, and maintain a positive image for the city.

(3) *Building architecture.*

- a. Building colors shall relate well and be harmonious with the surrounding area and shall be of low reflectance, subtle, neutral or earth tone colors. High intensity colors, such as black, neon, metallic or fluorescent for the facade or roof of the building, are prohibited except as approved for building trim.
- b. Buildings shall possess architectural variety but enhance the overall cohesive community character. The scale and proportion of existing structures in the area should be considered. Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape.
- c. Buildings with exterior walls greater than 100 feet in length shall utilize architectural features, details and ornaments, such as archways, colonnades, cornices, peaked roof lines or towers for at least 50 percent of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30 percent of the wall length.

(Code 2009, § 40-463; Ord. No. 156, § 1(3.27), 7-9-2009)

Sec. 32-553. - Sidewalks.

All developments shall provide sidewalks meeting the following requirements:

- (1) Sidewalks shall be required on both sides of all public and private streets and roads.
- (2) All sidewalks shall be a minimum five feet wide and constructed of concrete to the specifications of the American Society of Highway and Transportation Officials (ASHTO).
- (3) Sidewalks abutting parking areas shall be a minimum of seven feet wide to accommodate vehicle overhang. In such cases, the depth of the adjoining parking space may be reduced by two feet.
- (4) Alternative sidewalk materials may be approved by the planning commission, such as stone or wood chip paths or wooden boardwalks in open space areas or areas with sensitive environmental features.
- (5) Sidewalk requirements can only be waived or reduced upon approval by the city council. The council may allow abatement of sidewalk construction where other road projects or the potential to coordinate the timing of sidewalk installation makes delayed construction more reasonable.

(Code 2009, § 40-464; Ord. No. 156, § 1(3.28), 7-9-2009)

Sec. 32-554. - Accessory outdoor dining areas.

Accessory outdoor dining areas are permitted when accessory to a permitted or special land use subject to the following:

- (1) Outdoor dining may be permitted as an accessory to another permitted dining use and shall at no time be used for retail display or sales.
- (2) Instead of a formal site plan, the zoning administrator may allow submittal of a sketch plan if it is drawn to scale and shows all relevant items of the site needed to review the request. If deemed appropriate by the zoning administrator, additional information may be requested or the request forwarded to the planning commission for formal site plan review.
- (3) Outdoor dining is permitted between April 15 and October 31. All furniture and fixtures must be removed immediately after October 31.
- (4) Outdoor dining areas shall not be the primary seating of the restaurant.
- (5) Outdoor dining areas shall be located in a manner to maintain a minimum pathway width of five feet (clear of structures, such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic.
- (6) Chairs and tables shall be of quality durable material.
- (7) Waste receptacles shall be provided in instances where wait staff does not clear all tables. In cases where outdoor dining areas are provided for general use by more than one business, such as for shopping plazas and multi-tenant businesses, it shall be the responsibility of the property owner to ensure the area is maintained in a clean and orderly fashion.
- (8) Outdoor dining areas shall be enclosed with fencing. Enclosures shall consist of tubular aluminum having the appearance of wrought iron or other suitable material approved by the city.

(Code 2009, § 40-465; Ord. No. 156, § 1(3.29), 7-9-2009)

Sec. 32-555. - Outdoor speakers.

- (a) Outdoor speakers projecting music or other general announcements may be allowed only if first approved by the city. Speakers may not project sound that is audible from adjacent sites, and the city may impose restrictions on the times or days they may be used.

- (b) Outdoor speaker boxes for drive-through uses may be allowed, provided they are located in a way that minimizes transmission toward neighboring property and uses, and provided further they are used only as needed to serve customers. The city may require landscaping or a screen wall to further baffle the sound from such speaker boxes.
- (c) Announcement speakers for outdoor recreation uses shall be prohibited.

(Code 2009, § 40-466; Ord. No. 156, § 1(3.30), 7-9-2009)

Sec. 32-556. - Swimming pools.

A swimming pool of any nature (whether in-ground, portable, above-ground, inflatable or otherwise), the height of which if filled with liquid exceeds 18 inches, shall be allowed on a residential lot as an accessory use of property, subject to the requirements of the state construction code and:

- (1) Swimming pools are only allowed in side and rear yards.
- (2) A minimum of a ten-foot setback shall be provided from side and rear lot lines.
- (3) A swimming pool may not be located under overhead wires or within public utility or other public easements.

(Code 2009, § 40-467; Ord. No. 165, § 1, 4-14-2011)

Sec. 32-557. - Marihuana establishments and facilities.

- (a) Marihuana facilities are prohibited within the city.
- (b) Marihuana establishments are only permitted within the city as a special land use in accordance with article III of this chapter. Regardless of co-location, special land use approval is required for each marihuana establishment.

(Code 2009, § 40-468; Ord. No. 167, § 1, 8-11-2011; Ord. No. 214, § 1, 12-13-2018; Ord. No. 2020-224, § 2, 6-11-2020)

Sec. 32-558. - Outdoor display.

The outdoor display of retail goods is permitted as an accessory use in the B-1, B-3, and HC districts subject to the following requirements:

- (1) Displays shall be placed against the front wall of the principal building and shall not extend more than 36 inches from the building facade, provided that where there is a pedestrian sidewalk in front of the display, it shall remain unobstructed for a continuous width of at least 48 inches.
- (2) Displays shall be no taller than five feet high and shall not be longer than 20 feet or the length of the store's facade, whichever is less.
- (3) Displays shall not interfere with fire lanes.
- (4) Potentially dangerous merchandise, such as gasoline, kerosene, guns, knives, breakable glass and similar goods, as determined by the zoning administrator, shall not be displayed outdoors.
- (5) The merchandise displayed must be offered for sale on the premises in front of which it is displayed.
- (6) A sketch plan indicating the location and dimensions of the outdoor display must be submitted and approved by the city prior to any outdoor display. Any outdoor display shall at all times comply with the sketch plan approved by the city.

(Code 2009, § 40-469; Ord. No. 174, § 1, 4-11-2013)

Sec. 32-559. - Outdoor seating in front of businesses.

Public outdoor seating is permitted in front of businesses under the following conditions:

- (1) The seating must be located so as not to block the pedestrian walkway, leaving a minimum five-foot clearance.
- (2) All seating must be maintained in an attractive, safe condition and shall not include common household upholstered furniture.
- (3) The seating must be located in front of the business in which it belongs.
- (4) No seating shall be located closer than three feet to a curbline.
- (5) A permit must be obtained from the city for the seating and comply with associated administrative requirements.
- (6) The requirements of section 32-554, accessory outdoor dining areas, must still be complied with for outdoor seating.

(Code 2009, § 40-470; Ord. No. 173, § 1, 1-9-2014)

Sec. 32-560. - Principal building and principal use per parcel.

Each parcel shall contain only one principal building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple-family buildings contained within a single, integrated development, sharing parking, signs, vehicle and pedestrian access, drainage and utility provisions and other similar features, which together form a unified function and appearance. A parcel may contain more than one special land use if approved by the planning commission in accordance with these criteria.

(Ord. No. 218, § 1(40-471), 4-11-2019)

Secs. 32-561—32-583. - Reserved.

ARTICLE V. - NONCONFORMING USES

Footnotes:

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

Sec. 32-584. - Continuance of existing uses and structures.

Any lawful nonconforming use existing at the time of passage of the ordinance codified in this chapter may be continued; provided, however, that except in the case of dwellings or farm buildings, the building or the lot land involved shall neither be structurally altered nor enlarged unless such revised structure shall conform to the provisions of this chapter for the district in which it is located; provided, further, that this section shall not prohibit structural alterations required by law.

(Code 2009, § 40-486; Ord. No. 53-A, § 4.01, 8-16-1982)

Sec. 32-585. - Restoration and repairs.

Such repairs and maintenance work as are required to keep a nonconforming building or structure in a sound condition may be made. If a nonconforming building or structure is damaged or destroyed to the extent of 60 percent or more of its real value by fire, flood, wind or other such calamity, its reconstruction shall be in accordance with the provisions of this chapter. A nonconforming use damaged to a lesser extent may be restored to its original size at the time prior to such damage and its use resumed. Any such restoration must be completed within a period of one year of the time of such damage and diligently pursued to completion. The planning commission may extend such period of time for the restoration of any building or structure when a state or local emergency shall render it impossible to make the restoration of such building or structure within the stated time limit.

(Code 2009, § 40-487; Ord. No. 53-A, § 4.02, 8-16-1982)

Sec. 32-586. - Extensions, enlargements, moving.

No nonconforming use of any land or structure shall hereafter be enlarged or extended or moved unless the use is changed to a conforming use.

(Code 2009, § 40-488; Ord. No. 53-A, § 4.03, 8-16-1982)

Sec. 32-587. - Discontinuance.

Any building, structure or premises where a nonconforming use has ceased for more than 12 months shall conform to the regulations of the district in which it is located. No nonconforming use, if changed to a use permitted in the district in which it is located, shall be resumed or changed back to a nonconforming use.

(Code 2009, § 40-489; Ord. No. 53-A, § 4.04, 8-16-1982)

Sec. 32-588. - District boundary changes.

When district boundaries shall hereinafter be changed, any nonconforming use may be still continued but subject to all other provisions of this chapter. The provisions of this article shall also apply to buildings and land or uses which hereafter become nonconforming due to any reclassification of districts under this chapter and any change in the regulations of this chapter.

(Code 2009, § 40-490; Ord. No. 53-A, § 4.05, 8-16-1982)

Sec. 32-589. - Authority to eliminate nonconforming use.

In accordance with the Michigan Zoning Enabling Act, MCL 125.3101 et seq., the city council may, from time to time, acquire real properties on which nonconforming uses or structures are located, by condemnation or otherwise, and may remove such uses or structures and resell the property for a conforming use or develop it for a public use. The net cost of such acquisition may be made a special assessment against a benefit district or may be paid from other sources of revenue.

(Code 2009, § 40-491; Ord. No. 53-A, § 4.06, 8-16-1982; Ord. No. 147, § 1, 4-12-2007)

Sec. 32-590. - Plans already filed.

In any case where plans and specifications for a building or structure have been filed, which would conform with the zoning regulations effective at the date of such filing but not with the regulations of this chapter, and where a building permit for such building or structure has been issued and construction work started at the effective date of the ordinance from which this chapter is derived, such work may proceed provided it is completed within one year of said date.

(Code 2009, § 40-492; Ord. No. 53-A, § 4.07, 8-16-1982)

Secs. 32-591—32-613. - Reserved.

ARTICLE VI. - OFF-STREET PARKING, LOADING AND ACCESS

Sec. 32-614. - Definitions.

For the purpose of determining the off-street parking and loading facilities required as accessory to a use, definitions and standards are established as follows:

Employees, wherever the parking requirement is based on employees, means the maximum number of employees on duty on the premises at one time or on any two successive shifts, whichever is the greater.

Gross floor area (GFA), used in determining loading requirements, means the total floor area used for the main and accessory activities, and storage areas of the building served.

Off-street loading space means an open space or enclosed area as part of a building, directly accessible to a public street and available whenever needed for the loading or unloading of goods and products to the main use.

Off-street parking area means an open or enclosed area directly accessible from a public street for parking of automobiles of owners, occupants, employees, customers, or tenants of the main use. Each space shall be directly accessible from a drive or aisle.

Seating capacity means the number of seating units installed or indicated on plans for places of assembly. When the seating capacity is not indicated on plans it shall be assumed that a seating unit will occupy six square feet of floor area exclusive of all aisles. When benches, pews, or other similar seating is provided, each 20 inches of such seating shall be counted as one seat.

Usable floor area (UFA), used in determining parking requirements, means the total area of all the floors of the building used by the principal activity as specified in the parking schedule, measured from the exterior faces of the building. The areas used for storage, mechanical equipment, stairwells, or otherwise not occupied by people shall be excluded from the floor area calculation.

(Code 2009, § 40-511; Ord. No. 53-A, § 5.02, 8-16-1982)

Sec. 32-615. - Scope.

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, clients, and patrons of the buildings hereafter erected, altered, or extended after the effective date of the ordinance from which this chapter is derived shall be provided as herein prescribed. Such space shall be

maintained and shall not be encroached upon so long as said main building remains, unless an equivalent number of spaces are provided elsewhere in conformance with this chapter.

(Code 2009, § 40-512; Ord. No. 53-A, § 5.01, 8-16-1982)

Sec. 32-616. - Application and design.

- (a) *Permit application required; contents.* Any application for a permit to construct a building or parking area, or for a certificate of occupancy for a change in the use of land or a building shall include a site plan drawn to scale and fully dimensioned, showing the proposed design of the parking area and loading facilities to be provided in compliance with the provisions of this article.
- (b) *Determination of required parking facilities.*
- (1) The planning commission shall determine the minimum number of spaces required for accessory off-street parking by applying the parking area design standards, the schedule of parking requirements for the various use, and any other applicable provisions of this chapter.
 - (2) Where the computation results in a fractional space, it shall be counted as one additional space required.
- (c) *Parking area design standards.*
- (1) Except as otherwise provided for, all parking spaces shall be hard-surfaced with a pavement having an asphalt or concrete binder.
 - (2) Except as otherwise provided for, all parking facilities 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.
 - (3) In order to reduce the amount of impervious surface and the corresponding stormwater runoff and reduce heat given off by paved surfaces, the planning commission may approve alternate parking lot surfaces for off-street parking lots which are not designated for customers, clients or patrons of the principal use on the property. Such off-street parking lots shall have a dustless surface and be used for employee parking, parking or maneuvering areas devoted to loading activities, and parking for trucks or similar heavy equipment. Such surfaces may include, but not be limited to, gravel, or crushed stone or crushed concrete. The use of permeable surfacing materials may be allowed subject to approval by the city engineer. The planning commission may also approve such dustless parking lot surfaces for off-street parking areas devoted to municipal functions.
 - (5) All illumination shall be deflected away from adjoining residential districts and no source of illumination shall be more than 20 feet above the parking lot surface.
 - (6) All off-street parking lots shall be set back a minimum of ten feet from each front lot line and minimum of five feet from the rear and side lot lines. The planning commission may permit parking aisles or vehicle maneuvering areas only to encroach within the required parking lot setback but may require additional screening or landscaping within the setback area.
 - (7) Where a required nonresidential parking lot abuts a residential district, a greenbelt shall be provided along the residential lot line in accordance with the requirements of section 32-536(4). All nonresidential parking lots shall have direct access to a public street, and adequate ingress and egress shall be provided by means of limited and clearly defined drives.
 - (8) A raised or rolled concrete curb at least six inches in height shall be installed with the construction of all

driveways, parking lots, access lanes and other vehicle maneuvering areas to prevent motor vehicle conflicts with abutting landscape areas, sidewalks, streets, buildings or adjoining property.

- (9) The minimum parking space dimensions shall be nine feet by 18 feet and parking lot design shall be in accordance with the following minimum standards:

<i>Parking Pattern (in degrees)</i>	<i>Stall Width (in feet)</i>	<i>Stall Length (in feet)</i>	<i>Aisle Width (in feet)</i>	<i>Two Tiers of Parking Plus Aisle (in feet)</i>
45	9	18	12	53
60	9	18	18	58
90	9	18	24	60

- (10) Residential driveways may not be wider than the equivalent of 40 percent of the property width, measured at its widest point. For curvilinear or circular driveways, the term "width" means the width of the travel lane, measured at a line perpendicular to the travel lane.

(Code 2009, § 40-513; Ord. No. 53-A, § 5.03, 8-16-1982; Ord. of 6-12-1991, § 1(5.03(C)(1)); Ord. No. 156, § 1(5.03), 7-9-2009; Ord. No. 210, § 1, 10-11-2018; Ord. No. 211, § 1, 10-11-2018; Ord. No. 217, § 1, 4-11-2019)

Sec. 32-617. - Schedule of parking requirements.

The amount of off-street parking space required by type of use shall be determined in accordance with the following schedule:

<i>Use</i>		<i>Required spaces</i>	<i>Unit of measure</i>
(1)	Residential:		
	a. One-family and two-family dwellings	2	Per dwelling unit
	b. Multiple-family, townhouses, mobile homes	2	Per dwelling unit
	c. Boardinghouse	1	Per rented room, plus
		2	For resident family
(2)	Institutional:		
	a. Childcare centers, day nurseries, or nursery schools	1	Per 400 sq. ft. of UFA plus
		1	Per each employee
	b. Churches	1	Per 3 seats
	c. Elementary schools and junior high schools	1	Per teacher plus
		1	Per employee plus requirements for auditorium or assembly hall
	d. High school, college, trade school	1	Per teacher plus
		1	Per employee plus

		1	Per 10 students plus requirements for auditorium or assembly hall
e.	Hospitals	1	Per 2 beds plus
		1	Per employee plus
		1	Per staff doctor
f.	Libraries	1	Per 400 sq. ft. UFA
g.	Private clubs or lodges	1	Per 3 members allowed by law
h.	Public golf courses	5	Per hole plus
		1	Per employee
i.	Private golf, tennis, swim clubs	1	Per 2 member families plus accessory uses
j.	Theaters, auditoriums, assembly halls	2	Per 5 seats based on maximum seating capacity plus
		1	Per 2 employees
k.	Sanitariums, convalescent homes, homes for the aged, nursing homes, children's homes	1	Per each 4 beds, plus
		1	Per each staff doctor plus
		1	Per each 2 employees
l.	Stadiums and sports arenas	1	Per each 4 seats or 8 feet of bench
(3)	Businesses:		
a.	Animal hospitals and kennels	1	Per each 400 sq. ft. UFA
		1	Per each 2 employees
b.	Auto salesrooms, wholesale stores, machinery sales and other similar	1	Per each 1,000 sq. ft. UFA, plus
		1	Per each employee
c.	Auto garages, auto repair shops, collision or bump shops, and other similar uses	1	Per each 800 sq. ft. UFA, plus
		1	Per each 2 employees computed on the basis of the maximum number of employees on duty at any one time, plus
		2	Per each stall or service area
d.	Automobile service stations, filling stations	2	Per each service stall, plus
		1	Per each employee, plus
		1	Per each service vehicle

e.	Automobile wash establishments	4	Per each unit which represents the establishment's maximum capacity as computed by dividing the line dimension of the mechanical wash/dry operation by 20 feet, plus
		1	Per each employee
f.	Barbershops	2	Per each barber
g.	Beauty shops	3	Per each beauty operator
h.	Bowling alleys	6	Per bowling lane, plus amount required for accessory uses
i.	Dancehalls, exhibition halls, pool halls, billiard parlors, and assembly halls without fixed seats	1	Per each 2 persons allowed within the maximum occupancy load as established by local, county or state fire, health or state construction codes
		1	Per each 100 sq. ft. UFA
			(whichever is greater)
j.	Drive-in restaurants or similar drive-in uses for the sale of food, beverages, or refreshments	1	Per each 50 sq. ft. GFA, plus
		1	Per each 3 employees, with a minimum total of 40 parking spaces
k.	Drive-in theater	1	Per each outdoor speaker facility, plus
		1	Per each 2 employees
l.	Furniture, appliances, and household equipment, repair shops, hardware stores, and other similar uses	1	Per each 800 sq. ft. of usable floor area, plus
		1	Per each 2 employees
m.	Laundromats, coin-operated dry-cleaning establishment	1	Per each washing or dry-cleaning machine
n.	Miniature or par 3 golf course	2	Per each hole, plus
		1	Per each 2 employees
o.	Mortuary establishments, funeral homes, undertaking parlors	1	Per each 50 sq. ft. of parlor area
p.	Motels, hotels, tourist homes	1	Per each guest bedroom, plus
		1	Per each employee, plus amount required for accessory uses
q.	Personal service establishment (not otherwise provided for herein)	1	Per each 300 sq. ft. of UFA, plus

			1	Per each 2 employees
	r.	Restaurants and other establishments (other than drive-in restaurants) in which is conducted the sale and consumption on the premises of food, beverages or refreshments	1	Per each 3 persons allowed within the maximum occupancy load as established by local, state or county fire, health or state construction codes, plus
			1	Per each 3 employees
			1	Per each 70 sq. ft. UFA, plus
			1	Per each 3 employees
				(whichever is greater)
	s.	Retail stores, except as otherwise specified herein	1	Per each 200 sq. ft. of GFA
(4)	Offices:			
	a.	Banks (other than drive-in banks), post offices	1	Per each 200 sq. ft. UFA,
			1	Per each 1 employee
	b.	Business and professional offices	1	Per each 300 sq. ft. GFA
	c.	Drive-in bank	4	Per each teller window
	d.	Medical clinic and dental clinic	3	Per each staff or visiting doctor, plus
			1	Per each employee
(5)	Industry:			
	a.	Industrial or manufacturing establishments, research establishments	2	Per each 3 employees computed on the basis of the greatest number of persons employed at any one time, day or night
		(or)	1	Per each 2,000 sq. ft. UFA
				(whichever is greater)
	b.	Warehouses and storage buildings	1	Per each 2 employees computed on the basis of the greater number of persons employed at any one time, day or night
		(or)	1	Per each 2,000 sq. ft. GFA
				(whichever is greater)

(Code 2009, § 40-514; Ord. No. 53-A, § 5.04, 8-16-1982; Ord. No. 130, § 1, 8-11-2005)

Sec. 32-618. - Joint use of parking facilities.

(a) The joint use of parking facilities by two or more uses is encouraged whenever practical and satisfactory to each

of the uses to be served. A reduction of individual parking requirements may be permitted by the planning commission in cases where neighboring uses have significantly different hours of operation from each other. However, each use shall provide a minimum of 50 percent of its individual off-street parking requirements.

- (b) Prior to approving any request for joint use of parking facilities, the planning commission shall consider:
- (1) The location, number, and spacing of driveways;
 - (2) The use of landscaping to soften the visual impact of the parking lot;
 - (3) Internal circulation patterns and access to all participating uses; and
 - (4) Potential conflicts among users and changes in parking demand.
- (c) The planning commission shall require, as a condition of approval, a copy of an agreement among participants to share parking facilities. Such agreement shall specify the time period for which such arrangement is agreed to.

(Code 2009, § 40-515; Ord. No. 53-A, § 5.05, 8-16-1982)

Sec. 32-619. - Location of parking.

- (a) *One-family and two-family dwellings.* The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve but shall not be considered a parking lot under the provisions of this article. Vehicles may not be parked in areas not specifically designated for such use.
- (b) *Multiple-family.* The off-street parking facilities for multifamily dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve and shall consist of a parking lot as defined in this article. Vehicles may not be parked in areas not specifically designated for such use.
- (c) *Mobile home parks.* The off-street parking required may be located on each site or in parking lots conveniently located and readily accessible to each site. The latter shall be hard surfaced with a concrete or asphaltic concrete pavement, graded and drained to dispose of all surface water. Each parking space should meet the minimum area requirements.
- (d) *Downtown parking.* The off-street parking facilities required for nonresidential uses in the Central Business (B-2) Zoning District may be located up to 500 feet from the lot line of the parcel they are intended to serve; provided, however, that they shall not be located in a residential zoning district. Up to 50 percent of the required parking may include on-street parking or shared parking. Municipal parking lots may be considered as counting toward the required parking if approved by the planning commission after submittal of a parking demand study that addresses parking needs and availability within 500 feet of the subject site.

(Code 2009, § 40-516; Ord. No. 53-A, § 5.06, 8-16-1982; Ord. of 6-12-1991, § 2(5.06(D)); Ord. No. 130, § 1, 8-11-2005; Ord. No. 156, § 1(5.06), 7-9-2009; Ord. No. 211, § 1, 10-11-2018)

Sec. 32-620. - Loading facilities.

- (a) On the same premises with every building or part thereof, erected and occupied for manufacturing, storage, goods display, department store, wholesale, hotel, hospital, laundry, dry-cleaning, or others similarly involving the receipt or distribution of material, merchandise, or vehicles, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with street or parking areas. Where all standing, loading and unloading will take place completely within a building, doors on the building may be located in a manner necessary to facilitate such operations.

- (b) Such loading and unloading space, unless completely and adequately provided for within a building, shall consist of minimum area of ten feet by 50 feet, with 14-foot height clearance, and shall be provided according to the following schedule:

<i>Gross Floor Area (in square feet)</i>	<i>Required Number of Loading and Unloading Spaces</i>
0—2,000	None
2,000—20,000	1
20,000—100,000	2
100,000—500,000	3 spaces, plus 1 for each additional 50,000 sq. ft. in excess of 100,000 sq. ft.
Over 500,000	10 spaces, plus 1 for each additional 100,000 sq. ft. in excess of 500,000 sq. ft.

- (c) Off-street loading space shall not be construed as, or counted towards, meeting the required off-street parking area.

(Code 2009, § 40-517; Ord. No. 53-A, § 5.07, 8-16-1982; Ord. of 6-12-1991, § 3(5.07(A)); Ord. No. 156, § 1(5.07), 7-9-2009)

Sec. 32-621. - Maximum parking.

- (a) To minimize excessive areas of pavement which can reduce water quality, increase erosion and detract from community aesthetics, no parking lot shall exceed the minimum parking space requirements of section 32-617 by greater than ten percent.
- (b) In granting parking space that exceeds the requirements of section 32-617 by greater than ten percent, the planning commission shall determine that the parking is required based on documented evidence.
- (c) This section shall only apply to nonmunicipal parking areas containing 20 or more required parking spaces.

(Code 2009, § 40-518; Ord. No. 53-A, § 5.08, 8-16-1982; Ord. No. 130, § 2, 8-11-2005)

Sec. 32-622. - Deferred parking for commercial or industrial districts.

- (a) An applicant may request that the planning commission grant a deferral for the construction of a portion of the required nonresidential parking spaces in cases where the applicant feels the minimum parking required is in excess of what is practical for the use.
- (b) Parking may not be deferred below the minimum standard of 0.5 spaces per 1,000 square feet of gross floor area for industrial uses or 80 percent of the required parking for commercial uses.
- (c) The applicant shall show the deferred portion of the parking on the site plan and shall guarantee the availability of such area for future parking through a recorded deed restriction on the property, a copy of which shall be provided to the zoning administrator prior to commencing construction on the site.
- (d) The planning commission shall retain the right to revoke the deferral at any time if the zoning administrator determines, based on repeated observations of the use, that the amount of parking is insufficient. A deferral may also be revoked if a change in use increases the number of parking spaces required per section 32-617. In cases of revocation, the applicant shall comply with the parking requirements of section 32-617 within 180 days of the revocation.

(Code 2009, § 40-519; Ord. No. 53-A, § 5.09, 8-16-1982; Ord. No. 130, § 2, 8-11-2005)

Sec. 32-623. - Access requirements.

- (a) *Applicability.* The standards and regulations of this section shall apply to those portions of 17 Mile Road, White Creek Avenue and Northland Drive which lie within the boundaries of the city, Muskegon Street and those portions of Main Street outside the B-2 Central Business District and other streets as may be deemed applicable by the planning commission. All uses along such roadways for which site plan review is required, and only such uses, shall be subject to these standards and regulations. These regulations shall not apply to single family and two-family dwelling units. In addition to meeting the standards and regulations of this section, approvals may also be required from the state department of transportation and the county road commission.
- (b) *General access requirements; authority.* The planning commission shall have the authority to require a frontage road or rear service drive for contiguous parcels, to limit the number of driveways for a site, to require that parking lots on contiguous parcels be connected, that driveways for contiguous parcels be shared, that opposite driveways be directly aligned and that specific turning movements be restricted or prohibited. In determining whether the above or other access control measures are necessary, the following criteria shall be considered:
- (1) The type and location of commercial uses on the site and adjacent to the site.
 - (2) The location, size and design of existing and proposed parking areas.
 - (3) The existing and projected traffic volume on the roadway and adjacent roadways.
 - (4) Compatibility between adjacent land uses and likelihood of change or expansion.
 - (5) Number of parcels involved, location of lot lines, and amount of road frontage.
 - (6) Topography and site distance along adjacent roadways and on the site.
 - (7) Distance from intersections.
 - (8) Location of driveways opposite the site.
 - (9) Width of roadway and number of lanes.
 - (10) Environmental limitations (steep slopes, water, or vegetation).
 - (11) Sufficient building setback.
 - (12) Recommendation of the city master plan.
- (c) *Modifications.* The planning commission shall have the authority to increase, decrease or otherwise modify the terms and conditions of this section where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this section. In considering whether to modify the requirements of this section, the planning commission shall consider the criteria contained in subsection (b) of this section. The commission may impose reasonable conditions in the modification of the requirement in order to ensure the public safety and achieve the intent of this section.
- (d) *Driveways.* Driveways shall be located as follows:
- (1) Each lot may be permitted one driveway provided the spacing requirements of this section can be achieved.
 - (2) One additional driveway may be permitted on parcels with lot widths exceeding 500 feet.
 - (3) Additional driveways may be permitted by the planning commission for any site providing the spacing and alignment criteria listed in subsection (e)(2) of this section are met, and a traffic impact study is completed which justifies an additional driveway.
 - (4) The planning commission may permit two one-way driveways or a boulevard driveway rather than a single dual movement driveway for particular uses where safer, more efficient circulation and function of the drives

can be demonstrated.

- (5) The applicant shall submit evidence indicating that the sight distance requirements of the state department of transportation (MDOT) or the county road commission, as appropriate, are met.

(e) *Spacing and alignment.* The spacing and alignment requirements are as follows:

- (1) Minimum driveway spacing requirements for driveways on the same side of the street shall be determined based on posted speed limits along the parcel frontage as follows:

<i>Posted Speed (miles per hour)</i>	<i>Minimum Driveway Spacing* (in feet)</i>
30	125
35	150
40	185
45	230
50	275
55 or over	350

*As measured from the centerline of each driveway.

- (2) Driveways shall be aligned with driveways on the opposite side of the street or offset a minimum of 150 feet, centerline to centerline. Driveways located on the streets noted on subsection (a) of this section shall be located a minimum of 100 feet from the intersection of a private street or local public street measured from near pavement edge of the street to near pavement edge of the driveway throat.
- (3) A driveway located on a public street or private street which intersects a street noted in subsection (a) of this section shall be located a minimum of 75 feet from such street measured from near pavement edge of the street to near pavement edge of the driveway throat.
- (4) The planning commission may require greater spacing if traffic or pedestrian safety, traffic circulation, or site conditions warrant a greater distance between driveways.
- (f) *Alternative access.* For parcels which do not meet the driveway spacing requirements of this section, the planning commission shall require one or more of the following alternative access measures.
- (1) *Temporary direct access.* Temporary direct access may be granted if adjoining parcels are undeveloped which would later allow for access via a frontage road, shared driveway or a parking lot cross connection. Approval of a temporary driveway permit by the planning commission shall specify the future means and location of the permanent access, as well as when such access will be provided. The property owner shall record a temporary access agreement noting these items as well as a statement that the temporary driveway will be closed at no cost to the city at such time as access becomes available through the development of adjoining properties.
- (2) *Shared driveways.* Sharing or joint use of a driveway by two or more property owners may be required. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another or access the public street.
- (3) *Frontage roads.* In cases where a frontage road exists, is recommended in the city master plan or is proposed in an approved site plan for an adjoining lot or parcel, access shall be provided via such frontage road, rather than by direct connection to the adjoining street.
- (4) *Parking lot connections.* Where a proposed parking lot is adjacent to an existing parking lot of a similar use,

there shall be a vehicular connection between the two parking lots where possible, as determined by the planning commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection. In either case the property owner shall record a document agreeing to allow for the vehicular connection the adjacent property and to keep the access open at all times.

(5) *Rear service drives.* Rear service drives may be required, especially for locations where connection to a side street is available. In addition to access along the rear service drive, direct connections to the arterial street may be allowed.

(g) *Design of frontage roads and rear service drives.* Frontage roads and rear service drives shall have minimum width of 24 feet and shall be paved with asphalt or concrete.

(Code 2009, § 40-520; Ord. No. 53-A, § 5.10, 8-16-1982; Ord. No. 156, § 1(5.10), 7-9-2009; Ord. No. 210, § 1, 10-11-2018; Ord. No. 211, § 1, 10-11-2018)

Secs. 32-624—32-649. - Reserved.

ARTICLE VII. - SIGNS

Footnotes:

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Editor's note— Ord. No. 201, § 1, adopted Feb. 8, 2018, amended Art. VII in its entirety to read as herein set out. Former Art. VII, §§ 40-540—40-555, pertained to similar subject matter and derived from Ord. No. 188, § 1, Aug. 21, 2014; and Ord. No. 198, adopted Sep. 7, 2017.

State Law reference— Highway Advertising Act, MCL 252.301 et seq.

Sec. 32-650. - Purpose and intent.

- (a) The purpose of this article is to permit and regulate signs within the city so as to protect public safety, health and welfare; minimize abundance, nature, type and size of signs to reduce visual clutter, motorist distraction, confusion, and loss of sight distance; promote public convenience; preserve property values; support and complement land use objectives as set forth in this chapter and the city's master plan ; and enhance the aesthetic appearance and quality of life within the city. The standards contained herein are intended to be content neutral.
- (b) These objectives are furthered by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the city so as to:
- (1) Protect the public right to receive messages, including noncommercial messages, such as religious, political, economic, social and other types of information protected by the First Amendment of the U.S. Constitution.
 - (2) Recognize that the proliferation of signs (as well as the existence of certain types of signs) can be unduly distracting to motorists and nonmotorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates the potential for accidents.
 - (3) Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.
 - (4) Reduce visual pollution and physical obstructions caused by a proliferation of signs or a magnitude of illumination which would diminish the city's image, property values and quality of life.
 - (5) Recognize that the principal purpose of commercial signs should be for identification of an establishment on the premises, and not for advertising special events, brand names, or off-premises activities given that many

alternative channels of advertising communication and media are available for advertising which does not create visual blight and compromise traffic safety.

- (6) Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.
 - (7) Prevent placement of signs which will conceal or obscure signs of adjacent uses.
 - (8) Prevent off-premises signs from conflicting with other allowed land uses. Maintain and improve the image of the city by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.
 - (9) Prohibit portable commercial signs due to their significant negative impact on traffic safety and aesthetics.
 - (10) Preserve and enhance the image of the city's downtown.
- (c) The regulations and standards of this article are considered to be the minimum necessary to achieve the substantial government interests of public safety, aesthetics, and protection of property values, and are intended to be content-neutral. In other words, the intent of the city is to regulate the size, location and type of a sign rather than its content.

(Code 2009, § 40-540; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-651. - Sign 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.

Awning or canopy sign means a nonrigid fabric marquee or awning-type structure which is attached to the building by supporting framework. See *Wall sign*.

Banner sign means a temporary sign constructed of canvas, paper, cloth, nylon or other similar non-rigid fabric-like material without an enclosing structural framework which is not permanently affixed to a supporting structure.

Box sign means an internally illuminated sign with a solid frame to which plastic, metal or similar sign panels are attached.

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

Digital sign means sign or portion thereof that displays electronic, digital, pictorial, or text information in which alphanumeric characters, graphics, or symbols are defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the display area. Such signs can include computer programmable, microprocessor controlled electronic displays, and video display signs.

Directional sign means a sign used primarily to give information about the location of either the driver of motorized vehicles or possible destinations. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.

Festoon means a chain or garland of flowers, leaves, or ribbons, hung in a curve as a decoration.

Flag sign, permanent, means a sign made of cloth, nylon or other similar non-rigid fabric-like material attached to or hung from a single pole installed in the ground in a permanent fashion.

Flag sign, temporary, also called feather flags or flutter flags, means a sign made of cloth, nylon or other similar non-rigid fabric like material attached to a single pole positioned in the ground in a non-permanent fashion or hung from a building or structure. A banner sign is not a temporary flag sign.

Flashing sign means a sign which contains an intermittent or sequential flashing light source.

Freestanding sign means a sign not attached to a building or wall, supported by one or more poles or braces or resting on the ground or on a foundation resting on the ground.

Government sign means a sign erected, permitted by, or required to be erected by a government agency.

Ground sign means a freestanding sign supported by a base that rests directly on the ground and the top of which is not more than six feet above the ground. The width of the base shall be at least 50 percent of the width of the sign in order to be a ground sign.

Human or animal sign means a sign held by or attached to a human or animal for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service or product. This can also include a person or animal dressed in costume for the purpose of advertising or drawing attention to an individual, business, commodity, service or product.

Identification sign means a sign intended to communicate information about services and facilities. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.

Illegal sign means a sign which does not meet the requirements of this chapter (or this article) and does not have legal nonconforming status.

Mansard means a sloped roof or roof-like facade. Signs mounted on the face of a mansard roof shall be considered wall signs.

Manual sign means a sign on which the letters or pictorials are changed by hand.

Marquee means a permanent roof-like structure or canopy, supported by and extending from the face of the building. A marquee sign is a sign attached to or supported by a marquee structure.

Message means information or data that is presented on a sign.

Moving sign means a sign in which the sign, itself or any portion of the sign, moves or revolves. A "rotating sign" is a type of moving sign. This definition does not include "changeable message signs."

Multi-vision sign means any sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image or images.

Mural or painted wall means a design or representation which is painted or drawn on the exterior surface of a structure.

Nonconforming sign (also called a "legal nonconforming sign") means a sign that does not comply with the size, placement, construction or other standards or regulations of this chapter or article but was lawfully established prior to its adoption. Signs for which the zoning board of appeals has granted a variance are exempt and shall not be defined as

nonconforming.

Obsolete sign means a sign that advertises a product that is no longer made or that advertises a business that has closed.

Pennant means a flag or cloth that tapers to a point.

Permanent Sign means a sign installed on a support structure, not intended to be moved or removed, but to remain for an indefinite period of time.

Pole sign means a freestanding sign supported by a structure, or poles, or braces less than 50 percent of the width of the sign and located more than six feet above the ground.

Portable sign means a sign designed to be moved from place to place, whether or not it is permanently attached to the ground or structure. This includes hot-air and gas-filled balloons, pennants, streamers, festoons, ribbons, tinsel, pinwheels, and searchlights and signs mounted on a portable structure, including those with wheels.

Projecting sign means a sign, other than a wall sign, that is affixed to any building or wall and whose leading edge extends more than 12 inches beyond such building or wall.

Roof sign means any sign that extends above the roofline or is erected over the surface of the roof.

Sandwich board sign, also known as a poster panel or "A" frame sign, means a moveable nonpermanent sign placed within the pedestrian public right-of-way of a public sidewalk during regular business hours consisting of an "A" frame or "inverted T" frame or other temporary style, with not more than two flat surfaces containing messages, and not permanently affixed to any structure or to the sidewalk itself.

Sign means any device, structure, fixture, figure, symbol, banner, pennant, flag, balloon, logo, or placard consisting of written copy, symbols, logos or graphics, designed for the purpose of conveying, bringing attention to, identifying or advertising an establishment, product, goods, services, or other message to the general public. Unless otherwise indicated, the term "sign" includes interior and exterior signs which are visible from any public street, sidewalk, alley, park, or public property, but not signs which are primarily visible to and directed only at persons within the premises upon which the sign is located.

Streamers means a long, narrow strip of material used as a decoration or symbol.

Temporary sign means a sign not permanently attached to the ground, a structure, or a building. Temporary signs may include banners and any other signs displayed for a limited period of time.

Traffic warning sign means sign that indicates a hazard ahead on a road that may not be readily apparent to a driver, bicyclist, or pedestrian. Although this is a content-based distinction, these signs are important to prevent public confusion and facilitate collision-free flow of traffic.

Vehicle business sign means signs on or affixed to a parked or displayed vehicle, truck trailer, trailer or similar item which is being used principally (temporarily or long term) for advertising purposes, rather than for transportation purposes.

Video sign means a sign which displays moving images as on a television screen.

Wall sign means a sign attached parallel to and extending not more than 12 inches from the wall of a building. Painted signs, signs which consist of individual letters, cabinet signs, and signs mounted on the face of a mansard roof shall be considered wall signs.

Window sign means a sign located inside of a window or on the inside of a window which is intended to be viewed from the outside.

(Code 2009, § 40-541; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-652. - Prohibited signs.

A sign not expressly permitted by this article is prohibited. The following types of signs are expressly prohibited:

- (1) Signs which obstruct free access or egress to or from any building (including those that obstruct any fire escape, required exit way, window, or door opening or that prevent free access to the roof by firefighters) or to, on or along any road, driveway, sidewalk or alley.
- (2) Moving signs and signs having moving members or parts, excluding barbershop poles and digital signs.
- (3) Inflatable signs.
- (4) Signs which in any way simulate or could be confused with the lighting of emergency vehicles or traffic signals. In addition, there shall be no flashing, oscillating or intermittent, or red, yellow, or green illumination on any sign located in the same line of vision as a traffic control system, nor shall any sign interfere with vision clearance along any highway, street, or road or at any intersection of two or more streets.
- (5) Signs, which obstruct or impair the vision of motorists or non-motorized travelers at any intersection, driveway, within a parking lot or loading area.
- (6) Roof signs unless specifically permitted elsewhere in this article.
- (7) Portable signs.
- (8) Pole signs unless specifically permitted elsewhere in this article.
- (9) Illegal signs.
- (10) Obsolete signs and any sign or sign structure which:
 - a. Is structurally unsafe;
 - b. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
 - c. Is capable of causing electric shock to persons who come in contact with it; or
 - d. Is not kept in good repair, such that it has broken parts, missing letters, or nonoperational lights.
- (11) Flashing or strobe signs.
- (12) Any nongovernment sign which makes use of the terms "stop," "look," or "danger," or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse drivers.
- (13) Human or animal signs.
- (14) Abandoned signs.
- (15) Vehicle business signs.
- (16) For wall signs in the B-2, Central Business District, box signs are prohibited.

(Code 2009, § 40-542; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-653. - Exemptions to permitting.

The following signs shall not require a permit from the city provided such signs comply with the requirements of section 32-654 and all other applicable requirements of this article:

- (1) Signs which are four square feet or less in area subject to the following requirements:
 - a. The total number of freestanding signs shall not exceed one sign for every 33 feet of lineal road frontage per parcel.
 - b. Any freestanding sign shall not exceed a height of four feet.
 - c. Freestanding signs located within the required front yard shall be at least ten feet apart.
- (2) Directional, identification, or traffic warning signs provided the size of each sign does not exceed four square feet and three feet in height and each sign is located at least five feet from any lot line.
- (3) Flags of any nation, state, city, township, government, government authorized agency, or educational institution.
- (4) Temporary signs meeting the requirements of section 32-657.
- (5) Sandwich board signs which meet the requirements of section 32-659.
- (6) Signs erected for ordering or viewing drive-through window services or products when adjacent to a drive-through window vehicle driving lane.
- (7) Interior signs, including any sign which is located completely within an enclosed building, and which is not visible from outside the building or which is primarily directed at persons within the premises upon which the sign is located.
- (8) Murals or painted wall signs in the B-2 district, related to the theme of the business, when painted on the side or rear exterior surfaces of a building or structure subject to the following requirements:
 - a. The mural shall be less than 12 square feet in area and shall not have raised borders, raised letters, raised characters, decorations, or lighting appliances;
 - b. Mural or painted wall signs may be greater than 12 square feet if the sign enhances the architecture of the building as determined by the planning commission.
- (9) Governmental or municipal signs installed for a governmental or municipal purpose.

(Code 2009, § 40-543; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-654. - Requirements for all signs.

- (a) No sign shall be allowed in a public right-of-way or public easement except as may be allowed elsewhere in this article, unless prior city council approval is obtained under section 24-2(b).
- (b) Side and rear yard setbacks for signs shall be the same as that required for the main structure or building, provided that all nonresidential signs shall be set back at least 100 feet from any residential district.
- (c) Clear vision area. In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of 24 inches and six feet above ground within a triangular area measured 25 feet back from intersection of public right-of-way lines.
- (d) Design and construction. Signs shall be designed to be compatible with the character of building materials and landscaping to promote an overall unified and aesthetic effect in accordance with the standards set forth herein. Signs shall not be constructed from materials that are remnants, manufactured for a different purpose, or inappropriate for the proposed longevity of the sign.

(e) Illumination.

- (1) Signs may be illuminated, but only by steady, stationary, shielded light sources directed solely at the sign or internal to it.
- (2) Use of glaring undiffused lights, including bare bulbs, strobes, or flames, is prohibited.
- (3) Lighting shall be shielded or pointed downward so as not to project onto adjoining properties or thoroughfares.
- (4) Underground wiring shall be required for all illuminated signs not attached to a building.

(f) Maintenance and construction.

- (1) Every sign shall be constructed and maintained at all times in a manner consistent with the state construction code provisions and in reasonable repair and good structural condition at all times. At all times, all signs shall be kept neatly painted, stained, sealed or preserved, including all metal, wood or other materials used for parts and supports.
 - (2) All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least 20 pounds per square foot or 75 miles per hour.
 - (3) All signs, including any cables, guy wires, or supports, shall have a minimum clearance of four feet from any electric fixture, street light, or other public utility pole or standard.
 - (4) A light pole, utility pole, or other support structure not specifically designed as sign support structure, shall not be used for the placement of any sign unless specifically approved for such use.
 - (5) A wall sign shall not extend beyond the edge of the wall to which it is affixed or extend above the roof line of a building.
 - (6) A sign and its supporting mechanism shall not extend beyond the lot lines of the property on which it is located.
 - (7) A window sign may consist of illuminated letters, including neon and other similar cold cathode fluorescent lamp lights.
- (g) To assist emergency personnel in case of an emergency, all on-site signs identifying a building or specific use shall have displayed thereon the address number of the property on which the building or use is located. The address number shall be displayed in a block text having a minimum height of four inches and a color that contrasts with the color of the background on which the address number is displayed.

(Code 2009, § 40-544; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-655. - Sign measurement and area.

The following shall apply to the measurement of signs:

- (1) The allowable area for signs shall be measured by calculating the square footage of the sign face and any frame or base of other material or color forming an integral part of the display or used to differentiate it from the background against which it is placed as measured by enclosing the most protruding points or edges of a sign within a parallelogram or rectangle.
- (2) When a sign has two or more faces, the area of all faces shall be included in calculating the area of the sign, except that where two such faces are placed back to back, only the larger face shall be considered (or if both

faces are of the same size, only one face shall be considered), provided that both faces are part of the same structure, contain the same message and are separated by no more than two feet.

- (3) For the purposes of calculating sign area allowed as a wall sign, the wall sign square footage shall be determined by measuring a parallelogram (box) which includes the portion of the canopy which contains a message, symbol or logo.
- (4) When a sign consists solely of lettering or other sign elements printed, painted or mounted on a wall of a building without any distinguishing border, panel or background, the calculation for sign area shall be measured by enclosing the most protruding edges of the sign elements within a parallelogram or rectangle.
- (5) Sign area within circle, triangle or parallelogram. The entire area within a circle, triangle or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed unless utilized as part of the total display area.
- (6) Sign height.
 - a. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.
 - b. Sign height shall not be measured from an area of the ground that has been built up or constructed in a manner that would have the effect of allowing a higher sign height than permitted by these regulations (e.g., the height of signs erected on a berm shall be measured from the finished grade adjacent to the berm).

(Code 2009, § 40-545; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-656. - Digital sign requirements.

- (a) Digital signs are allowed only as a ground sign in the following zoning districts:
 - (1) B-1, B-3, and I-1 districts;
 - (2) In the HC district as either a ground sign or as a pole sign;
 - (3) In the mixed-use district for nonresidential uses only;
 - (4) In the RR, R-1, R-2, R-3, and R-4 districts by the granting of a special land use permit in accordance with the requirements of article VIII of this chapter as applicable.
- (b) Digital signs shall comply with the following regulations:
 - (1) A digital sign shall not consist of more than 75 percent of the allowable sign area except for signs which are 24 square feet or less in area.
 - (2) A digital sign shall not have any flashing, blinking, scrolling, alternating, sequentially lighted, animated, rolling, shimmering, sparkling, bursting, dissolving, twinkling, fade-in/fade-out, oscillating, moving text or images, or simulated movement of text or images.
 - (3) A digital sign shall not exceed a maximum illumination of 3,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 325 nits (candelas per square meter) between dusk to dawn as measured at the sign's face at maximum brightness. However, even if the sign complies with the illumination requirements above, the sign shall not be of such intensity or brilliance as to impair the vision of or be a

distraction to a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle; or be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal. The zoning administrator shall have final determination whether a digital sign impairs vision or is too distracting to motor vehicle drivers.

- (4) The dwell time, defined as the interval of change between each individual message, shall be at least ten seconds and a change of message must be accomplished within one second or less. The dwell time shall not include the one second or less to change the message.
- (5) A digital sign shall be equipped with a brightness control sensor that allows for the brightness to be adjusted either manually or automatically.
- (6) Prior to the issuance of a sign permit for a digital sign, the applicant shall provide to the zoning administrator certification from the manufacturer of the sign that the illumination settings for the sign comply with the maximum illumination requirements of this section.
- (7) Any voids or burned-out bulb in an electronic display shall be replaced within seven days and any malfunctioning signs must be turned off until repaired.
- (8) A digital sign shall not have a white background in order to reduce glare.
- (9) A digital is allowed as a window sign and shall comply with the requirements for electronic reader boards as set forth in this article. Any flashing or strobe type lights within a building or structure which are visible from the exterior of the building or structure are prohibited.
- (10) A digital sign legally in existence upon the effective date of this article shall be required to comply with the illumination requirements of this article and the requirements of section 32-655 regarding flashing, movement, scrolling and other methods of message display within 60 days from the effective date of the ordinance codified in this article.
- (11) All digital signs shall be placed and lit in such a way to minimize impact on residential homes.

(Code 2009, § 40-546; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-657. - Temporary signs.

A temporary sign meeting these requirements shall be exempt from permitting.

- (1) A temporary sign may be installed concurrent with the event or occurrence and removed upon the end of the event or occurrence. The zoning administrator shall have the discretion to determine the beginning and end date of the event or occurrence.
- (2) The size and number of temporary signs allowed shall be as specified within each zoning district as provided in sections 32-658 and 32-659.
- (3) Location of temporary signs shall comply with the following:
 - a. Temporary signs shall not be attached to any utility pole, tree, fence, or be located within any public road right-of-way.
 - b. Temporary signs shall not be located on any public property without permission granted by the city council or city manager.
 - c. Temporary signs shall not be erected in such a manner that they will interfere with, obstruct, confuse or mislead traffic.

- d. Temporary signs shall not be placed or constructed so as to create a hazard of any kind.
 - e. Temporary signs shall not be located within any clear vision triangle, as described in section 32-654. A temporary sign shall not be displayed if it is torn, bent, faded, not upright, unreadable, or otherwise unsightly.
- (4) Temporary signs held by a person shall not be displayed in the road right-of-way and shall not hamper the visibility of a driver on or off the site.
 - (5) Temporary signs shall only be internally illuminated.
 - (6) The zoning administrator shall have the discretion to determine when a temporary sign is a permanent sign and subject to the rules for permanent signs.
 - (7) All temporary signs must be marked in such a way as to identify the owner of the sign or the party responsible for placement of the sign. Such information must be readily identifiable upon reasonable inspection.

(Code 2009, § 40-547; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-658. - Sign regulations for the RR, R-1, R-2, R-3, and R-4 zoning districts.

The following signs are permitted in the RR, R-1, R-2, R-3, and R-4 zoning districts:

- (1) *Grounds signs*. One permanent ground sign is permitted per parcel according to the following requirements:
 - a. The size of the sign shall not exceed 50 square feet in area per sign face.
 - b. The height of the sign shall not exceed six feet.
 - c. The sign shall be setback a minimum of ten feet from the front lot line.
 - d. The sign may be illuminated.
- (2) *Wall signs*. Wall signs are permitted as part of an application for and approval of a special land use permit according to the following requirements. Each use shall be permitted to have one wall sign per public or private street frontage as follows:
 - a. The sign shall not exceed 50 square feet in area.
 - b. The wall sign shall be placed on that side of the building which directly faces the street.
 - c. All signs shall be placed flat against the building and shall not project beyond a wall or architectural feature by more than one foot. No wall sign shall project above or beyond the roof or parapet to which it is attached.
 - d. A wall sign may be internally illuminated.
- (3) *Temporary signs*. Temporary signs are permitted as follows:
 - a. Temporary signs under six square feet shall be exempt from permitting and each parcel shall be entitled to up to 12 square feet of exempt temporary signage.
 - b. Temporary signs over six square feet shall require a permit but may not exceed 50 square feet in any case.
 - c. The height of a temporary sign shall not exceed six feet.
 - d. Temporary signs shall comply with the requirements of section 32-657.
- (4) *Additional signs*. One permanent ground sign may be provided at each vehicular entrance to a residential

subdivision, condominium development, multifamily development, manufactured housing community, assisted living and senior housing, or other similar permitted uses subject to the following requirements:

- a. Each permitted sign shall not exceed 24 square feet in area.
- b. The height of the sign shall not exceed six feet.
- c. The sign shall be setback a minimum of ten feet from the front lot line.
- d. The sign may be illuminated.

(Code 2009, § 40-548; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-659. - Sign regulations for the B-1, B-2, B-3, HC, MU, and I-1 zoning districts.

The following signs are permitted in the B-1, B-2, B-3, HC, MU, and I-1 zoning districts:

- (1) *Ground signs.* One permanent ground sign is permitted per parcel except as may be permitted by subsection (2) of this section according to the following requirements:
 - a. The size of the sign shall not exceed 100 square feet in area per sign face.
 - b. The height of the sign shall not exceed ten feet.
 - c. The sign shall be setback a minimum of ten feet from the front lot line.
 - d. The sign may be illuminated.
- (2) *Additional ground signs.* Additional ground signs are permitted according to the following table and the requirements of subsection (1) of this section.
 - a. For parcels with frontage along two or more rights-of-way: One sign shall be allowed to be established on each of two of the frontages.
 - a. For parcels with more than 300 feet of frontage along one right-of-way: Two ground signs shall be permitted. Such signs shall be at least 100 feet apart.
- (3) *Wall signs.* Wall signs are permitted according to the following requirements:
 - a. One or more wall signs may be allowed per business, in addition to any other allowed ground signs.
 - b. The sign or signs shall only be placed on those walls having direct frontage on a public or private street.
 - c. A sign may also be placed on those walls which are perpendicular or approximately at an angle of 90 degrees to a public street. Such wall must be within 200 feet of the center of the adjoining public road and must have a clear distance of more than 25 feet between the wall and any other structure.
 - d. The maximum square footage of a single wall sign or the cumulative total of all wall signs shall not exceed ten percent of the wall to which the sign or signs are attached or, in the alternative, one square foot of sign area for each linear foot of building frontage on a public or private street, whichever results in the larger sign area per use or business establishment.
 - e. In no case shall a sign exceed 100 square feet of area except that the planning commission, may increase the maximum size of the wall sign for a single business operating as the principal use in a building as follows:
 1. For a building with 201 to 400 linear feet of building frontage facing a public or private street and having a public entrance on that street, the size of the sign may be increased to a maximum of 150 square feet.
 2. For a building with more than 400 linear feet of building frontage facing a public or private street and

having a public entrance on that street the size of the sign may be increased to a maximum of 200 square feet.

3. The planning commission shall consider the following criteria in determining the appropriate sign size as permitted by subsections (3)(e)(2) and (3) of this section:
 - (i) Whether the proposed size of the sign is necessary for proper visibility due to the distance of the sign from the street.
 - (ii) Whether the proposed size of the sign is consistent with the character of wall sign sizes on nearby buildings given the location of the proposed building.
 - (iii) Whether the size of the proposed sign is in proportion to the size of the wall to which the sign will be attached.
- (4) *Projecting, awning and canopy signs.* Projecting signs, awnings and canopy signs may be used as an alternative to wall signs listed in subsection (3) of this section provided the signs meet the sign area requirements of subsection (3) of this section and the following standards:
 - a. Any sign area on a canopy shall be included in calculations of maximum wall sign square footage.
 - b. Projecting or canopy signs in the B-1 district shall be set back at least two feet from any street curb line, shall not extend more than six feet over the public right-of-way, and shall leave a minimum clearance of eight feet above the ground.
 - c. Projecting, awning or canopy signs, other than those in the B-2 district, shall have a minimum ground clearance of ten feet, shall be set back at least six feet from any adjacent public right-of-way, and shall not project over an alley or private access lane. A projecting sign shall not extend for more than two feet from the building to which it is attached.
 - d. No awning, canopy or projecting sign shall extend above the roof or parapet of the structure to which it is attached by more than one foot.
 - e. Wood posts or supporting arms shall not be used in conjunction with any projecting sign, unless it is decorative in nature and part of the character of the sign.
 - f. Projecting signs shall not exceed ten square feet in area per side or three feet in width. The area of such sign shall be in addition to any permitted sign provided for herein.
- (5) *Sandwich board signs.* Sandwich board or portable A-frame signs are permitted in the B-1, B-2, B-3, MU, and HC districts, subject to the following requirements:
 - a. The sign may be placed within the public right-of-way on a public sidewalk but not within any public street vehicle travel lane. Any sign placed in the public right-of-way must receive written permission from the city council or city manager or their designee.
 - b. The sign may be located outside of the business it serves but shall be located, no more than ten feet from the customer entrance to the business, be a minimum of two feet from the edge of the curb and be located so that at least a five-foot-wide unobstructed walkway is maintained.
 - c. One sign per customer entrance shall be permitted regardless of the number of tenants on the premises.
 - d. The sign may be displayed only during operating business hours.
 - e. Each sign shall not exceed an overall height of 60 inches and an overall width of 36 inches.
 - f. No sign shall be located in such a manner as to interfere with vehicular or pedestrian traffic flow or visibility.

- g. All signs must be constructed of weatherproof, durable material and kept in good repair.
 - h. The sandwich board sign shall not be illuminated in any manner.
 - i. Sandwich board signs within the public right-of-way may be moved/removed by the city for municipal purposes (i.e., code enforcement, snow removal, traffic issues, maintenance, etc.).
 - j. All sandwich board signs must be marked in such a way as to identify the owner of the sign or the party responsible for placement of the sign. Such information must be readily identifiable upon reasonable inspection.
- (6) *Window signs.* Window signs are permitted but shall not exceed 25 percent of the window area and shall be placed so as to maintain clear vision into the building for public safety reasons. Professionally made window graphics that are visually transparent from inside the building may occupy up to an additional 50 percent of the window area.
- (7) *Temporary signs.* Temporary signs are permitted as follows:
- a. Temporary signs under 24 square feet shall be exempt from permitting and each parcel shall be entitled to up to 48 square feet of exempt temporary signage.
 - b. Temporary signs over 24 square feet shall require a permit but may not exceed 50 square feet in any case.
 - c. The height of a temporary sign shall not exceed six feet.
 - d. Temporary signs shall comply with the requirements of section 32-657.
- (8) *Additional signs.* One permanent ground sign may be provided at each vehicular entrance to an industrial park, subject to the following requirements:
- a. Each permitted sign shall not exceed 72 square feet in area.
 - b. The height of the sign shall not exceed six feet.
 - c. The sign shall be setback a minimum of ten feet from the front lot line.
 - d. The sign may be illuminated.
- (9) *Pole signs.* One permanent pole sign is permitted per parcel in the HC district instead of and in place of any and all permanent ground signs excepting directional signage.
- a. Each permitted pole sign shall not exceed 100 square feet in area.
 - b. The pole sign shall not be more than five feet taller than the roofline of the primary building on the parcel nor taller than 50 feet in any case.
 - c. The pole sign shall conform to all requirements of sections 32-654 and 32-655.
 - d. The sign shall be of a monopole design.
 - e. The pole sign may be digital as permitted under section 32-656.
 - f. The minimum height between the bottom of the sign and the ground shall be ten feet.
 - g. Pole signs may be internally lit but not externally lit.
 - h. The design plans for any pole sign shall be sealed by a professional engineer or architect and receive appropriate building permits to ensure the safety of the public.
 - i. Pole signs in the HC district which do not conform to these standards at the time of the effective date of the ordinance from which this article is derived shall be nonconforming.

Sec. 32-660. - Nonconforming signs.

Nonconforming signs are those signs that do not comply with the size, height, placement, setback, construction or other standards or regulations of this chapter or article but were lawfully established prior to its adoption. Signs for which the zoning board of appeals has granted a variance are exempt and shall not be defined as nonconforming. It is the intent of this section to bring about, in an expeditious and timely manner, the eventual elimination of signs and their supporting structures that are not in conformity with the provisions of this chapter or article. The following provisions apply to nonconforming signs, including the replacement of nonconforming signs with more conforming signs, to encourage a quicker upgrade. A nonconforming sign may be continued and shall be maintained in good condition as described elsewhere in this chapter. The following applies to any modification, change or alteration to a sign:

- (1) A nonconforming sign shall not be structurally altered so as to prolong the life of the sign or to change the shape, size, footprint, type or design of the sign unless the change shall make the sign fully conforming.
- (2) A nonconforming sign shall not be replaced by another nonconforming sign with the exception of pole signs, which can be replaced with a ground or monument sign that is not in compliance with the requirements for ground signs in this article, subject to review and approval by the planning commission.
- (3) If a sign loses its lawful nonconforming designation or status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, moved, replaced or rebuilt unless it fully complies with all requirements of this chapter and article. A lawful nonconforming sign shall lose its lawful nonconforming designation and status if the zoning administrator determines that any of the following is applicable:
 - a. The sign is relocated, removed, moved, rebuilt or replaced.
 - b. The sign is destroyed. A sign shall be deemed destroyed if any of the following occur:
 1. The sign is torn down or demolished;
 2. The sign is wrecked or ruined;
 3. Such damage had been done to the sign that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding; or
 4. More than 50 percent of the face of the sign has been shattered, or a portion of the sign face touches the ground.
 - c. Even if a sign has not been destroyed, but damage or deterioration has occurred to the point of 50 percent or more, the sign shall be deemed to have lost its lawful nonconforming status.
 - d. The structure or size of the sign is altered in any material way other than a change of copy or normal maintenance which does not physically alter the sign.
 - e. There is a material change in the use of the premises where the sign is located.
 - f. A building permit is issued for any construction on the premises where the sign is located which increases the total building square footage by more than five percent or 5,000 square feet, whichever is less.

If a lawful nonconforming sign suffers 50 percent or more damage or deterioration, it loses its lawful nonconforming status and must be brought into full compliance with this article or be removed. In order to determine whether or not a sign has been damaged or has deterioration of 50 percent or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the sign. If less than 50 percent damage or deterioration has occurred pursuant to such comparison, the sign may be repaired to its exact original state.

- (4) Signs having a construction design that permits a complete change of the face portion of the sign display area shall have any faces changed unless the change does not prolong the life of the total sign structure or alter the shape of the sign display area.
- (5) A nonconforming sign shall not be reestablished after the activity, business or usage to which it relates has been discontinued for a period of 90 days or longer or becomes dangerous, unsafe, abandoned, and illegally erected signs, as defined in section 32-661.
- (6) Nonconforming and illegal freestanding pole signs that are replaced with conforming, freestanding monument signs within two years of adoption of this article shall be granted an additional 20 percent of sign area above the maximum permitted.

(Code 2009, § 40-550; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-661. - Dangerous, unsafe, abandoned, and illegally erected signs.

- (a) *Dangerous signs.* Any sign constituting an immediate hazard to health or safety shall be deemed a nuisance, *per se*, and may be immediately removed by the city without notice and the cost thereof charged against the owner of the property on which it was installed. Any such sign is unlawful.
- (b) *Unsafe signs.* Any sign that becomes insecure, in danger of falling, or otherwise unsafe but not considered an immediate danger by the city manager to the health or safety of the public shall be removed or repaired within 30 days after written notice from the city manager.
- (c) *Abandoned signs.* Any sign that advertises a business that has been discontinued for at least 90 days or that advertises a product or service that is no longer offered shall be deemed abandoned. Permanent signs applicable to a business temporarily suspended by a change in ownership or management shall not be deemed abandoned unless the structure remains vacant for at least six months. An abandoned sign shall be removed by the owner or lessee of the premises within ten days after written notice from the city manager.
- (d) *Illegally erected signs.* Any sign erected or displayed illegally in violation of this chapter or article shall be removed or made to comply with this article within ten days after written notice from the city manager.

(Code 2009, § 40-551; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-662. - Permits and application procedures.

- (a) *Required.* Except as expressly provided in section 32-653 relating to signs exempt from permitting, it shall be unlawful for any person to erect, alter, display, relocate, or maintain any sign or other structure designed to display a message without first obtaining a permit therefor from the city and payment of a fee provided for in this section.
- (b) *Application.* Applications for permits to erect, construct, maintain, use, display, alter, convert, or repair a sign shall be made upon forms provided for by the city, and shall contain or have attached thereto the following information:
 - (1) Name, address and telephone number of the applicant, property owners, and if applicable, the tenants and occupants;
 - (2) Location of building, structure, or lot to which the sign is to be attached or erected;
 - (3) Position of the sign in relation to nearby buildings, structures, and property lines;
 - (4) Two drawings of the plans and specifications and method of construction and attachment to the building or

in the ground;

- (5) Copy of stress sheets and calculations, if deemed necessary by the city manager, showing the structure as designed for dead load and wind pressure in accordance with regulations adopted by the city;
 - (6) Name and address of the person erecting the structure and any applicable licenses;
 - (7) Any electrical permit required and issued for such sign;
 - (8) Insurance policy or bond as required by this article;
 - (9) Such other information as the city manager, or the city manager's designee, may require to show full compliance with this and all other applicable laws of the city and the state;
 - (10) In the discretion of the city manager, or the city manager's designee, when, in the city manager's or designee's opinion, the public safety requires it, the application containing the material required by this section shall, in addition, bear the certificate or seal of a registered architect or engineer as a condition to the issuance of a permit; and
 - (11) In all applications for entranceway signs, the city manager, or the city manager's designee, shall require that appropriate provisions have been made to ensure continued maintenance of the sign.
- (c) *Fees.* An application, permit, review and inspection fees shall be paid to the city for each permanent permit and each temporary permit required by this article as shall be set by resolution of the city council from time to time.
- (d) *Ordinary maintenance.* No permit is required for the ordinary servicing or repainting of an existing sign message, the cleaning of a sign, the changing of information on a directory sign, or the changing of advertising on a permitted sign specifically designed for regular change of message without change in structure.

(Code 2009, § 40-552; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-663. - Sign installers; license and insurance.

Every person who engages in the business of erecting, displaying, altering or dismantling signs in the city shall first submit to the city proof of appropriate licenses and a liability insurance policy that indemnifies the city and its prior, present and future officials, representatives and employees from all damage suits or actions of every nature brought or claimed against the erector for injuries or damages to persons or property sustained by any person through any act of omission or negligence of said erector, the erector's servants, agents or employees. Said policy shall contain a clause whereby it cannot be canceled or changed until after written notice has been filed with the city manager at least 30 days prior to the date of cancellation. The city manager shall issue a two-year license for sign installation services after payment of the prescribed fees and deposit.

(Code 2009, § 40-553; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-664. - Administration, enforcement, violations, and penalties.

- (a) *Generally.* The regulations of this article shall be administered and enforced by the city manager or the city manager's designee.
- (b) *Violations.* It shall be unlawful for any person to erect, construct, maintain, use, display, enlarge, alter, convert, repair, or move any sign in the city, or cause or permit the same to be done, contrary to or in violation of any of the provisions, standards and regulations of this chapter or this article. Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.

- (c) *Public nuisance, per se.* Any sign erected, constructed, maintained, used, displayed, enlarged, altered, converted, re or moved in violation of any of the provisions, standards, and regulations of this chapter or this article, including the to remove a sign when directed under the authority of this article or this chapter, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
- (d) *Municipal civil infraction.* Any person, firm or corporation determined to have violated or been in violation of the provisions, standards or regulations of this article shall be responsible for a municipal civil infraction and subject to the penalties and provisions contained in section 26-93.
- (e) *Other relief.*
 - (1) In addition to the remedies otherwise provided for, the city may remove and dispose of any unlawful sign on public property.
 - (2) In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce or enjoin violation of this chapter or this article.
 - (3) In addition to any remedies provided for in this Code, any equitable or other remedies available may be sought and granted by the city.

(Code 2009, § 40-554; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-665. - Appeals and variances.

- (a) *Appeals.* An appeal from the ruling or decision of any officer, department, board or bureau of the city, including the city manager, concerning the interpretation or enforcement of the provisions, standards and regulations of this article may be filed in writing with the city by any aggrieved party within 30 days of the date of the ruling to the city zoning board of appeals, sitting as an administrative appeal board under this article.
- (b) *Variances.* The zoning board of appeals shall have the authority to grant variances from the requirements of this article according to the criteria in subsection 32-103(b). In making a decision on whether a practical difficulty exists, the board may also consider the following for sign variance requests:
 - (1) In determining whether a variance is appropriate, the zoning board of appeals shall study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify granting a variance; however, the zoning board of appeals may decline to grant a variance even if certain of the circumstances are present.
 - (2) In granting a variance, the zoning board of appeals may attach such conditions regarding the location, character, and other features of the proposed sign as it may deem reasonable.
 - (3) In granting or denying a variance, the zoning board of appeals shall state the grounds and findings upon which it justifies granting or denying the variance based on the following criteria:
 - a. Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.
 - b. Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the zoning board of appeals shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.
 - c. Existing signs on nearby parcels would substantially reduce the visibility or identification impact of a

conforming sign on the subject parcel.

- d. Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as, but not limited to, removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.
- e. Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.
- f. A variance from certain sign regulations would be offset by increased building setback, increased landscaping, or other such enhancements, so that the net effect is an improvement in appearance of the parcel, compared to the result that would be otherwise achieved with construction of a conforming sign.
- g. A sign which exceeds the permitted height or area standards of this article would be more appropriate in scale because of the large size or frontage of the parcel or building.

(Code 2009, § 40-555; Ord. No. 201, § 1, 2-8-2018)

Sec. 32-666. - Substitution clause; noncommercial message.

Notwithstanding any provision, standard, or regulation in this article to the contrary, a noncommercial message may be substituted, in whole or in part, for any commercial message on any sign allowed pursuant to this article. If a noncommercial message is substituted, the sign must still comply with the provisions, standards, and regulations of this article applicable to the original sign prior to any substitution. The purpose of this provision is to prevent any inadvertent favoring of commercial speech or messages over noncommercial speech or messages.

(Code 2009, § 40-556; Ord. No. 201, § 1, 2-8-2018)

Secs. 32-667—32-690. - Reserved.

ARTICLE VIII. - SPECIAL APPROVAL STANDARDS

Footnotes:

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

Sec. 32-691. - Scope.

This article provides a set of procedures and standards for special uses of land or structures, which, because of their unique characteristics, require special consideration, in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the investor or developer, but at the same time maintain adequate provision for the protection of the health, safety, convenience and general welfare of the community. For the purposes of this chapter, the following land uses and any additional uses cited in the various zoning districts are subject to the conditions of this article:

- (1) Accessory apartments.
- (2) Airports and landing fields.
- (3) Amusement parks.

- (4) Auto service stations.
- (5) Boardinghouses and multiple-family dwellings.
- (6) Building supply and equipment establishments.
- (7) Cemeteries.
- (8) Childcare facilities and institutions:
 - a. Childcare: Foster family group home.
 - b. Childcare: Group child day care home.
 - c. Childcare: Childcare center.
 - d. Childcare: Childcare institution.
- (9) Churches.
- (10) Commercial recreational facilities, such as:
 - a. Indoor theatres;
 - b. Bowling alleys;
 - c. Indoor skating rinks; or
 - d. Similar uses.
- (11) Drive-in and drive-through businesses:
 - a. Drive-through banks and dry-cleaning establishments.
 - b. Drive-through restaurants.
 - c. Drive-in theaters.
- (12) Golf courses and country clubs.
- (13) Hospitals, clinics, or convalescent homes, but not including institutions for:
 - a. The mentally challenged;
 - b. Special needs;
 - c. Drug or alcoholic patients; or
 - d. Correctional institutions of any type.
- (14) Housing for seasonal labor.
- (15) Junkyards and salvage yards.
- (16) Kennels, veterinary hospitals and animal clinics.
- (17) Manufacturing, compounding, processing, packaging, treating, assembly and bulk storage of certain products:
 - a. Chemical products.
 - b. Rubber.
 - c. Stone, clay, glass, cement, brick, pottery, abrasives and tile.
 - d. Primary metal.
 - e. Fabricated metal.
- (18) Mortuaries and funeral homes.
- (19) Municipal buildings, utility buildings and service installations.

- (20) Outdoor storage.
- (21) Par 3 golf, miniature golf and driving ranges.
- (22) Parking lots, including municipal and private facilities not directly associated with a principal use.
- (23) Petroleum refining, paving and roofing materials.
- (24) Planned unit development.
- (25) Private noncommercial recreation.
- (26) Public garages and automobile repair establishments when all activities are conducted within a completely enclosed building.
- (27) Pulp and paper manufacturing.
- (28) Radio and television transmitters and relay stations.
- (29) Rail yards.
- (30) The raising of fur-bearing animals and game birds.
- (31) Recreational camps and campgrounds.
- (32) Residential uses in B-2 and B-3 districts without frontage on Main Street.
- (33) Retail businesses of equal to or greater than 10,000 square feet.
- (34) Restaurants.
- (35) Riding and breeding stables.
- (36) Sand, gravel and mineral extraction.
- (37) Schools or colleges, public or private.
- (38) Sexually oriented businesses.
- (39) Slaughterhouses and rendering plants.
- (40) Warehouses selling retail on premises.
- (41) Waste disposal facilities.
- (42) Waste treatment facilities.
- (43) Water supply and treatment facilities.
- (44) Wireless communication facilities.

(Code 2009, § 40-569; Ord. No. 53-A, § 19.01, 8-16-1982; Ord. of 6-11-1987, § 19.01(T), (QQ); Ord. No. 78, § 1, 11-10-1994; Ord. No. 90, § 3, 8-17-1999; Ord. No. 126, § 1, 8-12-2004; Ord. No. 134, § 1, 11-10-2005; Ord. No. 149, § 1, 9-13-2007; Ord. No. 156, § 1(19.01), 7-9-2009; Ord. No. 171, § 1, 7-11-2013)

Sec. 32-692. - Application procedures for special land uses.

The application for a special land use shall be submitted and processed in accordance with the following:

- (1) An application shall be submitted to the zoning administrator. Each application shall be accompanied by the payment of a fee as established by the city council. In the event both rezoning and special land use approvals are required for a proposed use, both requests may be submitted jointly subject to the following:
 - a. The application procedures for each shall be followed as specified.
 - b. All applicable standards and specifications required by this chapter shall be observed.

- (2) The following is required for all special land use requests:
 - a. The application form, completed in full, including a statement that section 32-693 can be complied with.
 - b. A complete site plan as specified in section 32-67. However, for a special land use which is proposed to occupy an existing building and if such special land use does not require additional parking spaces as may be required by this chapter, then the site plan need only comply with the requirements for sketch plan review as set forth in section 32-66(c).
- (3) The application and all required information shall be forwarded to the planning commission for review. The planning commission shall then hold a public hearing, with notice as required by section 32-44.
- (4) The planning commission shall approve, deny, or approve with conditions the special land use request and incorporate the reasons for such decision and any conditions which are to be imposed.
- (5) Special land use approval granted in accordance with this article shall be valid for one year from the date of such approval. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, the zoning administrator shall notify the applicant in writing of the expiration of said approval.
- (6) The planning commission shall have the authority to revoke any special land use approval following a public hearing after it has been shown that the applicant has failed to comply with any of the applicable requirements of this article or any other section of this chapter.

(Code 2009, § 40-570; Ord. No. 206, § 1, 4-12-2018)

Sec. 32-693. - Special land use approval standards.

Prior to making a decision about a special land use, the planning commission shall require that the following general standards, in addition to any requirements for a specific use that may be contained in section 32-694, be satisfied:

- (1) Each application shall be reviewed for the purpose of determining that the proposed use meets the following standards and, in addition, that each use of the proposed site will:
 - a. Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - b. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
 - c. Not create excessive additional requirements at public cost for public facilities and services.
 - d. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
 - e. Be consistent with the intent and purpose of the zoning district in which it is proposed to locate such use.
- (2) The planning commission may stipulate such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this chapter will be observed. The breach of any condition, safeguard, or requirement shall automatically invalidate the granting of the special land use approval.
- (3) The application and all required information shall be forwarded to the planning commission for review. The planning commission shall then hold a public hearing, with notice as required by section 32-44.

- (4) All applicable licensing ordinances shall be complied with.
- (5) Waivers from the requirements of this chapter may be requested from the city during review of any special land use. Waivers may be granted to permit reasonable flexibility in the application of sections 32-695 through 32-700 during review of special land uses which, by way of the required review process, will receive adequate review during a public hearing by the city. Waivers shall be reviewed on a case-by-case basis considering existing site conditions, previous use of the site and appropriate application of the standards in this chapter necessary to protect surrounding uses as follows:
- a. Waiver requests shall be submitted in writing, accompanied by a site plan that clearly shows the requested waiver. A narrative shall be submitted stating how the deviation conforms to the following standards of review:
 1. The waiver preserves the purpose and intent of the city's master plan and the zoning district in which it is located.
 2. The waiver is necessary to improve site circulation, preserve natural features, or to provide for a higher standard of landscaping, architecture or site design.
 3. The waiver is necessary due to a condition related to the site, rather than simply as a means to reduce costs or as a matter of general convenience.
 4. The waiver will not give relief of a standard or regulation that is necessary to protect the surrounding land uses and the general public from potential nuisance or other detrimental effects.
 5. The waiver is not being requested from any general provision of this chapter that would otherwise require a variance from the zoning board of appeals.
 6. The waiver is not contrary to the intended purpose for which the regulation was enacted.
 - b. Waiver requests must be submitted in advance of a public hearing to consider the special approval use. Requests made after the public hearing is held will require additional public notice as required for all public hearings.
 - c. The city shall consider the above standards when reviewing waiver requests and may attach any reasonable conditions to the proposed use. Approved waivers shall be recorded in the official record and included in any agreements.

(Code 2009, § 40-571; Ord. No. 171, § 1, 7-11-2013)

Sec. 32-694. - Design standards.

Those uses specified in section 32-691, as permitted by special land use approval in accordance with this chapter, shall be subject to the requirements of that district in which such use is located in addition to all applicable conditions, standards and regulations regarding site design and development as are cited in sections 32-695 through 32-700.

(Code 2009, § 40-572; Ord. No. 53-A, § 19.04, 8-16-1982; Ord. No. 78, § 1, 11-10-1994; Ord. No. 90, § 3, 8-17-1999; Ord. No. 105, § 5, 11-9-2000; Ord. No. 171, § 1, 7-11-2013)

Sec. 32-695. - Uses—A and B.

(a) *Accessory apartments.*

- (1) The accessory apartment shall be a complete housekeeping unit, containing kitchen and bathroom facilities.

- (2) The accessory apartment and commercial use shall be attached by a common wall, ceiling, or floor and shall be within a single building.
 - (3) A minimum of two paved parking spaces shall be provided for each apartment which shall be located on private property or leased from the city and within 100 feet of the premises.
 - (4) The accessory apartment shall be installed or constructed so that the appearance of the building complies with the city's Guidelines and Standards for Facade Improvements (adopted 2006).
 - (5) Exterior doorways constructed to serve the accessory apartment shall be, where possible, located on the side or rear of the building.
 - (6) Stairs servicing an accessory apartment shall be fully enclosed. The use of plywood, sheet metal or other materials not consistent with the character of the building are prohibited.
 - (7) A minimum of 30 percent of the front face of the structure shall be windows. Side and rear windows may be required by the planning commission to provide adequate cross ventilation as recommended by the building inspector. A lesser percentage of windows in the front face of the structure may be permitted if the majority opinion of the planning commission (subject to approval of the building inspector) states that in their judgment the proposed reduced area will not have a detrimental impact on the character of the building, its primary commercial use, and adjacent structures and uses in the central business district.
 - (8) The accessory apartment unit shall contain not less than the standards established in section 32-474 for required floor area, except that efficiency apartments shall not be permitted.
 - (9) The accessory apartment shall be occupied within 12 months of the issuance of the special land use permit.
 - (10) Basement apartments are prohibited.
 - (11) All private vehicle access drives, alleys and parking spaces shall be paved and properly drained in accordance with city standards.
 - (12) The accessory apartment shall have a dishwasher, central air conditioning, clothes washer and clothes dryer.
 - (13) The accessory apartment will be provided with trash removal services and a screened on-site dumpster for use by the accessory apartment and other building occupants.
- (b) *Airports and landing fields.*
- (1) Minimum parcel size shall be 40 acres.
 - (2) No commercial activity shall be permitted except those uses which are directly related to aviation, such as:
 - a. Flight schools;
 - b. Aircraft sales and rental;
 - c. Hangar rental; and
 - d. Car leasing.
 - (3) No runway, taxiway, hangar, fuel depot, or other facility shall be located within 500 feet of an existing dwelling, school, church, or other place of public assembly, unless written permission is granted by the owner of same.
 - (4) All regulations of the state department of transportation, bureau of aeronautics, shall be complied with.
- (c) *Amusement parks.*
- (1) Minimum lot size shall be ten acres.
 - (2) The lot shall be located so that at least one side abuts an arterial street, and all access shall be from such

arterial street.

- (3) No building shall be located closer than 300 feet to any existing dwelling.
- (4) Maximum building coverage shall be 25 percent.
- (5) Any amusement enterprise located within 500 feet of any dwelling shall close at 10:00 p.m.
- (6) The entire premises shall be enclosed by a six-foot fence along the property boundary.

(d) *Auto service stations.*

- (1) Minimum lot size shall be 15,000 square feet.
- (2) Minimum lot width shall be 150 feet.
- (3) Ingress and egress drives shall not be less than 24 feet nor more than 30 feet in width.
- (4) No drive or curb opening shall be located nearer than 50 feet to any intersection nor more than 25 feet to any residential property line. No drive shall be located nearer than 30 feet to any other driveway. No curb opening shall be permitted where, in the opinion of the planning commission, it may produce a safety hazard to pedestrian or vehicular traffic.
- (5) All outside storage areas for trash, used tires, auto parts, and similar items shall be enclosed by a six-foot, sight-obscuring wall or fence.
- (6) On a corner lot, both street frontage sides shall be subject to all applicable front yard requirements.

(e) *Bed and breakfasts.* Bed and breakfast operations are permitted within any district provided the following conditions are met:

- (1) The district in which it is conducted allows a single-family dwelling as a permitted use or it is conducted within a single-family dwelling which is a legal pre-existing nonconforming use.
- (2) The single-family dwelling in which it is conducted must have been in existence for at least five years prior to being used with a bed and breakfast operation.
- (3) Not more than 25 percent of the floor area of the dwelling shall be used for bed and breakfast sleeping rooms.
- (4) There shall be no separate cooking facilities used for the bed and breakfast stay.
- (5) No signs identifying the bed and breakfast shall be permitted, save a sign which is not larger than 144 square inches in size and identifies the facility and is illuminated, if at all, only directly, is permitted.
- (6) The operation is carried on wholly within the single-family dwelling and not within any accessory building or area previously used as a garage within the last five years.
- (7) Not more than one person who does not reside on the premises shall be employed in the bed and breakfast operation.
- (8) No such operation shall require any interior or exterior alterations, save the installation of windows or doors or relocation thereof is permitted. The use of mechanical or electronic equipment not customarily used for housekeeping shall not be permitted.
- (9) No operations shall be offensive by reason of noise, odor, dust, fumes, smoke, glare or comparable nuisances.
- (10) The single-family dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator, and said operator shall live on the premises when the bed and breakfast operation is active.
- (11) Each operator shall keep for at least seven years a list of the names of all persons staying at the bed and

breakfast operation. Such list must also include the home address, car license number, and the dates of the persons that stayed at the bed and breakfast facility and shall be available for inspection by city officials at any time.

- (12) The maximum stay for any occupants of bed and breakfast operations shall be 14 days.
 - (13) No premises shall be utilized for a bed and breakfast operation unless there are at least two exits to the outdoors from such premises and room utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room.
 - (14) Each sleeping room used for the bed and breakfast operation shall have a separate smoke detector alarm.
 - (15) Lavatories and bathing facilities shall be available to all persons using any bed and breakfast operation.
 - (16) Two parking spaces plus one additional space per room to be rented must be provided.
 - (17) Tandem parking is not allowed, and all parking spaces must be ten feet by 18 feet in size and must be paved with either asphalt or concrete and must be laid out so as to allow free movement of traffic on and off the property. An area large enough to allow vehicles to back out of parking spaces shall be provided and must be paved with asphalt or concrete. All other areas to be used for vehicles must be paved in the same manner as specified in this subsection or provided with a hard surface consisting of at least six inches of compacted gravel. No such parking areas shall be allowed within any front yard or within the minimum side yards or minimum rear yard.
 - (18) No residential structure shall be removed in order to allow for a bed and breakfast use nor shall such a structure be removed in order to provide parking for such a use.
 - (19) Additions to a structure for the purpose of providing additional rental rooms shall not be allowed.
 - (20) A site plan and a floor plan drawn to scale of the entire building with dimensions is submitted and approved by the planning commission as required in article II, division 2, of this chapter.
- (f) *Boardinghouses and multiple-family dwellings.*
- (1) Minimum lot size for boardinghouses shall be 3,000 square feet per room available for rent and for multiple-family dwellings shall be 5,000 square feet per dwelling unit.
 - (2) Off-street parking shall be provided on the same lot as the dwelling at a ratio of 1:2 parking spaces per tenant room for boardinghouses and two spaces per dwelling unit for multiple-family dwellings.
 - (3) All required parking spaces shall be provided in the rear yard. Where such rear yard abuts existing single-family dwellings or vacant property zoned for single-family dwellings, the planning commission may require landscaping, fencing or other sight-obscuring material to screen the view of the parking lot from adjoining properties.
- (g) *Building supply and equipment establishments.*
- (1) Outdoor storage of materials is prohibited. All storage shall be within an enclosed building.
 - (2) No access to or from such establishment shall be permitted on any residential street.

(Code 2009, § 40-573; Ord. No. 53-A, § 19.05, 8-16-1982; Ord. No. 105, § 6, 11-9-2000; Ord. No. 121, § 1, 4-8-2004; Ord. No. 141, § 3, 11-9-2006; Ord. No. 156, § 1(19.05), 7-9-2009)

Sec. 32-696. - Uses—C through E.

- (a) *Cemeteries.*

- (1) Minimum site size shall be five acres.
 - (2) At least one side of such site shall abut and have access to an arterial street.
- (b) *Churches.*
- (1) Minimum site shall be two acres plus an additional 15,000 square feet for each 100-seat capacity or fractions thereof in excess of 100.
 - (2) Minimum lot width shall be 200 feet.
 - (3) For every foot by which the building, exclusive of spire, exceeds the maximum height limitations of the district, an additional foot of front, side, and rear yard shall be added to the minimum requirement.
 - (4) At least one side of such lot shall abut and have access to an arterial street.
- (c) *Commercial establishments producing merchandise on the premises.*
- (1) The total floor area devoted to production shall not exceed the area devoted to retail sales.
 - (2) Loading areas and truck circulation shall be confined to the rear of the structure.
 - (3) There shall be no perceptible industrial character to the building. All production operations and storage shall be within a completely enclosed building.
- (d) *Commercial recreation facilities.* Commercial recreation facilities, such as indoor theatres, bowling alleys, indoor skating rinks, or similar uses, shall comply with the following:
- (1) Driveway openings shall be located at least 100 feet from any street intersection (measured from the nearest right-of-way line) to the edge of such driveway.
 - (2) All buildings shall be located at least 100 feet from any residential use in any R district.
 - (3) Outdoor recreation courts shall adhere to the following:
 - a. All such courts shall be located at least 50 feet from any dwelling.
 - b. The planning commission may require the area surrounding such courts to be landscaped and screened from view of the street and adjoining dwellings, except the single-family dwelling on the adjoining lot which shares single ownership with the lot on which such court is located.
 - c. Artificial lighting of such courts is not permitted.
 - d. The planning commission may restrict the hours such courts may be used.
- (e) *Drive-through banks and dry-cleaning establishments.*
- (1) Driveway openings shall be located as far from street intersections as practical but in no case closer than 100 feet (measured from the nearest right-of-way line to the edge of such driveway).
 - (2) In the B-1 and B-2 districts, no drive shall be closer to any other drive than 75 feet. In the B-3 district, this distance shall be 200 feet.
 - (3) Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with thru traffic movement on abutting streets.
 - (4) All buildings shall be set back a minimum distance of 60 feet from any adjacent right-of-way line.
 - (5) Driveway entry signs shall only be permitted in accordance with the requirements of subsection 32-655.
- (f) *Drive-through restaurants.*
- (1) The same design requirements shall apply as cited in subsection (e) of this section for drive-in banks and dry-cleaning establishments.

- (2) All refuse containers shall be located in the rear yard and be screened from view by a six-foot-high fence or wall construction and painted or otherwise attractively finished.

(g) *Drive-in theaters.*

- (1) All sites shall abut an arterial street.
- (2) All traffic ingress and egress shall be from such arterial street. Stacking and maneuvering space shall be provided within the site so no disruption of through-traffic movement will occur on abutting streets.
- (3) Driveway openings shall be located as far from street intersections as practical but in no case closer than 300 feet (measured from the nearest right-of-way line to the edge of such driveway).
- (4) Acceleration and deceleration lanes shall be provided at all points of ingress and egress.
- (5) A minimum yard of 100 feet shall separate all uses, operations, and structures, including fences, from any public street used for ingress or egress. Such yard shall be landscaped.
- (6) The entire area containing uses, operations, and structures shall be enclosed with an eight-foot-high, solid screen fence of sound construction and painted or otherwise finished attractively.
- (7) Ticket gates shall be provided in the following ratios:
 - a. One gate for 300-person capacity theaters;
 - b. Two gates for 600-person capacity theaters;
 - c. Three gates for 800-person capacity theaters; and
 - d. Four gates for 1,000-person capacity theaters.

Vehicle standing space shall be provided between the ticket gates and the street right-of-way line to accommodate 30 percent of the vehicular capacity of the theater.

- (8) Theater screens shall not face any public street and shall be so located as to be out of view from any arterial street or highway. The screen structure shall not exceed a height of 65 feet.

(Code 2009, § 40-574; Ord. No. 53-A, § 19.06, 8-16-1982; Ord. No. 105, § 6, 11-9-2000; Ord. No. 121, § 1, 4-8-2004; Ord. No. 156, § 1(19.06), 7-9-2009)

Sec. 32-697. - Uses—F through M.

(a) *Golf courses and country clubs.*

- (1) Minimum lot size shall be 40 acres.
- (2) All buildings shall be set back a minimum distance of 75 feet from all property and right-of-way lines.
- (3) Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct light away from all residential lands which adjoin the site.

(b) *Hospitals, clinics, or convalescent homes.* Including hospitals, clinics, or convalescent homes, but not including institutions for the mentally challenged, special needs, drug or alcoholic patients, or correctional institutions of any type:

- (1) All sites shall abut and have access to an arterial street.
- (2) Hospitals and convalescent homes shall be set back at least 75 feet from the road right-of-way line and 50 feet from all other property lines.

(c) *Housing for seasonal labor.*

- (1) All such housing shall be in conjunction with an active agricultural operation.
 - (2) Proper interior and exterior maintenance of all structures shall be provided.
 - (3) All applicable federal, state and county regulations shall be complied with.
- (d) *Junkyards and salvage yards.*
- (1) Minimum lot size shall be five acres.
 - (2) The setback from the front property line to the area upon which junk materials are stored shall not be less than 150 feet and said area shall be screened from view around the entire periphery of the site by a wall or fence at least eight feet in height. Such wall or fence shall be of sound construction and painted or otherwise attractively finished.
 - (3) The area where junk materials are stored, including all buildings, shall be located no closer than 500 feet to any public building, church, hospital, sanitarium, convalescent home, day nursery, school, or similar use nor closer than 100 feet to any residential district boundary line. A 100-foot greenbelt shall be provided along the property line in all cases.
 - (4) All structures, fencing, and storage yards shall be set back not less than 50 feet from any street and any commercial or industrial district boundary line. Such setback shall be maintained as a greenbelt to minimize the appearance of the installation.
- (e) *Kennels, veterinary hospitals and animal clinics.*
- (1) Minimum required setback for all buildings shall be 75 feet. No structure shall be closer than 50 feet to any property line.
 - (2) For kennels, the minimum lot size shall be two acres for the first four dogs and an additional 10,000 square feet for each one additional dog.
 - (3) The planning commission shall consider the effects of noise, odor, and sanitary conditions on surrounding properties and may require additional safeguards to prevent any possible nuisance.
- (f) *Manufacturing, compounding, processing, packaging, treating, assembly, and bulk storage of certain products.*
- (1) Minimum site size shall be five acres.
 - (2) Minimum required front setback for all buildings shall be 100 feet.
 - (3) No use of this type shall be permitted within 1,000 feet of any residential district.
 - (4) The site shall abut and have direct access to an arterial street.
 - (5) Proposed truck routes to and from the site shall be subject to planning commission approval.
 - (6) All applicable federal, state, and county regulations shall be complied with.
- (g) *Marihuana establishments.*
- (1) *Excess grower.*
 - a. Cannot be located on the same parcel as any residential use.
 - b. Cannot share a property line with any single-family residential use.
 - c. Cannot be within 500 feet of R-1, R-2, R-3, or MU zoned property. Distance is measured from property line to property line.
 - d. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.
 - e. Only permitted in the HC district if:

1. It is co-located with a marihuana retailer; and
 2. The total floor space of the buildings where the marihuana grower and marihuana retailer are co-located does not exceed 20,000 square feet.
- f. In the HC district, provided the requirements of subsection (g)(4)e of this section are met, may co-locate with any one or a combination of the following: marihuana grower, marihuana processor.
 - g. In the I-1 district, may co-locate with any one or a combination of the following: marihuana grower, marihuana processor.
 - h. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended, and rules promulgated by the state department of licensing and regulatory affairs or its successor agency.
 - i. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
 - j. Odor control must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marihuana from exiting the marihuana establishment.
 1. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marihuana are exiting the marihuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 2. Negative air pressure will be maintained inside the marihuana establishment at all times.
- (2) *Growers of any class.*
- a. Cannot be located on the same parcel as any residential use.
 - b. Cannot share a property line with any single-family residential use.
 - c. Cannot be within 500 feet of R-1, R-2, R-3, or MU zoned property. Distance is measured from property line to property line.
 - d. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.
 - e. Only permitted in the HC district if:
 1. It is co-located with a marihuana retailer; and
 2. The total floor space of the buildings where the marihuana grower and marihuana retailer are co-located does not exceed 20,000 square feet.
 - f. In the HC district, provided the requirements of subsection (g)(4)e of this section are met, may co-locate with any one or a combination of the following: marihuana excess grower, marihuana processor.
 - g. In the I-1 district, may co-locate with any one or a combination of the following: marihuana excess grower, marihuana processor.
 - h. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended, and rules promulgated by the state department of licensing and regulatory affairs or its successor agency.

- i. The exterior appearance must remain compatible with the exterior appearance of buildings already under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
- j. Odor control must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marijuana from exiting the marijuana establishment.
 1. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marijuana are exiting the marijuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 2. Negative air pressure will be maintained inside the marijuana establishment at all times.

(3) *Microbusiness.*

- a. Cannot be located on the same parcel as any residential use.
- b. Cannot share a property line with any single-family residential use.
- c. Microbusinesses located in an I-1 district cannot be within 500 feet of R-1, R-2, or MU zoned property. Distance is measured from property line to property line.
- d. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.
- e. Cannot co-locate or be on the same parcel as any other marijuana establishment.
- f. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 et seq., as amended, and rules promulgated by the state department of licensing and regulatory affairs or its successor agency.
- g. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
- h. Odor control must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marijuana from exiting the marijuana establishment.
 1. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marijuana are exiting the marijuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 2. Negative air pressure will be maintained inside the marijuana establishment at all times.

(4) *Processors.*

- a. Cannot be located on the same parcel as any residential use.
- b. Cannot share a property line with any single-family residential use.
- c. Cannot be within 500 feet of R-1, R-2, R-3, or MU zoned property. Distance is measured from property line to property line.
- d. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.

- e. Only permitted in the HC district if:
 - 1. It is co-located with a marihuana retailer; and
 - 2. The total floor space of the buildings where the marihuana processor and marihuana retailer are co-located does not exceed 20,000 square feet.
 - f. In the HC district, provided the requirements of subsection (g)(4)e of this section are met, may co-locate with any one or a combination of the following: a marihuana excess grower, marihuana grower.
 - g. In the I-1 district, may co-locate with any one or a combination of the following: marihuana excess grower, marihuana grower.
 - h. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended, and rules promulgated by the state department of licensing and regulatory affairs or its successor agency.
 - i. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
 - j. Odor control must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marihuana from exiting the marihuana establishment.
 - 1. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marihuana are exiting the marihuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - 2. Negative air pressure will be maintained inside the marihuana establishment at all times.
- (5) *Retailer.*
- a. Cannot be located on the same parcel as any residential use.
 - b. Cannot share a property line with any single-family residential use.
 - c. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.
 - d. Only permitted in the HC district if:
 - 1. It is co-located with either a marihuana grower, marihuana excess grower, or marihuana processor; and
 - 2. The total floor space of the buildings where the marihuana grower, marihuana excess grower, or marihuana processor and marihuana retailer are co-located does not exceed 20,000 square feet.
 - e. In the HC district, provided the requirements of subsection (g)(4)e of this section are met, may co-locate with any one or a combination of the following: marihuana grower, marihuana excess grower, marihuana processor.
 - f. May not co-locate with any other marihuana establishment in the B-2 or B-3 district.
 - g. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., as amended, and rules promulgated by the state department of licensing and regulatory affairs or its successor agency.

- h. The exterior appearance must remain compatible with the exterior appearance of buildings already under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
 - i. Odor control must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marijuana from exiting the marijuana establishment.
 - 1. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marijuana are exiting the marijuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - 2. Negative air pressure will be maintained inside the marijuana establishment at all times.
- (6) *Safety compliance facility.*
- a. Cannot be located on the same parcel as any residential use.
 - b. Cannot share a property line with any single-family residential use.
 - c. Cannot be within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12. Distance is measured from property line to property line.
 - d. Cannot co-locate or be on the same parcel as any other marijuana establishment.
 - e. Must have security plan that at a minimum complies with the requirements of the Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 et seq., as amended, and rules promulgated by the state department of licensing and regulatory affairs or its successor agency.
 - f. The exterior appearance must remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area and be maintained so as to prevent blight, deterioration, or substantial diminishment or impairment of property values within the immediate area.
 - g. Odor control must have a system that prevents smoke, odor, debris, dust, fluids and other substances relating to cultivation, manufacturing, production, storage, testing, transportation, and sale of marijuana from exiting the marijuana establishment.
 - 1. Whether smoke, odor, debris, dust, fluids, or other substances relating to cultivation, manufacturing, production, storage, testing, transportation, or sale of marijuana are exiting the marijuana establishment will be measured by the objective standards of a reasonable person with normal sensory sensitivities.
 - 2. Negative air pressure will be maintained inside the marijuana establishment at all times.
- (h) *Mortuaries and funeral homes.*
- (1) Minimum lot area shall be one acre and the minimum width shall be 150 feet.
 - (2) A well designed and landscaped off-street vehicle assembly area shall be provided for funeral processing activity. This area shall be in addition to the required off-street parking area.
 - (3) A caretaker's residence may be provided within the principal building. The site shall abut and have access to an arterial street.
- (i) *Municipal buildings and utility buildings.*
- (1) All such buildings shall be located at least 50 feet from any dwelling.

- (2) No outdoor storage shall be permitted.
- (3) Refuse containers shall be located in the rear yard and be screened from view by a six-foot-high fence or wall or sound construction and painted or otherwise attractively finished.
- (4) All off-street parking areas shall be landscaped and screened from view of adjoining dwellings.
- (5) All off-street parking areas shall be landscaped and screened from view of adjoining dwellings.

(Code 2009, § 40-575; Ord. No. 53-A, § 19.07, 8-16-1982; Ord. No. 105, § 6, 11-9-2000; Ord. No. 126, § 1, 8-12-2004; Ord. No. 156, § 1(19.07), 7-9-2009; Ord. No. 2020-224, § 7, 6-11-2020)

Sec. 32-698. - Uses—N through P.

- (a) *Outdoor storage.* Commercial and industrial uses and developments that include utility buildings, outdoor equipment or outdoor storage shall comply with the following:
 - (1) Outdoor storage is prohibited in the B-2 Central Business District.
 - (2) Utility buildings, stations, or substations shall be screened by a six-foot-high wall, berm or solid fence, except when all equipment is contained within a fully enclosed building or structure.
 - (3) Outdoor open storage of any equipment, vehicles and materials, shall be screened from public right-of-way and residential uses or districts. Such storage shall not be located in the front yard. Commercial uses do not need to be screened from one another and industrial uses do not have to screen from one another.
 - (4) Stored vehicles or goods on a site without a principal building shall meet the setback requirements of the zoning district. Such storage shall not be located in the front yard unless it is determined by the planning commission that no feasible alternatives exist.
 - (5) If retail activity is associated with the use, an enclosed building with at least 500 square feet of gross floor area for office and sales use is required.
 - (6) The storage of soil, sand, mulch, and similarly loosely packaged materials shall be contained to prevent it from blowing into adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials is prohibited.
 - (7) All stored materials, including loosely packaged materials, shall not be piled or stacked higher than the height of the obscuring screen. Vehicles, implements, and recreational vehicles may exceed the height of the screen, provided they are set back from the screen a distance equal to the vehicle or implement's height.
 - (8) All outdoor storage areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
 - (9) All loading and truck maneuvering shall be accommodated on site or on a dedicated easement.
 - (10) Fencing and lighting for security purposes may be required as determined by the planning commission.
 - (11) Outdoor storage is a separate and distinct use from the outdoor display of items or goods, which must meet the requirements of section 32-558.
- (b) *Par 3 golf, miniature golf, and driving ranges.*
 - (1) All sites shall abut and have access to an arterial street.
 - (2) Where such uses abut a residential district, a transition strip of 150 feet in width shall be provided between all operations and structures, including fences, and the residential property. The size and type of landscape materials to be used in such transition strip shall be approved by the planning commission.

- (3) All lighting shall be deflected away from adjacent streets and property.
- (c) *Parking lots, including municipal and private facilities not directly associated with a principal use.*
- (1) All such lots shall be hard surfaced with a pavement having an asphalt or concrete binder and shall be graded and drained to dispose of surface water.
 - (2) Where a parking lot is adjacent to or across the street from a residential district, a landscaped greenbelt at least ten feet in width shall be provided along all property lines abutting or facing such residential district.
 - (3) Adequate ingress and egress to the parking lot, by means of limited and clearly defined driveways, shall be provided. No driveway shall be located closer than 100 feet to a street intersection.
 - (4) All applicable requirements of article VI of this chapter shall be complied with.
- (d) *Petroleum refining, paving materials, and roofing materials.*
- (1) Minimum site size shall be ten acres.
 - (2) Minimum required front setback for all buildings shall be 200 feet.
 - (3) No use of this type shall be permitted within 1,000 feet of any residential district.
 - (4) The site shall abut an arterial street and all access to and from the site shall be from such arterial street.
 - (5) Proposed truck routes to and from the site shall be subject to planning commission approval.
 - (6) All applicable federal, state, and county regulations shall be complied with.
- (e) *Planned unit development.* The requirements and standards of article IX of this chapter shall apply to all planned unit developments.
- (f) *Private noncommercial recreation.*
- (1) The lot shall abut and have direct access to an arterial street.
 - (2) No outdoor activity areas shall be located within 100 feet of any property line.
 - (3) Retail sales may be permitted to members and guests only, and there shall be no externally visible evidence of commercial activity, however incidental. All access to such commercial space shall be from within the building.
- (g) *Public garages and automobile repair establishments when all activities are conducted within a completely enclosed building.*
- (1) Minimum lot size shall be 15,000 square feet.
 - (2) Minimum lot width shall be 150 feet.
 - (3) Ingress and egress drives shall not be less than 24 feet nor more than 30 feet in width.
 - (4) No drive or curb opening shall be located nearer than 50 feet to any intersection nor more than 25 feet to any residential property line. No drive shall be located nearer than 30 feet to any other driveway. No curb opening shall be permitted where, in the opinion of the planning commission, it may produce a safety hazard to pedestrian or vehicular traffic.
 - (5) All outside storage areas for trash, used tires, auto parts, and similar items shall be enclosed by a six-foot sight-obscuring wall or fence.
 - (6) On a corner lot, both street frontage sides shall be subject to all applicable front yard requirements.
 - (7) All lubrication equipment, vehicle washing equipment, hydraulic hoists and pits all shall be enclosed entirely within the building.

(8) The lot shall be located at least 300 feet from the access drive for any library, school, playground, park, church, or nursing home.

(h) *Pulp and paper manufacturing.* The standards of section 32-697(f) shall apply.

(Code 2009, § 40-576; Ord. No. 53-A, § 19.08, 8-16-1982; Ord. No. 105, § 6, 11-9-2000; Ord. No. 156, § 1(19.08), 7-9-2009; Ord. No. 171, § 1, 7-11-2013; Ord. No. 210, § 1, 10-11-2018)

Sec. 32-699. - Uses—Q and R.

(a) *Radio and television transmitters and relay stations.*

(1) Minimum lot size shall be three acres.

(2) Setback for each tower from adjacent property lines shall not be less than one half the height of each tower above the ground.

(3) A fence at least six feet in height shall be erected around the perimeter of the site.

(b) *Rail yards.*

(1) Minimum site shall be 40 acres.

(2) No site shall be located within 3,000 feet of any residential district.

(c) *Raising of fur-bearing animals and game birds.*

(1) Minimum lot size shall be five acres.

(2) No buildings housing animals shall be located within 100 feet of any residential district, excluding rural residential. No storage of manure or odor or dust producing materials shall be permitted within 100 feet of any residential district, excluding rural residential.

(d) *Recreational camps and campgrounds.*

(1) Minimum lot size shall be 300 acres.

(2) Public stations, housed in all-weather structures, containing adequate water outlet waste container, toilet, and shower facilities shall be provided in accordance with state requirements.

(3) No commercial enterprise shall be permitted to operate on the grounds, except those activities which are solely for the use of patrons of the camp or campground.

(4) Each campsite shall contain a minimum area of 1,500 square feet.

(5) Fences and greenbelts may be required by the planning commission to protect adjoining property.

(e) *Residential uses in B-2 and B-3 districts without frontage on Main Street.*

(1) Only one-family and two-family dwelling units used for residential purposes and located on a parcel that does not have Main Street frontage shall be eligible for special approval.

(2) Special approval shall not be granted for unimproved parcels, or for the conversion of a parcel from nonresidential to residential purposes.

(3) A special approval may be granted for the limited purpose of permitting the continued residential use of an existing dwelling. Notwithstanding other provisions of this chapter, such special approval shall not expire one year from the date of issue.

(4) A special use to expand, restore or alter an existing dwelling shall be subject to the R-1 district requirements regarding:

- a. Lot size;
 - b. Setbacks;
 - c. Maximum lot coverage;
 - d. Floor area;
 - e. Building height;
 - f. Parking; and
 - g. Signs.
- (f) *Retail businesses of equal to or greater than 10,000 square feet.*
- (1) Notwithstanding other provisions of this chapter, the planning commission may permit parking in the front yard.
 - (2) Any principal building shall have side yard setbacks of at least 50 feet.
 - (3) The planning commission may require a six-foot fence or wall along the rear or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
 - (4) No mechanical rooms or loading area shall be located nearer than 100 feet to any residential district or use.
 - (5) Any loading area facing a residential district or use shall be screened. Loading areas shall not be located within any required yard and may not be located in the front yard.
 - (6) Any outdoor storage areas shall be enclosed by a six-foot sight-obscuring wall or fence.
- (g) *Restaurants, clubs or other establishments.*
- (1) In establishments where alcoholic liquors or entertainment are permitted, no building shall be located closer than 50 feet to any residential district.
 - (2) Where property containing such establishments abuts a residential district, the hours of operation shall be subject to planning commission approval.
 - (3) All refuse containers shall be located in the rear yard and be screened from by a six-foot-high fence or wall of sound construction and painted or attractively finished.
- (h) *Riding and breeding stables.*
- (1) Minimum lot size shall be ten acres, provided that a maximum of two horses shall be permitted on lots of less than ten but at least two acres.
 - (2) No storage of manure or other odor or dust producing materials or use shall be permitted within 100 feet of any residential district, excluding rural residential.
 - (3) Stables and other buildings (excluding residential structures) shall not be closer than 100 feet to any residential district, excluding rural residential.

(Code 2009, § 40-577; Ord. No. 53-A, § 19.09, 8-16-1982; Ord. No. 105, § 6, 11-9-2000; Ord. No. 126, § 1, 8-12-2004; Ord. No. 134, § 1, 11-10-2005; Ord. No. 156, § 1(19.09), 7-9-2009; Ord. No. 211, § 1, 10-11-2018)

Sec. 32-700. - Uses—S through Z.

- (a) *Sand, gravel, and mineral extraction.*
- (1) All uses shall comply with the applicable standards of the state.
- (2) No fixed machinery shall be erected or maintained within 50 feet of any property or street right-of-way line.

No cut or excavation shall be made closer than 50 feet to any property or street right-of-way line in order to ensure sublater support to surrounding property.

- (3) Where it is determined by the planning commission to be a public hazard, the excavation site shall be enclosed by a fence at least six feet high around the entire periphery of the site or hazardous portion thereof. Fences shall be adequate to prevent trespass and shall be placed no closer than 50 feet to the top or bottom of any slope.
- (4) No slope shall exceed an angle with the horizontal of 45 degrees.
- (5) No building shall be erected except as temporary shelter for machinery and a field office.
- (6) Proposed truck routes to and from the site shall be subject to planning commission approval.
- (7) Proper measures, as determined by the zoning administrator, shall be taken to minimize the nuisance of noise, dust, and flying rock.
- (8) A contour plan showing the existing grade of the site, areas where excavation will occur, the final grade of the site when excavation is completed, and the end use to which the site will be put, shall be submitted to the planning commission for approval prior to beginning excavation.
- (9) When excavation and removal operations are completed, the excavated area shall be graded so that the slope shall not exceed a ratio of 3:1 (horizontal:vertical). A layer of arable topsoil shall be spread over the excavated area, except for exposed rock surfaces or areas below natural water level, to a minimum depth of four inches in accordance with the approved contour plan. Such areas shall also be seeded with a perennial rye grass and maintained until the area is stabilized as determined by the zoning administrator.

(b) *Schools.*

- (1) Traffic generated by adjacent uses shall be considered by the planning commission prior to approving the location of any driveways.
- (2) No recreation or play areas shall be located within 100 feet of any existing dwelling.
- (3) All vehicular access to and from the site shall be from an arterial street.

(c) *Sexually oriented businesses.*

(1) *Purpose and findings.*

- a. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects shall not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this subsection and within article II of chapter 4. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities, which are prohibited in other sections of this Code.
- b. The city council finds that sexually oriented businesses, as a category of commercial uses, are often associated with a wide variety of adverse secondary effects, including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and

exploitation. Illegal and unsanitary acts involving nudity, including lewd conduct, masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, including those businesses which provide private or semi-private rooms, booths, or cubicles for viewing films, videos, or live performances.

- c. In regulating sexually oriented businesses, it is the purpose of this subsection to promote the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this subsection have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this subsection to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this subsection to condone or legitimize the distribution of obscene material.

(2) *Standards.*

- a. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within 500 feet of any principal or accessory structure of another sexually oriented business.
- b. No sexually oriented business shall be established on a parcel which is within 500 feet of any parcel zoned RR, R-1, R-2, R-3, R-4, or PUD.
- c. No sexually oriented business shall be established on a parcel within 500 feet of any single- or multiple-family residence, public park, school, childcare facility, church or place of worship. The distance between a proposed sexually oriented business and any single- or multiple-family residence, public park, school, childcare facility, church or place of worship, or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the single- or multiple-family residence, public park, school, childcare facility, church or place of worship.
- d. Any sign or advertising proposed for the sexually oriented business must comply with this zoning ordinance and may not include photographs, silhouettes, drawings or pictorial representations of specified anatomical areas or specified sexual activities and may not include animated or flashing illumination.
- e. All on-site parking areas shall comply with this chapter and shall additionally be illuminated on any days the sexually oriented business is open from at least 90 minutes prior to sunset until at least 60 minutes after closing.
- f. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent roadway.
- g. Any booth, room or cubical, available in any sexually oriented business (excepting an adult motel) used by patrons for the viewing of any entertainment must comply with the following requirements:
 - 1. It must be unobstructed by any door, lock or other entrance and exit control device.
 - 2. One side must be totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
 - 3. It must be illuminated such that person of normal visual activity looking into the booth, room or cubical from its entrance adjoining the public lighted aisle can clearly determine the number of

people within.

4. There shall be no holes or openings in any side or rear wall not relating to utility, ventilation or temperature control services or otherwise required by any government.

(3) *Additional notice.*

- a. In addition to the notices required for a public hearing the planning commission shall serve notice on all owners and occupiers of all property within 500 feet of a proposed sexually oriented business.
- b. The notice shall give a minimum of 30 days from the mailing of the notice until the public hearing on the matter.
- c. The mailing shall include a postcard addressed to the city, containing spaces for stating approval or disapproval of the proposed sexually oriented business and, including space for commentary.
- d. The total number of postcards returned prior to the hearing shall be tallied. The votes yea and nay shall also be tallied. These votes shall be considered as evidence in the planning commission's decision.

(4) *Limit on reapplication.* No application for a sexually oriented business which has been denied wholly or in part shall be resubmitted for a period of 90 days from the date of said denial, except on the grounds of new evidence found valid by the planning commission.

(5) *Expansion and discontinuance of use.*

- a. A sexually oriented business shall not be expanded in any manner without first applying for and receiving the approval of the planning commission. Further, if the operation of a sexually oriented business is discontinued for more than 30 days, it may not be reestablished without applying for and receiving the approval of the planning commission.
- b. Nothing in this subsection shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure damaged by fire, collapse, explosion or act of God.

(d) *Slaughterhouses and rendering plants.* The standards of section 32-694 shall apply.

(e) *Warehouses selling retail on the premises.*

- (1) The site boundary shall be at least 100 feet from any residential district.
- (2) There shall be no outside storage or stockpiling. All merchandise shall be stored within an enclosed building.

(f) *Waste disposal facilities.*

- (1) All uses shall be established and maintained in accordance with all applicable state of Michigan and Kent County statutes.
- (2) All uses shall be enclosed by a fence six feet or more in height around the periphery of the property. Fences shall be adequate to prevent trespassing and contain debris.
- (3) All areas within any single development shall be rehabilitated progressively as they are filled or abandoned so they will not be hazardous and will be inconspicuous and blended with the surrounding terrain.
- (4) Proposed truck routes to and from the site shall be subject to planning commission approval.
- (5) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, individual, or the community in general.

(g) *Waste treatment facilities.* All such facilities shall comply with applicable federal, state, and county regulations.

(h) *Water supply and treatment facilities.* All such facilities shall comply with applicable federal, state, and county regulations.

(Code 2009, § 40-578; Ord. No. 53-A, § 19.10, 8-16-1982; Ord. No. 105, § 6, 11-9-2000; Ord. No. 121, § 1, 4-8-2004; Ord. No. 156, § 1(19.10), 7-9-2009; Ord. No. 161, § 1, 3-11-2010)

Sec. 32-701. - Appeals.

- (a) Should an aggrieved applicant wish to appeal a denial of a special land use application, said application will be made to the city council. In reviewing the decision of the planning commission, the city council shall base its decision upon the following criteria:
- (1) Was the decision based upon proper procedure?
 - (2) Was the decision supported by competent material and substantial evidence on the record?
 - (3) Does the decision represent the reasonable exercise of discretion granted by law to the planning commission?
- (b) It is not the intent of this section to have the city council replace the judgment of the planning commission with its own; instead, it is to ensure that a fair and reasonable decision was made based upon the facts at hand.

(Code 2009, § 40-579; Ord. No. 171, § 1, 7-11-2013)

Secs. 32-702—32-730. - Reserved.

ARTICLE IX. - PLANNED UNIT DEVELOPMENTS (PUD)

Footnotes:

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State Law reference— *Planned unit development, MCL 125.3503.*

Sec. 32-731. - Purpose.

- (a) Where approved, the planned unit development (PUD) standards contained in this article replace the zoning standards which otherwise apply to properties under one of the zoning districts established in this article, hereinafter referred to as the "underlying zoning district." For properties approved for PUD designation, these PUD standards replace the schedule of regulations listed for the underlying zoning district in article III, division 13, schedule of district regulations.
- (b) A PUD designation is provided as a design option, intended to permit flexibility in the regulation of land development; to encourage innovation in land use, form of ownership (such as condominiums), and variety in design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land; 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 better housing, employment, and shopping opportunities particularly suited to residents of the city; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the site or its surrounding areas.
- (c) The standards are intended to accommodate development on sites with significant natural, historical, or architectural features, as noted in the city master plan; on land which exhibits difficult development constraints;

in the downtown area where the traditional character of the community is to be maintained; to provide the opportunity to mix compatible uses or residential types; and to allow clustering of residential units to preserve common open space and natural features. The PUD standards shall not be sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth.

- (d) In order to encourage PUD developments on specific properties, these standards authorize the relaxation or waiving of one or more of the requirements of the underlying district. The PUD also allows the developer the opportunity to mix compatible uses or residential types on a single property, allows clustering to reduce construction costs, and may enhance marketability through the preservation of significant natural, historical, and architectural features.

(Code 2009, § 40-598; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-732. - Principal permitted uses.

Where PUD designation is approved, the principal uses permitted are based on the underlying zoning district, as indicated below:

- (1) *RR, R-1, R-2, R-3, R-4*. All principal uses of the underlying district shall be permitted, subject to section 32-733. In addition, low density multiple-family dwellings or a mixture of single- and multiple-family dwellings on a planned basis, through the use of attached dwellings, townhouses, apartment buildings, zero lot line configurations, or other similar building configurations; or any combination of these residential uses may be permitted within the PUD. In addition, for sites having a minimum size of 20 acres, up to ten percent of the total site acreage may be developed with uses permitted in the NBD. Such uses must front a public street and be developed in conjunction with, or following, development of the residential uses.
- (2) *B-1*. A development option is not permitted in this district.
- (3) *B-2*. All business, service, professional office, and other commercial uses, or any combination of these uses, listed as principal uses permitted in the underlying zoning district shall be allowed, subject to section 32-733. In addition, other business, service, and residential uses may be permitted, if determined by the planning commission to be similar to other uses in the surrounding area and compatible with the preliminary PUD plan for the central business district.
- (4) *B-3, MU, HC, I-1*. All business, service, professional offices, light manufacturing, and other commercial uses, or any combination of these uses, listed as principal permitted uses in the underlying zoning district shall be permitted. In addition, other business, service, office, light manufacturing, and residential uses may be permitted, if determined by the planning commission to be compatible with other proposed PUD uses and surrounding uses.

(Code 2009, § 40-599; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-733. - Special land uses.

All uses listed as special land uses in the underlying district are considered as special land uses within the planned unit development designation.

(Code 2009, § 40-600; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-734. - Qualifying conditions.

To qualify for PUD approval, the applicant must demonstrate in writing that each of the following criteria will be met by the proposed PUD:

- (1) *Demonstrated benefit.* The PUD shall provide two or more of the following benefits not possible under the requirements of another zoning district, as determined by the planning commission:
 - a. Preservation of significant natural or historic features.
 - b. A complementary mixture of uses or a variety of housing types.
 - c. Common open space for passive or active recreational use.
 - d. Mitigation to offset community impacts.
 - e. Redevelopment of a nonconforming or blighted site where creative design can address unique site constraints.
 - f. Provide better housing, employment, and shopping opportunities particularly suited to residents of the city.
- (2) *Availability and capacity of public services.* The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
- (3) *Compatibility with the master plan.* The proposed PUD shall be compatible with the overall goals and recommendations as proposed in the master plan.
- (4) *Compatibility with the PUD purpose.* The proposed PUD shall be consistent with the purpose of article IX and spirit of this chapter.
- (5) *Development impact.* The proposed PUD shall not impede the continued use or development of surrounding properties for uses that are permitted in this article.
- (6) *Unified control of property.* Except in the B-2 district, the proposed PUD shall be under single ownership or control such that there is a single entity having responsibility for completing the project in conformity with the PUD regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is provided to the city.

(Code 2009, § 40-601; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-735. - Application and review procedure for preliminary PUD site plan and final PUD site plan.

The application process for a PUD involves a three-step process, including review of a preliminary (conceptual) site plan by both the planning commission and city council. Upon approval of the preliminary plan, a final site plan shall be reviewed by the planning commission. The procedures are described below:

- (1) An optional pre-application workshop with the planning commission may be requested by the applicant to discuss the appropriateness of the PUD concept, solicit feedback, and receive requests for additional materials supporting the proposal. An applicant desiring such a workshop shall request placement on the planning commission agenda.
- (2) The applicant shall prepare and submit to the city clerk 15 copies of a preliminary PUD site plan for a PUD, meeting the requirements of section 32-736, preliminary PUD site plan submittal requirements, at least 30 days prior to the meeting at which the planning commission shall first review the request, or 21 days for an

applicant who has had a pre-application workshop on the proposal within 60 days of the preliminary PUD site plan submittal. The zoning administrator shall transmit this plan to the members of the planning commission.

- (3) The planning commission shall review the preliminary PUD site plan and shall conduct a public hearing in accordance with section 32-44, hearing requirements. During this review, the planning commission may request additional materials supporting the PUD proposal, or recommend modifications or conditions based on the standards of section 32-737, standards for approval of preliminary PUD site plan. The planning commission shall, within 60 days of the submittal, make a recommendation, with or without conditions, on the preliminary PUD site plan to the city council. The applicant shall incorporate any modifications or conditions recommended by planning commission prior to the review by the city council.
- (4) Following receipt of the planning commission recommendations, the city council shall take final action on the plan and petition within 90 days of the date it receives a recommendation from the planning commission or such reasonable extension of time as may be necessary for adequate review.
- (5) If any conditions are imposed upon the approval of the preliminary PUD site plan by the city council, a list of those conditions shall be made part of the approval and shall be reflected in the final PUD site plan.
- (6) Except in the B-2 district, approval of the preliminary PUD site plan by the city council shall confer upon the owner the right to proceed through the subsequent PUD plan review phases for a period not to exceed three years from date of approval. This period may be extended by the city council for one additional three-year period.
- (7) In the B-2 district, approval of the preliminary PUD site plan does not expire. It may, however, be amended by the city council, upon recommendation from the planning commission.
- (8) The applicant shall submit 15 copies of detailed final site plans to the city clerk, as described in section 32-738, final PUD site plan submittal requirements, for all, or any phase of, the approved preliminary PUD site plan at least 30 days prior to the planning commission meeting at which the planning commission shall first review the request.
- (9) Upon submission of all required materials and fees, the planning commission shall review and shall approve, deny, or approve with conditions, the final PUD site plan in accordance with the standards and regulations of this chapter.
- (10) If the final PUD site plan was approved with conditions, the applicant shall submit a revised site plan to the zoning administrator showing that the conditions have been met prior to the issuance of any building permits. At the discretion of the zoning administrator, final construction plans can be reviewed to determine if conditions have been met instead of a revised final PUD site plan submission.
- (11) If the approved preliminary PUD site plan indicated that the proposed development was to occur in phases, final site plan approval may be granted on each phase of the development, provided that each phase contains all the necessary components to ensure protection of significant natural, historical, and architectural features, and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area. Subsequent phases shall also follow the process for final PUD site plan outlined in this article.
- (12) In the B-2 district, the city council may, upon recommendation of the planning commission, approve an overall preliminary PUD site plan for multiple sites and then require each subsequent developer to follow the process for final PUD site plan outlined in this article.
- (13) The city council may require each developer to enter into a separate PUD agreement for each individual site

or series of projects, depending upon the scale or complexity of the project involved.

(Code 2009, § 40-602; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-736. - Preliminary PUD site plan submittal requirements.

A preliminary PUD site plan shall set forth the proposed uses to be developed in the PUD. The following specific information shall be provided:

- (1) *Proof of ownership.* Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement.
- (2) *Written documentation.* Written documentation that the proposal meets the standards of section 32-734, qualifying conditions.
- (3) *Application form and fees.* A completed application form, supplied by the zoning administrator, and an application/review fee must be submitted. A separate escrow deposit will also be required for administrative and consultant charges to review the PUD submittal.
- (4) *Sheet size.* Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale of one inch equals 20 feet for sites of 20 acres or less; and one inch equals 100 feet or less (i.e., one inch equals 20 to 100 feet) for sites over 20 acres.
- (5) *Cover sheet.* Cover sheet providing:
 - a. Applicant's name.
 - b. Name of the development.
 - c. Date of preparation and any revisions.
 - d. North arrow.
 - e. Property lines and dimensions.
 - f. Complete and current legal description and size of property in acres.
 - g. Small location sketch of the subject site and area within one-half mile, and scale.
 - h. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the PUD site.
 - i. Lot lines and all structures on the property and within 100 feet of the PUD property lines.
 - j. Location of any vehicle access points on both sides of the street within 100 feet of the PUD site along streets where vehicle access to the PUD is proposed.
- (6) *PUD site plan.* A site plan sheet indicating:
 - a. Existing locations of all natural, historical, and architectural features, existing drainage patterns, surface water bodies, floodplain areas, state department of environment, great lakes and energy (EGLE) designated or regulated wetlands with supporting documentation, nonregulated wetland areas two or more acres in size, and a tree survey indicating the location and diameter (in inches, measured four feet above grade) of landmark trees.
 - b. Existing and proposed topography at five-foot contour intervals, and a general description of grades within 100 feet of the site.
 - c. Dimensions of existing and proposed right-of-way lines, names of abutting public streets, proposed access driveways and parking areas, and existing and proposed pedestrian or bicycle paths.

- d. Existing buildings, utility services (with sizes), and any public or private easements, noting those which will remain and those which are to be removed.
 - e. Layout and typical dimensions of proposed lots, footprints, and dimensions of proposed buildings and structures; uses with the acreage allotted to each use. For developments with residential components: the number, type, and density of proposed housing units.
 - f. General location and type of landscaping proposed (evergreen, deciduous, berm, etc.) noting existing trees and landscaping to be retained.
 - g. Size, type, and location of proposed identification signs.
- (7) *Site analysis.* A separate plan sheet indicating locations of significant natural, historical, and architectural features, including landmark trees, that will be designated as "areas not to be disturbed" and secured through installation of a snow fence, other fencing, or police line during development of the PUD, including acreage of designated areas.
- (8) *Multi-phased PUD.* If a multi-phase PUD is proposed, identification of the areas included in each phase and, for residential uses, identification of the number, type, and density of proposed housing units within each phase.
- (9) *Additional information.* Any additional graphics or written materials requested by the planning commission or city council to assist the city in determining the ability of the proposed PUD to meet the standards in this article and chapter, such as, but not limited to, aerial photography; market studies; impact on public primary and secondary schools and utilities; traffic impact using trip generation rates recognized by the Institute of Transportation Engineers (ITE) 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 consistent with the regulations of the underlying district; preliminary architectural sketches; and estimated construction cost.

(Code 2009, § 40-603; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-737. - Standards for approval of preliminary PUD site plan.

Based upon the following standards, the planning commission shall recommend denial, approval, or approval with conditions, and the city council may deny, approve, or approve with conditions the proposed preliminary PUD site plan:

- (1) The uses proposed shall be consistent with the city's adopted master plan. Such uses must have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed must not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one which could not be achieved under the regulations of the underlying district alone or that of another zoning district.
- (2) Proposed amendments to the dimensional standards of this article, such as lot sizes, setbacks, height limits, required facilities, buffers, open space, permitted sign area, and other similar dimensional standards shall be reviewed and approved by the city.
- (3) A proposed increase in the density requirements of the underlying zoning district may be approved by the city.
- (4) The number and dimensions of off-street parking shall be sufficient to meet the minimum required by article VI of this chapter, off-street parking, loading, and access. However, where warranted by overlapping or

shared parking arrangements, the city may reduce the required number of parking spaces in accordance with section 32-618, joint use of parking facilities.

- (5) Streets and parking areas within the PUD may be modified by the city council.
- (6) Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets, and other elements shall be designed to discourage through traffic, while promoting safe and efficient traffic operations within the site and at its access points.
- (7) Sidewalks shall be provided for all properties in a PUD.
- (8) Where determined necessary by the city, landscaping shall be preserved or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Plantings and other landscape features shall exceed the standards of section 32-536, landscaping requirements.
- (9) Judicious effort shall be used to preserve significant natural, historical, and architectural features and the integrity of the land, including EGLE regulated and nonregulated wetlands.
- (10) Surface water shall be retained on the site wherever possible.
- (11) The site shall have adequate lateral support so as to ensure that there will be no erosion of soil or other material. The final determination as to adequacy of, or need for, lateral support shall be made by the zoning administrator.
- (12) Public water and sewer facilities shall be available or shall be provided.
- (13) Building design shall be of a high quality, exceeding the standards of section 32-552, nonresidential design requirements.

(Code 2009, § 40-604; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-738. - Final PUD site plan submittal requirements.

The final PUD site plan shall include the following information:

- (1) All information required for site plan submittal in accordance with section 32-68.
- (2) Any additional graphics or written materials requested by the planning commission to assist in determining the impact of the proposed site plan, including, but not limited to, economic or market studies; impact on public utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction cost.
- (3) A proposed written development agreement specifying all the terms and understanding of the PUD development, including:
 - a. A legal description or survey of the acreage comprising the proposed PUD.
 - b. All conditions upon which the PUD approval is based, with reference to the approved preliminary PUD plan and a description of all deviations or waivers from city regulations which have been requested and approved.
 - c. The manner of ownership of the developed land.
 - d. The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space.
 - e. Provisions assuring that those open space areas shown on the plan for use by the public or residents of

the development will be or have been irrevocably committed for that purpose; the city may require conveyances or other documents to be placed in escrow to accomplish this.

- f. Satisfactory provisions for the future financing of any improvements shown on the plan for site improvements, open space areas, and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the city.
- g. The cost of installing and maintaining all streets and the necessary utilities has been assured by a means satisfactory to the city.
- h. Provisions to ensure adequate protection of natural features and assurance for replacement of any trees and woodlands.
- i. Any other concerns raised by the planning commission or city council regarding the construction and maintenance of the PUD.
- j. The preliminary PUD site plan shall be incorporated by reference and attached as an exhibit.

(Code 2009, § 40-605; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-739. - Standards for approval of final site plan.

The planning commission shall use the standards for approval of section 32-71, review standards, and any design requirements mandated for the PUD by the city council, in reviewing the final PUD site plan.

(Code 2009, § 40-606; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-740. - Conditions of approval.

The planning commission may attach conditions to the final PUD site plan approval to meet the intent of this article.

(Code 2009, § 40-607; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-741. - Validity of approved final PUD site plan.

- (a) *Project commencement.* Construction on the approved final site plan, or for a phase thereof, shall be commenced and proceed in a reasonably diligent manner, within 12 months of approval. If the PUD has not commenced and proceeded beyond site grading to include, at a minimum, installation of footings or foundations and underground utilities at the end of that 12-month period, then the final site plan shall, unless extended as provided for herein, be invalid and void.
- (b) *Project completion.* The approved final site plan shall remain valid for a three-year period from the date of approval, which is considered to be the date of approval for any administrative reviews required to ensure all conditions of approval are met, provided that the requirements of subsection (a) of this section are met.
- (c) *Extensions.* The three-year period for project completion may be extended for one year, if applied for by the petitioner and granted by the planning commission in writing following public notice and a public hearing prior to the expiration. Failure on the part of the owner to secure the written extension shall result in a stoppage of all construction.

(Code 2009, § 40-608; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-742. - Amendments to an approved final PUD site plan.

- (a) Deviations and amendments from the approved final PUD site plan shall be reviewed and approved in accordance with section 32-71, changes to an approved site plan.
- (b) 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 and must be approved by the city council as a new preliminary PUD site plan.
- (c) Any amendment to the PUD design guideline requirements established specifically for the PUD by the city council shall be adopted by resolution of the city council, upon recommendation of the planning commission, and will not require amendment of this article. Amendments to this document must be reviewed and approved in accordance with subsection (a) of this section.
- (d) Any deviation from the approved PUD site plan, except as authorized in this section, deviations from approved final PUD site plan, shall be considered a violation of this article and treated as a misdemeanor. Further, any such deviation shall invalidate the PUD designation.

(Code 2009, § 40-609; Ord. No. 190, § 1, 9-10-2015)

Sec. 32-743. - Appeals and variances.

The zoning board of appeals is without authority to receive or consider a requested amendment, appeal, or variance related to a PUD. Amendments can only be granted by the planning commission when it is determined that the requested amendments are in keeping with the overall purpose of PUD, as identified in section 32-731, purpose, and improve the quality of the development.

(Code 2009, § 40-610; Ord. No. 190, § 1, 9-10-2015)

Secs. 32-744—32-769. - Reserved.

ARTICLE X. - MANUFACTURED HOME PARKS

Footnotes:

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State Law reference— *Mobile Home Commission Act, MCL 125.2301 et seq.*

Sec. 32-770. - Scope.

The intent of the Mobile Home Residential District (R-4) is to provide an affordable housing alternative where placement of such a development would be appropriate and consistent with the city's general character. The standards required in this district are intended to be consistent with the adopted standards for other types of housing in the city. In addition to the standards of this chapter, all manufactured housing communities shall comply with the Mobile Home Commission Act, MCL 125.2301 et seq. However, some standards of this chapter are more stringent than the typical standards promoted by the state manufactured housing commission. These more stringent standards reflect the overall nature of the city, in contrast with some other areas of the state where the universal rules of the state manufactured housing commission may be appropriate. These adopted standards are designed to foster and encourage development which complements and protects the investment on adjacent properties and promotes preservation of important natural features.

(Code 2009, § 40-622; Ord. No. 53-A, § 21.01, 8-16-1982; Ord. No. 156, § 1(21.01), 7-9-2009)

Sec. 32-771. - Development requirements.

- (a) The manufactured home park shall be developed with sites averaging 5,500 square feet per manufactured home unit. The 5,500 square feet for any one site may be reduced by 20 percent, provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under Mich. Admin. Code R. 125.1946, 125.1941 and 125.1944.
- (b) There shall be not less than 720 square feet of floor area within each manufactured home. The floor area of any porch, sun deck, or other structure shall not be used to meet this requirement.
- (c) The placement of manufactured homes within a manufactured home park shall meet the following internal setback requirements:
 - (1) 20 feet from any part of an attached or detached structure or an adjacent manufactured home that is used for living purposes.
 - (2) Ten feet from an on-site parking space of an adjacent manufactured home site.
 - (3) Ten feet from an attached or detached structure or accessory building of an adjacent manufactured home which is not used for living purposes.
 - (4) 50 feet from a permanent building.
 - (5) Ten feet from the edge of an internal street.
 - (6) Seven feet from a parking bay.
 - (7) Seven feet from a common sidewalk.
- (d) Manufactured home parks shall be landscaped as follows:
 - (1) If the manufactured home park abuts an existing residential development, the park shall be required to provide landscape screening along the park boundary abutting the residential development.
 - (2) If the park abuts a nonresidential development, the park need not provide landscape screening.
 - (3) In all cases, however, a park shall provide landscape screening along the park boundary abutting a public right-of-way.
 - (4) The landscape screening shall consist of evergreen trees or shrubs of a minimum three feet in height, which are spaced so they provide a continuous screen at maturity. Alternative screening devices subject to prior approval may be utilized if they conceal the manufactured home park as effectively as the required landscaping described above and provided the screening is kept in good repair.
 - (5) Exposed ground surfaces in all parts of the manufactured home park shall be paved or covered with stone or other solid material or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe, efficient manner.
- (e) Open space shall be provided as required by Mich. Admin. Code R. 125.1946 of the state mobile home commission and shall be designated on the site plan. Should recreational areas also be proposed, these shall also be shown on the plans.
- (f) All streets within the park shall be constructed and paved in accordance with AASHTO (American Association of State Highway Transportation Officials) specifications specified in Mich. Admin. Code R. 125.1922 of the state mobile home commission.

- (g) The manufactured home park shall be provided with a walk system in conformance with the requirements of the M Admin. Code R. 125.1928 of the state mobile home commission.
- (h) Each manufactured home site shall conform with state mobile home commission requirements of Mich. Admin. Code R. 125.1602 for installation of mobile homes.
- (i) The grounds of a manufactured home park shall be graded to drain properly into storm sewers.
 - (1) If concrete pads are used with a well to receive the wheels of the manufactured home, such well shall be provided with a separate storm sewer connection which shall be adequate to drain any stormwater which might enter the well into the park's storm sewerage system.
 - (2) All storm sewers shall be constructed in accordance with parts 2 to 4 of the state department of public health manufactured home park standards, by the developer.
- (j) Site built single-family dwellings may be located in a manufactured home park as permitted by the state mobile home commission.
- (k) All manufactured home sites and all other buildings shall be connected to the sanitary sewer and water system of the city, if the systems are available within 200 feet of the manufactured home park at the time of preliminary plan approval. If public water or sewer is unavailable, the park shall connect to a state-approved system.
- (l) There shall be a maximum of two 16 square foot monument signs per street frontage with an entrance that shall bear only the name of the manufactured home park. Such signs shall be located ten feet from the lot line/right-of-way line and shall comply with article VII of this chapter, signs may be lighted, provided that the source of light is internal or shielded downward so as not to interfere with the vision of persons/traffic on adjacent right-of-way or property and is not of the flashing or intermittent type.
- (m) The business of selling or storing new or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home development to be used and occupied on that site may be sold by a licensed dealer or broker. This section shall not prohibit the sale of a used manufactured home by a resident of the manufactured home development provided the development permits the sale.
- (n) All other requirements of the Mobile Home Commission Act, MCL 125.2301 et seq., and the most recent mobile home commission rules shall apply.
- (o) Two access points shall be provided to a major street to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of interior park streets shall be interpreted as satisfying this requirement.

(Code 2009, § 40-623; Ord. No. 53-A, § 21.02, 8-16-1982; Ord. of 9-10-1987, § 21.02; Ord. No. 156, § 1(21.02), 7-9-2009)

Secs. 32-772—32-281. - Reserved.

ARTICLE XI. - LIGHTING

Sec. 32-782. - Scope.

It is the purpose and intent of this article to establish regulations and standards which will reduce light pollution generated by residential, commercial and industrial lighting fixtures and devices, minimize light pollution which has a detrimental effect on the environment and the enjoyment of the night sky, reduce and minimize lighting and lighting

practices which cause unnecessary illumination of adjacent properties, correct problems of glare and light trespass, reduce vehicular accidents, reduce crime and reduce energy use by promoting energy-efficient and sustainable lighting practices and luminaries.

(Ord. No. 210, § 1(40-630), 10-11-2018)

Sec. 32-783. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires. The definitions included in this article may be supplemented by reviewing definitions and standards as promulgated by the Illuminating Engineering Society of North America:

ADA means the Americans with Disabilities Act, 42 USC 12101 et seq.

Average maintained illumination levels means the average of a number of points of footcandle calculations or footcandle readings in a given area.

Color rendering index (CRI) means is a quantitative measure of the ability of a light source to reveal the colors of various objects faithfully in comparison with an ideal or natural light source as determined by the international standard color rendering index.

Color temperature means a measurement of a light's color, measured on the Kelvin scale.

Footcandle means and is equal to one lumen per square foot or approximately 10.764 lux.

Full cutoff/full shield means a luminaire that permits zero intensity at or above horizontal (90 degrees above nadir) and limited to a value not exceeding ten percent of lamp lumens at or above 80 degrees.

Glare means light emitting from a luminaire at an intensity great enough to reduce a viewer's ability to see, and in extreme cases, causing momentary blindness.

IESNA means Illuminating Engineering Society of North America. An organization that recommends standards for the lighting industry.

Light fixture/luminaire means a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

Light pollution means the inappropriate or excessive use of artificial light, known as light pollution, can have serious environmental consequences for humans, wildlife, and our climate. Components of light pollution include:

Clutter means bright, confusing and excessive groupings of light sources.

Glare means excessive brightness that causes visual discomfort.

Light trespass means light falling where it is not desired, intended or needed (e.g., beyond property boundaries, toward the sky, etc.); light spillover.

Skyglow means brightening of the night sky over inhabited areas.

Lumen means a unit of luminous flux in the International System of Units, that is equal to the amount of light given out through a solid angle by a source of one candela intensity radiating equally in all directions.

Lux means a unit of illuminance and luminous emittance, measuring luminous flux per unit area. It is equal to one lumen per square meter.

Semi-cutoff/semi-shielded means a luminaire that permits an intensity at or above 90 degrees (horizontal) of no more than five percent of lamp lumens and no more than 20 percent at or above 80 degrees.

Uniformity ratios means a description of the smoothness of the lighting pattern or the degree of intensity of light and dark areas in the roadway or area to be lighted. Uniformity is usually expressed as a ratio, such as max to min or average to min the lower the ratio the more uniform the lighting design.

(Ord. No. 210, § 1(40-630), 10-11-2018)

Sec. 32-784. - Applicability.

- (a) The requirements in this article shall apply to any light source that is visible from any property line, or beyond, for the site from which the light is emanating. The zoning administrator may review any building or site to determine compliance with the requirements under this article.
- (b) Whenever a person is required to obtain a zoning permit, sign permit, building permit, electrical permit for outdoor lighting or signage, a special land use approval, subdivision approval or site plan approval from the city, the applicant shall submit sufficient information to enable the zoning administrator or planning commission to determine whether the proposed or existing lighting will comply with this article.
- (c) Lighting already in existence at the passage of this article shall be considered legal nonconforming and may not be improved upon, enlarged, modified, replaced, retrofitted or fixed other than regular maintenance without then conforming to the requirements of this article. Existing lighting which causes off site glare or is a nuisance as determined by the zoning administrator shall be re-aimed or retrofitted to bring it within compliance of this article immediately.
- (d) In the event the zoning administrator determines that a nonconforming lighting fixture results in light glare or nuisance the responsible party shall shield, filter, redirect or replace the light with a less intense light source, or remove the light to eliminate the light trespass. Corrective action shall be taken immediately after the zoning administrator's determination.

(Ord. No. 210, § 1(40-631), 10-11-2018)

Sec. 32-785. - Site plan submittal requirements.

The following information must be included for all site plan submissions and where site plan approval is not required, some or all of the items may be required at the discretion of the zoning administrator prior to lighting installation:

- (1) Location of all exterior freestanding, building-mounted and canopy light fixtures on the site plan.
- (2) Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles or other mutually agreed upon measurement), information related to the uniformity ratio and information regarding the minimum and maximum proposed horizontal and vertical illuminance and property line light trespass. All light intensity measurements to be done at grade (or other mutually agreed upon location).
- (3) If facade or architectural lighting is proposed, a photometric layout of the building elevations showing light intensity of the building shall be provided.
- (4) Specifications and details for the type of fixture being proposed, including the total lumen output, type of lamp and method of shielding, fixture height, light correlated color temperature and color rendering index.

- (5) Any other information deemed necessary by the zoning administrator to determine compliance with provisions article.

(Ord. No. 210, § 1(40-631), 10-11-2018)

Sec. 32-786. - Exterior lighting.

(a) *General.*

- (1) All exterior light fixtures and luminaires shall be fully shielded and directed downward to prevent off-site glare. Fixed (not adjustable), downward directed, high-efficiency lighting shoebox fixtures or recessed canopy fixtures or luminaires shall be used in an effort to maintain a unified lighting standard throughout the city and prevent light pollution.
- (2) Exterior lighting shall be installed in such a manner that the light source will be sufficiently obscured to prevent glare on public roads, and light trespass across property lines in commercial or residential areas.
- (3) The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare or light trespass and the proposed fixtures are necessary to preserve the intended character of the site.
- (4) The intensity of light within a site shall not exceed ten footcandles within any site or one-half (0.5) footcandle at any property line, except where it abuts a service drive or other public right-of-way. Lighting abutting a residential district or use can be a maximum of three-tenths (0.3) footcandles at the property line. The only exception is for gas station canopy and automobile dealership lighting, where a maximum of 20 footcandles is permitted within the site but the above standards shall apply to intensity at the property line.
- (5) The use of laser light source or other similar high intensity light for outdoor advertisement or entertainment is prohibited except where specifically permitted by other city regulation.
- (6) Lighting shall be of a high efficiency design but shall not use sodium vapors.
- (7) Lighting shall have a correlated color temperature of 3000K or higher and a minimum color rendering index of 70.
- (8) Except where used for security purposes, all outdoor lighting fixtures, existing or hereafter installed and maintained upon private property within nonresidential zoning districts shall be turned off or down between 11:00 p.m. and sunrise, except where such business continues after 11:00 p.m., but only for so long as such business continues with employees or customers present. Photosensors or timers shall be utilized to maintain this standard.
- (9) Security lighting shall utilize motion or infrared sensor operation unless otherwise required by state or federal law.
- (10) Parking lots, building entrances and exterior entrance stairways shall maintain the following lighting standards:

<i>Types of Activities and Uses</i>	<i>Fast Food Restaurants, Gas Stations, Convenience Stores, Cultural/Institutional Facilities</i>	<i>Community Shopping Centers, Hospital Parking Areas, Educational Facilities, Banks, Other Services</i>	<i>Local Merchants, Industrial Employee Parking, Multifamily Parking Lots</i>
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Average maintained illumination levels	2.0—3.0 footcandles	1.0—2.0 footcandles	0.5—1.0 footcandles
Uniformity ratios	3:1 average/minimum (0.66 f.c. minimum) 12:1 maximum/minimum	3:1 average/minimum (0.33 f.c. minimum) 12:1 maximum/minimum	4:1 average/minimum (0.125 f.c. minimum) 15:1 maximum/minimum

- (11) ADA accessible parking spots must maintain a minimum of three footcandles of lighting. All exit doors shall provide exterior emergency lighting.
- (12) External sign lighting and facade or architectural lighting shall utilize fully shielded fixtures and shall face downward towards the ground. The planning commission may permit sideways or upward facing sign or facade or architectural lighting only upon a finding on the record that the proposed lighting shall be fully confined to the sign or facade and shall not project into the sky or cause off site glare.
- (13) Flag or flagpole lighting may utilize upward facing lighting, but that lighting shall be fully shielded or recessed and not be brighter than 2,100 lumens.
- (14) Lighting shall not be of a flashing, moving or intermittent type.
- (15) All exterior lighting shall be properly maintained and remain in good working order.
- (16) Commercial or industrial parking lots which face a single-family residential home or homes shall provide year-round screening between its parking lot area and the single-family residential homes to prevent customer and employee headlights from shining at or into the single-family residential home.
- (b) *Freestanding pole lighting.*
- (1) The maximum height of parking lot fixtures on freestanding poles shall be 20 feet, except that the planning commission may permit a maximum height of 30 feet within commercial, industrial and office zoning districts and for institutional uses in residential districts when the poles are no closer than 150 feet to a residential district or use.
- (2) Parking lot poles shall be located in parking lot islands or in the periphery parking lot area. Light poles shall not be placed within or between parking spaces except within a parking lot island.
- (3) Electrical lines shall run underground and not overhead.
- (c) *Building-mounted and window lighting.*
- (1) Luminous tube and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings, e.g., along the roof line and eaves, around windows. etc. The planning commission may approve internally illuminated architectural bands when it can be shown that the treatment will enhance the appearance of the building or is necessary for security purposes.
- (2) Any light fixtures visible through a window must be shielded to prevent glare at the property line.
- (3) The internal illumination of building-mounted canopies is prohibited.
- (4) External illumination of signs, canopies and buildings is permitted provided a maximum of no more than 2,100 lumen producing light fixture is utilized and the lighting fixture is shielded to direct all light at the intended target and to avoid producing glare or skyglow.
- (d) *Special lighting standards.* The following are exempt from the general lighting standards but are subject to the special requirements listed below:

- (1) Sports field and pool lighting under the following conditions:
 - a. Lighting must be turned off within 15 minutes of the end of the final game and may not be in use later than 10:00 p.m.
 - b. Lighting must be fully or semi-shielded and directed to minimize skyglow and light spill onto adjacent properties.
 - c. All efforts possible must be made to minimize any negative impacts to surrounding uses.
- (2) Holiday decorations.
 - a. Lighting may only be used on a temporary basis as determined by the zoning administrator.
 - b. All efforts possible are made to minimize any negative impacts to surrounding uses.
- (3) Window displays without glare that do not blind or distract pedestrians or traffic, except that they may not be of a flashing, moving or intermittent type.
- (4) Shielded pedestrian walkway lighting.
- (5) Single-family residential lighting with no off-site glare and less than 2,100 lumens.
- (6) Municipal lights used for municipal purposes.

(Ord. No. 210, § 1(40-632), 10-11-2018)

Sec. 32-787. - Enforcement.

Any person who violates this article shall be responsible for a municipal civil infraction. A violation of any of the provisions herein is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction. A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(Ord. No. 210, § 1(40-633), 10-11-2018)

Sec. 32-788. - Appeals.

If any person shall be aggrieved by the action of the zoning administrator with regard to a lighting permit or zoning permit involving lighting; that person may appeal such action in writing to the planning commission. The appeal must be filed within ten days after the date of such action. The planning commission shall consider the appeal at its next regular meeting at which time all parties in interest shall be afforded the opportunity to be heard. The planning commission shall thereafter affirm or reverse the action of the zoning administrator, stating its findings and the reasons for its action and a written copy of such findings, reasons, and action shall be given to the appellant. any person may alternatively seek a variance through the zoning board of appeals.

(Ord. No. 210, § 1(40-634), 10-11-2018)