

Chapter 94 - ZONING

*Footnotes:**--- (1) ---*

Editor's note— Ordinance No. 71-150, adopted July 1, 1971, formerly printed as appendix A to the 1976 Code, is included herein as chapter 94. Amendments have been added and are indicated by a history note following the amended section. The absence of such a note indicates that the section is derived unchanged from the original ordinance. Ordinances zoning or rezoning specific property or granting specific use permits are not included in this chapter, but are on file in the city clerk's office.

Cross reference— Ordinance No. 71-150 and any amendments thereto not affected by code or ordinance adopting code, § 1-5(6); buildings and building regulations, ch. 18; soil redistribution, § 34-181 et seq.; erosion and sedimentation prevention, § 34-206 et seq.; floods, ch. 42; planning, ch. 58; planning commission to assist city commission on problems of zoning, § 58-40; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74; compliance with zoning chapter required for division of land, § 74-116.

ARTICLE I. - IN GENERAL

Sec. 94-1. - Short title.

This chapter shall be known as the Zoning Ordinance for the city.

Sec. 94-2. - Purpose and intent.

In the interpretation and application of the provisions of this chapter, its terms shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals and general welfare; to encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land; to avoid overcrowding of population; to provide adequate light and air; to lessen congestion on public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for sewerage, water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties having in view the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources and the general and appropriate trend and character of land, building and population development.

Sec. 94-3. - Scope; conflicting provisions.

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annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or of any private restrictions placed upon property by covenant, deed or other private agreement.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

Sec. 94-4. - Interpretation.

Provisions of this chapter shall be liberally construed to promote the purposes set forth in this chapter.

Sec. 94-5. - Definitions and interpretation of terms.

For the purpose of this chapter, unless clearly otherwise required by the context, words used in the present tense include the future; words in the singular number include the plural and the words in the plural number include the singular; the word "building" includes the word "structure"; and the word "shall" is mandatory and not directory. Any words not defined in this section shall be construed, if applicable, as defined in the Housing Law of Michigan, Act No. 167 of the Public Acts of Michigan of 1917. Except as otherwise provided in this chapter, the terms and words in this chapter are defined as follows:

Abutting, adjoining, or contiguous, means as follows: "Abutting" means to reach, to touch, or to join at a border or boundary; and "adjoining" and "contiguous" have the same meaning, as distinguished from "adjacent" which as used in this chapter means lying near but not necessarily abutting, adjoining or contiguous.

Accessory building means a separate building or structure on the same premises with a main building or structure, or attached as an integral part of the main building or structure, occupied or devoted to an accessory use.

Accessory use means the use of the same lot with and of a nature customarily incidental and subordinate to the main use of the premises.

Adult foster care camp means an adult foster care facility with the approved capacity to receive more than four adults to be provided foster care. An adult foster care camp is a facility located in a natural or rural environment.

Adult foster care congregate facility means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

Adult foster care facility means a facility defined as an "adult foster care facility" by the adult foster care facility licensing act, Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq.), as amended, having as its principal function the receiving of adults for foster care, and licensed by the state under the act. An "adult foster care facility" includes facilities and foster care family homes for adults who are aged, mentally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care.

Adult foster care family home means a private residence 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 shall be a member of the household, and an occupant of the residence.

Adult foster care large home means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

Adult foster care small group home means an adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.

Agriculture means the commercial cultivation, tilling or use of land for the purpose of growing and storing crops thereon, or of animal or poultry husbandry.

Alley means a public or private drive which is intended only to provide supplemental access to a lot. An alley is not a part of the certified street system as a "public street."

Animal hospital means a building or structure which has as its primary function and purpose the care, treatment and rehabilitation of household pets and domestic animals, and may also include the temporary indoor boarding of such animals. "Animal hospital" does not include a "kennel" or any facility which has outdoor cages or runs for animals.

Artisanal manufacturing means a use conducted for the production of tangible goods by skilled craft persons usually involving workers who practice a trade or handicraft and produces unique products often using traditional methods involving the use of hand tools and small-scale, light mechanical equipment (e.g., art, crafts, software products, music, and games).

Automobile repair, major, means any activity involving the general repairs, rebuilding or reconditioning of engines, motor vehicles or trailers; wrecker service with storage of vehicles included; collision servicing, including body, frame and fender straightening or repair; overall painting or paint shop; or vehicle steam cleaning.

Automobile repair, minor, means any activity involving minor automotive repairs to passenger vehicles and commercial vehicles not exceeding 1½-ton capacity service without storage of vehicles, and in no case including any operation specified under "automobile repair, major."

Automobile service station or filling station means a place where gasoline or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for retail sale to the public and delivered directly into motor vehicles and where there is a retail sale of accessories, where greasing, oiling and light motor service, not including activities defined as "automobile repair, major," is carried on. Permissible uses do not include the storage of automobiles not in operating condition or work involving noise, glare, fumes or smoke greater than normally found in automobile service stations. A service station is not a repair garage or a body shop.

Backyard Chickens means a specific type of domestic animal (chicken) that is housed and cared for by residents in a non-farm and non-commercial setting for providing fresh eggs for personal consumption. Backyard chickens excludes other poultry and other egg-producing birds or animals. Backyard chickens are subject to the standards contained herein in section 94-359.

Bar/night club means premises licensed to sell alcoholic beverages by the drink for on-site consumption. Subject to state law and other requirements of this Code, the sale of food, packaged alcohol (for either on-site or off-site consumption), dancing and live entertainment may be allowed as accessory uses.

Basement means a story of a building having any part of one or more of its exterior walls located below the average finished grade. For purposes of this definition, "average finished grade" means the average level of the top of the ground resting against all exterior walls after construction of the building is completed.

Billboard means a freestanding sign which:

- (1) Has a minimum sign area of 100 square feet;
- (2) Does not offer to sell or lease the premises on which it is located;
- (3) Does not identify the owner or occupant of the premises and/or his trade or profession;
- (4) Does not relate to the sale of products on the premises or services performed by the occupant thereof; and
- (5) Is not owned or located by the government of the United States, or any state or subdivision thereof, or any public official acting in his official capacity.

Board or board of appeals means the board of zoning appeals established by this chapter.

Buildable area means the portion of a lot remaining after required yards have been provided.

Building height means the vertical distance measured from the established grade to the highest point of the roof's surface for flat roofs, to the deckline for mansard roofs, and to the average height between the eaves and the ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, height may be measured from the average ground level of the grade at the building wall.

Car wash means any commercial place or premises open to the public, and used for cleaning or washing of the interior or exterior of an automobile, for a charge or fee, using either a mechanized or manual (self-serve) process. A "car wash" does not include a facility used for washing or cleaning vehicles larger than a regularly manufactured pickup or panel truck of one and one-half ton capacity.

Catering office and production center means an enclosed space or spaces devoted to recipe research, development, production and service of foods to be consumed off premises.

Cesspool means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil.

Child care 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 where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group or drop-in center. Child care center or day care center does not include any of the following:

- (1) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period, or not more than eight hours per day for a period not to exceed four weeks during a 12-month period.
- (2) A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.

Child care facility means a governmental or nongovernmental facility having as its principal function the receiving of minor children for care, maintenance, training and supervision, notwithstanding that educational instruction may be given. For purposes of this section, the term "child care facility" includes "child caring institutions," "child placing agencies," "children's camps," "child care centers," "day care centers," "foster family homes," "foster family group homes," "family day care homes" or "group day care homes" "nursery schools," and "parent cooperative preschools," as those terms are defined by the child care organizations act, Act No. 116 of the Public Acts of Michigan of 1973 (MCL 722.111 et seq.), as amended, and which are licensed or registered by the state as required under that act.

Child caring institution means a child care facility, other than a private residence, as defined by the child care organizations act, Act No. 116 of the Public Acts of Michigan of 1973 (MCL 722.111 et seq.), as amended, that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the institution for that purpose, and operates throughout the year.

Child placing agency means an organization or agency (not located in a private residence) as defined by the child care organizations act, Act No. 116 of the Public Acts of Michigan of 1973 (MCL 722.111 et seq.), as amended, with the purpose of receiving children for their placement in private family homes for foster care or for adoption.

Children's camp means a residential, day, troop or travel camp conducted in a natural environment for more than four school age children, apart from their parents, relatives or legal guardians, for five or more days in a 14-day period. A children's camp provides care and supervision for the same group of children for usually not more than 12 weeks.

Commercial special event sign shall mean a sign intended to be displayed for a limited period of time, meant for advertising an on-site business, service or items for sale, and which is not permanently attached to a building wall or to the ground. Commercial special event signs include the following types of signs:

- (1) *Pedestrian sign* means a sign held or worn by a person standing, walking or otherwise located outdoors on either public or private property, for the purpose of displaying the sign to passing motorists or pedestrians on a nearby public road or sidewalk, and calling attention to a business, product, service or event.
- (2) *Portable manual reader board sign* means a sign that is intended to be moved from place to place and used to display a manually-assembled letter message, which is often enhanced with internal or external light bulbs.

- (3) *Inflatable sign* means a sign that is portable and is filled or captures compressed air or another gas.
- (4) *Flag and streamer sign* means a sign that is portable and intended to be blown in the wind.
- (5) *Banner sign* means a sign that is flexible, portable and affixed to the ground, a building or other structure via wire, posts, string or similar material.
- (6) *Yard sign* means a sign that is rigid, portable and affixed to the ground via wire, posts or other similar material. Sometimes called a "corrugated plastic sign".

Community center means premises used for noncommercial recreational, social, educational or cultural activities open to the public or a designated part of the public.

Community special event sign means a sign intended to be displayed for a limited time for the purpose of calling attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other community organizations.

Contractor sign means a temporary sign intended to be displayed for a limited time that identifies an on-site builder, landscaper, architect or other tradesperson.

Contractor's shop means an enclosed space or enclosed spaces used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products, and interior storage, but which does not use any exterior storage area.

Cul-de-sac means a street way or alley, either public or private, open only at one end.

Day care center. See "child care center."

Digital billboard means a billboard that consists of, or has a portion comprised of, a computer or playback device connected to a digital screen that utilizes digital, LCD, LED, plasma or similar technology to change images on the sign face. Digital billboards can be controlled remotely and display electronic images that have the potential to change without the necessity of physically or mechanically replacing the sign face or its components.

Domestic animals means animals which are customarily domesticated by man to live and breed in a tame condition, other than household pets. Domestic animals include such animals as horses, cattle, hogs, sheep, goats and poultry.

Drive-in restaurant or refreshment stand means any place or premises used for the sale, dispensing or serving of food, refreshments or beverages to customers (i) in automobiles where it is intended or is common practice for such food, refreshments or beverages to be consumed in the automobile while parked upon the restaurant or refreshment stand premises; or (ii) where such customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises outside the building. Restaurants which supply indoor seating capacity for a minimum of 40 customers and also utilize a drive-up window where customers, while remaining in their automobiles, place orders and/or receive food, refreshments or beverages intended for consumption off the premises shall not be considered drive-in restaurants.

Dwelling, mobile home means a detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels (whether or not such wheels have been removed) complete and ready for occupancy upon arriving at the site where it is to be located except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered as a mobile home.

Dwelling, multiple-family, means a residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, single-family, means a detached residential dwelling unit designed for and occupied by one family only.

Dwelling, two-family, means a detached residential building containing two dwelling units, designed for occupancy by not more than two families.

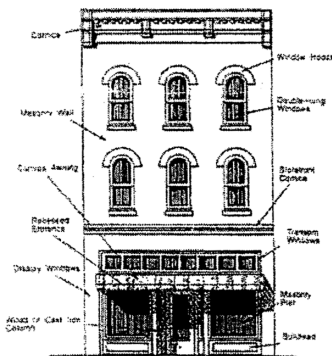
Dwelling unit means a room, or rooms connected together, constituting a separate, independent housekeeping establishment for one family occupancy, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities.

Entrance ramp means a roadway connecting a feeder road with a limited access highway and used only for access to such limited access highway.

Essential services means and includes the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, sewers, communication systems, including mains, drains, pipes, conduits, wires, cables, fire alarm boxes, police callboxes, traffic signals, hydrants, towers, poles and other similar equipment and accessories in connection therewith, but not including buildings except those reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare. Notwithstanding the foregoing, essential services shall not include wireless telecommunications towers or antennas as provided for in [section 94-355](#) of this chapter.

Exit ramp means a roadway connecting a limited access highway with a feeder road.

Facade means any exterior wall of a building that faces and is visible from a public or private street, a freeway, a parking lot or area serving the premises on which the building is located, or an adjoining residential zoning district or residential use, except as otherwise provided in subsection [94-357\(b\)\(6\)](#) for industrial buildings.



Traditional Facade

Family means a person living alone in a single dwelling unit or two or more persons whose domestic relationship is of a continuing, nontransient character and who reside together as a single housekeeping unit in one dwelling unit. "Family" does not include a collective number of individuals occupying a motel, fraternity, sorority, society, club, boarding or lodging house, or any other collective number of individuals whose domestic relationship is of a transient or seasonal nature.

Family 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. Family day care home includes homes that given care to an unrelated minor child for more than four weeks during a calendar year. Any outdoor play areas required by the state for a family day care home must be located in the rear yard.

Feeder road means a street or road intersecting on the same plane with a limited access highway or having traffic interchange facilities with such limited access highway.

Fence means an enclosure or barrier used as a boundary, means of protection, privacy screening, or confinement, composed of materials other than hedges, screen plantings, or other planted landscaping materials.

Fitness center and health club means a facility where individuals use equipment or space for the purpose of physical exercise.

Foster care means the provision of "supervision," "personal care" and "protection," as those terms are defined by the adult foster care facility licensing act, Act No. 218 of the Public Acts of Michigan of 1979 (MCL 400.701 et seq., MSA 16.610(51) et seq.), as amended, 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.

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 adoption, 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.

Foster family group home means 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 adoption, 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.

Freestanding sign means a sign or signboard supported by poles, braces, frames or similar devices, having a permanent foundation in the ground. This definition shall not be construed to include a sign or signboard affixed, in whole or in part, to a building.

Freeway means the right-of-way of U.S. 131 and the right-of-way of I-96 within the city.

Garage, private, means a detached accessory building or a compartment of a residential dwelling used for noncommercial storage of passenger vehicles or not more than one truck of a rated capacity not exceeding 1½ tons, or both. An unenclosed or partially enclosed structure commonly called a carport shall not be considered a garage.

Garage, public, means a building other than a private garage used for the purpose of parking, storing, repairing or equipping motor vehicles therein as a commercial use.

Government research, testing and development laboratories means research, development and testing laboratories and offices, without manufacturing, owned and operated by a federal, state, county, or municipal government.

Group 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 an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.

Home occupation means a use conducted entirely within an enclosed residential building employing only the inhabitants of the building, which is clearly incidental and secondary to residential occupancy, does not change the character of the building, and is in accordance with the provisions of [section 94-523\(g\)](#).

Household pet means an animal such as a dog, cat, fish or bird, customarily kept within the residential living quarters for the pleasure of the occupants of a dwelling and not for sale or commercial purposes.

Independent living facility means a residential facility not subject to license or registration by the state, but that is eligible for public financial assistance under state or federal laws, having as its principal purpose the provision of barrier-free housing for individuals with permanent physical disabilities due to injury, disease or age, which result in functional limitations in major life activities, including disabilities which cause a person to use a wheelchair; cause a person to walk with difficulty or insecurity; affect sight or hearing to the extent that a person is insecure or exposed to danger; or cause impaired mobility, flexibility,

coordination or perceptiveness. "Independent living facilities" shall include architectural design features which eliminate the type of barriers and hindrances that deter physically disabled persons from having access to and free mobility in and around the facility, and shall be specifically and primarily intended, designed, operated and located to allow its physically disabled occupants increased opportunities to function independently in the community.

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

Junkyard means any area of more than 200 square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof as a commercial use.

Kenel means a building or structure which has as its primary function and purpose the board of household pets on a temporary basis and may include indoor or outdoor cages or runs for such household pets. "Kenel" shall not include establishments used for the sale of household pets.

Limited access highway means a highway, street or roadway with respect to which the owners or occupants of abutting lands and other persons have no legal right of access to or from such highway, street or roadway except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

Liquor store/party store/convenience store means a commercial retail use where the majority of the gross income of the business is from the sale of alcoholic beverages. Such uses must be operated with an SDD and/or SDM license, or similar off-premises liquor license, from the state.

Loading space, offstreet, means space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required offstreet parking spaces are filled. Required offstreet loading space is not to be included as offstreet parking space in the computation of required offstreet parking space.

Lot means a parcel of land which is contiguous to an improved public street (or a private street approved in connection with a site condominium development) for an uninterrupted distance at least equal to the applicable minimum required lot width (as provided by [section 94-188](#)), which has sufficient size to meet the other applicable minimum zoning requirements for use, coverage, area, yards, and other open spaces and which provides convenient access for servicing and fire protection. A lot may consist of any of the following, or a combination of any of the following, excluding any portion of property subject to a public easement or right-of-way for highway purposes, and provided that in no case shall a division or combination of properties create a residual lot or parcel which does not meet the requirements of this chapter:

- (1) A platted lot, or a portion of a platted lot.
- (2) A parcel of land described by metes and bounds, or a portion of a parcel of land described by metes and bounds.
- (3) A "building site" as defined by [section 94-307](#) in connection with a site condominium development project.

Lot frontage, street frontage and frontage mean the borders or boundaries of a lot or a parcel of land which abut an improved public street (or a private street approved in connection with a site condominium development).

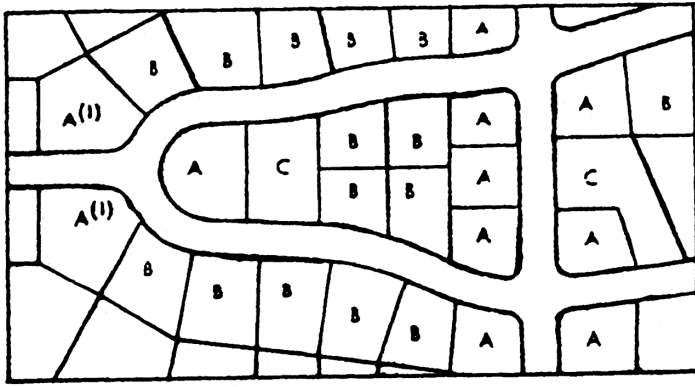


Figure 1: Lot Types

Lot types. The diagram (Figure 1[: Lot Types]) which follows illustrates terminology used in this chapter with reference to "corner lots," "interior lots," and "through lots":

In the diagram, "A" indicates a corner lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked A (1) in the diagram.

"B" indicates an interior lot, defined as a lot other than a corner lot with only one frontage on a street.

"C" indicates a through lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Major recreation, commercial indoor means a commercial recreational land use conducted entirely within a building and occupying greater than 5,000 square feet or greater of gross floor area, including by way of example a court or rink sport facility, indoor paintball facility, arcade, maze, obstacle course, jungle gym, rock climbing and adventure sport facility, trampoline park, laser tag facility, bumper car facility, art center, bowling alley, billiard hall, and similar activities.

Marginal access road means a service roadway which provides access to abutting properties and protection from through traffic.

Mechanical billboard means a billboard that uses rotating panels, slats, blades, or the equivalent to change images at regular or irregular intervals. Tri-vision billboards are a type of mechanical billboard. A digital billboard is not a mechanical billboard.

Medical marijuana dispensary [means] Any business, facility, association, cooperative, firm business, location, or operation, whether fixed or mobile, where medical marijuana (also commonly known as marijuana or cannabis) is made available to, sold, used, grown, processed, delivered, or distributed by or to one or more of the following:

- (1) A primary caregiver (i.e., a person who is at least 21 years old and who has agreed to assist with a qualifying patient's medical use of marijuana and who has never been convicted of a felony involving illegal drugs, as provided for and authorized pursuant to Michigan Initiated Law 1 of the Public Acts of 2008, as amended).
- (2) A qualifying patient (i.e., a person who has been diagnosed by a physician as having a debilitating medical condition, as provided for and authorized pursuant to Michigan Initiated Law 1 of 2008, as amended).
- (3) Members of the public.

A medical marihuana dispensary shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed by three or more persons at one time.

A medical marihuana dispensary shall not be deemed to include (i) a qualifying patient's medical use of marihuana in strict compliance with Michigan Initiated Law 1 of 2008, as amended, and all applicable state and local laws, (ii) the dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five qualified patients in strict compliance with Michigan Initiated Law 1 of 2008, as amended, and all applicable state and local laws, or (iii) any other action taken or permitted in strict compliance with Michigan Initiated Law 1 of 2008, as amended and all applicable state and local laws.

Mezzanine means an intermediate floor in any story occupying not to exceed one-third of the floor area of such story.

Mineral mining means the excavation and removal of peat, gravel, sand, clay, or other soils, including overburden, or the separation and transporting of those materials on a mining site, or the reclamation of the site after removal or excavation of materials. However, the following excavation activities are not included within the definition of mineral mining:

- (1) Excavation approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited to the site of the public utility or improvement.
- (2) Excavation which by its nature is of limited scope and duration and which is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of building construction, septic tanks, swimming pools, graves, and similar limited excavations.
- (3) Excavation in conjunction with farming operations in accordance with generally accepted agricultural practices, including agricultural drainage work incidental to farming operations and irrigation or stock watering ponds, if no material is removed from the property.
- (4) Other excavations determined similar by the board of zoning appeals because of the type of excavation involved or the limited scope and duration of the excavation and if no material is removed from the property.

Mineral processing and material storage means the processing and/or storage of peat, gravel, sand, clay, concrete, asphalt, wood, or other similar minerals or materials. For purposes of this definition, "processing" includes, but is not limited to, crushing, dissolving, breaking up, pulverizing, grinding, shredding, mixing, combining, and other similar operations. Mineral processing and material storage does not include mineral mining as defined in this section.

Minor recreation, commercial indoor means a commercial recreational land use conducted entirely within a building and occupying less than 5,000 square feet of gross floor area, including by way of example a court or rink sport facility, indoor paintball facility, arcade, maze, obstacle course, jungle gym, rock climbing and adventure sport facility, trampoline park, laser tag facility, bumper car facility, art center, bowling alley, billiard hall, and similar activities.

Mobile food vending shall mean vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a food service establishment under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with the food or beverages, such as a t-shirt that bears the name of the organization engaged in mobile food vending. The mobile food vending unit shall be stationary on a single property. The operator of a mobile food vending unit shall meet the licensing requirements of chapter 22 of the City of Walker Code of Ordinances, and to the required extent therein.

Mobile food vendor shall mean any person engaged in the business of mobile food vending; if more than one person is operating a single stand, vehicle, cart or other means of conveyance, then vendor shall mean all persons operating such single stand, vehicle, cart or other means of conveyance. Mobile food vendors shall not include ice cream trucks or industrial meal

vendors, which are not deemed stationary under the definition of transient merchants and solicitors in accordance with section 22-76 of the City of Walker Code of Ordinances.

Motel or motor hotel means a building or buildings providing lodging for transients with motor vehicle parking in an area contiguous to the building.

Movie studio means a facility for the production of motion pictures, television entertainment, music and music-video entertainment, and similar products. A movie studio may include, but is not limited to, soundstages, sets, cafeterias, production studios, research and development operations and training and education areas. On-site housing of personnel and talent is allowed as an accessory use, subject to state law and other requirements of this Code.

Nonconforming structure means a structure lawfully existing at the time of the adoption of this chapter or any amendment thereto which does not conform to the regulations of the zoned district in which it is located.

Nonconforming use means a use which was lawfully made of a structure or land at the time of the adoption of this chapter or any amendment thereto and which does not conform with the regulations of the zoned district in which it is located.

Nursing home means a nursing care facility licensed as a "nursing home" by the state department of public health under article 17 of the public health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.20101 et seq.), as amended. A "nursing home" as defined by this section shall include "extended care facility" and "convalescent home."

Official signs means signs owned, leased, constructed or located by the United States government, the state or any of its political subdivisions or municipalities for the purpose of providing directional traffic control, lodging, service, historic or other information to the general public and signs required by any court or statute.

One-family or single-family residence means a building designed for or occupied exclusively by one family.

Online auction operations means a site of a business that conducts public auctions via the internet to sell new, used or repossessed vehicles, furniture, electronic equipment, appliances or similar items. The items being auctioned are stored on the site until purchased. Items being stored on the site shall not be displayed for sale.

Onsite solar energy systems means an accessory use on a lot for the purpose of generating electricity by means of a solar collector or other solar energy device or a structural design feature mounted on a building or on the ground with the primary purpose of collecting, storing and distributing the electricity.

Outdoor recreation, commercial means commercial recreational land uses conducted outside of a building which do not require major site modification, including by way of example outdoor paintball facilities, adventure parks with features such as zip lines, rope climbing and high ropes features, orienteering, laser tag, and similar activities.

Parking space, off-street means, for the purposes of this chapter, an off-street parking space shall consist of the space designed or used for parking a vehicle which is not located within the public streets or rights-of-way.

Political sign means a sign intended to be displayed for a limited time and communicates an upcoming election, ballot or noncommercial message.

Private home means a private residence as defined by the child care organizations act, Act No. 116 of the Public Acts of Michigan of 1973 (MCL 722.11 et seq.) as amended, in which a child care facility licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group day care home, or a family day care home, as defined by this section.

Reader board means an accessory component of an approved on-site sign which displays a changeable message or image using manually-placed letters, text or images.

Realtor sign means a sign intended to be displayed for a limited period of time which offers real property or building for sale, rent or lease.

Recycling/composting operations means a business that receives, stores and processes waste products and organic materials. These products and materials are often transformed into new and different products via mechanical, organic or physical processes. This operation shall not be confused with the uses mineral processing and material storage or junkyard as defined herein.

Residential zoning district or residential district means an A, A-2, SA, 5, PA, ARM, ARM district one, RMT, RPUD-1, or RPUD-2 district.

Restaurant means an establishment where food and drink are prepared, served and consumed on-site or as take-out. Drive-up windows and outside seating are allowed as accessory uses, subject to other requirements of this Code.

Satellite dish antenna means an apparatus capable of receiving communications from a transmitter or transmitter relay located in planetary orbit.

Seepage pit means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank.

Self-storage, exterior access means a building or group of buildings consisting of individual, self-contained units leased or licensed for self-service storage of personal property which allows access to each individual unit via exterior doors and is not temperature controlled.

Self-storage, interior access means a building or group of buildings consisting of individual, self-contained units leased or licensed for self-service storage of personal property which allows access to each individual unit via interior doors and is temperature controlled.

Septic tank means a septic toilet, chemical closet, and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes.

Short-term outdoor camping event means the use of tents or other temporary structures maintained as a temporary living quarter for recreation, education, religious or vacation purposes for not more than three consecutive nights.

Sign means any drawing, message, placard, poster or device designed to inform or attract the attention of persons; provided, however, that the following shall not be included in the application of the regulations in this chapter:

- (1) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, name of occupants of premises, or other identification of premises not having commercial connotations.
- (2) Flags and insignia of any government except when displayed in connection with a commercial promotion.
- (3) Official signs and legal notices.
- (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts or moving lights.

Signage:

Canopy/awning/marquee sign means a sign that is mounted on, painted on, attached to or imbedded within a canopy, awning or marquee.

Community entrance sign means a ground-mounted sign with the sole purpose of displaying the name of the associated residential development. Background artwork is an accepted component of a community entrance sign.

Directional sign means signs limited to directional messages, principally for vehicular or pedestrian traffic, such as "drive thru" "entrance" or "exit."

Electronic reader board means an accessory component of an approved on-site sign not exceeding 50 percent of the total sign area that uses digital or similar electronic technology to display a changeable message or image.

Freestanding/pylon sign means any sign that is mounted on a freestanding pole or other support.

Ground-mounted sign means signs, not including freestanding/pylon signs, in which the entire bottom of the sign is in contact with or is close to the ground and is independent of any other structure.

Wall-mounted sign means signs fastened to or painted on the wall of a building in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign.

Single ownership means a lot which is in separate and distinct ownership from adjacent lots when such adjacent lots are not at the applicable date owned by the same owner or the same owner in joint tenancy, tenancy in common or tenancy by the entireties with any other persons and where such adjacent lots are not owned by the same owner or by any person with whom he may be engaged in a partnership or joint venture or a corporation in which he owns more than 50 percent of the stock issued and outstanding.

Small animal clinic means a building or structure which provides for the medical treatment and care of household pets only and may include temporary indoor boarding of household pets limited to the duration of the treatment. A "small animal clinic" does not include an animal hospital or kennel, or any use which has outdoor cages or runs.

Special exception use means a use or structure which, because of its unique characteristics, requires individual review and approval by the planning commission to ensure compatibility with the character of the surrounding area, the adjacent uses of land, the natural environment, the capacities of public services and facilities, and the public health, safety and welfare. Special exception uses may be permitted only in those zoning districts as expressly provided by this chapter.

State licensed residential facility (six or fewer persons) means a structure constructed for residential purposes that is licensed by the state pursuant to the adult foster care facility licensing act (Act No. 218 of the Public Acts of Michigan of 1979; MCL 400.701 et seq., as amended) or the child care organizations act (Act No. 116 of the Public Acts of Michigan of 1973 (MCL 722.111 et seq., as amended), which provides resident services or care for six or fewer persons under 24-hour supervision for persons in need of that supervision or care. A "state licensed residential facility (six or less persons)" as defined by this section shall not include an establishment commonly described as an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

Story means that part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor or, if there is no floor above, the ceiling next above.

Story, half means an uppermost story lying under a sloping roof, the usable floor area of which does not exceed 75 percent of the floor area of the story immediately below and which is not used or designed or intended to be used as an independent housekeeping unit or dwelling.

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

Structure means anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

Temporary construction site sign means a sign or signboard, either freestanding or affixed to a building, which is placed on the site of a development project for a limited period of time and which conveys information specifically related to the ownership, location, design, financing or construction of the project. A temporary construction site sign shall include only the following items of information:

- (1) The name and site address of the project.
- (2) The name, address and telephone number of the owner or developer of the project.
- (3) The name, address and telephone number of the institutions or agencies which have provided financing for the project.
- (4) The name, address and telephone number of the architects, engineers or contractors connected with the work under construction on the site.
- (5) The type of development, including the number of units, square footage and dates when the project will be available for occupancy.
- (6) A depiction of the development plat or of the layout of proposed lots within the development.
- (7) Other similar items of information that are specifically related to the ownership, location, design, financing or construction of the development project.

Temporary portable construction building means an occupied temporary portable unit for office use that is designated to be transported, after fabrication, on its own wheels or on a flatbed or other trailer, or have detachable wheels, which is used for activities related to current construction activities or the future use of the lot on which it is located.

Temporary portable leasing office building means a temporary portable construction building that is specifically used as a space for marketing, promoting and selling leases for rental units currently under construction on the lot on which it is located.

Temporary use means a use which by its nature is established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Two-family residence means a building primarily designed for or occupied by two families.

Unique use means a use or structure which is similar to a special exception use, but which may be permitted in any zone district within the city upon approval of the planning commission and which may have the potential to affect a greater surrounding land area than a normal special exception use. Because of their unique characteristics, unique uses require individual review and approval by the planning commission to ensure compatibility with the character of the surrounding area, the adjacent uses of land, the natural environment, the capacities of public services and facilities, and the public health, safety and welfare. Unique uses may be permitted only as expressly provided for by article XVII, and in accordance with the standards and requirements of article IX of this chapter.

Yard means an open space on a lot, unoccupied and unobstructed except as specifically permitted by this chapter.

Yard, front means the minimum distance between the principal building, excluding steps and unenclosed porches, and the nearest edge of the street right-of-way, extending for the full width of the lot and unoccupied between the principal building and the nearest edge of the street right-of-way, except as permitted by this chapter. A lot which abuts two or more improved public streets (such as a corner lot or a through lot) may have more than one front yard, except in those districts where a side yard abutting a street is specifically permitted under less stringent requirements than those required for a front yard, and subject to the requirements of [section 94-354](#).

Yard, rear means the minimum distance between the rear lot line and the rear line of the principal building, extending for the full width of the lot and unoccupied except for that area occupied by a permitted accessory building.

Yard, side means an open unoccupied space on the same lot with the building extending between the building and the side lot line from the front yard to the rear yard. In the case of through lots, side yards extend from the rear lines of the required front yards.

(Ord. No. 72-164, 2-22-72; Ord. No. 72-168, 4-20-72; Ord. No. 75-213, 2-25-75; Ord. No. 77-239, §§ 3, 4, 7-12-77; Ord. No. 79-266, § 1, 8-28-79; Ord. No. 80-278, §§ 1, 2, 6-24-80; Ord. No. 83-314, §§ 3, 4, 10-11-83; Ord. No. 83-315, §§ 2—4, 11-8-83; Ord. No. 84-319, § 2, 1-13-84; Ord. No. 85-321, §§ 2—4, 4-9-85; Ord. No. 85-322, § 1, 4-9-85; Ord. No. 86-340, §§ 1, 2, 8-12-86; Ord. No. 86-343, § 4, 10-28-86; Ord. No. 87-353, §§ 2, 3, 10-13-87; Ord. No. 87-354, § 1, 10-13-87; Ord. No. 88-361, §§ 1, 7, 6-14-88; Ord. No. 88-367, §§ 40, 41, 1-10-89; Ord. No. 88-368, § 1, 1-10-89; Ord. No. 88-369, § 2, 1-10-89; Ord. No. 91-392, §§ 9—11, 3-12-91; Ord. No. 91-395, § 9, 8-13-91; Ord. No. 92-408, § 2, 5-12-92; Ord. No. 93-421, § 3, 7-13-93; Ord. No. 94-456, § 1, 12-13-94; Ord. No. 96-478, § 2, 2-13-96; Ord. No. 96-479, §§ 1, 2, 2-13-96; Ord. No. 95-491, §§ 1—3, 10-28-96; Ord. No. 97-499, § 1, 9-8-97; Ord. No. 97-500, § 1, 9-8-97; Ord. No. 97-503, § 1, 10-13-97; Ord. No. 98-513, §§ 1, 2, 4-13-98; Ord. No. 98-523, § 1, 6-8-98; Ord. No. 03-502, §§ 1, 2, 7-14-03; Ord. No. 06-547, § 1, 8-28-06; Ord. No. 07-551, § 1, 7-9-07; Ord. No. 08-558, §§ 1, 2, 7-14-08; Ord. No. 09-571, § 1, 4-13-09; Ord. No. 10-579, § 3, 3-8-10; Ord. No. 10-588, § 1, 10-11-10; Ord. No. 11-595, § 7, 3-28-11; Ord. No. 11-602, § 3, 9-26-11; Ord. No. 11-603, § 1, 9-26-11 ; Ord. No. 12-610, § 1, 9-29-12; Ord. No. 17-635, § 1, 7-10-17; Ord. No. 17-636, § 1, 7-10-17; Ord. No. 17-638, § 1, 7-10-17; Ord. No. 18-641, § 1, 4-23-18; Ord. No. 19-651, § 1, 7-6-19; Ord. No. 19-653, § 2, 11-25-19; Ord. No. 21-662, § 1, 4-26-21)

Sec. 94-6. - Amendments.

- (a) This chapter and the zoning districts established under this chapter may be supplemented or amended from time to time as provided by Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended. Amendment may be initiated by the city commission on its own motion or the planning commission may initiate amendments to this chapter and recommend such amendments to the city commission for adoption.
- (b) The planning commission shall, from time to time at intervals of not more than one year, examine the provisions of this chapter and the location of district boundary lines and shall submit a report to the city commission recommending changes and amendments, if any, which the planning commission deems desirable in the interest of public health, safety and the general welfare.

Cross reference— Planning commission, § 58-26 et seq.

Sec. 94-7. - Separability.

Sections of this chapter shall be deemed separable, and should any section, clause or provision of this chapter be declared by the courts to be invalid, such declaration shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be invalid.

Sec. 94-8. - Repeal of conflicting ordinances.

The zoning ordinance of the city adopted November 6, 1963, together with all amendments thereto is hereby repealed. Also, any other ordinance or ordinances or part or parts of ordinances of the city which are in conflict with the provisions of this chapter are hereby repealed.

Sec. 94-9. - Publication of ordinance.

The ordinance from which this chapter is derived shall be published in accordance with section 4.5 of the Charter by placing not less than 100 copies in the office of the clerk for public distribution and inspection and by publishing notice of this fact in a newspaper having general circulation in the city.

Sec. 94-10. - Effective date of ordinance.

This ordinance from which this chapter is derived became effective on July 1, 1971.

Secs. 94-11—94-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Footnotes:

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Cross reference— *Administration, ch. 2.*

Sec. 94-31. - Administrative officials.

- (a) It is hereby provided that the provisions of this chapter shall be administered and enforced by the building official and designees of the same. The building official shall, among other duties, interpret this chapter, and issue all permits and notices of violation provided for in this chapter.
- (b) Any use, use of land, activity, structure, or development activity not expressly allowed by this chapter is prohibited, unless the building official finds that the use is substantially similar in character to a use or item listed in this chapter. An individual may apply to the planning commission for consideration of an amendment to this chapter to include a proposed use in one or more of the zoning districts of this chapter, either as a permitted use or a special land use. At their option and discretion, the planning commission and city commission may consider an amendment to this chapter, but are not required to do so.

(Ord. No. 82-300, § 3, 7-13-82; Ord. No. 94-443, § 1, 9-27-94 ; Ord. No. 12-610, § 2, 9-29-12)

Sec. 94-32. - Permits required.

Before proceeding with the excavation for or the construction, erection, conversion or repair of any dwelling, building or other structure, or any part of such dwelling, building or structure, and before moving any dwelling, building or structure either into or within the city, either to be used as a unit or as a part of another dwelling, building or structure, a permit therefor shall first be obtained from the building official. No permit shall be issued with respect thereto until an application has been submitted showing to the satisfaction of the building official that the work proposed is in compliance with the provisions of this chapter, the building code, section 18-26 et seq.; the subdivision regulation control ordinance, chapter 74; and any other applicable ordinance of the city, nor shall any permit be issued with respect thereto until the city engineer has certified on the application that he has reviewed the effect of the proposed work on drainage, water or sewage system within the city.

(Ord. No. 75-224, § 1, 12-23-75; Ord. No. 94-443, § 2, 9-27-94)

Cross reference— Building code, § 18-26 et seq.; permit to move buildings, § 18-181 et seq.

Sec. 94-33. - Fees.

Before any permit shall be issued under this chapter, an inspection fee in an amount determined according to the provisions of the building code shall be paid.

Cross reference— Building permit fees, § 18-35.

Sec. 94-34. - Certificate of occupancy.

It shall be unlawful to use or permit the use of any structure or premises to be altered, moved, extended or erected until the building official has (1) inspected the premises, (2) issued a certificate of occupancy stating that the structure complies with this chapter and, (3) filed a copy of the occupancy permit with the city clerk.

(Ord. No. 94-443, § 3 9-27-94)

Sec. 94-35. - Authorized city officials.

The building official, building inspector, and zoning inspector are hereby designated as the authorized city officials to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the municipal ordinance violations bureau) for violations under this chapter as provided by this Code.

(Ord. No. 71-155, 9-2-71; Ord. No. 72-164, 2-22-72; Ord. No. 94-443, § 4, 9-27-94)

Sec. 94-36. - Municipal civil infraction.

A person who violates any provision of this chapter (chapter 94) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, for each infraction. Repeat offenses under this chapter shall be subject to increased fines as provided by section 1-11(c)(2) of this Code.

(Ord. No. 88-363, § 1, 9-13-88; Ord. No. 94-443, § 5, 9-27-94)

Cross reference— General penalty for violations of Code and ordinances, § 1-11.

Sec. 94-37. - Northridge Drive precise plat.

- (a) *Defining precise plat.* The city commission finds it necessary to adopt an ordinance defining the exact location of proposed future outside lines of a certain public street known as Northridge Drive. This section hereby defines as a precise plat roadway the area described in exhibit 1 [attached to Ordinance No. 18-643] (the legal description), which is available in the office of the city clerk. The area is located in section 5 of the city and is shown on exhibit 2 [attached to Ordinance No. 18-643.] The purpose of defining this precise plat roadway is to allow for improved traffic flow, an enhanced street network, alternative traffic routing and comprehensive access management in the northern part of the city, bordered by 3 Mile Road, Fruit Ridge Avenue, 4 Mile Road and Alpine Avenue.

This precise plat for North Ridge Drive is being created with an estimated construction date of 2020 as the limitation of this section. If North Ridge Drive, as provided for herein, has not been constructed and dedicated by December 31, 2025, then this section will be null and void without further action of the city.

- (b) *Erection of buildings; establishment of streets.*

- (1) No permit shall be issued for, and no building or structure, or part thereof, shall be erected on any land located within the proposed future outside lines of the precise plat street provided to herein except as otherwise permitted by subsection (c).
- (2) The adoption of the precise plat ordinance or any subsequent amendments to [do] not constitute, nor shall their adoption be deemed to constitute, the opening or establishment of any street, or the taking or acceptance of any land for any of the purposes set forth in subsection (a).

- (c) *Amendments, modifications, additions and appeals.*

- (1) Amendments or modifications to this section, in conformity with lawfully adopted changes or additions to the city may be made and certified by the planning commission to the city commission. The city commission may then adopt change or addition by ordinance in accordance with state law.
- (2) The zoning board of appeals may authorize the granting of a permit for the erection of a building or structure, or part thereof, within the precisely platted lines of any street or other public way, upon appeal by the owner of any affected land. Such appeal may be granted, based upon the following findings:
 - a. The entire property of the appellant, located in whole or in part within the lines of such street or public way, cannot yield a reasonable return to the owner unless the permit is granted; and,
 - b. Balancing the interest of the city in preserving the integrity of the adopted map, and the interest of the owner of the property in the use and benefits of his property, the granting of the permit is required by considerations of justice and equity.

Before taking any such action, the zoning board of appeals shall hold a public hearing, following not less than ten days' prior notice to the appellant by mail at the address specified by the appellant in his petition. The zoning board of appeals shall have the power to specify the exact location, ground area, height, and other details and conditions of size, character and construction, and also the duration of the building or structure, or part thereof, to be permitted.

(Ord. No. 08-559, § 1, 9-22-08; Ord. No. ~~18-643~~, § 1, 10-22-18)

Sec. 94-38. - North Ridge Drive East precise plat.

- (a) *Defining precise plat.* The city commission finds it necessary to adopt an ordinance defining the exact location of proposed future outside lines of a certain public street known as North Ridge Drive. This section hereby defines as a precise plat roadway the area shown and described on Exhibits 1 and 2, which are available in the office of the city clerk. The area is located in Sections 2 and 3 of the city. The purpose of defining this precise plat roadway is to allow for improved traffic flow, an enhanced street network, alternative traffic routing and comprehensive access management in the northern part of the City of Walker, bordered by 3 Mile Road, Fruit Ridge Avenue, 4 Mile Road and Alpine Avenue.

This precise plat for North Ridge Drive East is being created with an estimated construction date of 2025 as the limitation of this ordinance. If North Ridge Drive East, as provided for herein, has not been constructed and dedicated by December 31, 2025, then this ordinance will be null and void without further action of the city.

- (b) *Erection of buildings; establishment of streets.*

- (1) No permit shall be issued for, and no building or structure, or part thereof, shall be erected on any land located within the proposed future outside lines of the precise plat street provided to herein except as otherwise permitted by subsection (c).
- (2) The adoption of the precise plat ordinance or any subsequent amendments do not constitute, nor shall their adoption be deemed to constitute, the opening or establishment of any street, or the taking or acceptance of any land for any of the purposes set forth in subsection (a).

- (c) *Amendments, modifications, additions and appeals.*

- (1) Amendments or modifications to this section, in conformity with lawfully adopted changes or additions to the city master plan, may be made and certified by the planning commission to the city commission. The city commission may then adopt the change or addition by ordinance in accordance with state law.
- (2) The zoning board of appeals may authorize the granting of a permit for the erection of a building or structure, or part thereof, within the precisely platted lines of any street or other public way, upon appeal by the owner of any

affected land. Such appeal may be granted, based upon the following findings:

- a. The entire property of the appellant, located in whole or in part within the lines of such street or public way, cannot yield a reasonable return to the owner unless the permit is granted; and
- b. Balancing the interest of the city in preserving the integrity of the adopted map, and the interest of the owner of the property in the use and benefits of his property, the granting of the permit is required by considerations of justice and equity.

Before taking any such action, the zoning board of appeals shall hold a public hearing, following not less than ten days' prior notice to the appellant by mail at the address specified by the appellant in his petition. The zoning board of appeals shall have the power to specify the exact location, ground area, height, and other details and conditions of size, character and construction, and also the duration of the building or structure, or part thereof, to be permitted.

(Ord. No. 09-574 § 1, 6-22-09; Ord. No. 15-626, § 1, 10-26-15.)

Sec. 94-39. - Mullins Avenue precise plat.

- (a) *Defining precise plat.* The city commission finds it necessary to adopt an ordinance defining the exact location of proposed future outside lines of a certain public street known as Mullins Avenue. This section hereby defines as a precise plat roadway the area described in Exhibit 1 (the legal description) which is available in the office of the city clerk. The area is located in Section 5 of the city and is shown on Exhibit 2, which is available in the office of the city clerk. The purpose of defining this precise plat roadway is to allow for improved traffic flow, an enhanced street network, alternative traffic routing and comprehensive access management in the central part of the City of Walker, bordered by Richmond Street, Kinney Avenue, 3 Mile Road and Elmridge Drive.

This precise plat for Mullins Avenue is being created with an estimated acquisition date of 2040. If Mullins Avenue, as provided for herein, has not been acquired, constructed and dedicated by December 31, 2040, then the ordinance [from which this section derives] will be null and void without further action of the city.

- (b) *Erection of buildings; establishment of streets.*

- (1) No permit shall be issued for, and no building or structure, or part thereof, shall be erected on any land located within the proposed future outside lines of the precise plat street provided to herein except as otherwise permitted by subsection (c).
- (2) The adoption of the precise plat ordinance or any subsequent amendments shall not constitute, nor shall their adoption be deemed to constitute, the opening or establishment of any street, or the taking or acceptance of any land for any of the purposes set forth in subsection (a).

- (c) *Amendments, modifications, additions and appeals.*

- (1) Amendments or modifications to this section, in conformity with lawfully adopted changes or additions to the city master plan, may be made and certified by the planning commission to the city commission. The city commission may then adopt the change or addition by ordinance in accordance with state law.
- (2) The zoning board of appeals may authorize the granting of a permit for the erection of a building or structure, or part thereof, within the precisely platted lines of any street or other public way, upon appeal by the owner of any affected land. Such appeal may be granted, based upon the following findings:
 - a. The entire property of the appellant, located in whole or in part within the lines of such street or public way, cannot yield a reasonable return to the owner unless the permit is granted; and,
 - b. Balancing the interest of the city in preserving the integrity of the adopted map, and the interest of the owner of the property in the use and benefits of his property, the granting of the permit is required by

considerations of justice and equity.

Before taking any such action, the zoning board of appeals shall hold a public hearing, following not less than ten days' prior notice to the appellant by mail at the address specified by the appellant in his petition. The zoning board of appeals shall have the power to specify the exact location, ground area, height, and other details and conditions of size, character and construction, and also the duration of the building or structure, or part thereof, to be permitted.

(Ord. No. 19-648, § 1, 5-20-19)

Secs. 94-40—94-55. - Reserved.

ARTICLE III. - BOARD OF ZONING APPEALS

Footnotes:

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Cross reference— *Administration, ch. 2; zoning board of appeals designated as building code board of appeals, § 18-64; noise variance board consists of members of board of zoning appeals, § 34-135; plans and specifications for flood damage prevention required by zoning board of appeals, § 42-33; one member of planning commission may also be member of board of zoning appeals, § 58-29.*

Sec. 94-56. - Creation and membership.

A board of zoning appeals is hereby established as provided in and having the powers given by Act No. 10 of the Public Acts of Michigan of 2006, as amended. The board shall consist of seven regular members and two alternate members, as appointed by the city commission. The alternate members may be called on a rotating basis to sit as regular members of the board in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member called to serve in the place of a regular member shall serve in the case until a final decision is made, and shall have the same voting rights as a regular member of the board. Each regular and alternate member shall receive a sum for his services in attending each regular or special meeting of the board, and the board shall be allowed an amount for expenses actually incurred in the discharge of its duties, as provided by resolution of the commission.

(Ord. No. 89-279, § 1, 8-8-89; Ord. No. 91-392, § 8, 3-12-91; Ord. No. 16-627, § 1, 3-28-2016)

Sec. 94-57. - Rules of procedure.

- (a) The board of zoning appeals may fix rules and regulations to govern its procedures sitting as such board of appeals. Copies of such rules and regulations shall be made available to the public.
- (b) Meetings of the board of zoning appeals shall be held at the call of the chairman and at such times as the board in its rules of procedure may specify. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the city clerk and shall be a public record.
- (c) Meetings of the board of zoning appeals shall be held within a reasonable time following the presentation of matters to the board for its consideration. The presence of four regular members shall be necessary to constitute a quorum. The board shall act by resolution and the concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirement, decision or determination of an administrative official or body, or to

decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance, except that a concurring vote of five of the members of the board shall be necessary to grant a variance from uses of land permitted in an ordinance.

- (d) The minutes of the proceedings of the board of zoning appeals shall show the vote of each member upon each question, or if the member is absent or failing to vote, shall indicate such fact.
- (e) The board of zoning appeals may call on any other offices or boards of the city for assistance in the performance of its duties.

(Ord. No. 82-296, § 1(b), 4-13-82; Ord. No. 16-627, § 1, 3-28-2016)

Sec. 94-58. - Jurisdiction.

The board of zoning appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the building inspector, and shall hear and decide other matters referred to it or upon which it is required to pass under the provisions of this chapter. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made as to the premises, and to that end shall have all the powers granted under the provisions of Act No. 110 of the Public Acts of Michigan of 2006, as amended. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the board of zoning appeals shall have power in passing upon appeals to vary or modify rules, regulations or provisions so that the spirit of this chapter shall be observed, public safety secured and substantial justice done.

(Ord. No. 16-627, § 1, 3-28-2016)

Sec. 94-59. - Granting of variances.

The board of zoning appeals may grant a variance from the provisions or requirements of this chapter if the board finds from reasonable evidence that all the following facts and conditions exist:

- (A) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
- (B) That 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.
- (C) That authorizing such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purposes of this chapter or the public interest.
- (D) That the condition or situation of the piece of property or the intended use of such property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.
- (E) With respect to the use variance, that the property for which a variance is sought cannot reasonably be used in a manner consistent with existing zoning.

Sec. 94-60. - Conditions.

In addition to the specific conditions of approval set forth in this chapter, reasonable conditions may be imposed by the board of zoning appeals upon an affirmative decision. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and

facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

- (1) Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (2) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (3) Be necessary to meet the intent and purpose of this chapter; be related to the standards established in the ordinance for approval of the application or appeal under consideration; and be necessary to ensure compliance with those standards.

(Ord. No. 86-335, § 1, 7-8-86)

Sec. 94-61. - Procedure.

The following procedure shall be required:

- (1) An appeal from a ruling of an officer administering any portion of this chapter may be taken by a person or governmental department affected or aggrieved. Any such appeal must be taken within 60 days from the date of the action appealed from.
- (2) An application for a variance may be taken by a person having a legal interest in the property concerned.
- (3) The board of zoning appeals shall not consider an application or appeal without payment by the applicant or appellant to

the city treasurer of a fee, to be established by resolution of the city commission.

- (4) When an application or appeal has been filed in proper form and with the required information, the secretary of the board of zoning appeals or his designee shall place the application or appeal upon a meeting agenda for a hearing.
- (5) An application or appeal scheduled for a hearing shall be given public notice in the following manner:
 - a. A public notice of the hearing shall be published in a newspaper of general circulation in the city. This public notice shall be published not less than 15 days before the date of the hearing.
 - b. A written public notice of the hearing shall be given to:
 - i. The owners of the property that is the subject of the hearing.
 - ii. All persons to whom real property is assessed within 300 feet of the property that is the subject of the hearing. This notice shall be given regardless of whether the property is located in the city.
 - iii. The occupants of all structures within 300 feet of the property that is the subject of the hearing. This notice shall be given regardless of whether the structures are located in the city.
 1. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, then one occupant of each unit or spatial area shall be given notice.
 2. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the public notice at the primary entrance to the structure.

- c. The public notice is considered to be given when personally delivered or when deposited during normal business delivery with the United States Postal Service or other public or private delivery service.
 - d. The written public notice shall be given not less than 15 days before the date the request will be considered.
 - e. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
 - f. A public notice shall do all of the following:
 - i. Describe the nature of the request.
 - ii. Indicate the property that is the subject of the request. This shall include a listing of all existing street addresses for the property.
 - iii. State when and where the request will be considered.
 - iv. Indicate when and where written comments will be received concerning the request.
- (6) Upon the day for hearing an application or appeal, the board of zoning appeals may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in such application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of such hearing.

(Ord. No. 88-367, § 37, 1-10-89; Ord. No. 10-579, § 2, 3-8-10)

Sec. 94-62. - Decisions of the board.

The board of zoning appeals shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the board's decision shall be transmitted to the applicant or appellant and to the building inspector. Such decision shall be binding upon the building inspector and be observed by him, and he shall incorporate the terms and conditions of the decision in the permit to the applicant or appellant whenever a permit is authorized by the board. A decision of the board shall not become final until the expiration of five days from the date such decision is made, unless the board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record. No application or appeal which has been denied shall be resubmitted within 120 days after the denial by the board.

(Ord. No. 86-335, § 2, 7-8-86)

Sec. 94-63. - Time limit.

- (a) No decision of the board of zoning appeals authorizing the erection or alteration of a building or structure, or a portion thereof, shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within one year of the decision and such erection or alteration is started and proceeds to completion in accordance with the terms of the building permit.
- (b) No decision of the board of zoning appeals authorizing the use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that where such use is dependent upon the erection or alteration of a building or structure, or a portion thereof, such decision shall continue in force and effect if a building permit for the erection or alteration is obtained within one year of the decision and such erection or alteration is started and proceeds to completion in accordance with the terms of the building permit.

(Ord. No. 86-335, § 3, 7-8-86)

Sec. 94-64. - Stay of proceedings.

An appeal taken to the board of zoning appeals shall stay all proceedings in furtherance of the action appealed from, unless the building inspector certifies to the board of appeals, after notice of appeal shall have been filed with the city clerk, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the board of appeals or by the circuit court on application, after notice to the building inspector.

Sec. 94-65. - Appeals from the board of appeals.

Any person or any department, board or bureau aggrieved by any decision of the board of appeals may seek review of such decision by a court of record in the manner provided by the laws of the state.

Secs. 94-66—94-85. - Reserved.

ARTICLE IV. - ESTABLISHMENT OF DISTRICTS AND ADOPTION OF ZONING MAP; PROVISIONS FOR MAP AND DETERMINATION OF BOUNDARIES

Sec. 94-86. - Establishment of zoning districts and adoption of zoning map.

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

Editor's note— The zoning map is not included in this Code, but is on file in the office of the city clerk.

Sec. 94-87. - Identification of map and changes thereon.

The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the municipality under the following words: "This is to certify that this is the Official Zoning Map referred to in [Chapter 2](#) [article IV of this chapter] of the Zoning Ordinance of the City of Walker, Ordinance No. 71-150, adopted July 1, 1971." The official zoning map shall be located in the office of the city clerk.

Sec. 94-88. - Prior zoning maps.

Unless prior official zoning maps under previous ordinances have been lost or totally destroyed, the prior maps or any significant parts thereof remaining, although superseded by this chapter and the official zoning map adopted hereby, shall be preserved, together with all available records pertaining to their adoption or amendment.

Sec. 94-89. - Rules for interpretation of district boundaries.

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

- (1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.

- (4) Boundaries indicated as following railroad lines shall be construed to be the center of the railroad right-of-way.
- (5) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (7) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6), the board of zoning appeals shall interpret the district boundaries.
- (8) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the planning commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

Secs. 94-90—94-110. - Reserved.

ARTICLE V. - APPLICATION OF DISTRICT REGULATIONS

Sec. 94-111. - Zoning affects every structure and use.

Except as specified in this chapter, no building, structure or premises shall be used or occupied, and no structure or a part thereof shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with the regulations specified in this chapter for the district in which it is located, provided that nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the building inspector. No building or other structure shall be erected or altered (i) to exceed the height or bulk; (ii) to accommodate or house a greater number of families; (iii) to occupy a greater percentage of lot area; or (iv) to have no or smaller rear yards, front yards, side yards or other open spaces than required in this chapter, or in any other manner contrary to the provisions of this chapter, except as provided in this chapter.

Sec. 94-112. - Requirements of yard, open space, or offstreet parking or loading.

No part of a yard or other open space or offstreet parking or loading space required in this chapter for one building shall be included as part of a yard, open space or offstreet parking or loading space similarly required for any other building.

Sec. 94-113. - Reduction of existing lots below minimum.

No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth in this chapter.

Sec. 94-114. - New lots to meet minimum requirements.

Yards or lots created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established by this chapter.

Sec. 94-115. - Zoning of territory to be annexed.

All territory which may be annexed to the municipality shall be considered to be in the most restrictive single-family district until otherwise classified.

Sec. 94-116. - Essential services.

Essential services shall be permitted in every district, provided that in residential districts the installation of essential service uses shall be reviewed by the planning commission. Pursuant to its review, the planning commission may prescribe conditions for essential service uses in residential districts, including conditions regarding architecture, landscaping, setback, enclosures, and other conditions as may be appropriate to protect the neighborhood.

(Ord. No. 88-367, § 42, 1-10-89)

Sec. 94-117. - Small cell wireless facilities.

- (a) The co-location of a small cell wireless facility and associated support structure within a public right-of-way ("ROW") is not subject to zoning reviews or approvals to the extent exempt from such reviews under Act No. 365 of 2018, as amended ("Act 365"). In such case, a small cell wireless facility or support structure may not exceed the limitations set forth in Section 13(5) of Act 365 without city planning commission special exception use permit review and approval. Regardless of zoning review status, the co-location of a small cell wireless facility or installation of an associated support structure within the ROW shall require that the wireless provider apply for and obtain a DPW permit from the city consistent with chapter 79. The modification or installation of small cell wireless facilities and/or wireless support structures which are not exempt from zoning reviews and approvals shall only be permitted in accordance with the provisions of this chapter 94 and Act 365 and upon application for and receipt from the city of a special exception use permit consistent with this chapter.
- (b) A small cell wireless facility proposed in the ROW that exceeds the limitations set forth in Section 13(5) of Act 365 is subject to special exception use standards of section 94-254(c).
- (c) A new small cell wireless facility located outside of the ROW is subject to the special exception use standards of section 94-250 and 94-254(c) of the zoning ordinance.
- (d) Small cell wireless facilities, support structures and wireless communications equipment shall be permitted and processed consistent with the following:

Type of Facility per District	All Residential Zoning Districts, including the AA District	All Commercial and Office Zoning Districts	The SDD and P-SP Zoning Districts	All Industrial Zoning Districts
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Exempt wireless communication equipment (attached to a lawful existing wireless support structure) in accordance with Act 365 and Act 110 of 2006, as amended ("Act 110")	P	P	P	P
Exempt small cell wireless facility or support structure in accordance with Act 365	P	P	P	P
Small cell wireless facility (outside of the ROW) in accordance with Act 365	SEU	SEU	SEU	SEU
Non-exempt small cell wireless facility or support structure in the ROW (exceeds height, width, etc. standards) in accordance with Act 365	SEU	SEU	SEU	SEU
Non-exempt wireless communication equipment or support structure (exceeds height, width, etc. standards) in accordance with Act 110	SEU	SEU	SEU	SEU

P: Land and/or buildings may be used for the purposes listed by right.

SEU: Land and/or buildings may be permitted by obtaining special exception use approval when all applicable standards as cited in articles VII and IX and elsewhere are met.

(Ord. No. 22-666, § 1, 3-28-22)

Secs. 94-118—94-135. - Reserved.

ARTICLE VI. - NONCONFORMING USES AND BUILDINGS

Footnotes:

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Cross reference— *Compliance with sound level limits by nonconforming commercial or industrial uses, § 34-137.*

Sec. 94-136. - Continuance of nonconforming use or structure.

The lawful use of any land or structure exactly as such use existed at the time this chapter took effect, may be continued even though such use or structure does not meet the requirements of this chapter, provided that this shall not be interpreted as an authorization for or approval of the use of lands or structures which violate the zoning regulations repealed by this chapter. Structures or uses nonconforming by reason of height, area or parking and offstreet loading provisions only may be extended, enlarged, altered, remodeled or modernized, provided that no additional encroachment of such provisions is occasioned thereby.

Sec. 94-137. - Restoration and repairs.

Such repairs and maintenance work as are required to keep a nonconforming building or structure in a safe or sound condition may be made. A nonconforming building or structure which is damaged or destroyed by fire, flood, wind or other calamity may be restored and the occupancy or use of such building or structure, or part thereof, which existed immediately prior to such damage or destruction, may be continued or resumed, provided (i) the estimated expense of reconstruction does not exceed 75 percent of the appraised replacement cost (as determined by the building official) of the entire building or structure prior to loss, exclusive of foundations; (ii) any reconstruction shall comply with any building code and governmental regulations in effect at the time; and (iii) such restoration shall be started within a period of one year of the time of such damage or destruction and diligently prosecuted to completion; provided, however, that the board of appeals may extend such period of time when a national emergency shall render it impossible to make such restoration in that period of time. If damage or destruction as aforesaid shall exceed 75 percent of the building or structure, the right to continue a nonconforming use shall thereupon terminate and further use of such premises shall conform to the requirements of the zone in which the premises is located.

Sec. 94-138. - Extensions, enlargements, moving.

No nonconforming use of any land or structure shall be enlarged or extended, except that an enlargement or extension may be made of up to 50 percent of the floor area of the existing building or buildings devoted to a nonconforming use, provided (i) such extension or enlargement is made on adjoining land with the same block which was owned by the owner of the nonconforming use at the time this chapter became effective; (ii) if such use was nonconforming under the zoning ordinance repealed by this chapter or any other prior ordinance, the combination of the proposed enlargement or extension and any previous enlargement or extension made after the use became nonconforming by the provisions of the former ordinance or ordinances would not exceed 50 percent of the floor area of the building or buildings devoted to the use as it or they existed when the use became a nonconforming use; and (iii) the board of zoning appeals after public notice and hearing shall find that a reasonable need for the extension exists and an absence of injurious effect on the contiguous property is shown, and in its order permitting any such enlargement or extension, the board of appeals may provide such conditions and limitations as will safeguard the character of the neighborhood. If any nonconforming structure permitted under the provisions of this article is moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Sec. 94-139. - Nonconforming use discontinued.

No building, structure or premises where a nonconforming use has ceased for more than one year or has been changed to a conforming use shall again be devoted to a use not in conformity with the regulations of the district under this chapter.

Sec. 94-140. - Plans already filed.

In any case where a building permit has been issued for a building or structure which conformed with the zoning regulations effective at the date of such permit but not with the regulations of this chapter and construction work had been 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 after the effective date of such ordinance.

Sec. 94-141. - Nonconforming due to reclassification.

This article shall also apply to building, structures, land or uses which become nonconforming due to any reclassification of districts under this chapter or any subsequent change in the regulations of this chapter.

Sec. 94-142. - Change in nonconforming use.

If no structural alterations are made, a nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use if the zoning board of appeals specifically finds that the proposed use is equally appropriate or more appropriate to the zone district than the existing nonconforming use. In approving a change of use, the board of appeals may impose reasonable conditions. The changed use as approved by the board of appeals under this section shall be considered a nonconforming use for purposes of this chapter.

(Ord. No. 88-367, § 1, 1-10-89)

Sec. 94-143. - Uses permitted as special exception uses, unique uses or by grant of a variance are not nonconforming uses.

A use which is permitted and approved as a special exception use, a unique use, or permitted by grant of a variance, shall be considered a conforming use and not a nonconforming use for purposes of this chapter.

(Ord. No. 88-367, § 2, 1-10-89)

Sec. 94-144. - Nonconforming building/structure due to expansion of right-of-way.

When the city, the state department of transportation, or any other entity with the power of eminent domain, acquires additional right-of-way from a lot containing an existing building or structure for the purpose of street construction, street relocation, street widening, or installation, maintenance, repair, or enlargement of utilities, and such acquisition creates nonconformance of an existing building or structure with the minimum setback, lot width, lot area, or parking requirements of this chapter, such building or structure shall thereafter be permitted to be altered, enlarged or rebuilt provided that: (1) the specific nonconformity created when the right-of-way was acquired is not increased; (2) all buildings and structures shall be setback not less than 15 feet from the public right-of-way line; and (3) all such altered, enlarged, or rebuilt buildings or structures shall conform to all other requirements of this chapter and this Code. This section shall control in the event of any conflict with any other provision of this chapter.

(Ord. No. 99-532, § 1, 3-22-99)

Secs. 94-145—94-165. - Reserved.

ARTICLE VII. - DISTRICTS; DISTRICT AND SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 94-166. - District regulations and supplementary district regulations adopted.

District regulations shall be as set forth in this article and in the schedule of district regulations and in the supplementary district regulations.

Sec. 94-167. - "A" district, single-family residential.

- (a) *Intent.* The regulations of the "A" district, single-family residential, are intended to encourage a suitable environment for families, typically with children. To this end, uses are basically limited to single-family dwellings and permitted accessory buildings together with certain other uses such as schools, parks and playgrounds which provide a neighborhood environment. In keeping with this intent, development is regulated to a moderate density.
- (b) *Principal use.* Except as otherwise expressly permitted by this chapter, no building or part thereof in an "A" district, single-family residential, shall hereafter be used, erected, altered or converted or land used, in whole or in part, except for:
 - (1) Single-family dwellings.
 - (2) State licensed residential facilities (six or fewer persons).
 - (3) Adult foster care family homes.
 - (4) Foster family homes.
 - (5) Foster family group homes.
 - (6) Family day care homes.
- (c) *Permitted accessory uses to principal use.* The following are permitted accessory uses to the principal use in an "A" district:
 - (1) Private garage.
 - (2) Garden house, toolhouse, swimming pool, playhouse or greenhouse, none used for commercial purposes.
 - (3) A home occupation.
 - (4) Any use customarily incidental to the permitted principal use.
 - (5) Racing pigeons and associated lofts, subject to the following:
 - a. The minimum lot size shall be one-half acre.
 - b. No more than 50 racing pigeons shall be allowed per lot.
 - c. The pigeons and the loft shall be subject to compliance with all other applicable provisions of this Code (including, without limitation, article 2, chapter 14) and other local, state or federal laws or regulations.
 - (6) Nursery school operated by a church on church property.
- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses of land and structures may be permitted as special exception uses within the "A" district if approved by the planning commission as provided by this section and as provided by article IX:
 - (1) Churches, parish houses, rectories and convents.
 - (2) Schools. The ratio of pupils to total lot size shall be at least 300 square feet per pupil for nursery schools, and at least 500 square feet per pupil for elementary, junior high and senior high schools.
 - (3) Recreation uses such as parks, playgrounds, golf courses, ballfields, athletic fields and community centers.
 - (4) Federal, state or municipal administrative or service buildings, public libraries, public museums, and public art galleries.
 - (5) Hospitals. The ratio of hospital beds to total lot size shall be at least 1,100 square feet per bed.

- (6) Nursing homes.
- (7) Horses (not for commercial use) may be permitted, as follows:
 - a. No more than three horses shall be allowed per dwelling.
 - b. The minimum lot size shall be three acres for the first horse, and one additional acre for each additional horse.
 - c. The planning commission may limit the number of horses and prescribe the manner of keeping the horses as necessary to prevent offensive odors, the pollution of water supplies, or the spread of infection and disease.
- (8) Adult foster care small group homes and adult foster care large group homes.
- (9) Group day care homes.
- (10) Housing for the elderly.
- (11) Independent living facilities. An independent living facility shall be occupied only by individuals with permanent physical disabilities, the spouses and children of physically disabled individuals, and the personal care attendants of physically disabled individuals. Each dwelling unit within an independent living facility shall be occupied by at least one individual with permanent physical disabilities. An independent living facility, including all of its individual dwelling units, shall meet or exceed barrier-free housing codes, consistent with the needs of its occupants.
- (12) Reserved.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "A" district are contained in the tabular summary of the schedule of district regulations.
- (f) *Additional requirements.* In the "A" district, the following additional requirements must be met:
 - (1) Public water and sewer are required.
 - (2) Sidewalks shall be constructed on all sides of the property abutting a public street for the special exception uses described in subsection 94-167(d), except for subsections 94-167(d)(7), (8), (9), and (12).
 - (3) Sidewalks shall be constructed on all sides of the property abutting a public street for any use of property in the "A" district if such property is adjacent to any property which has sidewalks and which fronts on the same public street.

(Ord. No. 72-182, § 1, 10-24-72; Ord. No. 75-217, § 1, 4-22-75; Ord. No. 77-239, § 1, 7-12-77; Ord. No. 88-361, §§ 2, 3, 6-14-88; Ord. No. 88-367, § 3, 1-10-89; Ord. No. 91-395, § 2, 8-13-91; Ord. No. 95-475, § 1, 12-12-95; Ord. No. 96-491, §§ 4—6, 10-28-96; Ord. No. 00-454, § 1, 2-14-00; Ord. No. 08-555, § 1, 1-14-08)

Cross reference— Utilities, ch. 86.

Sec. 94-168. - "A-2" duplex district, two-family residential.

- (a) *Intent.* The regulations of the A-2 duplex district, two-family residential, are intended to encourage a suitable environment for young couples, maturing families and retired individuals. To this end, uses are limited to single- and two-family units and permitted accessory buildings along with certain other neighborhood-type uses such as schools, parks and playgrounds.
- (b) *Principal use.* Except as otherwise expressly permitted by this chapter, no building or part thereof in an "A-2" district, shall hereafter be used, erected, altered or converted or land used, in whole or in part, except for:
 - (1) Single-family dwellings.
 - (2) Two-family dwellings.

- (3) State licensed residential facilities (six or fewer persons).
- (4) Adult foster care family homes.
- (5) Foster family homes.
- (6) Foster family group homes.
- (7) Family day care homes.
- (c) *Permitted accessory uses to principal use.* Permitted accessory uses in the "A-2" district are the same as in the "A" district as provided in section 94-167(c).
- (d) *Special exception uses permitted after review and approval by the planning commission.* The uses specified by section 94-167(d) as special exception uses within the "A" district may be permitted as special exception uses within the "A-2" district if approved by the planning commission as provided by section 94-167(d) and as provided by article IX of this chapter.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "A-2" district are contained in the tabular summary of the schedule of district regulations.
- (f) *Water, sewer and drainage requirements.* Public water and public sewer and fully improved streets including curb and gutter, enclosed storm drains and sidewalks are required in the "A-2" district.
- (g) *Additional requirements.* In the "A-2" district, the following additional requirements must be met:
 - (1) Sidewalks shall be constructed on all sides of the property abutting a public street for the special exception uses described in subsection 94-167(d), except for subsections 94-167(d)(7), (8), (9), and (12).
 - (2) Sidewalks shall be constructed on all sides of the property abutting a public street for any use in the "A-2" district if such property is adjacent to any property which has sidewalks and which fronts on the same public street.

(Ord. No. 77-240, § 1, 9-13-77; Ord. No. 78-251, § 2, 9-12-78; Ord. No. 88-367, § 4, 1-10-89; Ord. No. 96-491, § 7, 10-28-96; Ord. No. 00-454, § 2, 2-14-00)

Sec. 94-169. - "SA" district, suburban residential, single-family.

- (a) *Intent.* The regulations of the "SA" district, suburban residential, single-family, are intended to encourage a suitable environment for families, typically with children, particularly in areas which have public water or sewer, but not both, and in which the percolation characteristics of the soil provide drainage sufficient to protect the public health and safety with only one public utility.
- (b) *Principal use.* Except as otherwise expressly permitted by this chapter, no building or part thereof in an "SA" district, suburban residential, single-family, shall be used, erected, altered or converted or land used, in whole or in part, except for single-family dwellings.
- (c) *Permitted accessory uses to principal use.* Permitted accessory uses in the "SA" district are the same as in the "A" district as provided by section 94-167(c).
- (d) *Special exception uses permitted after review and approval by the planning commission.* The uses specified by section 94-167(d) as special exception uses within the "A" district may be permitted as special exception uses within the "SA" district if approved by the planning commission as provided by section 94-167(d) and as provided by article IX of this chapter.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "SA" district are contained in the tabular summary of the schedule of district regulations.
- (f) *Additional requirements.* In the "SA" district, the following additional requirements must be met:
 - (1) Public sewer must be provided for all property abutting an easement or right-of-way in which a public sewer is

located. If a public sewer is not so located, the property may be used if public water is provided. If neither public water nor sewer is available, the property may be used in compliance with the area, height, bulk and placement requirements set forth in the schedule of district regulations for the "S" district.

- (2) Sidewalks shall be constructed on all sides of the property abutting a public street for the special exception uses described in subsection 94-167(d), except for subsections 94-167(d)(7), (8), (9), and (12).
- (3) Sidewalks shall be constructed on all sides of the property abutting a public street for any use in the "SA" district if such property is adjacent to any property which has sidewalks and which fronts on the same public street.

(Ord. No. 72-164, 2-22-72; Ord. No. 72-171, 8-3-72; Ord. No. 88-367, § 5, 1-10-89; Ord. No. 00-454, § 3, 2-14-00)

Cross reference— Utilities, ch. 86.

Sec. 94-170. - "S" district, suburban residential.

- (a) *Intent.* The regulations of the "S" district, suburban residential, are intended to encourage development of a suburban area of limited density and large lots in which neither public water nor public sewer is available.
- (b) *Principal use.* Except as otherwise expressly permitted by this chapter, no building or part thereof in an "S" district, suburban residential, shall be used, erected, altered or converted or land used, in whole or in part, except for single-family dwellings.
- (c) *Permitted accessory uses to principal use.* Permitted accessory uses in an "S" district are the same as in the "A" district as provided by section 94-167(c).
- (d) *Special exception uses permitted after review and approval by the planning commission.* The uses specified by section 94-167(d) as special exception uses within the "A" district may be permitted as special exception uses within the "S" district if approved by the planning commission as provided by section 94-167(d) and as provided by article IX of this chapter.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "S" district are contained in the tabular summary of the schedule of district regulations.
- (f) *Additional requirements.* In the "S" district, the following additional requirements must be met:
 - (1) Sidewalks shall be constructed on all sides of the property abutting a public street for the special exception uses described in subsection 94-167(d) except for subsections 94-167(d)(7), (8), (9), and (12).
 - (2) Sidewalks shall be constructed on all sides of the property abutting a public street for any use in the "S" district if such property is adjacent to any property which has sidewalks and which fronts on the same public street.

(Ord. No. 88-367, § 6, 1-10-89; Ord. No. 00-454, § 4, 2-14-00)

Sec. 94-171. - "AA" district, agricultural.

- (a) *Intent.* Agricultural districts are those open areas of the city where farming, dairying, forestry operations and other rural activities are found. Vacant, fallow land and wooded areas may also be included where such areas are interspersed among farms. Gradually and under a comprehensive plan for urban development, agricultural districts may be converted to other land uses.
- (b) *Principal uses.* Except as otherwise expressly permitted by this chapter, no building or part thereof in an "AA" district, agricultural, shall be used, erected, altered, or converted or land used, in whole or in part, except for one or more of the following principal uses:
 - (1) If the individual parcel is five acres or more in area, it may be used for both general and specialized farming,

including horticultural, dairying, livestock and poultry raising, farm forestry, orchards, vineyards and apiaries, and other similar uses, but no farm shall be operated as a piggery or for the disposal of garbage.

- (2) One-family dwelling.
 - (3) Nurseries.
 - (4) Golf courses and golf clubs and bowling alleys in connection therewith.
 - (5) Churches, parish houses, rectories and convents.
 - (6) Schools.
 - (7) Community and public buildings
 - (8) Horses (for personal, noncommercial use) may be permitted on lots of less than five acres, subject to the following restrictions:
 - a. The minimum lot size shall be three acres for the first horse and one additional acre for each additional horse.
 - b. The zoning administrator may limit the number of horses and prescribe the manner of keeping the horses as necessary to prevent offensive odors, the pollution of water supplies, or the spread of infection or disease. In making such a decision, the zoning administrator shall consider recommendations from animal control agencies who regularly deal with similar issues.
 - c. The keeping of horses and other animals on parcels of five acres or more in this district shall be controlled by subsection (b)(1).
 - (9) Mineral mining, as defined in section 94-5. Mineral mining does not include mineral processing and material storage as defined in section 94-5.
 - (10) Racing pigeons and associated lofts, subject to the following:
 - a. The minimum lot size shall be one-half acre.
 - b. No more than 100 racing pigeons shall be allowed per lot.
 - c. The pigeons and the loft shall be subject to compliance with all other applicable provisions of this Code (including, without limitation, article 2, chapter 14) and other local, state or federal laws or regulations.
 - (11) State licensed residential facilities (six or fewer persons).
 - (12) Adult foster care family homes.
 - (13) Foster family homes.
 - (14) Foster family group homes.
 - (15) Family day care homes.
 - (16) Parks operated by governmental bodies or agencies.
- (c) *Permitted accessory uses to principal uses.* The following are permitted accessory uses to the principal uses in an "AA" district:
- (1) Any use customarily incidental to any and all of the foregoing uses may be erected and used as accessory to the principal use.
 - (2) Agricultural warehouses and storage plants shall be an accessory use.
 - (3) Additional dwellings on any farm for the use of farm or domestic employees of the owner or his lessees, provided there is only one such tenant house in addition to the main dwelling for each ten acres of farmland, and provided that each such tenant house is surrounded by sufficient land to provide a future separate lot of 20,000 square feet and a minimum width at the building line of 100 feet.

- (4) Migrant workers' facilities for seasonal occupancy, provided they are approved by the building inspector and that a provision is made for water and sanitary facilities.
 - (5) Roadside stands selling products that are grown on the premises may be erected adjacent to the highway provided that the roadside stand is located on a lot having a minimum of one acre and adequate off-street parking is provided for customers (except that the parking area shall not be required to have a dustless and durable all-weather surfacing material, notwithstanding subsection 94-468(8)). In addition, notwithstanding section 94-409, a roadside stand shall be permitted to have signs on the same premises to identify the location of the roadside stand provided that the signs are not more than an aggregate of 16 square feet and the signs otherwise comply with all applicable requirements.
 - (6) Greenhouses where customarily incidental to any of the principal uses set forth in subsection (b) and where used for cultivating, propagating or nurturing flowers, plants, shrubs, trees or other similar natural living products.
- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses of land and structures may be permitted as special exception uses within the "AA" district if approved by the planning commission as provided by this section and as provided by article IX of this chapter:
- (1) Kennels, animal hospitals and establishments raising fur bearing animals, provided that for kennels, the following minimum requirements shall apply:
 - a. The minimum lot size for each kennel approved under this section shall be at least two acres in area.
 - b. Cages or runs located outdoors shall be setback a minimum of 100 feet from residential districts and uses.
 - c. Cages and runs may be located indoors or outdoors. All cages and runs at kennels shall be kept and maintained in a manner so as to minimize to the greatest extent possible any adverse impacts to the property on which they are kept, surrounding properties, and any other areas of the city, including, without limitation, dust, dirt, noise, odor, vermin, the attraction of other birds or animals, the potential spread of infection, disease or contamination or other health or safety hazards or nuisance conditions. All cages and runs shall:
 1. Be constructed and maintained in compliance with all applicable building code regulations;
 2. Be of sufficient size and design, and constructed of such material, so that it can be maintained in a clean, orderly and sanitary condition;
 3. Be kept, at all times, in a clean, orderly and sanitary condition, in good repair, and in compliance with all applicable health and safety laws and regulations;
 4. A cage for animals must contain sufficient square footage to allow the animal housed within to move around freely, and provide an interior height of at least six inches higher than the head of the animal in the enclosure when the animal is in the normal standing position. A run for animals shall be of a length, width, and height to provide adequate space for an animal to exercise and train.
 - d. All animals at kennels shall be fed only within the confines of the kennel structure. All feed for the animals shall be stored in sealed containers that will prevent intrusion by insects, rodents and other vermin.
 - e. All animals shall be confined to the kennel except for limited periods as necessary for exercise and training.
 - (2) Animal hospitals, if public water and sewer are available.
 - (3) Cemeteries, crematories and mausoleums, subject to the following requirements:
 - a. Cemeteries, crematories, mausoleums and related structures shall be developed under a unified plan.
 - b. Cemetery, crematory and mausoleum structures shall be located at least 250 feet from a residential district.
 - c. A greenbelt shall be installed between a cemetery, crematory or mausoleum and any adjacent residential

zone district, either contiguous or across a street, as provided by section 94-344.

- (4) Stables open to the public, if the minimum area is 40 acres.
- (5) Semipublic recreation facilities which provide large open space areas, such as Girl Scout camps, Boy Scout camps, church camps, picnic areas, and athletic grounds.
- (6) Mental hospitals.
- (7) The disposal of waste from septic tanks, cesspools or seepage pits, subject to the following requirements:
 - a. *License*. Prior to the disposal of wastes, a license shall be obtained under Part 117 of Act 451 of the Public Acts of Michigan of 1994, as amended, MCL 324.11701 et seq., as amended.
 - b. *Permits*. All permits required by law shall be obtained prior to the disposal of wastes. Further, prior written approval for the disposal shall be obtained from the county health department as provided by Part 117 of Act 451 of the Public Acts of Michigan of 1994, MCL 324.11701 et seq., as amended.
 - c. *Bonds*. Prior to the commencement of any disposal of wastes, a surety bond of \$5,000.00 shall be posted with the city to guarantee compliance with the provisions of this subsection.
 - d. *Minimum site size*. Wastes shall be disposed of only on approved dumping sites of five acres or more in area.
 - e. *Floodplain*. Wastes shall not be disposed of on sites within a state or federal 50-year floodplain.
 - f. *Setback; nuisance*. Wastes shall be disposed of at locations having a minimum distance of 200 yards from any residence, public or private place of business, public gathering place, or local streets or state highways, subject to the prior written approval of the property owner and the county health department. All wastes shall be disposed of so as not to create a public nuisance or health hazard.
 - g. *Signs*. The boundaries of the site on which wastes are disposed shall be posted with legible signs having the minimum dimensions of 12 by eight inches and horizontally spaced no more than 100 feet apart. The signs shall be posted not lower than four feet and not higher than six feet from ground level. The signs shall contain the licensee's name and shall bear the following warning in substantially the following form:

WARNING!

HEALTH HAZARD

DO NOT ENTER

SEPTIC WASTE DISPOSAL SITE

(name of licensee)

- h. *Compliance with laws*. The disposal of wastes shall comply with all applicable statutes, ordinances, rules, and regulations, including, without limitation, Part 117 of Act 451 of the Public Acts of Michigan of 1994, MCL 324.11701 et seq., as amended.
 - i. *Plowing of soil*. The soil on which wastes are disposed shall be plowed or turned under to a minimum depth of six inches at least once every 30 days or as may be more frequently required by the county health department or the building official of the city to prevent odor or to protect public health and safety.
 - j. *Violations*. The disposal of wastes shall immediately cease upon the violation of any of the provisions of this subsection.
- (8) Children's camps (on lots of at least five acres).
 - (9) Adult foster care camps (on lots of at least five acres).

(10) Adult foster care small group homes and adult foster care large group homes.

(11) Group day care homes.

(e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "AA" district are contained in the tabular summary of the schedule of district regulations.

(f) *Additional requirements.* No piles or accumulations of refuse or manure shall be permitted in the "AA" district unless they are at least 200 feet from all public thoroughfares and from boundary lines, and shall then be so maintained as not to constitute a nuisance.

(Ord. No. 72-164, 2-22-72; Ord. No. 75-217, § 2, 4-22-75; Ord. No. 78-251, § 1, 9-12-78; Ord. No. 83-315, § 1, 11-8-83; Ord. No. 88-359, §§ 1, 2, 3-8-88; Ord. No. 88-361, § 4, 6-14-88; Ord. No. 88-367, §§ 7, 8, 1-10-89; Ord. No. 91-395, § 3, 8-13-91; Ord. No. 95-473, §§ 1—3, 11-28-95; Ord. No. 95-475, § 2, 12-12-95; Ord. No. 96-491, §§ 8—10, 10-28-96; Ord. No. 97-500, § 2, 9-8-97; Ord. No. 99-527, § 1, 2-8-99; Ord. No. 01-474, § 1, 4-9-01; Ord. No. 03-502, § 3, 7-14-03; Ord. No. 10-579, § 1, 3-8-10)

Sec. 94-171-A. - "P-SP" district, public-semipublic.

(a) *Design and intent.* The public-semipublic zoning district is intended to apply to lands designated in the master plan as "park/open" or "public/semipublic". The district is designed to accommodate governmental, public utility, educational, community service and recreational facilities. Such uses are somewhat unique in that their proximity to sensitive land uses is not generally detrimental to quality of life and in many cases is desirable and convenient. The district is intended to provide space and facilities needed to complement residential and business areas.

(b) *Principal uses.* Except as otherwise expressly permitted by this chapter, no building in a "P-SP" district, public-semipublic shall be used, erected, altered, or converted or land used, in whole or in part, except for one or more of the following principal uses, subject to site plan review by the planning commission, consistent with the standards of article X of the Walker Zoning Ordinance:

(1) Essential services.

(2) Public and charter schools.

(3) Public community centers.

(4) Public libraries.

(5) Publicly-owned parking lots.

(6) Government offices, public works facilities, fire stations, police stations and court facilities.

(7) Mineral mining, as defined in section 94-5. Mineral mining does not include mineral processing and material storage as defined in section 94-5.

(8) Outdoor public recreational uses, such as playgrounds, playfields, golf courses, boating areas, swimming areas, fishing sites, camping sites, trails and parks.

(9) Health and fitness centers owned by a government agency.

(10) Cultural facilities, including, but not limited to, theaters, museums and centers for the arts.

(11) Conservation lands, wildlife sanctuaries, forest preserves.

(12) Developed open space, such as arboreta and botanical gardens.

(c) *Permitted accessory uses to principal uses.* The following are permitted accessory uses to the principal uses in a "P-SP" district, Public-Semipublic:

(1) Any use customarily incidental to any and all of the foregoing uses may be erected and used as accessory to the principal use.

- (2) Outdoor festivals, fairs, carnivals, craft shows, athletic tournaments and events, concerts, farmer's markets, auto shows and other similar uses, as determined by the zoning board of appeals, subject to a temporary use permit administered under 94-522 of the Walker Zoning Ordinance, except that signage shall be regulated per the standards of this section. Events proposed in city parks shall be consistent with the standards of chapter 54, Parks and Recreation, in the City of Walker Ordinances.
- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses of land and structures may be permitted as special exception uses within the "P-SP" district, public-semipublic if approved by the planning commission as provided by this section and by article IX of the Walker Zoning Ordinance:
- (1) Cemeteries, crematories and mausoleums, subject to the following requirements:
 - a. Cemeteries, crematories, mausoleums and related structures shall be developed under a unified plan.
 - b. Cemetery, crematory and mausoleum structures shall be located at least 250 feet from a residential district.
 - c. A greenbelt shall be installed between a cemetery, crematory or mausoleum and any adjacent residential zone district, either contiguous or across a street, as provided by section 94-344 of the Walker Zoning Ordinance.
 - (2) Stables open to the public.
 - (3) Semipublic recreation facilities which provide large open space areas, such as Girl Scout camps, Boy Scout camps, church camps, picnic areas, and athletic grounds.
 - (4) Blandford Nature Center.
 - (5) New wireless telecommunication towers and antenna, per the standards of section 94-355 of the Walker Zoning Ordinance.
- (e) *Building setback and height requirements.* The building setback and height requirements of the "P-SP" district, public-semipublic shall be as follows:
- (1) Front building setback equal to 35 feet.
 - (2) Rear building setback equal to 30 feet.
 - (3) Side building setback equal to 30 feet on each side.
 - (4) Maximum building height not to exceed 35 feet.
- (f) *Signage.* Requirements for permanent and temporary signs in the "P-SP" district, public-semipublic shall be as follows:
- (1) All signs shall follow the administrative, measurement, placement and appearance standards found in section 94-406.
 - (2) All permanent signs shall follow the standards of section 94-410 Signs in Mixed Use and Commercial districts, except that freestanding/pylon signs shall not be allowed.
- All temporary signs shall follow the standards of subsection 94-412(1) Commercial special event signs.

(Ord. No. 11-598, § 1, 7-11-11)

Sec. 94-172. - "ARM" district, residential, multiple-family.

- (a) *Intent.* The regulations of the "ARM" district, residential, multiple-family, are intended to encourage and permit multiple-family housing in areas deemed suitable therefor. Public water and sewer facilities shall be required.
- (b) *Principal uses.* Except as otherwise expressly permitted by this chapter, no building or part thereof in an "ARM" residential district, multiple-family, shall be used, erected, altered or converted or land used, in whole or in part,

except for:

- (1) Principal use permitted in the "A" district as provided in section 94-167(b).
 - (2) Principal use permitted in the "SA" district as provided in section 94-169(b).
 - (3) Principal uses permitted in the "S" district as provided in section 94-170(b).
 - (4) Two-family dwellings, provided the requirements of this section are met.
 - (5) Multiple housing with more than two dwelling units but not more than four dwelling units, provided the requirements of this section are met.
- (c) *Permitted accessory uses to principal use.* The following uses accessory to the principal use are permitted in the "ARM" district:
- (1) Accessory uses as permitted in the "A" district as provided by section 94-167(c).
 - (2) A community garage serving the principal building containing space for no greater number of motor vehicles than two times the number of dwelling units in the principal buildings.
 - (3) A private swimming pool designed and operated only for occupants of the principal buildings and their personal guests.
 - (4) A community building for recreational activities of the occupants of the dwelling units and their guests.
 - (5) A maintenance and management building such as are customarily used in connection with multiple-family dwellings, including a laundromat designed and operated only for occupants of the principal buildings.
- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses may be permitted as special except uses within the "ARM" district if approved by the planning commission as provided by section 94-167(d) and as provided by article IX:
- (1) The uses specified by section 94-167(d) as special exception uses within the "A" district.
 - (2) Adult foster care congregate facilities.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "ARM" district are contained in the tabular summary of the schedule of district regulations, except as set forth in subsection (f) of this section.
- (f) *Additional requirements.*
- (1) Minimum lot area for multiple housing shall be 15,000 square feet, increased for each unit beyond the first two dwelling units in accordance with the following:
 - a. For each one-bedroom dwelling unit beyond the first two dwelling units, an additional 2,500 square feet of lot area.
 - b. For each two-bedroom dwelling unit beyond the first two dwelling units, an additional 3,000 square feet of lot area.
 - c. For each three-bedroom dwelling unit beyond the first two dwelling units, an additional 3,500 square feet of lot area.
 - d. For each dwelling unit containing more than three bedrooms, an additional lot area of 500 square feet per bedroom shall be required beyond the requirements of subsection (f)(1)c.
 - (2) The yards shall be kept clear and unobstructed and shall not be used for the storage of materials, rubbish or debris, but may be used for gardening and planting. Permitted accessory buildings shall also be allowed as and where specified in this chapter.
 - (3) No building or structure shall exceed a height of the lesser of 2½ stories or 35 feet from the ground where it

stands, except as otherwise provided by this chapter.

- (4) Each multiple-family unit shall have a floor area, exclusive of basements, unfinished attics, attached garages, breezeways, enclosed and unenclosed porches and utility rooms, of:
- a. Six hundred square feet for a one-bedroom housing unit;
 - b. Seven hundred fifty square feet for a two-bedroom housing unit;
 - c. Nine hundred square feet for a three-bedroom housing unit;
 - d. An additional five square feet of floor area for each bedroom in excess of three.
- (g) *Sidewalks; additional requirement.* In the "ARM" district, the following additional requirements must be met:
- (1) Sidewalks shall be constructed on all sides of the property abutting a public street for the multiple housing use described in subsection 94-172(b)(5), the special exception uses described in subsection 94-167(d) except for subsections 94-167(d)(7), (8), (9), and (12), and adult foster care congregate facilities described in subsection 94-172(d)(2).
 - (2) Sidewalks shall be constructed on all sides of the property abutting a public street for any use in the "ARM" district if such property is adjacent to any property which has sidewalks and which fronts on the same public street.

(Ord. No. 87-356, §§ 3, 4, 1-12-88; Ord. No. 88-361, § 5, 6-14-88; Ord. No. 88-367, § 9, 1-10-89; Ord. No. 96-491, § 11, 10-28-96; Ord. No. 00-454, § 5, 2-14-00)

Sec. 94-173. - "ARM" district one, residential, multiple-family.

- (a) *Intent.* The regulations of the "ARM" residential district one, multiple-family district are intended to encourage and permit low density multiple-family housing in areas deemed suitable therefor. Public water and sewer facilities shall be required.
- (b) *Principal uses.* Except as otherwise expressly permitted by this chapter, no building or part thereof in an "ARM" residential district one, multiple-family district shall be used, erected, altered or converted or land used, in whole or in part, except for:
 - (1) Principal use permitted in the "A" district as provided in section 94-167(b).
 - (2) Principal use permitted in the "SA" district as provided in section 94-169(b).
 - (3) Principal uses permitted in the "S" district as provided in section 94-173(b).
 - (4) Two-family dwellings, provided the requirements of this section are met.
 - (5) Multiple housing with more than two dwelling units but not more than four dwelling units, provided the requirements of this section are met.
- (c) *Permitted accessory uses to principal use.* The following uses accessory to the principal use are permitted in the "ARM" district one residential district: accessory uses as permitted in the "A" district, as provided by section 94-167(c).
- (d) *Special exception uses permitted after review and approval by the planning commission.* The uses specified by section 94-167(d) as special exception uses within the "A" district may be permitted as special exception uses within the "ARM" district one if approved by the planning commission as provided by section 94-167(d) and as provided by article IX.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "ARM" district one are contained in the tabular summary of the schedule of district regulations, except as set forth in subsection (f) of this section.

- (f) *Additional requirements.* In the "ARM" district one:
- (1) Minimum lot area for multiple housing shall be 15,000 square feet, increased for each unit beyond the first two dwelling units in accordance with subsection (f)(2).
 - (2) For each dwelling unit beyond the first two dwelling units, an additional 3,750 square feet of lot area and an additional 25 feet of lot frontage is required.
 - (3) Each unit shall have a floor area in accordance with section 94-172(f)(4).
 - (4) The yards shall be kept clear and unobstructed and shall not be used for the storage of materials, rubbish or debris, but may be used for gardening and planting. Permitted accessory buildings shall also be allowed as and where specified in this chapter.
 - (5) No building or structure shall exceed a height of the less of 2½ stories or 35 feet from the ground where it stands, except as otherwise provided by this chapter.
 - (6) Parking shall be provided as follows: in a garage or carport enclosed on three sides, with an additional parking space for each unit, which need not be enclosed.
- (g) *Sidewalks; additional requirement.* In the "ARM" residential district one, the following additional requirements must be met:
- (1) Sidewalks shall be constructed on all sides of the property abutting a public street for the multiple housing use described in subsection 94-173(b)(5) and the special exception uses described in subsection 94-167(d) except for subsections 94-167(d)(7), (8), (9), and (12).
 - (2) Sidewalks shall be constructed on all sides of the property abutting a public street for any use in the "ARM" residential district one, if such property is adjacent to any property which has sidewalks and which fronts on the same public street.

(Ord. No. 79-272, § 1, 1-22-80; Ord. No. 91-395, § 4, 8-13-91; Ord. No. 00-454, § 6, 2-14-00)

Sec. 94-174. - "RMT" district, mobile home or trailer coach parks.

- (a) *Intent.* The "RMT" district, mobile home or trailer coach parks, is for areas of the city suitable for mobile home or trailer coach parks. Such districts shall provide adequate space and facilities for healthful living conditions for occupants of such mobile home parks. All such districts shall have access to a major thoroughfare for easy accessibility. Public water and sewer facilities shall be provided in accordance with state, county and city health regulations, and any such parks shall be constructed and operated in compliance with all applicable statutes, ordinances and regulations.
- (b) *Principal use.* Except as otherwise expressly permitted by this chapter, no building or part thereof in an "RMT" district, mobile home or trailer coach parks, shall be used, erected, altered or converted or land used, in whole or in part, except for trailer coach or mobile home parks.
- (c) *Permitted accessory uses to principal use.* The following uses accessory to the principal use are permitted in the "RMT" district:
- (1) Recreation facilities for the exclusive use of the residents of the trailer coach or mobile home park and personal guests.
 - (2) Storage facilities for residents.
 - (3) Office and residence for manager of the mobile home park.
 - (4) Utility facilities.
 - (5) Laundry facility for the exclusive use of the residents of the trailer coach or mobile home park, to be heated in

winter, and to have provisions for furnishing an adequate supply of hot and cold water if such facility is provided.

- (d) *Special exception uses permitted after review and approval by the planning commission.* The uses specified by section 94-167(d) as special exception uses within the "A" district, except horses as provided by section 94-167(d)(7), may be permitted as special exception uses within the "RMT" district if approved by the planning commission as provided by section 94-167(d) and as provided by article IX.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "RMT" district are contained in the tabular summary of the schedule of district regulations.
- (f) *Additional requirements.* Before a permit for a trailer park or mobile home park in an "RMT" district is issued, the following requirements must be met:
- (1) *Development plan.* There shall be submitted to the building inspector a development plan of the trailer park or mobile home park in three copies and in sufficient detail to show compliance with the requirements of this article and showing a plat of all of the lots, location of the trailer coach or mobile home thereon, drainage courses, water and sewer lines, fire hydrants, lights, storm drainage facilities, streets, parking areas and buffer or screening zone.
 - (2) *Streets and street plan.* There must be submitted to the building inspector plans of a street system and assurance of the satisfactory construction thereof in accordance with the following:
 - a. All streets within the project shall be private but shall be paved with asphalt or concrete meeting city public street construction specifications except as otherwise provided in this chapter.
 - b. The interior street improvements shall extend continuously from the existing improved public street system to provide suitable access to the mobile home stands and other important facilities on the property, to provide adequate connections to existing or future streets at the boundaries of the property, and to provide convenient circulation for vehicles.
 - c. The street system shall afford two means of entrance and exit to a primary road or state highway, such entranceways to be not less than 300 feet apart and not less than 100 feet from the property boundary lines.
 - d. The street system shall be designed with blocks of proper size and shape to provide desirable trailer coach or mobile home lots and shall provide convenient circulation by means of minor streets and properly located collector streets. Street intersections shall generally be at right angles. All culs-de-sac which are longer than 180 feet shall have an unobstructed width of 20 feet exclusive of parking areas and at the closed end shall have an unobstructed turning circle at least 80 feet in diameter exclusive of parking areas.
 - e. Pavements shall be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of street, with ten-foot minimum moving lanes for streets and an eight-foot minimum lane for parallel guest parking, in accordance with the following requirements:
 1. All entrance streets and other collector streets with parking on both sides shall have a minimum width of 36 feet.
 2. Any collector street with no parking shall have a minimum width of 22 feet.
 3. A minor or cul-de-sac street without parking shall have a minimum width of 20 feet.
 - f. Streets shall be adapted to the topography and shall have suitable alignment and gradient for safety of traffic, satisfactory surface and groundwater drainage, and proper functioning of sanitary and storm sewer systems. In addition, details must be submitted showing that storm sewers will be installed which are adequate to dispose of storm and surface drainage and which will connect to established storm sewers or suitable natural drainage courses together with any easements necessary therefor.
 - g. Paved sidewalks having a minimum width of three feet shall be provided on both sides of each street.

- (3) *Lot area per trailer.* There shall be a minimum lot area for each trailer, which lot area shall not be less than 5,000 square feet; provided that in any mobile home or trailer coach park at least 20 percent of the lots shall have a minimum area of 6,000 square feet. Areas used for streets, sidewalks and onstreet parking shall not be considered part of the lot area.
- (4) *Proximity to other property.* In no case may a mobile home or trailer coach be placed closer than 50 feet to another property outside the mobile home or trailer coach park.
- (5) *Parking spaces.* The space between trailers may be used for the parking of motor vehicles, provided that such vehicles are to be parked at least ten feet from the nearest lot line. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic and in accordance with the following requirements:
 - a. Parking space shall be provided at the rate of at least one car space for each mobile home lot plus an additional car space for each three lots to provide for guest parking, for two car tenants and for delivery and service vehicles.
 - b. Required car parking spaces shall be located for convenient access to the mobile home stand, and insofar as practicable one car space shall be located on each lot and the remainder located in adjacent parking bays.
 - c. Each parking space on a mobile home or trailer coach lot shall have a minimum width of nine feet and minimum length of 20 feet and be set back 15 feet from the street.
 - d. Offstreet parking bays shall be constructed to meet the following requirements:

Parking angle	Curb length per car	Minimum bay length*	Minimum backing length*
90 degrees	9 feet	18 feet	26 feet
60 degrees	12.5 feet	17 feet	20 feet
45 degrees	12.7 feet	16 feet	19 feet

*Perpendicular to curblines.

- (6) *Utilities.*
 - a. Every mobile home or trailer coach park shall provide a sanitary sewer system connected to the public sewer system and shall provide for connection of every mobile home or trailer coach to such sanitary system.
 - b. Every mobile home park shall provide water service to every mobile home or trailer coach from the public water system.
 - c. There shall be provided fire hydrants connected to the public water supply having at least the capacity of 500 gallons flow per minute. Such fire hydrants shall be so located that the maximum distance between any mobile home and the closest hydrant shall be 250 feet measured along the centerline of the street or streets between two fixed points on such centerline determined by projecting straight lines, at right angles to such centerline, from the location of the hydrant and the mobile home.
- (7) *Storm shelter.* Every mobile home or trailer coach park shall provide one or more storm shelters of such size and capacity as to accommodate the residents of the park. Each such shelter shall be of construction approved to withstand tornadoes and shall have at least the south and west wall thereof entirely below grade and a roof of poured, reinforced concrete.
- (8) *Occupancy of park.*
 - a. No mobile homes or trailer coaches shall be permitted within the "RMT" district except when located in a

mobile home or trailer coach park on single or full multiple sites for which a certificate of occupancy has been issued. Such sites shall be permanently designated according to the dimensions on the plans submitted pursuant to this chapter.

- b. No certificate of occupancy shall be given for the entire mobile home or trailer coach park until the work is fully completed according to the plan for the entire park submitted pursuant to this chapter and until a license has been granted by the state. If the work on a mobile home or trailer coach park has not been fully completed according to the plan submitted, but at least 25 percent of the sites shown on that plan have been completed and the roads, utilities and facilities serving those sites and the recreation area, common facilities and other facilities required by this chapter have been completed, a certificate of occupancy limited to a number of sites completed at the time of application may be issued. If an additional 25 percent or more of the sites in the original plan are completed at any time, a new certificate of occupancy for such sites may be issued in the same manner. Provided, that it shall not be necessary to complete the greenbelt required by section 94-344 in order to obtain a certificate of occupancy. Such greenbelt shall be planted within six months after the issuance of the certificate of occupancy.
- c. Prior to the issuance of any permit for a mobile home or trailer coach park, the owner shall post a bond with a surety company authorized to do business in the state running to the city, or shall deposit cash in lieu thereof, such bond or deposit to be in the amount of \$10,000.00 conditioned upon the fulfillment of the requirements of this chapter and shall be in addition to the bond or cash deposit for greenbelt required by section 94-344.

(9) *Mobile home requirements.*

- a. No mobile home or trailer coach shall be occupied until it is inspected by the building inspector and approved for occupancy. If the mobile home or trailer coach, and the park in which it is located, comply with all ordinances of the city and statutes of the state, the mobile home or trailer coach shall be approved for occupancy.
- b. No mobile home or trailer coach shall be permitted in any mobile home or trailer coach park unless it shall have a minimum of one flush toilet, lavatory, and shower or tub. The mobile home or trailer coach shall be connected to the sanitary disposal system, water system, electrical system and other utilities in accordance with the statutes of the state and the ordinances of the city.
- c. No mobile home or trailer coach shall be permitted in any mobile home or trailer coach park unless within 30 days after the mobile home or trailer coach is moved into the park, it is completely enclosed between the ground and its bottom edge with solid aluminum skirting.
- d. No equipment or other material shall be stored under any mobile home or trailer coach.
- e. No mobile home or trailer coach shall be permitted in any mobile home or trailer coach park unless it is located on a pad of concrete at least four inches thick having dimensions at least equal to the exterior dimensions of the mobile home or trailer coach to be located on it. No mobile home or trailer coach shall extend beyond the edge of the pad on which it is located.

- (10) *Sale of mobile homes or trailer coaches.* No sales of mobile homes or trailer coaches shall be permitted within a mobile home or trailer coach park except sales of mobile homes or trailer coaches which have been skirted and are occupied or approved for occupancy. Provided, that mobile homes or trailer coaches which have been skirted are approved for occupancy and are on a site or sites which have been landscaped, may be used as models for the sale of similar mobile homes or trailer coaches to be located in that mobile home or trailer coach park. No mobile home or trailer coach being used as a model shall be sold unless the purchaser, simultaneous with such purchase, also purchases the site on which it is located or enters into a written lease of such site for a period of

at least one year. In no event shall any mobile home or trailer coach be sold within a mobile home or trailer coach park unless it is to be located within that park. No more than three signs relating to or used in connection with the sale of mobile homes or trailer coaches shall be permitted in any mobile home or trailer coach park. All signs used shall conform to the provisions of article XIV.

(11) *Required recreation area.* Every mobile home or trailer coach park shall provide a recreational area of at least eight percent of the total space occupied by the park. For purposes of this section, no lake, pond or unusable land shall be included as part of the required recreational area.

(g) *Inspection fees.* Each and every time a mobile home or trailer coach is located or relocated on a mobile home site within any mobile home park, and prior to the occupancy thereof, it shall be the duty of the owner of the mobile home park to notify the building inspector for the city and request an inspection. The building inspector shall promptly inspect or arrange for inspection of such mobile home as located or relocated for compliance with construction and safety standards established under the manufactured home construction and safety standards act (42 USC section 5401 et seq.), and to the extent applicable, the electrical code, mechanical code, building code and other laws and ordinances. To defray the costs of the inspection provided for in this subsection, there shall be levied against the mobile home park owner an inspection fee in the amount established by resolution of the city commission. Failure of the owner of any mobile home park to comply with the requirements of subsection (g) shall constitute a misdemeanor and render him liable to a criminal penalty for each such failure by a fine of not more than \$500.00 or by imprisonment in the county jail for not more than 90 days, or both, in the discretion of the court.

(Ord. No. 71-155, 9-2-71; Ord. No. 72-164, 2-22-72; Ord. No. 72-178, 10-19-72; Ord. No. 74-207, 4-18-74; Ord. No. 86-339, § 1, 8-12-86; Ord. No. 88-367, § 10, 1-10-89)

Sec. 94-175. - "ORP" district, office, research and parking.

- (a) *Intent.* The "ORP" district, office, research and parking, is to provide suitable locations for certain uses, primarily of office, laboratory or parking character, which while needing easy access to and from major traffic routes are typically noncommercial and nonindustrial.
- (b) *Principal uses.* Except as expressly otherwise permitted by this chapter, no building or part of a building in the "ORP" district, office, research and parking, shall be used, erected, altered or converted or land used, in whole or in part, except for:
- (1) Office uses resulting from the following occupations: executive, administrative, scientific, scholarly, artistic, architectural, engineering, accounting, law, secretarial services, drafting, designing, real estate offices, sales representatives without sales of goods on premises, and other occupations highly similar in characteristics or activities.
 - (2) Research, development and testing laboratories and offices, without manufacturing, to serve the needs of commerce, industry, education or government, provided that the same do not produce noise discernible at the lot line exceeding the average intensity of the street and traffic noises at the lot lines, nor discernible vibration at the lot lines, nor the production of heat or glare discernible at the lot lines, nor the emission of noxious fumes or odors.
 - (3) Radio and television studios.
 - (4) Electronic data processing centers.
 - (5) Offstreet parking for passenger vehicles.
 - (6) Medical and dental clinics.
 - (7) Photographic studios with only incidental photographic processing.

- (8) Churches and post offices.
 - (9) Funeral homes.
 - (10) Banks.
 - (11) Telephone exchange buildings.
 - (12) Public, private or trade schools.
 - (13) Federal, state or municipal administrative buildings, libraries, museums and art galleries.
 - (14) Hospitals.
 - (15) Nursing homes.
 - (16) Business offices for building trades or construction contractors. The premises shall be used solely for business office activities. There shall be no manufacturing, fabrication, sale or storage (indoors or outdoors) of products, goods or machinery on the lot at any time. No commercial vehicle larger than a regularly manufactured pickup or panel truck of one and one-half-ton capacity shall be parked or garaged on the lot at any time.
 - (17) Other uses determined by the zoning board of appeals to be similar to the permitted principal uses in this zone district and compatible with the intent of this zone district.
 - (18) Small animal clinics.
 - (19) Catering office and production center (single- or multi-tenant).
- (c) *Permitted accessory uses to principal uses.* The following uses accessory to the principal uses are permitted in the "ORP" district:
- (1) In connection with existing residential uses, accessory uses as permitted in the "A" district as provided by section 94-167(c).
 - (2) In connection with parking as principal use, shelter for parking attendant not to exceed 64 square feet of usable floor area or 15 feet in building height.
 - (3) Any use customarily incidental to the permitted principal uses shall be a permitted accessory use.
- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses of land and structures may be permitted as special exception uses within the "ORP" district if approved by the planning commission as provided by this section and as provided by article IX:
- (1) Drugstore, florist, gift store, bookstore, music store, antique shop, card shops.
 - (2) Personal service establishments and small retail businesses of a type customarily found in, and to serve the occupancy of, an office building.
 - (3) Recreation uses such as parks, playgrounds, golf courses, ballfields, athletic fields and community centers.
 - (4) Child care centers, day care centers, child caring institutions, and child placing agencies.
 - (5) Housing for the elderly and independent living facilities.
 - (6) Fitness centers and health clubs.
 - (7) Outdoor recreation, commercial.
 - (8) Self-storage: Interior access.
 - (9) Government research, testing, and development laboratories.
 - (10) Government offices, public works facilities, fire stations, and police stations.
 - (11) Artisanal manufacturing (single- or multi-tenant).
 - (12) Minor recreation, commercial indoor.

(e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "ORP" district contained in the tabular summary of the schedule of district regulations.

(f) *Additional requirements.* In the "ORP" district, sidewalks shall be constructed on all sides of the property abutting a public street.

(Ord. No. 88-369, §§ 11, 12, 1-10-89; Ord. No. 95-467, §§ 1, 2, 7-11-95; Ord. No. 96-491, §§ 12, 13, 10-28-96; Ord. No. 97-500, § 3, 9-8-97; Ord. No. 99-542, § 1, 10-25-99; Ord. No. 18-641, § 2, 4-23-18)

Sec. 94-176. - "C-1" district, local commercial.

(a) *Intent.* The "C-1" district, local commercial, is to provide neighborhood convenience shopping zones where retail stores may offer commodities and services for the everyday convenience of the neighborhood.

(b) *Principal uses.* Except as expressly otherwise permitted by this chapter, no building or part of a building in the "C-1" district, local commercial, shall be used, erected, altered or converted or land used, in whole or in part, except for:

(1) Food stores, grocery stores, meat markets, bakeries, coffee shops, delicatessens and restaurants.

(2) Household appliance, radio and television shops.

(3) Hardware, paint and wallpaper stores.

(4) Bookstores.

(5) Florist, gift shops.

(6) Laundry pickup, automatic laundry, tailor shops, shoe repair.

(7) Barbershops, beauty shops.

(8) Clothing stores, dry goods stores, dress shops.

(9) Banks.

(10) Drugstores.

(11) Medical, dental or legal offices.

(12) Real estate or insurance offices.

(13) Churches.

(14) Public, private or trade schools.

(15) Federal, state or municipal administrative buildings, post offices, libraries, museums, and art galleries.

(16) Hospitals.

(17) Nursing homes.

(18) Other retail business or service uses determined by the board of zoning appeals to be similar to the permitted principal uses in this zoning district and compatible with the intent of this zoning district.

(19) Small animal clinics.

(20) Fitness centers and health clubs.

(21) Restaurants with outdoor service, provided all of the following apply:

a. Outdoor service area does not exceed 20 percent of the enclosed usable floor area of the building.

b. No alcoholic beverages are served.

c. No music is played or performed outdoors.

d. Hours do not extend before 8:00 a.m. or after 10:00 p.m.

(c) *Permitted accessory uses to principal uses.* Any use customarily incidental to the permitted principal uses in the "C-

1" district shall be a permitted accessory use.

(d) *Special exemption uses permitted after review and approval by the planning commission.* The following uses may be permitted as special exception uses within the C-1 district if approved by the planning commission as provided by [section 94-167\(d\)](#) and as provided by article IX:

(1) Child care centers, day care centers, child caring institutions and child placing agencies.

(2) Car washes, provided that the car wash complies with the following:

- a. *Structure.* The washing of automobiles in a mechanized car wash shall be conducted within a building. The washing of automobiles in a manual (self-serve) car wash shall be under a roof supported by two walls.
- b. *Hours of operation.* No mechanized car wash shall be operated or open to the public between the hours of 11:00 p.m. and 7:00 a.m. any day of the week.
- c. *Parking.* A car wash shall provide an adequate stacking area, of at least three automobiles per bay, for patrons to wait in line for the next available bay. No car wash owner or operator shall permit automobiles to wait in or on any street. A mechanized car wash shall provide a designated parking area for employee parking. The designated parking area shall include a number of parking spaces equal to the maximum number of employees that may be employed at the mechanized car wash during any shift.
- d. *Vacuuming.* A car wash that provides vacuuming services for the interior of vehicles shall comply with the following:
 1. The vacuums shall be located in the rear or side yard.
 2. The vacuums shall be located at least 50 feet from any lot line for the parcel on which the car wash is located.
 3. The vacuums shall be located at least 100 feet from any residential district or use.
- e. *Lighting.* Any on-site lighting shall be shielded or otherwise directed away from adjacent properties. Poles or lighting fixtures shall not exceed a height of 35 feet.
- f. *Wastewater.* Wastewater shall be filtered or otherwise cleansed so as to minimize the discharge of soap, wax, and any other liquids or solid matter into the public sewer.
- g. *Greenbelt.* A car wash shall comply with the greenbelt requirements of [section 94-344](#) of this chapter.
- h. *Exiting.* In reviewing any plan for the use of a parcel for a manual or mechanized car wash as permitted by this subsection, the planning commission shall review each plan to ensure that the parcel contains an adequate amount of space for the exiting of vehicles from the car wash.
- i. *Other conditions.* The planning commission may impose other conditions, consistent with article IX of this chapter, as determined necessary by the planning commission.

(3) Minor recreation, commercial indoor.

(4) Restaurants with an outdoor service area which include any of the following:

- a. A total area used for outdoor service and seating which exceeds 20 percent of the enclosed usable floor area of the building.
- b. Service of alcoholic beverages.
- c. Performance or playing of outdoor music.
- d. Hours which extend before 8:00 a.m. or after 10:00 p.m.

(5) Self-storage: Interior access.

(6) Artisanal manufacturing (single- or multi-tenant).

- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "C-1" district contained in the tabular summary of the schedule of district regulations.
- (f) *Additional requirements.* In the "C-1" district, the following additional requirements must be met:
- (1) Except for car washes permitted by this chapter, all business, service or processing shall be conducted wholly within a completely enclosed building, provided that an outdoor display and sales area not to exceed 20 percent of the enclosed building area may be used for the display and sale of items normally exposed to the elements in their natural condition of location as to storage and use. Such display and sales area shall not diminish any required front yard setback or required parking area. This section shall not be construed as permitting outdoor storage in this district.
 - (2) Sidewalks shall be constructed on all sides of the property abutting a public street.
- (Ord. No. 81-282, § 1, 3-10-81; Ord. No. 88-367, § 13, 1-10-89; Ord. No. 96-491, § 14, 10-28-96; Ord. No. 97-499, §§ 2, 3, 9-8-97; Ord. No. 97-500, § 4, 9-8-97; Ord. No. 99-542, § 2, 10-25-99; Ord. No. 18-641, § 2, 4-23-18)

Sec. 94-177. - "C-2" district, community commercial.

- (a) *Intent.* The "C-2" district, community commercial, is to provide for the development of sound and efficient shopping and central business districts, a prime characteristic of which is a core of intense pedestrian activity. Most persons entering the district will come by automobile and typically will park once to carry out several errands. The economic welfare of merchandising activities in this district depends on intense development of comparison shopping with each establishment contributing to the whole shopping center by adding to the variety of goods available and to the comparison shopping opportunities. Office building activities are compatible with the purposes of this district if adequate and convenient automobile parking can be provided for both the office and the retail merchandising activities.
- (b) *Principal uses.* Except as otherwise expressly permitted by this chapter, no building or part of a building in the "C-2" district, community commercial, shall be used, erected, altered or converted or land used, in whole or in part, except for:
- (1) The principal uses permitted in the "C-1" district, local commercial.
 - (2) Department stores.
 - (3) Hotels and motels.
 - (4) Any retail business whose principal activity is the sale of merchandise or services in an enclosed building, except uses which tend to detract or interfere with a high intensity of pedestrian shopping activity, such exceptions including automobile sales, boat sales, mobile home sales and motorcycle sales. Permitted uses in this district include retail shops in which both a workshop and a retail outlet are required, such as interior decorating, dressmaking, tailoring, upholstering, radio and home appliance, photographic supplies and processing, subject to the provision that not more than 50 percent of the total usable floor area shall be used for servicing, repairing or processing activity.
 - (5) Telephone exchange buildings.
 - (6) Other uses determined by the board of zoning appeals to be similar to the permitted principal uses in this district and compatible with the intent of this zoning district.
 - (7) Enclosed theaters, assembly halls, concert halls, or enclosed stadiums or sports arenas.
 - (8) Radio and television studios.
 - (9) Fitness centers and health clubs.

- (c) *Permitted accessory uses to principal use.* Any use customarily incidental to the permitted principal use in the "C-2" district permitted in this district as an accessory use.
- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses may be permitted as special exception uses within the C-2 district if approved by the planning commission as provided by section 94-167(d) and as provided by article IX:
- (1) Child care centers, day care centers, child caring institutions and child placing agencies.
 - (2) Car washes, so long as the car wash complies with section 94-176(d).
 - (3) Minor recreation, commercial indoor.
 - (4) Major recreation, commercial indoor.
 - (5) Outdoor recreation, commercial.
 - (6) Restaurants with an outdoor service area which include any of the following:
 - a. A total area used for outdoor service and seating which exceeds 20 percent of the enclosed usable floor area of the building.
 - b. Service of alcoholic beverages.
 - c. Performance or playing of outdoor music.
 - d. Hours which extend before 8:00 a.m. or after 10:00 p.m.
 - (7) Self-storage: Interior access.
 - (8) Artisanal manufacturing (single- or multi-tenant).
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "C-2" district are contained in the tabular summary of the schedule of district regulations.
- (f) *Additional requirements.* In the "C-2" district, the following additional requirements must be met:
- (1) All business, service or processing shall be conducted wholly within a completely enclosed building, provided that an outdoor display and sales area not to exceed 20 percent of the enclosed building area may be used for the display and sale of items normally exposed to the elements in their natural condition of location as to storage and use. The outdoor display and sales area shall not diminish any required front yard setback or required parking area. This section shall not be construed as permitting outdoor storage in this district.
 - (2) Sidewalks shall be constructed on all sides of the property abutting a public street.

(Ord. No. 81-282, § 1, 3-10-81; Ord. No. 88-367, § 14, 1-10-89; Ord. No. 96-491, § 15, 10-28-96; Ord. No. 97-499, § 4, 9-8-97; Ord. No. 99-542, § 3, 10-25-99; Ord. No. 18-641, § 2, 4-23-18)

Sec. 94-177-A. - Standale Downtown District.

1. *Intent.* The Standale Downtown District is intended to promote the redevelopment of property located within Standale in a manner consistent with the city master plan. The intent of this district is to facilitate the development of a traditional, pedestrian-oriented downtown. Forms and patterns of the built environment shall reflect the recommendations outlined in the master plan and meet the requirements of this section.

Buildings containing retail and service uses on the first floor, and offices, services or residences on upper floors, shall be located along primary and secondary frontage areas. Such mixed-use buildings shall meet the urban design standards contained in this section and shall be linked to and complemented by integrated residential development within the district and nearby neighborhoods.

Residential development in neighborhood frontage areas shall connect to the core downtown area; shall consist of single-family or multifamily residential units constructed using traditional neighborhood design principles; shall feature pedestrian-oriented streetscapes; and shall feature a system of neighborhood open spaces, all as defined in this section.

2. *Site plan review and special exception permits.*

(A) All new buildings and alterations to existing buildings within this District are subject to site plan review by the city planning commission as follows:

- (1) Where a new building is proposed, the building, use and lot shall be subject to all requirements of this district.
- (2) Existing buildings shall undergo site plan review by the planning commission to apply the requirements of this district when the following additions or changes are proposed:
 - a. A footprint change of at least 5,000 square feet.
 - b. A front façade change of at least 50 percent of the façade area.
 - c. A change in building height.
 - d. A change in front, side or rear setbacks.
 - e. A change in land use that will generate significantly increased amounts of vehicular traffic or pedestrian trips, based on data from the ITE Trip Generation Manual or other professional references.
- (3) In certain cases, the planning commission may limit the application of the architectural requirements of this district based on the following findings of fact:
 - a. The footprint change, façade alteration or change in building height cannot be made entirely consistent with the standards of this section because:
 - i. The existing structure is of an architectural type that is substantially different from buildings prescribed by this section.
 - ii. The changes, alterations or expansion are relatively minor in nature based on the size, scope, and location of the existing structure.
- (4) The information required for site plans that are submitted for planning commission review shall include that contained in [section 94-280](#). Standards for site plan review by the planning commission are those noted in [section 94-283](#). Conditions of approval may be imposed on a site plan, as noted in [section 94-285](#). Site plan reviews, approvals, changes to an approved site plan, performance guarantee requirements, variances and enforcement provisions shall be processed in accordance with sections [94-282](#), -286, -287, -288, -289 and -290.
- (5) Special exception permit applications shall be processed, reviewed and regulated as provided in article IX.

3. *Scope of application.*

(A) *Frontage areas.* Frontage areas are established within the Standale Downtown District that prescribe requirements for building form, lot dimensions, architectural design, parking lot location, access management and streetscape treatments. Each lot shall be regulated relative to its street frontage as follows:

- (1) *Primary frontage areas.* Frontages within the district that abut Lake Michigan Drive or Wilson Avenue may only be commercial or mixed-use in nature. Because these roads are designated state highways, specific design details for access management, parallel service drives and front yard parking, as promulgated by the Michigan Department of Transportation and the city, will apply in the event of a conflict with the provisions of this section.

- (2) *Secondary frontage areas.* Frontages that abut streets other than Lake Michigan Drive or Wilson Avenue, (e.g., K Cummings, Parkside and St. Clair Avenues), including any new public or private roads proposed as part of a dev only be mixed use in nature and must provide an environment that supports pedestrian activity and accommod parking.
 - (3) *Neighborhood frontage areas.* Frontages within the district that abut residential streets may only be used for residential purposes. A residential street defines a block where the majority of frontage is residential.
 - (4) *[Establishment of frontage areas.]* Frontage areas are established on a block-by-block basis and an individual street may be divided into separate frontage areas along its length. Opposing sides of a street shall have the same frontage area designation, which shall be consistent with the regulating plan map found at subsection (5)(u).
 - (5) For lots located at the corner of two intersecting street types, the frontage area may wrap the corner onto the other street frontage. For example, a building on a lot at the intersection of a primary frontage area and a secondary frontage area may be designed based on the requirements of the primary frontage area on both street frontages, as allowed by the planning commission.
 - (6) Civic or institutional use buildings may deviate from the dimensional requirements noted in this section, as allowed by the planning commission.
- (B) *Permitted uses, special exception uses and prohibited uses.* Use and development of land within the district shall be regulated as follows:

(1) The following abbreviations apply to the following Table of Uses:

P: Permitted Use—Land and/or buildings in this district may be used for the purposes listed by right.

SE: Special Exception—The following uses may be permitted by obtaining special exception permit approval.

NP: Not Permitted—The use is not permitted in the district.

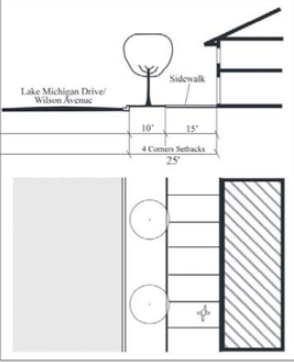
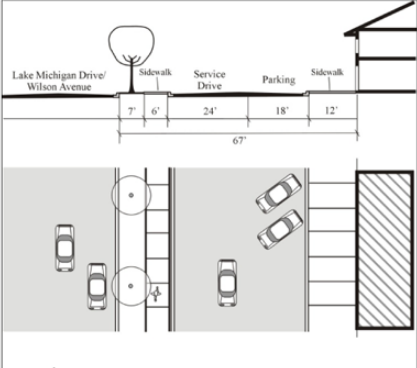
Use	Primary Frontage Areas	Secondary Frontage Areas	Neighborhood Frontage Areas
Auto/vehicle wash—Automatic tunnel	SE	NP	NP
Auto/vehicle wash—Manual	NP	NP	NP
Automobile service, repair and body work	NP	NP	NP
Banks with drive-up windows	SE	SE	NP
Banks	P	P	NP
Bar/night club	SE	SE	NP
Bicycle shops	P	P	NP
Bookstores	P	P	NP

Childcare centers, day care centers, child caring institutions, and child placing agencies	SE	SE	SE
Churches, places of worship	P	P	SE
Clinics—Medical, dental, veterinary	P	P	NP
Community centers	P	P	NP
Dry cleaners, laundromats	P	P	NP
Entertainment uses—Theaters, art studios, music studios, bowling alleys, assembly halls, fraternal organization halls, concert halls, etc.	P	P	NP
Farmer's market/produce market	SE	SE	SE
Food stores—Grocery stores, meat markets, bakeries, coffee shops, delicatessens, etc.	P	P	NP
Fueling/gas stations	SE	NP	NP
Funeral homes	P	P	NP
Government administrative, service and public safety buildings	P	P	SE
Hardware, paint and wallpaper stores	P	P	NP
Health clubs, gyms and fitness centers	P	P	NP
Hotels	P	P	NP
Household appliance and electronics shops/repair	P	P	NP
Housing for the elderly—Assisted or independent living facilities	SE	SE	SE
Liquor stores/party stores/convenience stores	SE	NP	NP
Libraries, museums and art galleries	P	P	NP
Live-work units	P	P	NP

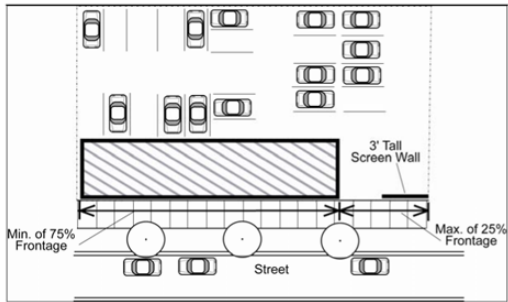
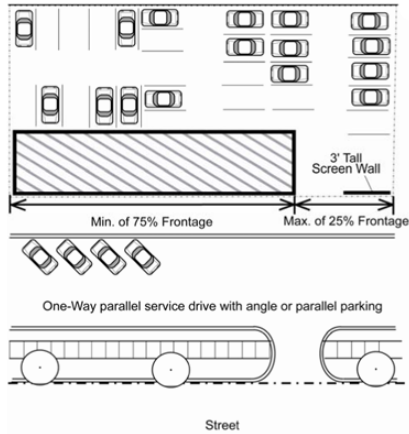
Offices—Medical, dental, executive, professional, technical, legal, sales	P	P	NP
Outdoor sales of boats, cars, trucks, recreational vehicles, mobile homes, towing trailers, etc.	NP	NP	NP
Parking lot/park n' ride lot	SE	SE	SE
Personal service establishments—Tanning booths, barbershops, beauty shops, professional massage, nail salons, etc.	P	P	NP
Photographic studios with accessory photographic processing	P	P	NP
Post office	P	P	NP
Public or private schools or trade schools	SE	SE	SE
Regulated Uses	Per article XIII of Walker Zoning Ordinance		
Residential units above first story	P	P	P
Residential units at first-story level	SE	P	P
Restaurants w/drive-up window	NP	NP	NP
Restaurants	P	P	NP
Retail uses—Clothing shops, department stores, drugstores, florists, gift stores, music stores, antique shops, home improvement stores, card shops, sporting goods, pet shops, etc.	P	P	NP
Townhouses	NP	P	P
Wireless telecommunication towers	SE	SE	SE
Other uses as approved by the planning commission, consistent with the standards and regulations of this district, the principles of the City of Walker "Downtown Standale" Master Plan, and the Standale Downtown Development Authority Development Plan and Tax Increment Financing Plan.			

4. Dimensional requirements.

(A) Primary frontage areas. The following requirements apply to lots that front on Lake Michigan Drive or Wilson Avenue:

<p>Lot Area</p>	<p>Minimum of 5,000 square feet</p>	
<p>Lot Width</p>	<p>Minimum of 50 feet</p>	
<p>Front Yard and Building Frontage Requirements</p>	<p>1) 4 Corners Intersection: For the purposes of this section, 4 Corners Intersection shall be defined as the lots near the intersection of Lake Michigan Drive and Cummings Avenue, as indentified on the regulating plan map found in subsection (5)(u) and subject to refinement by the planning commission.</p>	<p>Figure 1.</p> 
<p>2) The required build-to line for any 4 Corners Intersection building shall be parallel to the street and measure 25 feet from the back of the adjacent and existing curb line. The area within this setback shall include a ten-foot-wide greenbelt adjacent to the street and a 15-foot wide sidewalk adjacent to the building. See Figure 1.</p>		<p>Figure 2.</p> 

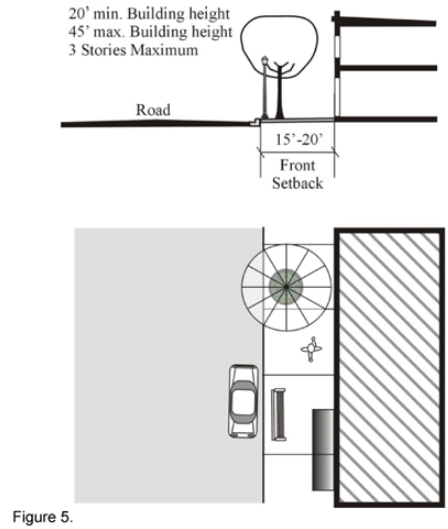
	<p>3) The required build-to-line for all other buildings in the primary frontage zone shall be parallel to the street and measure 67 feet from the back of the adjacent and existing curb line. The area within this setback shall include: a seven-foot-wide greenbelt adjacent to the street; a six-foot-wide sidewalk adjacent to the greenbelt; a 24-foot-wide paved and curbed service drive; either 18-foot-deep angled or 90-degree parking spaces; and a 12-foot-wide sidewalk adjacent to the building. See Figure 2.</p>	
	<p>4) A building facade shall occupy a minimum of 75 percent of the lot frontage at the required build-to-line. The planning commission may reduce this requirement if an access drive to a rear parking, loading or maneuvering area is necessary. Such access points must be coordinated with driveway locations, as permitted by MDOT and the city. See Figures 3 and 4.</p>	
<p>Building Height</p>	<p>Minimum 25-foot building height. Maximum 45-foot building height or three stories. The floor-to-ceiling height of the first story shall be a minimum of 12 feet.</p>	

<p>Accessory Buildings</p>	<p>Accessory buildings shall only be located behind the principal building. All accessory buildings shall be reviewed by the planning commission via the site plan review process.</p>	
<p>Parking Lot Location</p>	<ul style="list-style-type: none"> • Parking or access drives parallel to Lake Michigan Drive shall not be permitted in the front setback for properties falling under the 4 Corners Intersection requirements of this district. In such cases, off-street parking shall only be permitted in side or rear yards. • All other properties in the district shall have angled parking located between the building and the fronting street. 90-degree parking spaces may be allowed if consistent with the overall circulation and access management plans for the district. • Off-street parking areas shall not occupy more than 50 percent of the lot area. 	 <p>Figure 3.</p>
<p>Side Yard</p>	<p>A side yard setback is not required, except that the planning commission may require pedestrian or vehicular access to the rear of the lot. If a side yard setback is provided it shall be at least six feet to accommodate pedestrian access and 24 feet for vehicular access.</p>	 <p>Figure 4.</p>

<p>Rear Yard</p>	<p>The planning commission may require pedestrian or vehicular access to the rear of the lot. If a rear yard setback is provided it shall be at least six feet to accommodate pedestrian access and 24 feet for vehicular access. The planning commission may require a 20-foot rear yard setback to buffer adjacent residential uses.</p>
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(B) *Secondary frontage areas.* The following requirements apply to lots in secondary frontage areas:

<p>Lot Area</p>	<p>5,000 square feet.</p>
<p>Lot Width</p>	<p>50 feet.</p>
<p>Front Yard and Building Frontage Requirements</p>	<ul style="list-style-type: none"> • Minimum 15-foot front yard setback. Maximum 20-foot front yard setback. Front setbacks shall be measured from the back of the adjacent street curb line in place on the date this code was adopted. • A minimum eight-foot sidewalk shall be provided in the front setback. • The building façade shall occupy no less than 60 percent of the frontage at the setback. • See Figures 5 and 6.



<p>Building Frontage Exceptions</p>	<ul style="list-style-type: none">• Exceptions to the maximum front yard setback and building frontage requirements may be granted by the planning commission when the front yard is used for the following purposes:	
	<ul style="list-style-type: none">◦ A gathering area or plaza that offers seating, landscape enhancements, public information and displays, fountains, outdoor seating or other pedestrian amenities.	
	<ul style="list-style-type: none">◦ Intersection clear vision area.	
	<ul style="list-style-type: none">◦ The building is used for public or quasi-public/institutional purposes with a plaza or open space area provided in the front yard.	

<p>Side Yard</p>	<p>A zero side setback may be permitted by the planning commission where a firewall is provided along the side lot line, subject to approval of the city building official, whose recommendation shall be based on applicable building code standards. The planning commission may require pedestrian and vehicular access to the rear of the lot. If a side yard setback is provided it shall be at least six feet for pedestrian access and 24 feet for vehicular access.</p>
<p>Rear Yard</p>	<p>The planning commission may require a pedestrian and vehicular access to the rear of the lot. If a rear yard setback is provided it shall be at least six feet for pedestrian access and 24 feet for vehicular access. A rear yard setback of 20 feet may also be required by the planning commission to buffer adjacent uses.</p>
<p>Building Height</p>	<p>Minimum 20-foot and two-story building height. Maximum 45-foot and three-story building height. The minimum first story floor-to-ceiling height shall be 12 feet.</p>

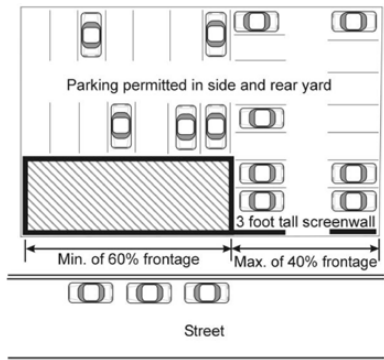
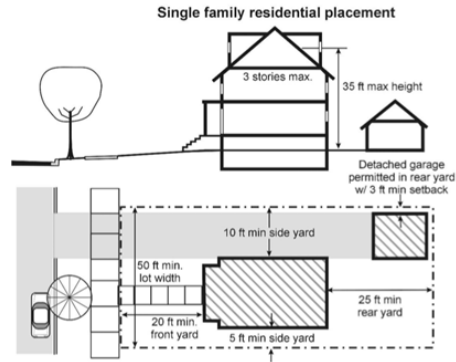
<p>Accessory Buildings</p>	<p>If authorized by the planning commission, accessory buildings may only be located behind the principal building and are subject to site plan review.</p>	
<p>Parking Lot Location</p>	<ul style="list-style-type: none"> • On-street parking spaces located along the front of a lot shall count toward meeting parking requirements. At least 51 percent of the length of the space must be in front of the lot to be counted. • Parking is permitted in the rear yard. • Parking in the side yard may not be located in front of a line extending across the front façade of the principal building. A three-foot-high brick screen wall or wrought iron fence with piers shall be provided between the parking and the public sidewalk. Openings may be provided to accommodate vehicular or pedestrian access but shall not be wider than 24 feet for vehicles or six feet for pedestrians. • Parking areas may not occupy more than 50 percent of the lot area. • See Figure 6. 	 <p>The diagram illustrates a parking lot layout relative to a street. A hatched rectangular area represents the principal building. To its right, a shaded area represents the parking lot. A '3 foot tall screenwall' is shown between the parking area and the street. The street is labeled 'Street' at the bottom. Above the parking area, text reads 'Parking permitted in side and rear yard'. Below the parking area, two horizontal arrows indicate frontage requirements: 'Min. of 60% frontage' on the left and 'Max. of 40% frontage' on the right. Car icons are shown in various parking spaces and along the street.</p>

Figure 6.

(C) *Neighborhood frontage areas.* The following requirements apply to lots in neighborhood frontage areas:

<p>Lot Area/Density</p>	<p><u>Townhouses/Attached Single-Family:</u> Up to ten units per acre net. <u>Detached Single-Family:</u> Up to seven units per acre net. <u>Senior facility/assisted living:</u> As approved by the planning commission.</p>
<p>Lot Width</p>	<p><u>Townhouses/Attached Single-Family:</u> Minimum 20 feet/Maximum 32 feet. <u>Detached Single-Family:</u> Minimum 50 feet/Maximum 100 feet.</p>
<p>Front Yard Requirements</p>	<p><u>Townhouses/Attached Single-Family:</u> Minimum five feet. <u>Detached Single-Family:</u> Minimum 20 feet.</p>
<p>Side Yard</p>	<p><u>Townhouses/Attached Single-Family:</u> No side yard between units, minimum 15 feet between buildings. Minimum 15-foot setback from any single-family lot. <u>Detached Single-Family:</u> Five-foot and ten-foot side setback minimums.</p>
<p>Rear Yard</p>	<p>Minimum 25-foot rear yard setback for principal buildings.</p>



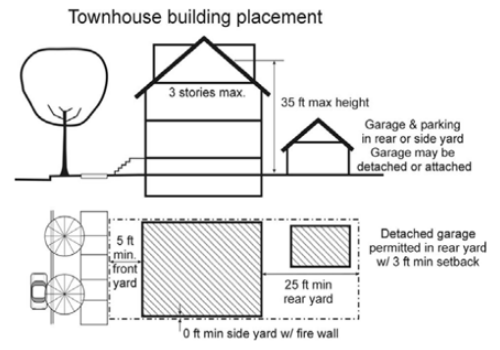
Building Height

Minimum 2 stories.
 Maximum three stories—Not including half stories.
 Maximum 35-foot building height.
 The first-floor elevation shall be at least three feet above the sidewalk elevation in front of the building.

Accessory Buildings

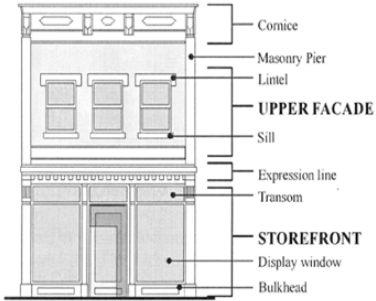
Detached garages and other accessory buildings are permitted only if located in the rear yard and setback at least three feet from the rear and side lot lines.

Attached garages are permitted, provided the front of the garage is set back at least five feet behind the front façade of the building, and the garage wall facing the street is less than 50 percent of the total façade length of the street-facing dwelling unit.



<p>Parking Lot Location</p>	<p>On-street parking shall be permitted and may be credited towards meeting off- street parking requirements. At least 51 percent of the length of the space must be in front of a lot in the development to be counted. If on-street parking is not utilized, the planning commission shall determine the appropriate location and number of parking spaces, based on the type of residential use that is proposed consistent with article XVI.</p>
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(D) *Commercial, office and mixed-use architectural requirements.* Commercial, office and mixed-use buildings in the district shall meet the following architectural design requirements:

<p>Commercial, Office and Mixed-Use Buildings</p>	<p>Commercial, office and mixed-use buildings shall be designed to reflect traditional architectural elements and character via the following:</p> <ul style="list-style-type: none"> • All buildings shall front onto a public sidewalk, exhibiting windows, doors, and architectural details that are customary to traditional storefronts, and be characterized by varying materials and appearances. 	 <p>The diagram illustrates a cross-section of a building's storefront. It is divided into two main sections: the 'UPPER FACADE' and the 'STOREFRONT'. The upper facade includes a decorative 'Cornice' at the top, followed by a 'Masonry Pier' and a 'Lintel' above a window. Below the window is a 'Sill'. The storefront section features an 'Expression line' and a 'Transom' above a 'Display window'. At the base of the storefront is a 'Bulkhead'.</p>
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- First-floor facades of commercial, office and mixed-use buildings shall, as determined by the planning commission, have:
- Architectural variety in the form of offsets, lintels, expression lines or cornices;
- Clearly defined and recessed entryways that orient to the street;
- Display windows that orient street-level customers to merchandise;
- Changes in texture, color or masonry pattern; pilasters, piers or columns;
- Awnings, arcades, or covered porches that protect users from the weather.

Commercial, Office and Mixed-Use Building Entrances

• Commercial, office and mixed-use buildings shall have a main entrance located at street level, facing the street frontage. Main entrances shall be designed so that architectural details enhance their appearance and prominence and so that they are recognizable from the street and parking areas.

	<ul style="list-style-type: none"> • For buildings longer than 100 feet, a minimum of one functional entrance shall be located for every 50 feet of street frontage. 	
<p>Commercial, Office and Mixed-Use Corner Buildings</p>	<p>The architectural character of a building situated at a corner shall incorporate accents and details that accentuate its prominent location. This can be accomplished by vertical projections or changes in height that are incorporated into the design.</p>	
	<p>Included are features such as, by way of example, changes in roof design, a building peak, tower, or similar accent with the highest point located at the intersecting corner. Alternatively, a pedestrian plaza may be provided at the corner of the intersecting streets.</p>	
	<p>A main entrance must be on a street-facing wall and either at the corner or within 25 feet of the corner.</p>	
<p>Commercial, Office and Mixed-Use Building Materials</p>	<p>The following requirements apply to a façade facing a street or parking area. These requirements do not include areas devoted to windows and doors.</p>	

	<ul style="list-style-type: none">• All walls exposed to public view from a street, or from a parking area, shall be constructed of not less than 75 percent modular brick or stone. Panel brick and tilt-up brick textured paneling are not permitted.	
	<ul style="list-style-type: none">• The remaining façade may include concrete block, wood siding or fiber cement siding. Exterior insulation finish systems (EIFS) may be used for architectural detailing above the first floor.	
	<ul style="list-style-type: none">• Multistory buildings shall be designed so that there is distinct architectural differentiation between the ground floor and the floors above. This can be achieved, by way of example, by incorporating differences in floor-to-ceiling heights, using an expression line, changing material or textures, or adding an awning or canopy between the first and upper stories.	

Commercial, Office and Mixed-Use Buildings

- At least 60 percent of the storefront/ground floor façade shall be clear glass windows and doorways. Clear glass shall be transparent at the street level and possessing a measurement of greater than sixty (60) percent Visible Light Transmission (VLT).

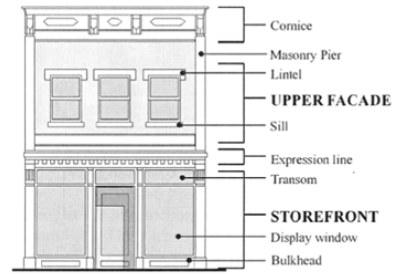
- Required window areas shall be either windows that allow views into retail space, working areas or lobbies, pedestrian entrances, or display windows set into the wall.

- Reflective or tinted glass that impedes views into a building is prohibited. Windows shall not be covered with opaque materials or blocked by shelving units.

- The bottom of a window must be no more than four feet above the adjacent exterior grade.

- The front entranceway shall be inset a minimum of three feet from the front façade.

- Window openings above the first story shall be a maximum of 30 percent of the total façade area. Windows shall be taller than wide in proportion.



Commercial, Office
and Mixed-Use
Buildings Roof
Design

- Unless otherwise permitted by the planning commission, buildings shall have flat roofs, as viewed from the street.
- The top of a building shall be clearly defined from the lower floors by a change in materials, such as a cornice line that is proportionate to the size of the building and length of the wall.
- A pitched roof is permitted with the approval of the planning commission; provided, however, pitched and mansard roofs shall not be permitted if the eaves are less than 20 feet above grade.
- All roof edges shall be accentuated in a manner proportionate to the size of the building and length of the wall.
- Flat roofs must be enclosed by parapets.
- All rooftop-mounted equipment must be enclosed or screened from view on all sides of a building.

- Parapets and other screen treatments shall be composed of high-quality building materials and shall blend with the design of the building, as determined by the planning commission, in terms of color, materials, scale and height.

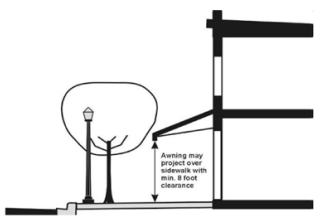
Commercial, Office and Mixed-Use Buildings Awnings

- Awnings may project over a public sidewalk if a minimum eight-foot vertical clearance is maintained and where a license has been obtained from the city where public right-of-way encroachment is proposed.


- Awnings shall be traditional angled awnings with open sides and shall only be positioned directly above ground floor windows and doors.

- Awnings shall be made of durable materials such as canvas or steel. High-gloss or plasticized awnings are prohibited.

Awnings shall not be internally illuminated and any awning signs shall be illuminated by fixtures located above the awning and directed downward.

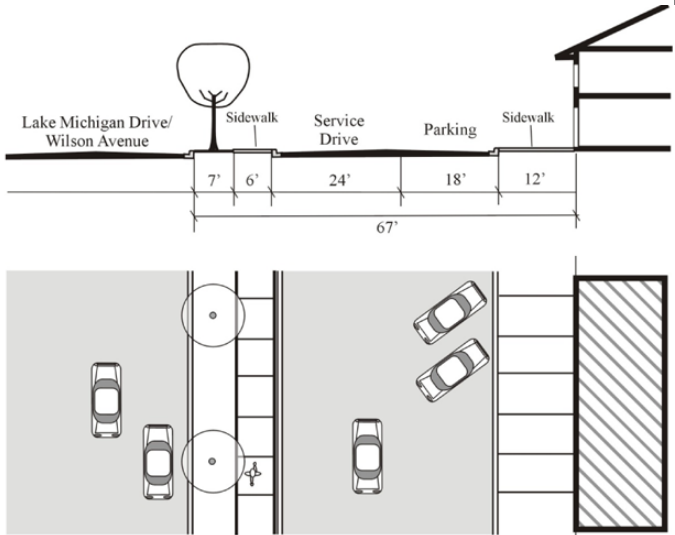


(E) *Residential architecture.* Stand-alone townhouses, multifamily, and single-family residential buildings in the district the following requirements:

<p>Building design</p>	<ul style="list-style-type: none"> Residential buildings shall reflect traditional architectural character and design, such as, but not limited to: Arts & Crafts, Colonial, Gothic Revival, Townhouses Italianate, Tudor, Victorian or other traditional regional styles as approved by the planning commission. Identical or similar buildings or elevations may not be repeated more frequently than every sixth house along the same side of a street. 	<p>Townhouses with traditional architectural style.</p> <p>Pedestrian orientation towards street with front porch or front stoop.</p> <p>Garages located to rear or side not visible from street frontage.</p> 
<p>Front façade</p>	<ul style="list-style-type: none"> Residential buildings shall have a main entrance that faces the front lot line. Single-family homes and townhomes shall have a front porch or front stoop with steps. A front stoop or porch (plus steps) shall not extend closer than three feet to the sidewalk. The front façade of all residential units shall be at least 15 percent windows or doors. 	

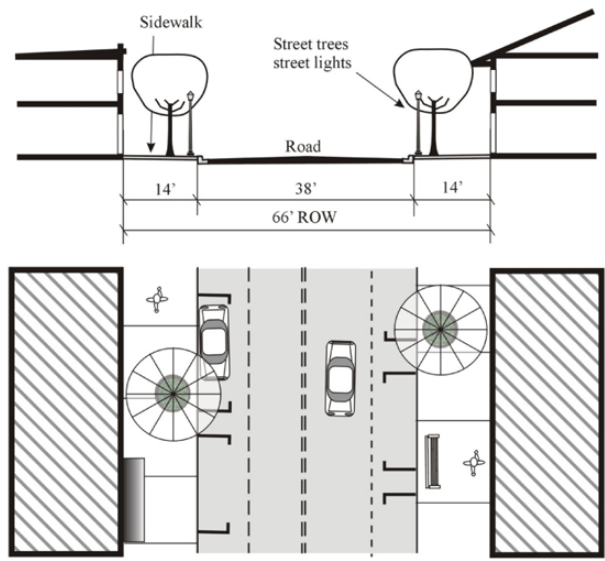
	<ul style="list-style-type: none"> The finished floor elevation shall be no less than three feet and no more than seven feet above the exterior sidewalk elevation in front of the building or from the ground elevation.
<p>Building material</p>	<p>All buildings shall utilize high-quality exterior building materials that are in keeping with traditional architectural styles. Allowed materials include brick, stone, wood and fiber cement siding. Vinyl siding is not permitted on the front façade, but is allowed on side and rear façades.</p>

(F) *Streetscape requirements:* An interconnected street, service drive and sidewalk network shall be provided that unifies convenient access to businesses, living areas and community facilities.

<p>Primary Frontage Areas</p>		
<p>Parallel service drive width</p>	<p>24-foot aisle (excluding 4 Corners Intersection)</p>	
<p>Service drive parking</p>	<p>Angled or 90-degree parking with depth of 18 feet for stalls. (excluding 4 Corners Intersection)</p>	

<p>Sidewalks</p>	<p>Sidewalks adjacent to Lake Michigan Drive or Wilson Avenue shall be a minimum six feet wide concrete and provided on both sides of the street. A 12- to 15-foot wide sidewalk shall be located adjacent to the front of the building.</p>
<p>Street trees</p>	<p>One three-inch-caliper canopy tree shall be planted for every 50 feet of frontage within a seven-foot-wide parkway located between the sidewalk and the main street.</p>
<p>Street lights</p>	<p>Pedestrian-scale ornamental street lighting shall be provided along all sidewalks and within parking areas. Street lighting shall be no more than 20 feet high, spaced appropriately and fully shielded. Consistency with established street lighting fixtures in the DDA will be determined by the planning commission based on the proposed fixture location and function.</p>
<p>Secondary Frontage Areas</p>	
<p>Street width</p>	<p>Per street design standards of the city.</p>
<p>Right-of-Way width</p>	<p>Minimum 66 feet.</p>

On-street parking	Permitted as angled or parallel, as supported by the street.
Sidewalks	Sidewalks shall be a minimum eight feet wide, concrete and provided on both sides of the street. The planning commission may require a wider sidewalk where frontages will be occupied by uses having outdoor activities such as sidewalk cafes.
Street trees	One three-inch-caliper canopy tree shall be planted for every 40 feet of frontage. Tree grates are encouraged.
Street lights	Pedestrian-scale ornamental street lighting shall be provided along all sidewalks and within parking areas. Street lighting shall be no more than 20 feet high, spaced appropriately and fully shielded. Consistency with established street lighting fixtures in the DDA will be determined by the Planning Commission based on the proposed fixture location and function.
Neighborhood Frontage Areas	
Street width	Per street design standards of the city.
Right-of-Way width	Minimum 60 feet.
On-street parking	Permitted on both sides.



<p>Sidewalks</p>	<p>Sidewalks shall be a minimum six feet wide, concrete and provided on both sides of the street. Sidewalks shall be seven feet wide where they abut a parking space or a road.</p>
<p>Street trees</p>	<p>One three-inch-caliper canopy tree shall be planted for every 40 feet of frontage.</p>
<p>Street lights</p>	<p>Pedestrian-scale ornamental street lighting shall be provided along all sidewalks and within parking areas. Street lighting shall be no more than 20 feet high, spaced appropriately and fully shielded. Consistency with established street lighting fixtures in the DDA will be determined by the planning commission based on the proposed fixture location and function.</p>

5. *Supplemental standards.*

- (a) *Drive-up windows.* Accessory drive-up windows are only permitted with special exception use approval by the planning commission for pharmacies and banks. All other drive-up window uses are prohibited. There shall be no more than two drive-up window stalls per use. The drive-up window area shall be located on the side or rear of the principal building.
- (b) *Live/work units.* Live/work units are dwelling units attached by common side walls and where the main floor is designed to accommodate a small business with upper floors utilized as living space. The first floor of each unit shall be designed to accommodate office or retail use within a commercial storefront at grade with the sidewalk. The upper floors shall be designed to accommodate a dwelling unit that functions as a single family unit. Live/work units shall meet the design standards applicable to mixed-use buildings.
- (c) *Street design standards.* All streets shall meet city street design standards and requirements. Traffic calming measures such as bump-outs may be permitted, as determined by the planning commission upon recommendation from the city engineer, at intersections, crosswalks and at intermediate points along long

blocks to enhance pedestrian safety.

- (d) *Traffic calming.* The use of traffic-calming devices such as raised intersections, lateral shifts, and knockdowns are encouraged as alternatives to conventional traffic control measures.
- (e) *Alleys.* Alleys are permitted in all areas of the district and may be required by the planning commission where determined necessary to provide access to parking lots, loading areas or garages at the rear of dwelling units. Alleys that access residential garages shall have a minimum pavement or concrete width of 20 feet and be located within a 30-foot wide easement. Alleys accessing commercial parking lots and loading areas shall be a minimum of 24 feet wide of paved or concrete surface.
- (f) *Sidewalk cafes.* A minimum width of 15 feet of sidewalk from the curb to the front wall shall be maintained for uses with outdoor seating or temporary display areas. Pedestrian circulation and access to the building entrance shall not be impaired by tables, chairs, and other encumbrances. Prior to such use in a public right of way, a license must be obtained from the city.
- (g) *Street connections.* An interconnected street network and street connections shall be provided to all parcels within the district. Cul-de-sacs and dead-end streets are prohibited unless expressly permitted by the planning commission based on findings of necessity due to physical, natural or engineering restraints.
- (h) *Street furniture.* Benches and trash receptacles shall be provided in park and plaza areas, at public transit stops and along sidewalks.
- (i) *Bicycle facilities.* The district shall be designed to accommodate and promote bicycle travel by providing bike paths, bike lanes, and bike racks at destination points.
- (j) *Street trees.* Street trees shall be planted in a manner appropriate to their size and shape at full maturity. Trees planted along primary and secondary frontages shall complement building façades, shade the sidewalk and frame the streetscape. Trees planted along neighborhood frontages shall provide a canopy shading both the street and sidewalk and serving as a visual buffer between the street and homes.
- (k) *Parking.*
 - (1) *[Parking standards.]* The parking standards contained in article XVI of the city zoning ordinance shall apply; however, the planning commission may modify these standards based on the following factors:
 - (a) The location of and number of spaces in nearby public shared parking lots;
 - (b) The location of and number of spaces in nearby shared private parking lots; and
 - (c) A phased development plan that reserves areas for deferred parking spaces.
 - (2) *Deferred parking.* The planning commission may approve deferring the construction of the required number of parking spaces if the areas proposed for deferred parking are shown on the site plan and are sufficiently large to construct the required number of parking spaces in accordance with an approved site plan and the standards of this section.
 - (a) Based on findings that the full complement of parking is needed, all or part of a deferred parking shall be constructed by the site owner, if required by the planning commission.
 - (3) *Parking limitations.*
 - (a) The proposed number of parking spaces shall not exceed the minimum parking space requirements established in this section by more than ten percent. The planning commission may grant additional spaces beyond those permitted. In granting additional spaces, the planning commission must determine that the parking area otherwise permitted will be inadequate to accommodate the minimum parking

needs of the particular use and that additional parking will be required to avoid overcrowding. The actual number of permitted spaces shall be based on professionally documented evidence of the parking demand for the specific land use.

(b) *Shared parking areas.*

(1) The planning commission may approve a shared parking arrangement for two or more uses to utilize the same off-street parking facility where the operating hours of the uses do not significantly overlap and where assurance of viability of the arrangement is provided in writing to the planning commission.

(2) Required parking shall be calculated based on the use that requires the greatest number of spaces.

(c) *On-street parking.* On-street parking, except on Lake Michigan Drive and Wilson Avenue, shall be permitted in the district.

(d) *Loading areas.* Loading areas shall be provided as appropriate and necessary as determined by planning commission. The planning commission may allow shared loading areas and waste receptacles between adjacent uses where reasonable shared use and maintenance easements are provided. All loading areas shall be screened from any adjacent residential areas and from view of any street by a six-foot-tall brick wall.

(l) *Open space requirements.*

(1) Standale Downtown District developments shall be designed to create cohesive community neighborhoods through a network of open spaces such as parks, plazas and common areas for passive or active recreation and resident interaction. All site plan submissions shall include an open space and landscaping plan that provides all of the following:

(a) *Residential open space.* Developments dedicated to residential uses shall set aside a minimum of 15 percent of the land area for open space, which shall contain some form of active recreational facility, such as a park, garden or play area. Recreational improvements such as playground equipment, benches, picnic tables, gazebos and pathways shall be provided by the site developer.

(b) *Nonresidential open space.* Developments dedicated to nonresidential or mixed-use shall set aside a minimum of ten percent of the land area for open spaces such as sidewalks, plazas, common areas or parks. The planning commission may permit a portion of the required open space to be transferred into an adjacent residential area that is part of the same development.

(c) *Focal point.* The required open space in a block shall include at least one area that provides a focal point for the district, such as the provision of a central square, landscaped plaza, common green or cultural feature. The focal point design and location shall be determined by the planning commission. The site developer shall install the focal point as part of an approved site plan.

(d) *Natural areas.* The planning commission shall require natural areas with significant mature woodlands, wetlands or landmark trees to be preserved as open space, or otherwise incorporated into the development's design, to ensure the preservation of these natural features.

(m) *Public art.* Art shall be incorporated in the form of sculptures, fountains or murals as part of the open space system, within sidewalk plazas and along sidewalks, at highly visible locations.

(n) *Signs.*

(1) The sign regulations in article XIV do apply to properties in this district, unless otherwise expressly provided in this section.

(2) Commercial special event signs (including inflatable signs, flag and streamer signs, banner signs, and yard

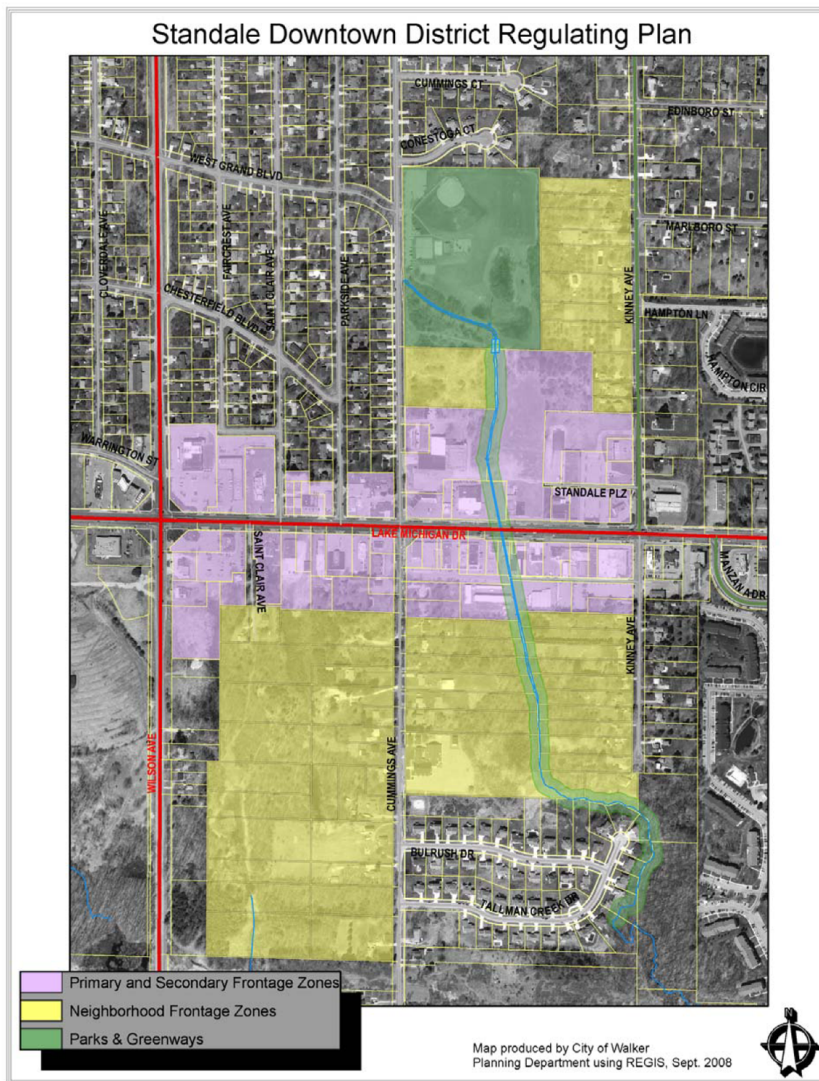
- signs) are prohibited in the district.
- (3) Pylon/pole/freestanding signs and directional signs are not permitted in the district.
 - (4) Wall signs, awning signs, canopy signs, blade or projecting signs are permitted in the district per the standards of sections 94-406 and 94-410.
 - (5) Blade and projecting signs may project four feet over the public sidewalk with a minimum ten-foot vertical clearance above the sidewalk.
 - (6) Ground/monument signs for a public/civic use, business center or residential complex may be permitted after planning commission review and approval. Ground/monument signs shall consist of masonry construction materials with street address numbers displayed.
 - (7) Signs shall not blink, flash, spin or move in any manner.
 - (8) Digital/electronic reader boards of any type are not allowed.
 - (9) New signs or physical changes to existing signs will require a sign permit from the city community development department.
 - (10) Sandwich board signs, or A-frame signs capable of holding two 24-inch wide by 36-inch high signs, may be placed on the sidewalk, provided the following:
 - a. No more than one sandwich board sign may be placed on any lot less than one acre in area.
 - b. Not more than two sandwich board signs in total may be placed on any lot exceeding one acre in area.
 - c. In no case shall there be less than 36 inches of clearance for pedestrian passage in any direction around a sandwich board sign.
 - d. Sandwich board signs shall only be placed during regular business hours.
 - e. Sandwich board signs shall be removed during inclement weather.
 - f. Sandwich board signs are prohibited in private driveways and public road rights-of-way.
 - g. Sandwich board signs shall not block traffic or present a hazard for snow plows in the winter.
 - h. Sandwich board signs require the submittal of a temporary sign permit application consistent with the requirements of section 94-412(1)(f) of this chapter.
 - i. In no case may a sandwich board sign be placed nearer than ten feet to the edge of pavement of a public road.
 - j. A single temporary sign permit application must be made prior to the placement of sandwich board signs on any site in a given calendar year, which will authorize sign placement for the remainder of the year.
 - (o) *Mixed use required for large lots.* Consistent with the regulating plan, any project site that is larger than ten acres shall provide a mixture of uses, such that no less than 30 percent of the total land area is residential. For the purpose of this district, a site shall constitute a single parcel or multiple adjacent parcels under single ownership and shall include sites that are developed in phases or subdivided for separate development.
 - (p) *Civic uses.* Sites developed with civic uses (e.g., schools, post office, libraries, government offices, parks) shall exhibit architectural treatments and design qualities that are unique and exceptional in order to serve as cornerstones of the district. As such, the planning commission may permit modifications to the dimensional and building height requirements of this district as part of the site plan review. In considering the modifications, the planning commission shall consider the design of civic buildings, the location of parking areas and the relationship of the site to the streetscape and adjacent buildings and uses.
 - (q) *Greenbelts and buffer zones.*

1. The buffer zone requirements contained in section 94-334 shall not apply in the district, except at the district's c perimeter. Where a use within the district adjoins a use that is outside of the district, then the buffer zone requi Section 94-334 shall be met.
 2. Low-level brick walls and wrought iron fences with intermittent brick piers and low-level landscaping shall be used adjacent to sidewalks and parking areas where appropriate to provide internal buffers and to define pedestrian movement areas.
- (r) *Outdoor display and storage.* Permanent and long-term outdoor display or storage of inventory or product is not permitted in this district. Outdoor display or storage of inventory or product is only permitted as part of a special sale or event, following receipt of a temporary use permit from the city community development department in accordance with the standards of article XVIII.
- (s) *Modifications.* The planning commission may approve deviations to the architectural requirements and dimensional requirements of this section to achieve the objectives of this district through the use of creativity and flexibility in development and design. Each modification shall require a finding that the design standard deviation sought will enhance the public interest and will not detract from the overall legislative intent and regulatory tone of this district.

An applicant seeking a design standard deviation shall submit elevation drawings of the proposed building that is superimposed on a color drawing or photograph of the entire block showing the relation of the proposed building design to other buildings along the block. This submittal may be utilized by the planning commission to evaluate the proposed building design deviation. Approvals of deviations shall be based upon the following standards and findings:

1. The building design standard deviation is consistent with the desired character of the Standale Downtown District, as articulated in the city master plan.
 2. The proposed building fits within the context of adjacent or proposed buildings along the block.
 3. The building remains oriented towards the front sidewalk and maintains or enhances the continuity of the pedestrian environment.
 4. The roof design remains in character with other buildings along the block and is within the minimum and maximum height requirements of the district.
 5. The exterior finish materials remain of equal or better quality and durability as those otherwise required in this district.
 6. Ground floor windows remain along the front sidewalk to maintain the pedestrian orientation of the streetscape.
 7. Upper story windows are compatible with the rhythm and proportions of windows on other buildings along the block.
- (t) *Other regulations.* All proposed developments shall be in accordance with other applicable regulations of the City Code. Where a conflict exists between the requirements of the district and the requirements of another article of the zoning ordinance, then the requirements of the district shall govern.

(u) Regulating Plan Map



(Ord. No. 10-588, § 5, 10-11-10; Ord. No. 11-602, §§ 6, 7, 9-26-11; Ord. No. 13-611, § 5, 1-28-13; Ord. No. 19-649, § 1, 7-6-19)

Sec. 94-178. - "C-3" district, highway commercial.

- (a) *Intent.* The "C-3" district, highway commercial, is to encourage the construction or continued use of land for commercial and service uses and to provide for orderly development and concentration of such uses to satisfy the needs of modern commercial development where access is entirely dependent upon the automobile and to provide suitable locations for such activities which function relatively independently of intensive pedestrian traffic and proximity to other firms. Typical activities in this district require direct automobile traffic access and visibility from the road and sufficient depth to provide for vehicle parking, but this district is not intended to accommodate, and permitted uses exclude, outdoor sales establishments.
- (b) *Principal uses.* Except as expressly otherwise permitted by this chapter, no building or part of a building in the "C-3" district, highway commercial, shall be used, erected, altered or converted or land used, in whole or in part, except for:
- (1) The principal uses permitted in the "C-1" district, local commercial.
 - (2) Indoor retail sales and service.
 - (3) Offices and telephone exchange buildings.

- (4) Motels and hotels.
 - (5) Self-service laundry and dry cleaning facilities.
 - (6) Automobile repair, minor.
 - (7) Indoor places of public assembly.
 - (8) Milk distribution stations.
 - (9) Retail building supplies.
 - (10) Other uses determined by the board of zoning appeals to be similar to the permitted principal uses in this zoning district and compatible with the intent of this zoning district.
- (c) *Permitted accessory uses to principal use.* Any use customarily incidental to the permitted principal uses in the "C-3" district shall be a permitted accessory use.
- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses may be permitted as special exception uses within the C-3 district if approved by the planning commission as provided by section 94-167(d) and as provided by article IX:
- (1) Child care centers, day care centers, child caring institutions and child placing agencies.
 - (2) Car washes, so long as the car wash complies with section 94-176(d).
 - (3) Regulated uses, per article XIII of this chapter.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "C-3" district are contained in the tabular summary of the schedule of district regulations.
- (f) *Additional requirements.* In the "C-3" district, the following additional requirements must be met:
- (1) All activities shall be conducted wholly within a completely enclosed building.
 - (2) Sidewalks shall be constructed on all sides of the property abutting a public street.

(Ord. No. 77-232, § 4, 4-12-77; Ord. No. 86-343, § 1, 10-28-86; Ord. No. 88-367, § 15, 1-10-89; Ord. No. 96-491, § 16, 10-28-96; Ord. No. 97-499, § 5, 9-8-97; Ord. No. 99-542, § 4, 10-25-99; Ord. No. 10-588, § 6, 10-11-10)

Sec. 94-179. - "C-4" district, outdoor commercial.

- (a) *Intent.* This district is to provide for commercial establishments of the type that conduct all or a substantial portion of their operations, including display of merchandise, out-of-doors or commercial uses not permitted in other commercial districts.
- (b) *Principal uses.* Except as expressly otherwise permitted by this chapter, no building or part of a building in the "C-4" district, outdoor commercial, shall be used, erected, altered or converted, or land used in whole or in part, except for:
- (1) The principal uses permitted in the "C-1" district, local commercial.
 - (2) Drive-in restaurants.
 - (3) Gasoline service stations.
 - (4) Produce markets.
 - (5) Automobile repair, minor.
 - (6) Outdoor theater or drive-in theater.
 - (7) Nursery, shrubbery and garden supply centers.
 - (8) Telephone exchange buildings.

- (9) Other uses determined by the board of zoning appeals to be similar in character to the permitted principal uses in the district and compatible with the intent of this zoning district.
- (10) Car washes, provided that the car wash complies with the provisions of subsections 94-176(d)(1)a. through g. and that the automobile exit from the building of a mechanized car wash and the automobile exit from any bay in a manual (self-serve) car wash shall be at least 75 feet from the nearest edge of the public right-of-way.
- (c) *Permitted accessory uses to principal uses.* Any use customarily incidental to the permitted uses shall be a permitted accessory use.
- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses may be permitted as special exception uses within the C-4 district if approved by the planning commission as provided in article IX:
- (1) Child care centers, day care centers, child caring institutions and child placing agencies.
 - (2) Liquor store/party store/convenience store to be operated with an SDD and/or SDM license, or similar off-premises liquor license, from the state.
 - (3) Regulated uses, per article XIII of this chapter.
- (e) *Special exception uses permitted after review and approval by the planning commission.* The following uses of land and structures may be permitted as special exception uses within the "C-4" district if approved by the planning commission as provided by this section and as provided by article IX:
- (1) Sales and service of mobile homes, manufactured homes (as defined by 42 USC section 5402, as amended from time to time), trailer homes, or "campers";
 - (2) Automobile, truck, boat, and related vehicle sales including, without limitation:
 - a. Indoor automobile, truck, boat, and related vehicle sales and repair in connection with such outdoor operations;
 - b. Sales of repossessed automobiles, trucks, boats, and related vehicles; and
 - c. Display of automobiles, trucks, boats, and related vehicles incidental to their sale;
 - (3) Farm machinery and implement sales.

These uses may be approved as special exception uses subject to the following requirements.

- a. In addition to the general authority of the planning commission to impose conditions pursuant to section 94-251, the planning commission may, when necessary to satisfy the standards prescribed by section 94-250, impose conditions on the parking and location of vehicles on the premises including, without limitation, conditions relating to:
 1. The minimum number of parking spaces, including, without limitation, the minimum number of spaces for display of vehicles;
 2. Unobstructed ingress and egress to parking spaces by defined drives and traffic lanes identified on the approved site plan;
 3. A prohibition on the parking or location of vehicles on the premises other than in the parking spaces identified on the approved site plan;
 4. The maximum number of vehicles which may be displayed on the premises at any time; and
 5. Any other conditions related to parking or location of vehicles on the premises.

In exercising the power to impose these conditions, the planning commission may impose more stringent requirements than otherwise required by this chapter.

- b. Vehicles displayed or intended to be displayed for sale or which are otherwise delivered to the premises, vehicle employees, and any other vehicles related to the use of the premises for the purposes identified in subsection ((except customer vehicles) shall not be parked or located at any time within the public right-of-way.

For purposes of this section, the term "sale" or "sales" shall include, without limitation, sales, leases, and any other transactions in which consideration is transferred.

- (f) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the "C-4" district are contained in the tabular summary of the schedule of district regulations, except that gasoline service station pumps and unenclosed gasoline service station canopies approved for a structure by the building inspector may be so placed that there is a minimum distance of 15 feet between the front property line and the closest part of the first island containing pumps and between the front property line and the closest part of the canopy.

- (g) *Additional requirements.* In the "C-4" district, sidewalks shall be constructed on all sides of the property abutting a public street.

(Ord. No. 72-178, 10-19-72; Ord. No. 85-327, § 1, 12-23-85; Ord. No. 86-343, § 2, 10-28-86; Ord. No. 88-367, § 16, 1-10-89; Ord. No. 93-420, § 1, 7-13-93; Ord. No. 96-491, § 17, 10-28-96; Ord. No. 97-499, § 6, 9-8-97; Ord. No. 99-542, § 5, 10-25-99; Ord. No. 09-571, § 2, 4-13-09; Ord. No. 10-588, § 7, 10-11-10)

Sec. 94-180. - "ML" district, light industry.

- (a) *Intent.* The regulations of the ML district, light industrial, are intended to provide for various types of light industrial and manufacturing uses, wholesale businesses, warehouses, and other uses compatible with one another and with surrounding land uses, and with an absence of objectionable external effects. Permitted uses are characterized by low maximum usable floor area percentages, substantial setbacks, environmental sensitivity, and creative site design. The regulations are defined to exclude uses which would have a detrimental effect upon the orderly development and functioning of the district, as well as surrounding land uses.

- (b) *Principal uses.* Except as otherwise expressly permitted by this chapter, no building or part of a building in the ML district shall be used, erected, altered or converted or land used, in whole or in part, except for:

- (1) Industrial plants manufacturing, compounding, processing, packaging, treating, or assembling the following:

- a. Agricultural products, including but not limited to, the production in greenhouses of flowers, plants, shrubs, trees, or other similar living products.
- b. Food and kindred products including meat, dairy, fruit, vegetable, seafood, bakery, confectionery, beverage, and similar products (but not including slaughtering of animals, or rendering or refining of fats and oils).
- c. Furniture and fixtures.
- d. Printing, publishing, and allied industries.
- e. Electrical machinery, equipment and supplies, electronic components and accessories.
- f. Engineering, measuring, optical, medical, scientific, photographic, and similar instruments and goods.
- g. Cut stone and stone products related to monuments.

- (2) Industrial plants manufacturing, compounding, processing, packaging, treating or assembling of materials or products from previously prepared materials the following:

- a. Textile mill products, including woven fabric, knit goods, dyeing and finishing, floor coverings, yarn and thread, and other similar products.
- b. Apparel and other finished products including clothing, leather goods, furnishing and canvas products.

- c. Lumber and wood products including mill work, prefabricated structural work products and containers.
 - d. Paper and paperboard containers and products.
 - e. Biological products, drugs, medicinal chemicals and pharmaceutical preparations.
 - f. Glass products.
 - g. Jewelry, silverware and plated ware; musical instruments and parts; toys, amusement, sporting, and athletic goods; pens, pencils, and other office and artist supplies and materials; notions; and signs and advertising displays.
 - h. Pottery and figurines and other ceramic products using only previously pulverized clay.
 - i. Fabricated metal products, except heavy machinery and transportation equipment.
- (3) Animal hospitals, kennels, and small animal clinics, provided that kennels allowed by this subsection shall comply with the provisions of section 94-171(d)(1) of this chapter.
 - (4) Wholesale businesses, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and lumber.
 - (5) Warehousing, refrigerated and general storage.
 - (6) Laundries, laundry services, and dry cleaning and dyeing plants, excluding retail/service outlets serving the general public.
 - (7) Office buildings for executive, administrative, professional, accounting, drafting, and other similar professional activities.
 - (8) Research and development facilities, including production activities, which shall be limited to 50 percent of the floor area of the principal building.
 - (9) Trade or industrial schools.
 - (10) Emergency medical services.
 - (11) Mineral mining, consisting of the excavation and removal of peat, gravel, sand, clay, or other soils, including overburden; the transporting of those materials on a mining site; or the reclamation of the mining site after removal or excavation of the materials.
 - (12) New building materials sales and storage, including building trade contractors, and related storage yards.
 - (13) Automobile repair, major.
 - (14) Other uses determined by the board of zoning appeals to be similar to the permitted principal uses in this zoning district and compatible with the intent of this zoning district.
 - (15) Artisanal manufacturing (single- or multi-tenant).
 - (16) Catering office and production center (single- or multi-tenant).
 - (17) Contractor's shop (single- or multi-tenant).
 - (18) Self-storage: Interior access.
- (c) *Permitted accessory uses to principal uses.* The following uses shall be permitted accessory uses in the "ML" district:
- (1) Any use customarily incidental to the permitted principal uses in the "ML" district.
 - (2) A lunchroom or cafeteria located on the site of a permitted "ML" principal use, subject to the following requirements:
 - a. Use of the lunchroom or cafeteria shall be limited to owners or employees of the principal use and persons on the premises for a business purpose related to the principal use; and
 - b. The lunchroom or cafeteria shall not be open or advertised in any way to the public, and shall not be

identified to the public by any sign, on or off the premises.

- (d) *Special exception uses permitted after review and approval by the planning commission.* The following uses may be permitted as special exception uses within the ML district if approved by the planning commission as provided by section 94-167(d) and as provided by article IX:
- (1) Mineral processing and material storage, in accordance with the requirements of article IX of this chapter, including those of section 94-254.
 - (2) Automated dispensing fuel depot system for automotive fuels.
 - (3) Child care centers and day care centers.
 - (4) Churches.
 - (5) Community center.
 - (6) Movie studio.
 - (7) Online auction operations.
 - (8) Recycling/composting operations.
 - (9) Fitness centers and health clubs.
 - (10) Minor recreation, commercial indoor.
 - (11) Major recreation, commercial indoor.
 - (12) Outdoor recreation, commercial.
 - (13) Self-storage: Exterior access.
 - (14) Government research, testing and development laboratories.
 - (15) Government offices, public works facilities, fire stations, and police stations.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the ML district are contained in section 94-188 of this chapter.
- (f) *Additional requirements.* In the ML district the following additional requirements must be met:
- (1) All uses located within this district shall be so designed, constructed and operated that the requirements of the performance standards of article XV are met.
 - (2) All permitted principal and special exception uses shall be conducted wholly within a completely enclosed building, except for loading and unloading operations, and the on-site parking of vehicles, or as otherwise permitted by this chapter.
 - (3) Outside storage of materials, equipment, or vehicles is permitted, subject to the following restrictions:
 - a. Materials may be stored only in the side or rear yards, except that materials may not be stored on the street side of the corner lot. In no case shall materials be stored in any required yard, as regulated in section 94-188.
 - b. All storage of materials shall be visually screened to a height of at least six feet above the elevation of the nearest adjacent road or property. Such screening shall consist of either a decorative fence, wall, or greenbelt (in accordance with section 94-344), or a combination of these materials.
 - c. In no case shall the outside storage of material be stacked higher than the height of the visual screen.
 - d. One nongated opening, no greater than 12 feet in width, shall be permitted in the screen for each 200 feet of property frontage on a public street.
 - (4) Sidewalks shall be constructed on all sides of the property abutting a public street.
 - (5) No parking of employee vehicles or trucks is permitted in any front yard, except as screened in strict accordance

with the requirements of the buffer zone, landscaping, parking and lighting ordinance (section 94-344(d)), as demonstrated in Figure 2, except that parking accessory to a building which has a front wall width of greater than 150 feet shall be screened in accordance with the "Type C" buffer described therein:

Such screen shall not obscure traffic signs, fire hydrants, lighting, drainage ways, or obstruct vision for safety of ingress and egress to the parking area.

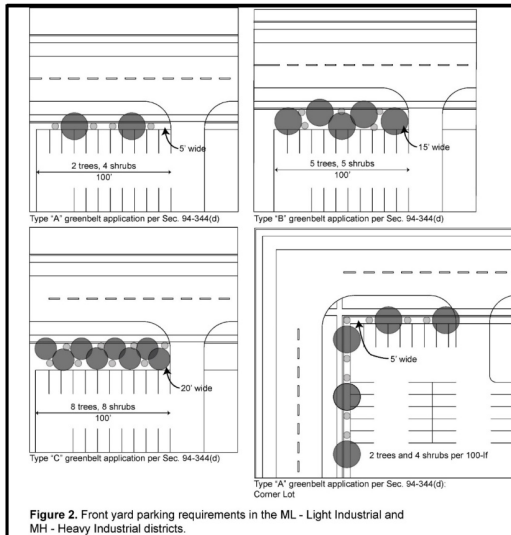


Figure 2. Front yard parking requirements in the ML - Light Industrial and MH - Heavy Industrial districts.

- (6) Parking of employee vehicles and trucks is prohibited within the first 25 feet of any property line shared with properties in any residential zoning district.
- (7) In the event of a conflict between the requirements of section 94-180(f)(5) and/or 94-180(f)(6) and 94-468(3), the requirements of section 94-180(f)(5) and 94-180(f)(6) shall prevail.
- (8) Internal parking areas in excess of 25 spaces shall be landscaped in accordance with the following:
 - a. A minimum of 100 square feet of landscaped area shall be provided within the parking area for every 15 parking spaces, or part thereof.
 - b. The minimum size of a landscaped area shall be 60 square feet, and at least six feet in width.
 - c. Landscaped areas shall be covered by grass or other living ground cover, wood mulch, or native stone.
 - d. Landscaped areas shall be constructed so as to prevent damage by any surrounding vehicle. All landscaped areas shall be protected by a raised curb.
 - e. Minimum plant sizes at the time of installation shall conform to the following:

Deciduous canopy tree	2½-inch caliper
Deciduous ornamental tree	2-inch caliper
Evergreen tree	6 feet in height
Deciduous shrub	2 feet in height
Upright evergreen shrub	2 feet in height

Spreading evergreen shrub	24 inches spread
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- (9) Waste dumpsters shall be screened on all sides by a continuous, opaque screen at least six feet in height. The screen may be comprised of berms, plant material, screen walls or fences, or any combination of these elements. Gates shall be kept closed except when the waste dumpster is being utilized or serviced.

(Ord. No. 72-164, 2-22-72; Ord. No. 79-267, § 1, 8-28-79; Ord. No. 86-343, § 3, 10-28-86; Ord. No. 88-359, § 3, 3-8-88; Ord. No. 88-367, §§ 17, 18, 1-10-89; Ord. No. 90-384, §§ 1, 2, 3-27-90; Ord. No. 91-390, § 1, 1-22-91; Ord. No. 91-395, §§ 5, 6, 8-13-91; Ord. No. 94-456, § 2, 12-13-94; Ord. No. 95-466, §§ 1—3, 7-11-95; Ord. No. 96-491, § 18, 10-28-96; Ord. No. 97-500, § 5, 9-8-97; Ord. No. 97-503, § 2, 10-13-97; Ord. No. 98-526, § 1, 9-28-98; Ord. No. 99-533, § 1, 3-22-99; Ord. No. 01-476, § 1, 6-11-01; Ord. No. 10-588, § 2, 10-11-10; Ord. No. 11-602, § 4, 9-26-11; Ord. No. 16-631, § 1, 9-26-16; Ord. No. 16-632, § 1, 9-26-16; Ord. No. 18-641, § 2, 4-23-18)

Sec. 94-181. - "MH" district, heavy industry.

- (a) *Intent.* The regulations of the MH district, heavy industrial, are intended to provide for various types of industrial and manufacturing uses, and other uses compatible with one another and surrounding land uses, with the absence of objectionable external effects. While the uses permitted in the MH district are intended for more intensive industrial uses than those permitted in the ML district, the regulations are intended to limit uses which would have a detrimental effect upon the orderly development and functioning of the district, as well as surrounding land uses.
- (b) *Principal uses.* Except as otherwise expressly permitted by this chapter, no building or part of a building in the MH district shall be used, erected, altered or converted or land used, in whole or in part, except for:
- (1) Any principal use allowed in the ML light industrial district.
 - (2) Mineral processing and material storage, provided that the use complies with the requirements of section 94-254.
 - (3) Automated dispensing fuel depot system for automotive fuels.
 - (4) Truck terminals.
 - (5) Electroplating.
 - (6) Plastic manufacture.
 - (7) Industrial plants manufacturing, compounding, processing, packaging, treating or assembling from previously prepared materials the following:
 - a. Fabricated metal products, including heavy machinery, and transportation equipment.
 - b. Rubber products, including tires, footwear, and other fabricated rubber products.
 - (8) Other uses determined by the board of zoning appeals to be similar to the permitted principal uses in this zoning district and compatible with the intent of this zoning district.
- (c) *Permitted accessory uses to principal uses.* The following uses shall be permitted accessory uses in the "MH" district:
- (1) Any use customarily incidental to the permitted principal uses in the "MH" district.
 - (2) A lunchroom or cafeteria located on the site of a permitted "MH" principal use, subject to the following requirements:

- a. Use of the lunchroom or cafeteria shall be limited to owners or employees of the principal use and persons on t for a business purpose related to the principal use; and
 - b. The lunchroom or cafeteria shall not be open or advertised in any way to the public, and shall not be identified to the public by any sign, on or off the premises.
- (d) *Special exception uses.* The following uses of land and structures may be permitted as special exception uses within the MH district as provided by this section and article IX:
- (1) Junkyards.
 - (2) Movie studio.
 - (3) Online auction operations.
 - (4) Recycling/composting operations.
- (e) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements of the MH district are contained in section 94-188 of this chapter.
- (f) *Additional requirements.* The uses in the MH district will be subject to the same additional requirements as noted in the ML district, subsection 94-180(f).

(Ord. No. 79-267, § 2, 8-28-79; Ord. No. 88-367, §§ 19, 20, 1-10-89; Ord. No. 91-395, §§ 7, 8, 8-13-91; Ord. No. 94-456, § 3, 12-13-94; Ord. No. 95-466, §§ 4, 5, 7-11-95; Ord. No. 98-513, § 3, 4-13-98; Ord. No. 99-534, § 1, 3-22-99; Ord. No. 01-476, § 2, 6-11-01; Ord. No. 10-588, § 3, 10-11-10; Ord. No. 11-602, § 5, 9-26-11)

Sec. 94-182. - "MP" district, industrial park.

- (a) *Intent.* The "MP" district, industrial park, is intended to permit and control the development of preplanned, exclusively industrial areas and research and development centers with reasonable protection from encroachment by retail commercial, residential and other incompatible land uses. It is intended for land which is not substantially developed or land which is developed but where it is proposed to raze buildings and redevelop. It is intended that reasonable protection will be afforded to adjacent uses.
- (b) *Principal uses.* Except as otherwise expressly permitted by this chapter, no building or part of a building in the "MP" district, industrial park, shall be used, erected, altered or converted or land used, in whole or in part, except for the principal uses permitted in the "ML" district under section 94-180(b) and the special exception uses permitted in the "ML" district under section 94-180(d).
- (c) *Permitted accessory uses to principal use.* Any use customarily incidental to the permitted principal use in the "MP" district shall be a permitted accessory use.
- (d) *Minimum area, height, bulk and placement requirements.* The area, height, bulk and placement requirements for an "MP," industrial park district shall be as provided by this section.
 - (1) The minimum area of an "MP" district, industrial park, shall be 20 acres.
 - (2) The minimum size of any individual lot within an industrial park shall be 40,000 square feet, and the minimum dimension in width at the building line shall be 200 feet.
 - (3) To preserve the park-like character of an industrial park district, the normal yard and location restrictions shall be expanded as follows:
 - a. *Front yard.* Where it is intended to utilize the front yard area for parking passenger vehicles, buildings with a front wall width of 150 feet or less shall be set back at least 70 feet, of which the front 25 feet shall be landscaped; and buildings with a front wall width of over 150 feet shall be set back at least 100 feet, of which the front 35 feet shall be landscaped. Where the front yard is not to be used for parking, the total front yard

area shall be landscaped and buildings with a front wall width of 150 feet or less shall have a front yard of at least 35 feet; and buildings with a front wall width in excess of 150 feet shall have a front yard of at least 45 feet.

- b. *Side yard.* Where a side yard fronts on a street, the requirements for side yards shall be the same as the requirements for front yards as set forth in subsection (d)(3)a. Interior side yards shall have a width equal to the height of the outside wall of the building, but in no case less than 20 feet, except where a common wall is shared between adjacent owners. Where adjacent owners elect to construct a common wall, the side yard on the common wall side shall be waived, but the front yard setbacks shall be based on the sum of the width of the front walls of the two structures.
 - c. *Rear yard.* The minimum rear yard setback shall be 35 feet, except where the property abuts residentially zoned land, in which case a rear yard setback of 50 feet is required.
- (4) The maximum building height for principal and accessory uses within an "MP" industrial park shall be the same as provided by the schedule of district regulations in section 94-188 for maximum building height within the "ML" light industry zone district.
- (e) *Additional requirements.* The design, construction, and operation of all uses located within the "MP" district shall meet the performance standards of article XV. In addition, all uses shall conform to section 94-180(f)(2).
 - (f) *Development plans and restrictive covenants.*
 - (1) Before any development in the "MP" district, a development plan for the entire proposed industrial park shall be submitted to the planning commission for its review and approval. The development plan submitted to the planning commission shall include:
 - a. A topographic map showing contour lines at five-foot intervals.
 - b. A plot plan of the proposed industrial park showing the lot layout, the location of all present and proposed streets, alleys, utilities and easements.
 - c. A description of the proposed industrial operations in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, water pollution and air pollution, fire hazards, and any other safety hazards.
 - d. A description of all billboards to be located in the industrial park; the general arrangement of railroad spur tracks, access points and buffer strips; and the relation of the tract of land to surrounding property.
 - e. Engineering plans for the treatment and disposal of any industrial wastes or sewage.
 - f. Any additional information that is deemed by the planning commission to be reasonably necessary to adequately evaluate the proposed industrial park development and its effects on the city.
 - (2) Before any development is commenced in the "MP" industrial park district, there shall also be submitted to the planning commission the restrictive covenants to be placed upon the land to ensure its development in accordance with the development plan.
 - (g) *Planning commission review and approval of industrial park developments; procedures, standards and requirements.*
 - (1) The application, the proposed development plan and the restrictive covenants to ensure development in accordance with the plan shall be filed with the planning director, who shall transmit those materials to the planning commission. The application, plan and restrictive covenants must be filed at least 30 days prior to the planning commission hearing at which they are first to be considered.
 - (2) The planning director shall schedule a public hearing before the planning commission on the application and the

proposed development plan. Notice of the public hearing shall be provided as required by Section 103 of Act No. 110 of the Public Acts of Michigan of 2006, as amended, as amended. Unless otherwise required under this chapter, public hearing as described herein shall not be required for individual site plan requests for future development in industrial parks. Review of such requests should be processed under the procedures of article X and, if necessary, article IX, of this chapter.

- (3) At the public hearing before the planning commission, the applicant shall present evidence regarding the following characteristics of the proposed industrial park development:
 - a. The general character and substance of the proposed development.
 - b. The objectives and purposes to be served by the development.
 - c. Compliance with applicable regulations and standards.
 - d. The scale and scope of the development.
 - e. Development schedules.
 - f. Compliance with the city's general development plan, and the effect of the proposed development on the city's general development plan.
 - g. The impact of the development on public utilities, facilities or services, on surrounding properties, and on the natural environment.
 - h. The economic impact of the development on surrounding property values or the city as a whole.
 - i. Status of ownership or control of the development such that there is a single person or entity having responsibility for completing the development in conformity with the approved plan.
- (4) At the public hearing, or within a reasonable time following the public hearing, the planning commission shall take the following actions:
 - a. The planning commission shall deny, approve, or approve with conditions, the industrial park development request.
 - b. The planning commission shall prepare a report stating its conclusions on the industrial park development request, the basis for its decision, and any conditions relating to an affirmative decision.
- (5) The planning commission's report as required by subsection (g)(4)b. shall include its determination as to whether the proposed industrial park development as described by the development plan meets the following standards:
 - a. The proposed development shall conform to the city's general development plan.
 - b. The proposed development shall conform to the intent and to all applicable regulations and standards of this chapter.
 - c. The proposed development shall be adequately served by public facilities and services such as highways, streets, police and fire protection, drainage courses, water and sanitary sewer facilities, refuse disposal, or the persons or agencies responsible for the proposed development shall be able to provide the facilities and services, in a manner acceptable to the planning commission.
 - d. The common open space, any other common properties, individual properties, and all other elements of the proposed development are planned so that they will achieve a unified open space system with open space and all other elements in appropriate locations, suitably related to each other, the site, and the surrounding land.
 - e. The location of the proposed uses, layout of the site, and its relation to streets giving access to it, shall be such that traffic to, from, and within the site and assembly of persons in connection therewith will not be hazardous or inconvenient to the project or the surrounding area. In applying this standard, the planning

commission shall consider, among other things, convenient routes for pedestrian traffic, the relationship of the proposed project to main thoroughfares and street intersections, and the general character and intensity of the existing and potential development of the surrounding area.

- f. The mix of industrial uses shall be compatible.
 - g. The planning commission shall determine that noise, odor, light or other external effect from any source whatsoever, which is connected with the proposed use, will not adversely affect adjacent and neighboring lands or uses.
 - h. Streets shall follow topography, be properly spaced, and be located and aligned in accordance with the intended function of each street. The property shall have adequate access to public streets. The plans shall provide for logical extensions of public streets and shall provide suitable street connections to adjacent parcels, where applicable.
 - i. Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety and welfare of the users of the industrial park development and the users or occupants of the surrounding area.
- (6) Reasonable conditions may be required by the planning commission in conjunction with the approval of an industrial park development for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the project and those immediately adjacent, and the community as a whole, and shall be necessary to meet the intent and purpose of this article, and be related to the objective of ensuring compliance with the standards of this article. All conditions imposed shall be made a part of the record of the approved industrial park development plan.
- (7) No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no construction permits shall be issued for all or any phase of an industrial park development until the application, development plan and restrictive covenants have been approved by the planning commission as provided by this section. Further, no construction of buildings or structures or any other site improvement or changes shall be made except in strict compliance with the development plan approved by the planning commission.
- (h) *Commencement and completion of construction.* Construction shall be commenced within two years following approval by the planning commission of a plan for all or any phase of an industrial park development project. Each phase of a multi-phase project shall be commenced within two years of the schedule established for the phase by an approved application. If construction is not commenced within that time, any approval of the plan shall expire and be void. However, the planning commission may grant an extension for a specified period upon a showing of good cause, if the request for an extension is made prior to the expiration of the initial period. If the approval has expired and no extension has been granted, a new application for approval shall be required where determined necessary by the planning commission. The new application shall be reviewed in light of then existing and applicable provisions of law and ordinance.
- (i) *Amendment of approved development plan.* An approved industrial park development plan shall not be varied or modified in any respect without an amendment approved by the planning commission. An application for proposed

amendment to a development plan shall be reviewed, and denied, approved, or approved with conditions by the planning commission under the procedure prescribed for the original submittal and review of the development plan.

- (j) *Performance guarantees.* Performance guarantees to ensure compliance with an approved industrial park development plan and conditions of approval may be required by the planning commission at the time of approval of the plan as authorized under section 4e of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.
- (k) *Fees.* Fees shall be paid at the time of filing of the application for approval of an industrial park development project. The amount of the fees shall be established by the city commission by resolution. No part of any fee paid shall be refundable.
- (l) *Violations.* An approved industrial park development plan shall have the full force and effect of this chapter. Any violation of an approved plan shall be grounds for the city to order that all construction be stopped, and to order that building permits and certificates of occupancy be withheld until the violation is removed or adequate guarantee of removal of the violation is provided to the city. Further, violations of any approved plan, or failure to comply with any requirements of this section, including agreements, conditions of approval, or restrictive covenants, shall be considered a violation of this chapter.

(Ord. No. 85-321, § 7, 4-9-85; Ord. No. 86-336, § 1, 7-8-86; Ord. No. 86-338, § 3, 7-8-86; Ord. No. 88-367, §§ 18, 21, 1-10-89; Ord. No. 95-458, § 1, 2-14-95; Ord. No. 16-634, § 2, 1-9-17)

Sec. 94-183. - "RPUD-1" district, low density residential planned unit development.

- (a) *Intent.* It is the intent of the "RPUD-1" district to encourage more imaginative and livable housing environments within that district, through a planned reduction, or averaging, of the individual lot area requirements for a planned unit development, provided that the overall density requirements for the planned unit development remain the same. Such averaging or reduction of lot area requirements shall only be permitted when a landowner, or group of owners acting jointly, can plan and develop a tract of land as an entity and thereby qualify for regulation of that tract of land as one complex land use unit in accordance with an approved final area site plan as provided by article VIII, rather than an aggregation of individual buildings located on separate, unrelated lots.
- (b) *Permitted uses.* Subject to subsection (d) and the planning commission's authority to prohibit uses pursuant to subsection 94-213(3)j., the following uses of land and structures may be permitted within a low-density residential PUD as approved by the planning commission pursuant to, and subject to the requirements of, the planned unit development regulations contained in article VIII:
 - (1) Any permitted use in the "A" and "A-2" districts.
 - (2) Permitted accessory uses as permitted in the "A" and "A-2" districts.
 - (3) Special exception uses as permitted in "A" and "A-2" districts, as deemed appropriate by the planning commission.
 - (4) Golf courses, tennis clubs and athletic clubs, when combined with any residential use.
- (c) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements within an "RPUD-1" district shall be determined by the planning commission upon application for approval of a planned unit development as provided by, and subject to the requirements of, sections 94-214 and 94-215 of this chapter.
- (d) *Final area site plan approval required.* No permits for any development or use of property included within an "RPUD-1" district shall be issued until a final area site plan has been approved by the planning commission, as required by article VIII.

(Ord. No. 71-150, § 5.16, 10-19-72; Ord. No. 87-356, § 1, 1-12-88; Ord. No. 92-409, § 1, 7-14-92; Ord. No. 05-531, § 1, 5-23-05)

Sec. 94-184. - "RPUD-2" district, high density residential planned unit development.

- (a) *Intent.* It is the intent of the "RPUD-2" district to encourage more imaginative and livable housing environments within that district, through a planned reduction, or averaging, of the individual lot area requirements for a planned unit development, provided that the overall density requirements for the planned unit development remain the same. Such averaging or reduction of lot area requirements shall only be permitted when a landowner, or group of owners acting jointly, can plan and develop a tract of land as an entity and thereby qualify for regulation of that tract of land as one complex land use unit in accordance with an approved final area site plan as provided by article VIII, rather than an aggregation of individual buildings located on separate, unrelated lots.
- (b) *Permitted uses.* Subject to subsection (d) and the planning commission's authority to prohibit uses pursuant to subsection 94-213(3)j., the following uses of land and structures may be permitted within an "RPUD-2" high-density residential PUD as approved by the planning commission pursuant to, and subject to the requirements of, the planned unit development regulations contained in article VIII:
- (1) Any permitted use in the "ARM" district.
 - (2) Permitted accessory uses as permitted in the "ARM" district.
 - (3) Special exception uses as permitted in the "ARM" district, as deemed appropriate by the planning commission.
 - (4) Multiple housing with more than four dwelling units.
 - (5) Golf courses, tennis clubs and athletic clubs.
 - (6) Any permitted use within the "C-1" local commercial district, provided that any such commercial use must be primarily intended for the use and patronage of the development's residents, and provided further that the gross area designated for such commercial use including parking, accessways, and yards or open space shall not exceed five percent of the total usable floor area of the residential development. In addition, no use provided for in this subsection shall be constructed until not less than 30 percent of the dwelling units proposed in the development have been completed.
- (c) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements within an "RPUD-2" district shall be determined by the planning commission upon application for approval of a PUD as provided by, and subject to the requirements of, section 94-214 and section 94-216.
- (d) *Final area site plan approval required.* No permits for any development or use of property included within an "RPUD-2" district shall be issued until a final area site plan has been approved by the planning commission, as required by article VIII.

(Ord. No. 71-150, § 5.17, 10-19-72; Ord. No. 87-356, § 1, 1-12-88; Ord. No. 92-409, § 2, 7-14-92; Ord. No. 05-531, § 2, 5-23-05)

Sec. 94-185. - "CPUD" district, commercial planned unit development.

- (a) *Intent.* It is the intent of the "CPUD" district to allow design flexibility in accordance with an approved final area site plan as provided by article VIII of this chapter and to encourage development compatible with surrounding or abutting uses, with suitable open spaces, landscaping and parking areas. Further, it is the intent of the "CPUD" district to conserve the value of property which includes optimum utilization of areas devoted to commercial use together with protection of the immediate environment, both existing and intended, by the city's general development plan; to promote a more complete urban design which includes necessary community service and employment opportunities conveniently located and attractively designed; and to encourage creative and imaginative approaches in the development of commercial elements of the city.

- (b) *Permitted uses.* Subject to subsection (d) and the planning commission's authority to prohibit uses pursuant to subsection 213(3)j., the following uses of land or structures may be permitted within a CPUD as approved by the planning commission pursuant to, and subject to the requirements of, the planned unit development regulations contained in article VIII:
- (1) Any permitted use within the "ORP," "C-1," "C-2," "C-3" and "C-4" districts.
 - (2) Permitted accessory uses as permitted in the "ORP," "C-1," "C-2," "C-3" and "C-4" districts.
 - (3) Special exception uses as permitted in the "ORP," "C-1," "C-2," "C-3" and "C-4" districts as deemed appropriate by the planning commission.
- (c) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements within a "CPUD" district shall be determined by the planning commission upon application for approval of a planned unit development as provided by, and subject to the requirements of, section 94-217.
- (d) *Final area site plan approval required.* No permits for any development or use of property included within a "CPUD" district shall be issued until a final area site plan has been approved by the planning commission, as required by article VIII.

(Ord. No. 71-150, § 5.18, 10-19-72; Ord. No. 87-356, § 1, 1-12-88; Ord. No. 88-370, § 1, 1-10-89; Ord. No. 92-409, § 3, 7-14-92; Ord. No. 05-531, § 3, 5-23-05)

Sec. 94-186. - "MPUD" district, mixed use planned unit development.

- (a) *Intent.* The "MPUD" district is intended to permit the integrated development of significant residential-use components mixed with commercial uses otherwise permitted in the "ORP," "C-1," "C-2" or "C-3" district or to allow a use otherwise permitted in the "ORP," "C-1," "C-2" or "C-3" districts to be incorporated as an integral part of a residential development, in accordance with an approved final area site plan as provided by article VIII.

This section is intended to provide greater flexibility for large or small projects that combine residential and commercial uses in an innovative way within a single integrated development. The vertical or horizontal mixing of commercial and residential uses is allowed. However, the mixing of uses shall be carefully designed in order to create the following:

- (1) An interconnected and hierarchical system of streets and service drives.
 - (2) A pedestrian-friendly environment via the use of sidewalks, trails, paths and traffic calming devices.
 - (3) A sustainable pattern of building location and form that enables longterm site desirability, viability and the continued use of onsite structures.
 - (4) A system of passive, active and natural open space areas, subject to the physical attributes and regulatory limitations of the site.
- (b) *Permitted uses.* Subject to subsection (d) and the planning commission's authority to prohibit uses pursuant to subsection 94-213(3)j., the following uses of land or structures may be permitted within an "MPUD" district as approved by the planning commission pursuant to, and subject to the requirements, of the planned unit development regulations contained in article VIII:
- (1) Any use permitted by right or by special exception in the "ORP," "C-1," "C-2" or "C-3" districts in combination with residential uses permitted by right or by special exception in the "A", "A-2", and "ARM" districts, in a single integrated development.
 - (2) Permitted accessory uses as permitted in the "ORP," "C-1," "C-2," "C-3" or "ARM" districts.
- (c) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements within an "MPUD" district shall be determined by the planning commission upon application for approval of a planned unit

development as provided by, and subject to the requirements of, section 94-218.

- (d) *Final area site plan approval required.* No permits for any development or use of property included within an "MPUD" district shall be issued until a final area site plan has been approved by the planning commission, as required by article VIII.

(Ord. No. 71-150, § 5.19, 10-19-72; Ord. No. 87-356, § 1, 1-12-88; Ord. No. 92-409, § 4, 7-14-92; Ord. No. 05-531, § 4, 5-23-05; Ord. No. 06-548, § 1, 10-9-06)

Sec. 94-187. - "IPUD" district, industrial planned unit development.

- (a) *Intent.* It is the intent of the "IPUD" district to permit and control the development of comprehensively planned industrial areas and research and development centers; to encourage development of comprehensively planned industrial areas that are compatible with surrounding or abutting uses, exhibit low to negligible levels of negative external impacts such as noise, dust, smoke, etc., and are enhanced with suitable buffering, landscaping and parking areas; and to allow design flexibility and creative approaches in the development of industrial elements of the city in accordance with the city's master plan and an approved final area site plan as provided by article VIII.

- (b) *Permitted uses.* Subject to subsection (d) of this section and the planning commission's authority to prohibit uses pursuant to subsection 94-213(3)j., the following uses of land or structures may be permitted within an "IPUD" district as approved by the planning commission pursuant to, and subject to the requirements of, the planned unit development regulations contained in article VIII:

- (1) Any use permitted by right or by special exception in the "ML" district.
- (2) Permitted accessory uses as permitted in the "ML" district.
- (3) Industrial manufacturing, compounding, processing, packaging, treating or assembling from previously prepared materials the following:
 - a. Fabricated metal products, including heavy machinery and transportation equipment.
 - b. Plastic products.

- (c) *Area, height, bulk and placement requirements.* The area, height, bulk and placement requirements within an "IPUD" district shall be determined by the planning commission upon application for approval of a planned unit development as provided by, and subject to the requirements of, section 94-219.

- (d) *Final area site plan approval required.* No permits for any development or use of property included within an "IPUD" district shall be issued until a final area site plan has been approved by the planning commission, as required by article VIII.

(Ord. No. 92-409, § 5, 7-14-92; Ord. No. 05-531, § 5, 5-23-05; Ord. No. 07-550, § 1, 3-26-07)

Sec. 94-188. - Schedule of district regulations.

- (a) Pursuant to section 94-166, the area, height, bulk and placement requirements for principal and accessory uses, except as otherwise provided in this chapter, shall be as follows:

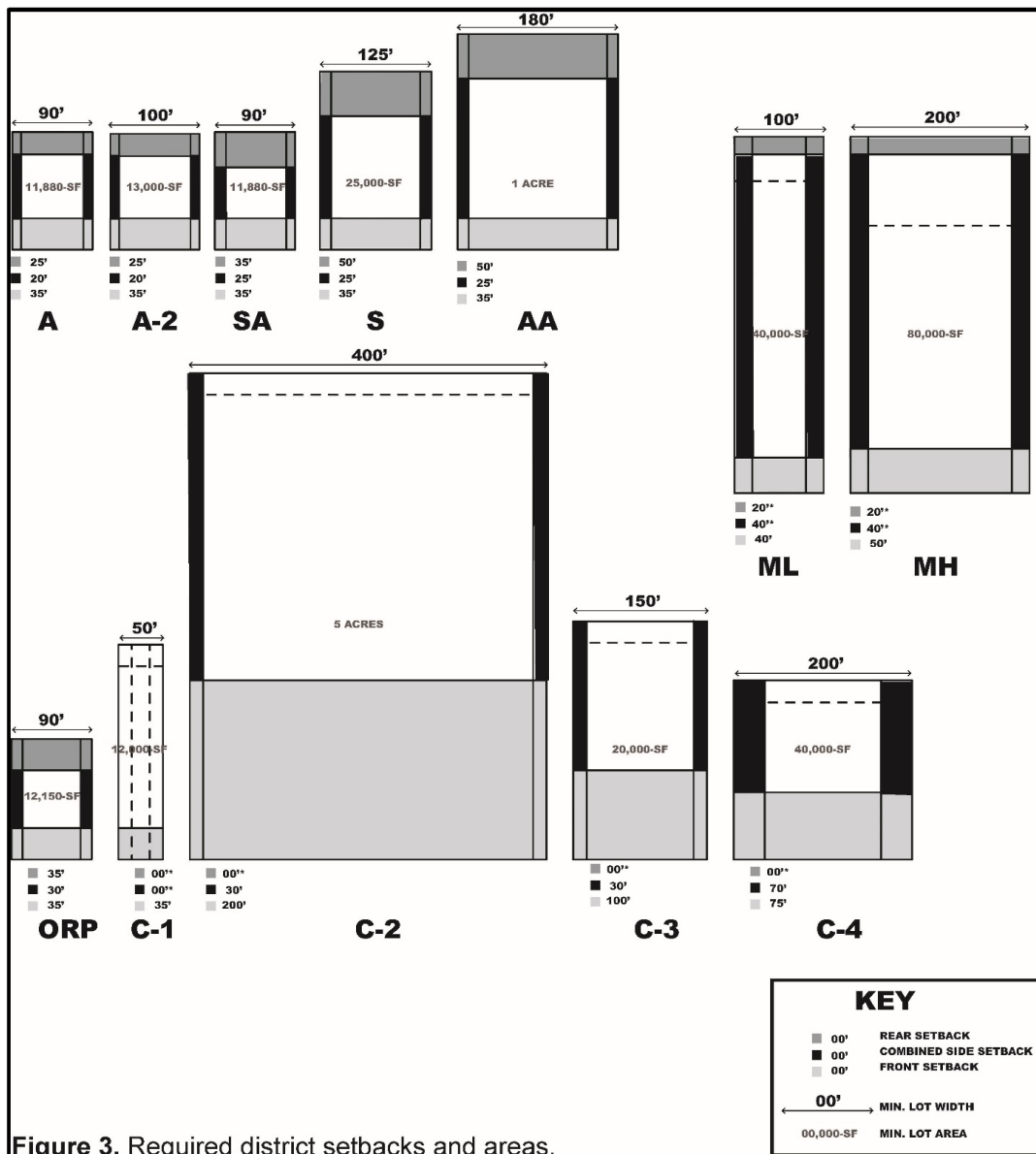
SCHEDULE OF DISTRICT REGULATIONS

		<u>Minimum Yard Setbacks in Feet</u>	Maximum Building ___ Height ___	<u>Minimum Lot Size</u> ___
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ZONING CLASSIFICATION	Maximum Usable Floor Area and Accessory Building Floor Area in Percent	Front Yard(1)	Side Yard (at least one)	Side Yard (total of two)	Rear Yard(10)	In Feet	In Stories	Area in Square Feet	Width in Feet
"A" single-family residential	35	<u>35</u> (11)	10	20	25	35	2½	11,880	<u>90</u>
"A-2" duplex, two-family residential	35	<u>35</u> (11)	10	20	25	35	2½	13,000	100
"SA" suburban residential single-family	35	<u>35</u> (11)	10	25	35	35	2½	11,880	<u>90</u>
"S" suburban residential, single-family	35	<u>35</u> (11)	10	25	50	35	2½	25,000	125
"AA" agricultural	35	<u>35</u>	10	25	50	35	2½	1 acre	180(2)
"ARM" residential, multiple-family	40	<u>50</u>	15	35	40	35	2½	See section <u>94-172</u>	100
"RMT" mobile home or trailer coach park (3)		<u>50</u>	25	50	50	35	2½		
"ORP" office, research and parking	40	<u>35</u>	10	25	35	35	2½	12,150	<u>90</u>
"C-1" local commercial		<u>35</u>	(4)	(4)	(5)	35	2½	12,000	<u>50</u>

"C-2" community commercial		200	15	30	(5)	35	2½	5 acres	400
"C-3" highway commercial		100	15	30	(5)	35	2½	20,000	150
"C-4" outdoor commercial		<u>75</u>	35	70	(5)	35	2½	40,000	200
"ML" light industry	60	40	(6)	(7)	(8)	45	3	40,000	100
"MH" heavy industry	60	<u>50</u>	(6)	(7)	(9)	45	3	80,000	200
"P-SP" district, public- semi- public		35	30	60	30	35			
"MP" industrial park	See <u>section 94-182</u> for requirements								
"CPUD" commercial planned unit development	See <u>Sec. 94-217(d)</u> for requirements								
"IPUD" industrial planned unit development	See <u>Sec. 94-219(d)</u> for requirements								
"MPUD" mixed use planned unit development	See <u>Sec. 218(d)</u> for requirements								

<p>"RPUD-1" low density residential planned unit development</p>	<p>See <u>Sec. 94-215(b)</u> for requirements</p>
<p>"RPUD-2" high density residential planned unit development</p>	<p>See <u>Sec. 94-216(b)</u> for requirements</p>

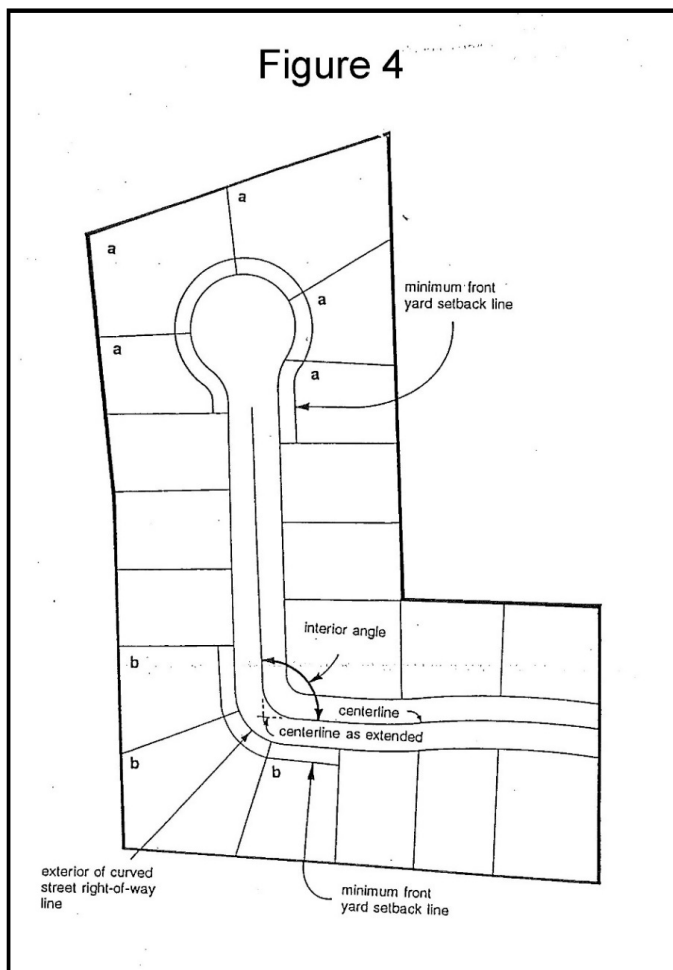


(b) Notes to schedule of district regulations:

- (1) Measured from the edge of the street right-of-way to the principal building, excluding steps and unenclosed porches.
- (2) To permit subdivision into two lots when water and sewer services are available, provided side yard and other requirements can be met.
- (3) The distances in the schedule of district regulations govern the location of buildings other than trailer coaches and mobile homes. For trailer coaches and mobile homes, the following shall be met:
 - a. No mobile home or trailer coach shall be placed closer than ten feet from the right-of-way of a public street or alley or closer than 15 feet from the inside edge of the sidewalk adjacent to a private street.
 - b. A side yard of ten feet shall be maintained, except that a completely enclosed structure which is attached to a trailer coach or mobile home and not used for living purposes may be located not less than five feet from the side lot line. In addition, there shall be at least ten feet between each mobile home or trailer coach and its accessories including, but not limited to, full storage containers, storage sheds, cabanas and porches, and the closest neighboring mobile home or trailer coach or any of its accessories.
 - c. There shall be a rear yard of at least 15 feet on each mobile home or trailer coach lot.
 - d. Each lot shall have a minimum depth of 100 feet and a minimum width of 50 feet, measured at the foremost portion of the trailer coach or mobile home. The width shall be the length of the shortest line which can be drawn between the two side lot lines and across the foremost portion of the trailer coach or mobile home. Provided, however, that the 50-foot width shall not apply to lots which have their only access onto a cul-de-sac, are within 100 feet of the closed end of the cul-de-sac and are not corner lots.
- (4) No side yard is required if access is available from the rear through an alley or other means for fire and service vehicles; otherwise, a side yard is required and any side yard shall provide a minimum area of 15 feet.
- (5) A rear yard of at least 24 feet is required where property abuts any residential or agricultural district; provided, that when an alley separates the commercial district from the residential or agricultural district the full alley width shall be counted as part of the required rear yard.
- (6) The side yard shall be equal to the height of the building or 20 feet, whichever is greater.
- (7) The total side yards required pursuant to subsection (b)(6).
- (8) Twenty feet or the building height, whichever is greater, except that a rear yard of 50 feet is required when abutting residentially zoned land.
- (9) Twenty feet or the building height, whichever is greater, except that a rear yard of 100 feet is required when abutting land zoned other than "MH" heavy industry.
- (10) Accessory buildings—See [section 94-352](#).
- (11) If more than one-half of the dwellings on 500 feet of either side of a proposed residential building have uniform front yard setbacks either greater or lesser than required in that district by this chapter, and the lots upon which those dwellings are located encompass more than 40 percent of the property located within 500 feet of either side of the lot on which the residential building is proposed, the setback line of the proposed residential building shall be the same as such uniform setback line. Provided, that no such setback line shall unreasonably restrict the use of such property; and provided further that no new residential building shall have a front yard less than 75 percent of the front yard required in that district, and none shall be required to have a front yard greater than 125 percent of the front yard required in that district.
- (12) When more than one-half of the buildings on 500 feet of either side of a proposed commercial building have uniform front yard setbacks either greater or lesser than required in that district by this chapter, and the lots upon which those buildings are located encompass more than 40 percent of the land on 500 feet of either side of

the lot on which the building is proposed, the setback line of the proposed commercial building shall be the same as such uniform setback line. Provided, that no such setback line shall unreasonably restrict the use of such property; and provided that no new commercial building shall have a front yard less than 75 percent of the front yard required in that district.

- (13) Whenever a single-family residential dwelling is constructed within the "A-2" duplex district, two-family residential, the minimum lot size may be 11,880 square feet and the minimum lot width may be 90 feet.
- (14) Notwithstanding any other provisions of this chapter, any building or structure constructed upon any property adjacent to an interstate or other limited access highway shall maintain a rear or side yard setback from such highway right-of-way equal to the height of the building or 20 feet, whichever is greater.
- (15) Minimum lot size width in feet (as shown in the schedule of district regulations) shall be measured at the street right-of-way line, except that in the A, A-2, S and SA Districts it may be measured at the minimum front yard setback line if the lot width measured at the street right-of-way line is at least 60 feet and in the A, A-2, and SA Districts and is at least 85 feet in the S District and:
- Any part of the front lot line abuts a curved street right-of-way line at the terminus of a cul-de-sac (only the lots marked "a" on Figure 1 meet this criteria); or
 - Any part of the front lot line abuts the exterior of a curved street right-of-way line and the interior angle of the abutting curved street is not more than 105 degrees. The interior angle of a curved street is the angle formed by extending the centerline of the street in a straight line from the points where the abutting curve begins as shown on Figure 4. (Only the lots marked "b" on Figure 4 meets this criteria.)



- (16) An open front porch or an attached deck, as provided for in [section 94-352a](#), is permitted on the front of a

residential dwelling, provided that an open front porch or attached deck is set back at least 25 feet from the nearest edge of the street right-of-way.

(Ord. No. 72-164, 2-22-72; Ord. No. 72-178, 10-19-72; Ord. No. 77-240, § 2, 9-13-77; Ord. No. 78-251, §§ 3, 4, 9-12-78; Ord. No. 79-268, § 1, 11-13-79; Ord. No. 86-338, §§ 1, 2, 7-8-86; Ord. No. 94-445, § 1, 10-25-94; Ord. No. 95-458, § 2, 2-14-95; Ord. No. 96-483, § 1, 3-12-96; Ord. No. 96-485, § 1, 8-27-96; Ord. No. 97-502, § 1, 9-8-97; Ord. No. 04-514, § 2, 7-12-04; Ord. No. 16-632, § 1, 9-26-16)

Secs. 94-189—94-210. - Reserved.

ARTICLE VIII. - PLANNED UNIT DEVELOPMENT REGULATIONS

Sec. 94-211. - Purpose.

The provisions of this article provide requirements and standards for the submission, review and approval of applications for planned unit developments (PUD). The PUD regulations are designed to accomplish the objectives of this chapter through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. These PUD regulations are intended to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage provision of useful open space; and provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the city. Further, it is the purpose of the planned unit development regulations to promote the intent and purpose of this chapter, and to ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The provisions of this article are not intended as a device for ignoring this chapter or the planning upon which it has been based.

(Ord. No. 87-356, § 2, 1-12-88)

Sec. 94-212. - Objectives.

The objectives, principles, and standards of this article are intended to guide the applicant in the preparation of preliminary and final area site plans, consistent with the purposes stated in section 94-211. They shall be used as the basis for the evaluation of the plans by the planning commission and shall be considered in reviewing any application for a PUD to ensure a quality of construction commensurate with other developments within the city.

(Ord. No. 87-356, § 2, 1-12-88)

Sec. 94-213. - Planned unit development application, review and approval procedures.

The procedures contained in this section shall be followed when applying for the approval of any planned unit development as provided for by this article.

(1) *Preapplication conference.*

- a. Prior to the submission of an application for planned unit development approval, the applicant shall meet with the planning director and the city engineer, together with such consultants as either the city or the applicant deem appropriate. The planning director shall invite officials from other departments of the city

who might have an interest in the proposed development, or who might assist the city in the review process. The purpose of the meeting is to inform city officials of the concept of the proposed development and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the city in terms of the proposed development. Statements made in the course of a preapplication conference shall not be legally binding commitments.

- b. At the preapplication conference, the applicant shall submit a general sketch plan of the proposed planned unit development, accompanied by other maps and by written statements sufficient to convey the following information:
1. A legal description of the property in question;
 2. A recent map of the site, reflecting area size and boundary line dimensions;
 3. The total number of acres in the project;
 4. Existing and proposed land uses and their approximate locations;
 5. A statement of the approximate number of residential units, the approximate number and type of nonresidential units, and the approximate number of acres to be occupied by each type of use;
 6. The approximate net residential density and expected final population of the proposed PUD;
 7. The number of acres to be preserved as open or recreational space, and the general location of any such proposed open space or public use areas;
 8. Existing floodplains, bodies of water and other unbuildable areas, and all known natural resources and natural features to be preserved;
 9. Circulation patterns, including pedestrian walkways and arterial, collector or local streets;
 10. An explanation of the character of the PUD, the manner in which it has been planned to take advantage of the PUD regulations, the manner in which it reflects the "purpose" and "objectives" of planned unit developments as stated in sections 94-211 and 94-212, and its conformance to the city's general development plan;
 11. A statement of ownership or option to purchase of all lands within the proposed PUD;
 12. A general indication of the expected schedule of development, including phases of development, if any; and
 13. Any other maps, plans, site data, or information that the applicant wishes to submit to explain the proposed development.
- (2) *Preliminary area site plan requirements.* After completion of the preapplication review, ten copies of a preliminary area site plan shall be submitted to the planning director who shall transmit the same to the planning commission. A preliminary area site plan shall consist of (i) a map or maps and (ii) accompanying written materials, as required by this section.

A preliminary area site plan shall include a map or maps on a scale of one inch equaling not more than 100 feet. The map or maps must provide the following information:

- a. Dimensions of the land, including width, length, acreage and frontage.
- b. Existing zoning and zoning of all adjacent properties within 500 feet.
- c. A topographical map or maps showing present and proposed elevations at contour levels of not more than five feet.
- d. Location of existing drainage courses, floodplains, lakes, streams and wetlands.

- e. A description of the development including:
1. The type and location of all uses.
 2. The acreage allocated to each use.
 3. The general location of proposed building areas.
 4. Density calculations and the number and types of residential units.
 5. A general description of all proposed nonresidential uses, including the types of stores and offices, hotels, motels, etc.
 6. The approximate square footage that will be devoted to office or retail purposes, and the approximate number of rooms in any proposed hotels or motels. The information related to square footage and number of rooms should be provided in sufficient detail to determine the demand for water, sewer, and transportation facilities that will result.
 7. The general location and size of all proposed open spaces, including preserves, recreational areas, and the like, and each purpose proposed for such areas. For purposes of this article, "open space" means an area designed and intended for use or enjoyment of residents of the PUD or of the general public. Open space may contain accessory structures and improvements necessary or desirable for recreational, cultural, or other noncommercial uses. Open space shall not include streets, rights-of-way, parking areas or commercial areas.
 8. The approximate location and description of proposed water, sanitary sewer, and storm drainage systems.
 9. All known natural resources and natural features to be preserved.
 10. A general landscape plan showing woodlands and vegetation to be preserved or added, topography, and similar features.
 11. The location and right-of-way width of existing streets and the proposed general location of public and/or private streets or drives.
 12. The general location of all proposed parking areas and number of spaces.
 13. The general location and area of each development phase of a multi-phased development.
 14. The general location of any buffer zones, berms and fences.
 15. The general location of any outdoor commercial activities, including, but not limited to, outdoor display and sales.

In addition to the required map(s), a preliminary area site plan shall include written materials which contain the following information:

- f. The owner's name and address; and the applicant's name and address, if other than the owner.
- g. The name of the proposed development.
- h. The name, address, city and phone number of the firm and of the individual who prepared the plan.
- i. The common description and complete legal description of the property.
- j. A statement of ownership or option to purchase of all lands within the proposed PUD.
- k. A development and construction schedule indicating:
 1. The approximate date for commencement of construction.
 2. Stages or phases in which the project will be built and the expected starting and completion dates of each stage.

- l. A general description of the organization(s) or individual(s) who will own and maintain all land areas within the F common open space.
 - m. A general description of the types of buildings to be constructed, including the number of units per building, proposed building heights, and the type of ownership proposed (i.e., individually owned or rental).
 - n. The proposed treatment of the perimeter of the PUD.
 - o. A statement of intent to subdivide under the subdivision regulation ordinance of the city (chapter 74).
 - p. An explanation of the manner in which the PUD has been planned to take advantage of the PUD regulations, the manner in which it reflects the purpose and objectives of planned unit development as stated in sections 94-211 and 94-212, and its conformance to the city's general development plan.
 - q. Freestanding/pylon, ground-mounted and wall signage plans, showing all setbacks and dimensions and describing all exterior construction materials.
- (3) *Planning commission review and approval of PUD preliminary area site plans; planning commission review and recommendation of petition to rezone to PUD district.*
- a. An application for PUD approval shall require submission of a preliminary area site plan consisting of the map(s) and accompanying written materials as required by subsection (2). In addition, if the site of a proposed PUD has not previously been rezoned as a PUD district, as provided by section 94-183, 94-184, 94-185 or 94-186 of this chapter, the applicant must apply for the necessary rezoning as a part of the application for PUD approval. A petition to rezone to a PUD district shall not be required as a part of an application for PUD approval if the site of a proposed PUD has previously been rezoned and is appropriately classified as a PUD district as required by this article at the time the application for preliminary area site plan approval is submitted.
 - b. An application for PUD approval for a parcel of land may be made by the owners of record or by any persons acting on behalf of the owners of record of the subject parcel. The applicant shall have a substantial interest in the subject property prior to filing for a PUD district classification, and such filing shall be in the name of and signed by all owners.
 - c. The application shall be filed with the planning director who shall transmit the preliminary area site plan and the petition for rezoning to the planning commission. The application must be filed at least 30 days prior to the planning commission hearing at which it is first to be considered. Fees shall be paid to the city treasurer; no transmittals shall be made unless the required fees have been paid in full.
 - d. The planning director shall schedule a public hearing before the planning commission on the plan and petition. Notice of the public hearing shall be provided as required by section 4a(3) of Act No. 207, Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.
 - e. At the public hearing before the planning commission, the applicant shall present evidence regarding the following characteristics of the proposed development:
 - 1. The general character and substance of the proposed planned unit development.
 - 2. The objectives and purposes to be served by the planned unit development.
 - 3. Compliance with applicable regulations and standards.
 - 4. The scale and scope of the development proposed.
 - 5. Development schedules.
 - 6. Compliance with the city's general development plan, and the effect of the PUD on the city's general development plan.

7. The impact of the planned unit development on public utilities, facilities or services, on surrounding property and natural environment.
 8. The economic impact of the planned unit development on surrounding property values or the city as a whole.
 9. The impact of the planned unit development on existing woodlands and wetlands.
 10. Status of ownership or control of the PUD such that there is a single person or entity having responsibility for completing the PUD in conformity with the approved plan.
- f. At the public hearing or within a reasonable time following the public hearing, the planning commission shall take the following actions:
1. The planning commission shall make its final consideration of the request to approve the preliminary area site plan, and shall deny, approve, or approve with conditions the request, provided that any approval shall not be official until an agreement as required by section 94-213(5) has been received by the city clerk. The planning commission shall prepare a report stating its conclusions on the request to approve the preliminary area site plan, the basis for its decision, and any conditions relating to an affirmative decision.
 2. The planning commission shall also make a recommendation to the city commission on the proposed rezoning to a PUD district necessary to permit the proposed PUD.
- g. The planning commission's report as required by subsection (3)f. shall include its determination as to whether the PUD as described by the preliminary area site plan meets the following standards:
1. The proposed development shall conform to the city's general development plan or any part thereof.
 2. The proposed development shall conform to the intent and to all regulations and standards of this article and of this chapter, as applicable.
 3. The proposed development shall be adequately served by public facilities and services such as highways, streets, police and fire protection, drainage courses, water and sanitary sewer facilities, refuse disposal, or that the persons or agencies responsible for the proposed development shall be able to provide in a manner acceptable to the planning commission any such facilities and services.
 4. The common open space, any other common properties, individual properties, and all other elements of the PUD are so planned that they will achieve a unified open and recreation area system with open space and all other elements in appropriate locations, suitably related to each other, the site, and the surrounding land.
 5. The location of the proposed uses, layout of the site, and its relation to streets giving access to it shall be such that traffic to, from, and within the site and assembly of persons in connection therewith will not be hazardous or inconvenient to the project or the surrounding area. In applying this standard, the planning commission shall consider, among other things, convenient routes for pedestrian traffic, particularly of children; relationship of the proposed project to main thoroughfares and street intersections; and the general character and intensity of the existing and potential development of the surrounding area.
 6. The mix of housing unit types and densities and the mix of residential and nonresidential uses shall be acceptable in terms of convenience, privacy, compatibility, and similar measures.
 7. The planning commission shall determine that noise, odor, light or other external effect from any source whatsoever which is connected with the proposed use will not adversely affect adjacent and neighboring lands or uses.
 8. Streets shall follow topography, be properly spaced, and be located and aligned in accordance with the

intended function of each street. The property shall have adequate access to public streets. The plans shall provide for logical extensions of public streets and shall provide suitable street connections to adjacent parcels, where applicable.

9. Major pedestrian circulation shall be provided for within the site, and shall interconnect all residential areas, community areas, and commercial and other services where applicable. The pedestrian system shall provide a logical extension of the pedestrian ways from outside the site and shall provide pedestrian connections to the edges of the site where appropriate.
 10. Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety and welfare of the users of the planned unit development and the residents of the surrounding area.
 - h. Reasonable conditions may be required by the planning commission in conjunction with the approval of a preliminary area site plan for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the project and those immediately adjacent, and the community as a whole, and shall be necessary to meet the intent and purpose of this article, and be related to the objective of ensuring compliance with the standards of this article. All conditions imposed shall be made a part of the record of the approved preliminary area site plan.
 - i. In considering a requirement for sidewalks or pedestrian lanes as a condition imposed pursuant to subsection 94-213(3)h. above, the planning commission shall consider the criteria in section 94-318 of this chapter.
 - j. In addition to its authority pursuant to subsection h. above, the planning commission may prohibit one or more specific uses otherwise permitted within a PUD district if it makes one or more of the following findings:
 1. The use would be detrimental to or endanger the public.
 2. The use would not be compatible with nearby uses of land.
 3. The use would be injurious to the use or enjoyment of other property in the immediate vicinity.
 4. The use would result in the significant adverse impact on the natural environment.
 5. The use would impede the normal and orderly development and improvement of surrounding property for uses permitted in that district.
 6. The affected public services and facilities would not be capable of accommodating increased services and facility loads caused by the use.
- (4) *City commission review and approval of the petition to rezone.*
- a. The city commission shall be provided, for its information, with a copy of the planning commission's report and decision of denial, approval, or approval with conditions of the preliminary area site plan, along with a summary of comments received at the public hearing, minutes of all proceedings, and all documents related to the PUD request.
 - b. The city commission shall also be provided with the planning commission's recommendation on the proposed rezoning of the PUD site. After receipt of the recommendation of the planning commission on the

proposed rezoning, the city commission may hold a public hearing to consider the rezoning request. Notice for the public hearing, if held, shall be provided as required by section 4a(3) of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended. In making its determination on the proposed rezoning, the city commission may consider the planning commission's report and decision regarding the planning commission's approval or denial of a preliminary area site plan (as provided by subsection (4)a.), but the city commission shall not engage in a substantive review of the details of a preliminary area site plan that has been approved by the planning commission. The city commission shall approve or deny the petition to rezone, or refer the petition again to the planning commission for further review.

- c. The city commission may approve a petition to rezone property to a PUD designation even though a preliminary area site plan has not yet been approved (or approved with conditions) for the property by the planning commission. However, no construction, grading, tree removal, soil striping, or other site improvements or changes shall commence, and no construction permits shall be issued therefor, for all or any phase of a PUD until a preliminary and final area site plan have been officially approved for the property by the planning commission as provided by this article.
- (5) *Effect of approval of the preliminary area site plan by the planning commission and approval of the petition to rezone by the city commission.* If the preliminary area site plan is approved by the planning commission and the petition to rezone is approved by the city commission, the approved petition and preliminary area site plan, including all approved maps and accompanying written materials, and the conditions of approval, shall be binding upon the applicant and owners of record and upon their heirs, successors and assigns with respect to all future development of the property, subject to the approval of a final area site plan by the planning commission.
- (6) *Final area site plan requirements.* Upon approval of a preliminary area site plan, an applicant may submit, within the time limitations as provided by subsection (7), an application for approval of a final area site plan for all or any phase of a proposed PUD shown on the approved preliminary area site plan. An application for approval of a final area site plan may be submitted prior to approval of a petition to rezone by the city commission; provided, however, that the planning director shall not schedule the public hearing on the final area site plan pursuant to subsection (7)c. unless and until the rezoning petition is approved; and provided, further, that an application for approval of a final area site plan shall not be considered or approved by the planning commission if the rezoning petition is denied by the city commission. Ten copies of a final area site plan shall be submitted to the planning director. A final area site plan shall consist of (i) a map or maps and (ii) accompanying written materials, as required by this section.

A final area site plan shall include a map or maps on a scale of one inch equaling not more than 100 feet. The map or maps must provide the following information in sufficient detail to describe, where appropriate, adequate dimensions to show the size and location of all proposed structures, and adequate contour elevations to determine the existing and proposed configuration of the site for engineering purposes:

- a. Dimensions of the land, including width, length, acreage and frontage.
- b. Existing zoning and zoning of all adjacent properties within 500 feet.
- c. A topographical map or maps showing present and proposed elevations at contour levels of not more than two feet.
- d. Location of existing drainage courses, floodplains, lakes, streams and wetlands.
- e. A description of the development including:
 1. The type and location of all uses.

2. The square footage or acreage allocated to each use.
 3. The locations of all structures, including proposed setbacks, typical layout and elevation for each type of use.
 4. Density calculations, number and types of residential units, and floor area per habitable space.
 5. A description of all proposed nonresidential uses, including the types of stores and offices, hotels, motels, etc.
 6. The square footage that will be devoted to office or retail purposes, and the number of rooms in any proposed hotels or motels. The information related to square footage and number of rooms should be provided in sufficient detail to determine the demand for water, sewer and transportation facilities that will result.
 7. The location and size of all proposed open spaces, including preserves, recreational areas, and the like, and each purpose proposed for such areas.
 8. The location and description of proposed water, sanitary sewer, and storm drainage systems.
 9. All known natural resources and natural features to be preserved.
 10. A landscape plan showing woodlands and vegetation to be preserved or added, topography, and similar features.
 11. The location and right-of-way width of existing streets and the proposed location and surface width of public and/or private streets or drives.
 12. A circulation plan for internal streets, roadways and pedestrian walkways.
 13. The location of all proposed parking areas and number of spaces by size.
 14. A description of easements on private roads to allow necessary city access to the roads, water lines, sanitary sewer and storm sewer, as well as provisions for access of emergency vehicles.
 15. Freestanding/pylon, ground-mounted and wall signage plans, showing all setbacks and dimensions and describing all exterior construction materials.
 16. A description of the type and location of all outdoor lighting facilities.
 17. The location and area of each development phase of a multiphased development.
 18. The location of any buffer zones, berms and fences.
 19. The location of any outdoor commercial activities, including, but not limited to, outdoor display and sales.
- In addition to the required map(s), a final area site plan shall include written materials which contain the following information:
- f. The owner's name and address; and the applicant's name and address, if other than the owner.
 - g. The name of the proposed development.
 - h. The name, address, city and phone number of the firm and of the individual who prepared the plan.
 - i. The common description and complete legal description of the property.
 - j. A statement of ownership or option to purchase of all lands within the proposed PUD.
 - k. A development and construction schedule indicating:
 1. The date for commencement of construction.
 2. Stages or phases in which the project will be built and the expected starting and completion dates of each stage.

- l. A description of the organization(s) or individual(s) who will own and maintain all land areas within the PUD, including open space.
 - m. A description of the types of buildings to be constructed, including the number of units per building, proposed building heights, and the type of ownership proposed (i.e., individually owned or rental).
 - n. The proposed treatment of the perimeter of the PUD, including materials, dimensions and techniques used such as screens, fences, berms, walls or landscaping.
 - o. A statement of intent to subdivide under chapter 74, Subdivisions.
 - p. An explanation of the manner in which the PUD has been planned to take advantage of the PUD regulations, the manner in which it reflects the purpose and objectives of planned unit development as stated in sections 94-211 and 94-212, and its conformance to the city's general development plan.
- (7) *Planning commission review and approval of PUD final area site plans.*
- a. Within two years following official approval of the preliminary area site plan and petition to rezone, the applicant shall submit to the planning director ten copies of a final area site plan in accordance with subsection (6). If the final area site plan has not been submitted within such period, the preliminary area site plan approval shall lapse and the applicant must recommence the review process, provided that the planning commission may extend the time for submission of the final area site plan if the applicant requests an extension prior to the expiration of the initial period and no material change of circumstance has occurred. Where a PUD is proposed for construction in phases, a final area site plan for at least the first phase of such construction shall be submitted within the time limitations contained in this section. Final area site plans for subsequent phases shall be submitted within similar successive periods thereafter from the date of approval of the final area site plan of the immediately preceding phase, unless a shorter period was required in connection with approval of the preliminary area site plan. Where a preliminary area site plan has lapsed due to failure of the applicant to submit a final area site plan within the time limitations contained in this section, the planning commission may require that a new preliminary area site plan be submitted and reviewed in accordance with then existing and applicable law and ordinance provisions.
 - b. The planning director shall transmit the final area site plan to the planning commission for planning commission review and approval. The final area site plan must be submitted at least 30 days prior to the planning commission hearing at which it is first to be considered.
 - c. The planning director shall schedule a public hearing on the request to approve the plan. Notice of the public hearing shall be provided as required by section 4a(3) of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.
 - d. At the public hearing or within a reasonable time following the public hearing, the planning commission shall make its final consideration of the request to approve the final area site plan, and shall deny, approve, or approve with conditions, the request, provided that any approval shall not be official until an agreement as required by subsection (8) of this section has been received by the city clerk. The planning commission shall prepare a report stating its conclusions on the request to approve the final area site plan, the basis for its decision, its recommendation, and any conditions relating to an affirmative decision.
 - e. The planning commission shall not approve the final area site plan unless each of the following is satisfied:
 - 1. The PUD as described by the final area site plan continues to meet the standards contained in subsection (3)g. of this section and shall meet any other applicable standards for review.
 - 2. The final area site plan is in substantial compliance with the previously approved preliminary area site plan consisting of the maps and accompanying written materials required under subsection (2) of this

section.

3. The applicant shall have made provision, satisfactory to the planning commission, to ensure that those open space areas shown on the plan for use by the public or by residents of the development will be or have been irrevocably committed for that purpose. Provision satisfactory to the planning commission shall also have been made to provide for the financing of any improvement shown on the plan for open space areas, and common use areas which are to be included within the development, and that maintenance of such improvements is ensured by a means satisfactory to the planning commission.
 4. The PUD complies with the uses permitted by the PUD district and any prohibitions of specific uses by the planning commission pursuant to section 94-213(3)j.
 - f. Reasonable conditions may be required by the planning commission in conjunction with the approval of a final area site plan as in accordance with subsections (3)h. and (3)i. of this section. All conditions imposed shall be made a part of the record of the approved final area site plan.
- (8) *Effect of approval of the final area site plan by the planning commission.*
- a. If the final area site plan is approved by the planning commission, the approved final area site plan, including all approved maps and accompanying written materials, and the conditions of approval, shall supersede the previously approved preliminary area site plan and shall be binding upon the applicant and owners of record and upon their heirs, successors and assigns with respect to all future development of the property, absent revision or amendment in accordance with this article.
 - b. The city shall enforce any or all provisions of the approved final area site plan and conditions of approval, against the petitioners, owners, successors, assigns or agents.
 - c. No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no construction permits shall be issued therefor, for all or any phase of a PUD until a final area site plan has been officially approved by the planning commission as provided in this article.
 - d. No construction of buildings or structures, or any other site improvements or changes, shall be made except in strict compliance with the final area site plan officially approved by the planning commission pursuant to this article.
- (9) *Commencement and completion of construction.* Construction shall be commenced within two years following official approval of a final area site plan for all or any phase of a PUD. Each phase of a multiphased project shall be commenced within two years of the schedule established for such project in the application submitted for the planned unit development. If construction is not commenced within such time, any approval of the final area site plan shall expire and be null and void; provided, an extension for a specified period may be granted by the planning commission upon good cause shown if such request is made prior to the expiration of the initial period. Moreover, if approval has expired, a new application for approval of preliminary and final area site plans shall be required where determined appropriate by the planning commission, and shall be reviewed in light of then existing and applicable law and ordinance provisions.
- (10) *Amendment of approve preliminary and final area site plan.*
- a. Except as authorized by section 94-213(10)b. for minor modifications, an approved preliminary or final area site plan shall not be varied or modified in any respect without an amendment approved by the planning commission. An application for a proposed amendment to a preliminary area site plan shall be reviewed and approved, approved with conditions, or denied, by the planning commission pursuant to the procedure prescribed for original submittal and review of the preliminary area site plan. An application for a proposed

amendment to a final area site plan shall be reviewed and approved, approved with conditions, or denied, by the planning commission pursuant to the procedure prescribed for original submittal and review of the final area site plan.

- b. Minor modifications may be made to an approved preliminary or final area site plan as provided by this subsection (without the need to comply with the requirements of section 94-213(10)a.).
 1. An application for a proposed minor modification to an area site plan may be reviewed, and approved, approved with conditions, or denied, by the planning director, without the need for review and approval by the planning commission. The planning director's decision to approve, approve with conditions, or deny a minor modification shall be made in writing. The planning director shall provide a copy of the written decision to the planning commission for its information at the planning commission's next regularly scheduled meeting.
 2. The planning director may, in his or her discretion, refer any application for a minor modification to the planning commission for review and approval by the planning commission. The planning commission's decision to approve, approve with conditions, or deny a minor modification shall be made in writing at a regularly schedule or special meeting of the planning commission. A public hearing shall not be required.
 3. In deciding whether or not to approve a minor modification, the planning director or the planning commission may consult with other city staff, officials, and departments, as appropriate. Neither the planning director or the planning commission, as applicable, shall approve a modification to an approved plan unless the modification conforms to the standards and requirements of this article. If a minor modification is approved by the planning director or the planning commission, the applicant shall prepare any required changes to the PUD documents (including, without limitation, maps, written materials, and any written agreements required by this article to be recorded with the county register of deeds) as necessary to show the approved modification. No approval of a minor modification shall become final and effective until the planning director has reviewed and approved the changes made to the PUD documents to reflect the modification, and the necessary documents as revised have been recorded with the county register of deeds. After a modification is final and effective, no activity or use on the property shall be conducted except in strict compliance with the plan as modified.
 4. Only the following changes to an area site plan as originally approved shall be eligible for consideration as minor modifications as provided by this section:
 - i. A change of not more than 20 feet in the location of any building or structure provided that the building or structure is not closer to any public right-of-way and is not within a buffer or open space area designated on the approved area site plan.
 - ii. A reduction of not more than ten percent in the size of any nonresidential building.
 - iii. A decrease in the total number of residential buildings or a reduction in the number of dwelling units provided that a reduction in the gross floor area of any residential unit shall not be considered a minor change.
 - iv. A change in the height of a building by not more than ten percent provided that the building height does not exceed 35 feet.
 - v. The internal rearrangement of parking spaces in a parking lot provided that the total number of parking spaces is not reduced, circulation hazards or congestion are not created by the redesign, no part of the parking lot will be within a buffer or open space area designated on the approved area site plan, and the rearrangement will not result in any additional external impact on adjoining property.

- vi. The substitution of landscaping or plant materials provided they are substituted with similar types of materials on an equal or greater basis, as determined by the planning director and provided that there is no reduction in the open space area designated on the approved area site plan.
 - vii. A reduction in the number of signs, a decrease in the height or size of any signs, or an increase in the setback of any signs.
 - viii. A reduction in the number of curb cuts or a change in the location of any curb cut if the change is ten feet or less in either direction.
 - ix. A decrease in the width of any curb cut or an increase of not more than 50 percent in the width of any curb cut, provided that such increase or decrease complies with the city's street and highway regulations and other applicable ordinances.
 - x. Improvements to access and circulation systems, such as the addition of acceleration/deceleration lanes, boulevard, curbing, and pedestrian paths provided that they are not located in any buffer area designated on the approved area site plan.
 - xi. The addition of not more than one accessory building or structure provided that: 1) the accessory building or structure is not more than 120 square feet in area, 2) is designed and used for maintenance, storage or similar purposes and not for human occupancy, and 3) the planning director determines that the accessory building is otherwise compatible with the development.
 - xii. An increase in the area designated on a site plan as reserved for open space or a designated buffer area, or otherwise not being subject to development.
 - xiii. A change in the location of any storm catch basins and utility connections as originally approved.
 - xiv. A change in the name of the PUD or in the names of any private streets or drives within the PUD.
 - xv. Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the PUD which the planning director determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.
- (11) *Performance guarantees.* Performance guarantees to ensure compliance with an approved final area site plan and conditions of approval may be required by the planning commission at the time of approval of the final area site plan as authorized under section 4e of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.
- (12) *Fees.* Fees shall be paid at the time of filing of the application for PUD rezoning and preliminary area site plan approval. An additional fee shall be paid at the time of filing of the application for final area site plan approval. The amount of such fees shall be established by the city commission by resolution and may include escrow accounts to cover the city's costs of professional consultants and other expenses related to the application.
- (13) *Violations.*
- a. A preliminary or final area site plan approved under the provisions of this article shall have the full force of this chapter. Any violation of such approved plan shall be grounds for the city to order that all construction be stopped, and to order that building permits and certificates of occupancy be withheld until the violation is removed or adequate guarantee of such removal is provided to the city.
 - b. Violations of any final or preliminary area site plan approved under this article, or failure to comply with any requirements of this article, including any agreements and conditions attached to any approved plan, shall be considered a violation of this chapter.

(Ord. No. 96-486, §§ 1, 2, 8-27-96; Ord. No. 99-541, §§ 1, 2, 10-25-99; Ord. No. 00-462, §§ 1, 2, 8-28-00; Ord. No. 05-524, § 1, 2-14-05; Ord. No. 05-531, § 6, 5-23-05; Ord. No. 07-551, § 3, 7-9-07)

Sec. 94-214. - Residential planned unit developments—Generally.

- (a) *Intent.* Under the requirements set forth in sections 94-183 and 94-184, approval may be granted for the construction and occupancy of an RPUD-1 or RPUD-2 development, provided that the standards, procedures and requirements set forth in this section are satisfied.
- (b) *Additional standards for review.* In addition to the standards for review contained in section 94-213(3)g., the planning commission shall determine that the following standards are met as a prerequisite to approval of any RPUD-1 or RPUD-2 development:
- (1) An RPUD-1 site shall be located within an RPUD-1 district as provided in section 94-183; an RPUD-2 site shall be located within an RPUD-2 district as provided in section 94-184.
 - (2) Public water and sewer facilities shall be provided as part of the site development of an RPUD-1 or RPUD-2 development.
- (c) *Clustering.*
- (1) *Purpose.* The purpose of permitting residential clustering is to provide savings in sewer, water, facilities, land resources and energy use through the concentration of dwellings, construction and physical impact to specific areas of a tract. Cluster development permits variation in lot size, shape and orientation without an increase in overall site density.
 - (2) *Determination by planning commission.* Clustering may be permitted by the planning commission in the RPUD-1 or RPUD-2 districts. The decision of the planning commission shall be guided by the following standards:
 - a. Individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural features and topography.
 - b. Individual lots and buildings shall be arranged and situated to relate to surrounding properties to provide improved views from the buildings.
 - c. Individual lots, buildings, streets and parking areas shall be situated to avoid the adverse effects of shadows, noise and traffic on the residents of the site and to lessen the area devoted to motor vehicles.
 - d. Diversity and originality in lot layout and individual building design shall be encouraged to achieve a more compatible relationship between development and the land.
 - e. Cluster open space intended for recreation or public use shall be easily accessible to pedestrians. Open space intended for scenic value shall be visible from a significant number of units or buildings.
 - (3) *Lot dimensions.* Front, side and rear yard requirements and lot areas which are otherwise required by this article shall not apply in a cluster development except for perimeter lots. Variations from these dimensions shall be shown on the preliminary and final area site plans and must be approved by the planning commission.
 - (4) *Density.* The number of dwelling units permitted in a cluster development shall not exceed the density that would be permitted by the application of the area, height, bulk and placement requirements of this article without variation in lot size, shape or orientation.

(Ord. No. 87-356, § 2, 1-12-88)

Sec. 94-215. - RPUD-1, low density residential PUD.

- (a) *Permitted uses.* The uses of land and structures as provided by section 94-183 of this chapter may be permitted within an RPUD-1 development as approved by the planning commission pursuant to, and subject to the requirements of, this article.

- (b) *Minimum area, height, bulk and placement requirements.* The area, height, bulk and placement requirements, as determined by the planning commission pursuant to section 94-183(c), shall not be less than the minimum standards of this section except as provided in section 94-214(c), or unless the applicant demonstrates and the planning commission determines better or more appropriate design can be achieved by not applying the minimum standards of this section and that adherence to the standards is not required to ensure the health, safety and welfare of the inhabitants and users of the development of adjoining property:
- (1) Single-family detached dwellings shall meet, as a minimum, the regulations applicable in the A district as provided by section 94-167(e).
 - (2) Two-family dwellings shall meet, as a minimum, the regulations applicable in the A-2 district as provided by section 94-167(e).
 - (3) All other permitted uses shall meet, as a minimum, the regulations applicable in the A-2 district as provided by section 94-167(e).
- (c) *Density.* The maximum allowable density for the PUD district shall be determined by the planning commission after consideration of each of the following standards:
- (1) The PUD shall be designed, constructed and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the area in which it is proposed.
 - (2) The PUD shall be adequately served by essential public facilities and services, such as highways, streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer facilities.
 - (3) The PUD shall not create excessive additional requirements at public cost for public facilities and services.
 - (4) The PUD shall be developed in accordance with the purposes and objectives of the planned unit development district.

In no case shall the maximum allowable density exceed the density that would be permitted by the application of the area, height, bulk and placement requirements of this article without variation or reduction by the planning commission.

(Ord. No. 87-356, § 2, 1-12-88)

Sec. 94-216. - RPUD-2, high density residential PUD.

- (a) *Permitted uses.* The uses of land and structures as provided by section 94-184(b) may be permitted within an RPUD-2 development as approved by the planning commission pursuant to, and subject to the requirements of, this article.
- (b) *Minimum area, height, bulk and placement requirements.* The area, height, bulk and placement requirements, as determined by the planning commission pursuant to section 94-184(c), shall not be less than the minimum standards contained in this section, except as provided in section 94-214(c), or unless the applicant demonstrates and the planning commission determines that a better or more appropriate design can be achieved by not applying the minimum standards contained in this section and that adherence to those standards is not required to ensure the health, safety and welfare of the inhabitants and users of the development and of adjoining property:
- (1) Single-family detached dwellings, two-family dwellings, townhouses or other similar permitted single-family attached dwelling types, and multiple-family dwelling structures shall meet, as a minimum, the regulations applicable in the ARM district as provided by sections 94-172(e) and (f).
 - (2) Commercial uses permitted pursuant to section 94-184(b)(6) shall meet, as a minimum, the regulations applicable in the C-1 district as provided by sections 94-175(e) and (f).

(3) All other permitted uses shall meet, as a minimum, the regulations applicable in the ARM district as provided by sec 172(e).

(c) *Density*. The maximum allowable density for this PUD district shall be determined by the planning commission after consideration of the standards contained in section 94-215(c), provided that the maximum allowable density shall not exceed the density that would be permitted by the application of the area, height, bulk and placement requirements of this article without variation or reduction by the planning commission.

(Ord. No. 87-356, § 2, 1-12-88; Ord. No. 88-370, § 3, 1-10-89)

Sec. 94-217. - CPUD, commercial planned unit development.

(a) *Intent*. The intent of the CPUD district is stated in section 94-185(a).

(b) *Additional standards for review*. In addition to the standards for review contained in section 94-213(3)g., the planning commission shall determine that the following standards are met as a prerequisite to approval of any CPUD development:

(1) A CPUD site shall be located within a CPUD district as provided in section 94-185.

(2) The proposed PUD shall be designed and developed with a unified architectural treatment.

(3) Utilities, roads, and other essential services must be available for immediate use of occupants purchasing or leasing sites in the PUD.

(4) Compatibility of site use with nearby residential areas must be evidenced and can be determined in relationship to the following criteria:

a. Uses have no harmful or unpleasant effects (noise, odors, fumes, glare, vibration, smoke, vapors and gases, electrical emissions, and industrial wastes).

b. The PUD site has direct access to a collector or arterial street.

c. Appearance is harmonious with adjacent uses. This determination shall include, but not be limited to, consideration of landscaping, enclosure of principal and accessory uses, height control, sign control, building profiles and architectural controls.

d. The distances separating all proposed uses and buildings from the surroundings are great enough to in fact constitute a buffer.

e. Loading docks and truck maneuvering areas and terminals should be designed and located so as not to adversely affect adjacent and neighboring lands or uses due to noise, odor, light or other external effect.

(c) *Permitted uses*. The uses of land and structures as provided by section 94-185(b) may be permitted within a CPUD development as approved by the planning commission pursuant to, and subject to the requirements of, this article.

(d) *Minimum area, height, bulk and placement requirements*. The area, height, bulk and placement requirements within a CPUD district, as determined by the planning commission pursuant to section 94-185(c), shall not be less than the minimum standards of this section, unless the applicant demonstrates and the planning commission determines that a better or more appropriate design can be achieved by not applying the minimum standards of this section and that adherence to the minimum standards is not required to ensure the health, safety and welfare of the inhabitants and users of the development and of adjoining property:

Permitted uses, permitted accessory uses, and special exception uses as permitted in the ORP, C-1, C-2, C-3 and C-4 districts shall meet, as a minimum, the corresponding area, height, bulk and placement regulations applicable to such uses if located in the ORP, C-1, C-2, C-3, or C-4 districts. If a use is permitted in more than one such district, the planning commission shall establish which district regulations shall constitute the minimum standards.

(Ord. No. 87-356, § 2, 1-12-88)

Sec. 94-218. - MPUD, mixed use PUD.

- (a) *Intent.* The intent of the MPUD district is stated in section 94-186(a).
- (b) *Additional standards for review.* In addition to the standards for review contained in subsection 94-213(3)g., the planning commission shall determine that the following standards are met as a prerequisite to approval of any MPUD development:
- (1) An MPUD site shall be located within an MPUD district as provided in section 94-186.
 - (2) Grant of the PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community, where such benefit would otherwise be infeasible or unlikely to be achieved within the constraints of the otherwise applicable zoning districts.
 - (3) The residential component(s) of an MPUD shall be completed concurrent with any nonresidential construction, or in such a manner so as to minimize disruption to any development component within an MPUD.
- (c) *Permitted uses.* The uses of land and structures as provided by section 94-186(b) may be permitted within an MPUD development as approved by the planning commission pursuant to, and subject to the requirements of, this article and the MPUD district intent as provided by section 94-186 (a).
- (d) *Minimum area, height, bulk and placement requirements.* The area, height, bulk and placement requirements within an MPUD district, as determined by the planning commission pursuant to subsection 94-186(c), shall not be less than the minimum standards of this section except as provided by this section, or unless the applicant demonstrates and the planning commission determines, that a better or more appropriate design can be achieved by not applying the minimum standards of this section and that adherence to the minimum standards is not required to ensure the health, safety and welfare of the inhabitants and users of the development and of adjoining property:
- (1) The minimum residential floor area required in MPUDs for multiple-family dwellings shall be the same as required by the ARM district as provided by section 94-172 and the minimum residential floor area required in MPUDs for single-family or two-family dwellings shall be the same as required in subsection 94-350(1), unless the planning commission specifically allows reductions in these minimum residential floor areas to occur; but, in no case, shall more than a 20-percent reduction in minimum floor area be allowed.
 - (2) All other area, height, bulk and placement requirements shall, at a minimum, be the same as for buildings of a similar use built in the ORP, C-1, C-2, C-3 or ARM districts unless the developer can show that these would be a hardship or hindrance to the design of a quality project. If a use is permitted in more than one such district, the planning commission shall establish which district regulations shall constitute the minimum standards.

(Ord. No. 87-356, § 2, 1-12-88; Ord. No. 06-548, § 2, 10-9-06)

Sec. 94-219. - IPUD, industrial planned unit development.

- (a) *Intent.* The intent of the IPUD district is stated in section 94-187(a).
- (b) *Additional standards for review.* In addition to the standards for review contained in section 94-213(3)g., the planning commission shall determine that the following standards are met as a prerequisite to approval of any IPUD development:
- (1) An IPUD site shall be located within an IPUD district as provided in section 94-185.
 - (2) Utilities, roads, and other essential services must be available for immediate use of occupants purchasing or leasing sites in the IPUD.

- (3) The IPUD site shall have direct access to a collector or arterial street.
 - (4) All uses in the IPUD shall be designed, constructed and operated to comply with the performance standards as provided by article XV of this chapter.
 - (5) Loading docks and truck maneuvering areas and terminals should be designed and located so as not to adversely affect adjacent and neighboring lands or uses due to noise, odor, light or other external effect.
 - (6) Except as otherwise expressly approved by the planning commission, all permitted principal uses shall be conducted within a completely enclosed building except for loading and unloading operations, onsite parking of vehicles, and reasonable storage of materials and products which are related to the principal uses. Materials and products may be stored on the property as provided by, and subject to the screening requirements of, section 94-180.
- (c) *Permitted uses.* The uses of land and structures as provided by section 94-187 may be permitted within an IPUD development as approved by the planning commission pursuant to, and subject to the requirements of, this article.
- (d) *Minimum area, height, bulk and placement requirements.* The area, height, bulk and placement requirements within an IPUD district, as determined by the planning commission pursuant to section 94-187, shall not be less than the minimum standards of this section, unless the applicant demonstrates and the planning commission determines that a better or more appropriate design can be achieved by not applying the minimum standards of this section and that adherence to the minimum standards is not required to ensure the health, safety and welfare of the inhabitants and users of the development and of adjoining property:

Permitted uses, permitted accessory uses, and special exception uses permitted in the IPUD district shall meet, at a minimum, the corresponding area, height, bulk and placement regulations applicable to such uses if located in the ML district as provided by section 94-180 and contained in the summary of the schedule of district regulations.

(Ord. No. 92-409, § 6, 7-14-92)

Sec. 94-220. - Signs.

The minimum and maximum requirements applicable within any PUD with regard to the area, height, type, construction, design and number of signs shall be determined by the planning commission upon application for approval of a PUD as provided by, and subject to the requirements of, this section. The requirements applicable to signs as provided by article XIV of this chapter shall apply to any PUD unless the applicant demonstrates and the planning commission determines that a better or more appropriate overall project can be achieved by not applying the otherwise applicable requirements and that adherence to the otherwise applicable requirements is not required to ensure the health, safety and welfare of the inhabitants and users of the development and of adjoining property, or to comply with the intent and purpose of this article. In making its decision whether to vary from the otherwise applicable signage requirements, the planning commission shall also consider the nature, size, density, location or design of the proposed project, including the design of the project's signage plan; the expected or projected long-and short-term signage needs for the project and in the immediate area; and characteristics of the project which will affect the project's signage needs, including factors such as the appropriateness of joint signs to be shared by different uses, anchor store signage requirements, signage for outlots, and any other factors reasonably related to the need for signage for the proposed project. Notwithstanding the foregoing, any billboards permitted within any PUD shall comply with section 94-412 of the zoning ordinance.

(Ord. No. 87-356, § 2, 1-12-88; Ord. No. 92-409, § 7, 7-14-92; Ord. No. 96-486, § 3, 8-27-96)

Sec. 94-221. - Offstreet parking, loading and circulation requirements.

Offstreet parking and loading requirements set forth in article XVI of this chapter shall apply to any PUD, except as provided by this section.

- (1) Streets, building location, parking areas, pedestrian ways, and utility easements shall be designed to promote the public safety, compatibility of uses and to minimize friction between uses.
- (2) Private streets may serve circulation and parking purposes if providing adequately for police and fire protection, rubbish collection, and lighting.
- (3) Adequate access for fire and other emergency vehicles shall be provided on the site.
- (4) Parking and loading requirements shall be equal to the sum of the parking and loading requirements for all uses proposed. However, where it can be demonstrated by the applicant that, due to nonconflicting hours of operation, design of the circulation and parking plan, or any other factor reasonably related to the need for parking and/or loading, the total parking and loading requirements can be reduced, the planning commission may do so. In making its determination, the planning commission may consider nationally recognized parking standards and studies.
- (5) Driveways and circulation roadways shall be designed to minimize traffic and congestion within the PUD and to minimize the amount of paving.
- (6) Where open parking areas or roadways are to be located immediately adjacent to any peripheral boundary, a separation or buffer of a type sufficient to ensure the privacy of the adjacent property shall be provided in the manner approved by the planning commission.

(Ord. No. 87-356, § 2, 1-12-88; Ord. No. 92-409, § 7, 7-14-92; Ord. No. 96-486, § 4, 8-27-96)

Sec. 94-222. - Prior planned unit developments.

The development plan of a planned unit development previously approved pursuant to section 94-172 is hereby deemed to constitute an approved final area site plan for purposes of this article.

(Ord. No. 87-356, § 2, 1-12-88; Ord. No. 92-409, § 7, 7-14-92)

Sec. 94-223. - Building facades.

All building facades within an MPUD, CPUD, and IPUD district shall comply with the requirements and standards of section 94-357.

(Ord. No. 06-547, § 3, 8-28-06)

Secs. 94-224—94-245. - Reserved.

ARTICLE IX. - STANDARDS AND REQUIREMENTS FOR SUBMISSION, REVIEW AND APPROVAL OF SPECIAL EXCEPTION USES AND UNIQUE USES

Sec. 94-246. - Purpose.

Because of their unique characteristics, special exception uses and unique uses are permitted only after the review and approval of the planning commission to ensure that they are compatible with the character of the surrounding area, the adjacent uses of land, the natural environment, the capacities of public services and facilities, and the public health, safety and

welfare. This article provides standards and requirements for the submission, review and approval of applications for special exception uses and unique uses. The standards and requirements of this article are designed to accomplish the objectives of this chapter through a land development review process based on the application of site planning criteria to achieve proper integration of a proposed special exception use or unique use with the characteristics of the surrounding area.

(Ord. No. 88-367, § 38, 1-10-89)

Sec. 94-247. - Scope.

Special exception uses and unique uses shall be permitted only upon review and approval by the planning commission of the use and of the site plan submitted for the use, as provided by this article. The standards and requirements provided by this article shall be in addition to those required elsewhere in this chapter which are applicable to the special exception use or unique use under consideration.

(Ord. No. 88-367, § 38, 1-10-89)

Sec. 94-248. - Additional special exceptions authorized.

In addition to the special exceptions authorized elsewhere in this chapter, the planning commission may approve the following, subject to the standards and requirements of this article:

- (1) The vertical extension of a building existing at the time of enactment of the ordinance from which this chapter derives to the height indicated by the original drawings of the building, if the building was actually designed and constructed to carry the additional height.
- (2) The enclosure of an existing open front porch where the enclosure is in character with the adjoining neighborhood.

(Ord. No. 88-367, § 38, 1-10-89)

Sec. 94-249. - Application for a special exception use or unique use.

The following procedures shall be followed to apply for a special exception use or a unique use:

- (1) Any person owning or having a legal interest in the subject property may file an application to use the property for a special exception use or a unique use provided for by this chapter.
- (2) The application shall be filed with the planning director. The planning director will review the application and, if complete, transmit it to the planning commission. The application must be filed at least 30 days prior to the planning commission hearing at which it is first to be considered.
- (3) Fees shall be paid to the city treasurer at the time of filing of the application for a special exception use or a unique use. Transmittals shall not be made unless the required fees have been paid in full. The amount of such fees shall be established by the city commission by resolution and may include escrow accounts to cover the city's costs of professional consultants and other expenses related to the application.
- (4) The application filed with the planning director shall be accompanied by the following documents and information:
 - a. A site plan which meets the standards and requirements of article X. If the site plan is readily reproducible by a copy machine and does not exceed 12 by 18 inches in size, one copy of the plan shall be submitted with the application. If the site plan is not readily reproducible or exceeds 12 by 18 inches in size, 15 copies of the plan shall be submitted with the application.

- b. A statement regarding compliance with the standards for approval provided by section 94-250, and with other r imposed by this chapter applicable to the use under consideration.
- (5) Upon receipt of a completed application, the planning director shall take the following actions:
- a. The planning director shall schedule a public hearing before the planning commission for consideration of the special exception use or unique use request. Notice of the public hearing shall be provided as required by section 4a(2) of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended.
 - b. The planning director shall also schedule consideration of the site plan submitted with the application as an item on the agenda at the next regular planning commission meeting. The site plan shall be reviewed at that meeting under the standards and requirements provided by article X of this chapter.

(Ord. No. 88-367, § 38, 1-10-89; Ord. No. 05-524, § 2, 2-14-05)

Sec. 94-249.1. - Review of expansion of existing use as integrated site.

If an applicant seeks approval of a special exception or unique use as an expansion of an existing use onto an adjacent site, the applicant shall file an application and site plan for review of the proposed and existing site as a single integrated site. The planning commission shall review the application and site plan for the integrated site pursuant to the terms of this chapter and may impose conditions as to all or any portion of the integrated site pursuant to section 94-251 of this chapter.

(Ord. No. 93-420, § 2, 7-13-93)

Sec. 94-250. - Standards for approval of special exception uses or unique uses.

At the public hearing before the planning commission, the commission shall review the particular circumstances of the special exception use or unique use under consideration and shall approve the use only if all of the following findings are made:

- (1) The establishment, maintenance, location or operation of the use will not be detrimental to or endanger the public;
- (2) The use is compatible with the intent of the zoning district and will not change the essential character of the surrounding area;
- (3) The use will not be injurious to the use or enjoyment of other property in the immediate vicinity for the purposes permitted, will not substantially diminish or impair property values within the area, and will not result in any significant adverse impact on the natural environment;
- (4) The establishment, maintenance, location or operation of the use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in that district;
- (5) Adequate utilities, access roads, drainage, and other necessary services or facilities have been or will be provided such that the use will not place demands on public services or facilities in excess of capacity; and
- (6) The use will, in all other respects, conform to the applicable regulations of the zoning district in which it is located, conditions imposed on approval, and all other applicable provisions of law, ordinance or statute.

(Ord. No. 88-367, § 38, 1-10-89)

Sec. 94-251. - Conditions of approval.

In addition to the specific conditions or requirements of approval set forth in this chapter, reasonable conditions may be imposed by the planning commission in conjunction with the approval of a special exception use or a unique use for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of those who will use the special exception use or unique use under consideration, residents and landowners immediately adjacent to the proposed use, and the community as a whole; be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity; and be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(Ord. No. 88-367, § 38, 1-10-89)

Sec. 94-252. - Approvals of special exception uses and unique uses.

- (a) At the public hearing, or within a reasonable time following the public hearing, the planning commission shall approve, approve with conditions, or deny the special exception use or unique use request. The decision shall be incorporated in a statement of conclusions relative to the special exception use or unique use under consideration. The statement shall specify the basis for the decision and any condition imposed relating to an affirmative decision.
- (b) The planning commission shall also review the site plan submitted with the application and shall approve, approve with conditions, or deny the site plan in accordance with the procedures, standards and requirements for site plan review as provided by article X. If approved, or approved with conditions, the site plan as approved shall become a part of the record of approval of the special exception use or unique use.
- (c) No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no construction permits shall be issued for a special exception use or unique use until both the application and site plan have been approved by the planning commission. Further, no construction of buildings or structures or any other site improvements or changes shall be made except in strict compliance with the site plan as approved by the planning commission, or as changed by mutual agreement of the planning commission under section 94-283.
- (d) Approval of a special exception use or a unique use shall expire one year from the date of approval unless the authorized use or activity has commenced prior to that time. However, the planning commission may in its discretion approve an extension of the expiration period for up to one additional year, if the extension is requested prior to the expiration of the initial period.
- (e) An application which has been denied or approved subject to conditions by the planning commission may not be resubmitted for review by the planning commission for a period of 120 days from the date of denial, except on the basis of new evidence found valid by the planning commission.

(Ord. No. 88-367, § 38, 1-10-89)

Sec. 94-253. - Performance guarantees.

Performance guarantees to ensure compliance with the provisions of this chapter and any conditions imposed under this chapter may be required by the planning commission at the time of approval of a special exception use or unique use as authorized under section 4e of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.

(Ord. No. 88-367, § 38, 1-10-89)

Sec. 94-254. - Specific standards for certain special exception uses.

In addition to meeting the standards of approval applicable to all special exception uses as provided by this chapter, the following uses shall also be subject to the following specific standards:

(a) *Mineral processing and material storage.*

(1) Lot and setback requirements.

- a. The minimum lot size for such uses shall be 20 acres.
- b. All principal and accessory buildings and structures, and all stored mineral materials shall meet the following minimum requirements:

Requirement	Adjoining any residential use or residential district (including AA district)	Adjoining any other district
Front yard	500 feet	50 feet
Side yard	500 feet	20 feet
Rear yard	500 feet	20 feet
Lot coverage	60%	60%
Height		
Buildings or structures	45 feet	45 feet
Stored material piles	35 feet	35 feet

- c. All required yard areas shall be planted with ground cover suitable to prevent dust and erosion.

(2) Screening.

- a. The property or properties on which the use is established shall be planted with screening materials meeting one of the following requirements, or a combination thereof, as approved by the planning commission:
 1. Planting of staggered rows of coniferous trees along the boundaries of the property at least six feet in height at the time of planting. The planting of the rows of coniferous trees shall ensure a continuous screen along the property lines.
 2. Construction of a solid fence or wall of decorative wood or masonry materials, which shall be continuously maintained.
 3. Other methods approved by the planning commission that achieve the required screening, including the use of existing vegetation, earthen berms, etc.

(3) Access and on-site circulation.

- a. All such uses shall have direct access to a public street. Driveway approaches to the site must be constructed in accordance with the requirements of the city engineer.
- b. To minimize the deposit from trucks of mineral materials onto a public street, a paved or bituminous surface shall be provided for all on-site entrance and exit drives for a distance into the site of not less than 300 feet from the property line marking the entrance to the site. If such materials are deposited on the public street, it shall be the responsibility of the property owner to immediately remove the spilled or deposited material.

- (4) Erosion control measures shall be maintained to comply with the state Soil Erosion and Sedimentation Control Act (Part 91 of Act 451 of the Public Acts of Michigan of 1994, MCL 324.9101 et seq., as amended), and with any other applicable federal, state, or city requirements.

- (5) Any on-site lighting shall be shielded or otherwise directed away from adjacent properties. Poles or lighting fixtures shall not exceed a height of 35 feet.
- (6) All machinery, equipment, facilities, and operations shall be maintained and conducted in such a manner as to eliminate, to the maximum extent practical, noises, vibrations, dust or other adverse conditions which interfere with the reasonable use and enjoyment of property in the vicinity. To this end, the planning commission may impose such conditions as are necessary to achieve this objective. Such conditions shall comply with the requirements of section 94-251.
- (7) Separation, crushing, dissolving, breaking up, pulverizing, grinding, shredding, mixing, combining, or other similar operations shall not begin prior to 7:00 a.m. and shall end not later than 7:00 p.m., or as may be determined by the planning commission.

(b) *Junkyards.*

- (1) Requests for a special exception use for establishment of a junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
- (2) The site shall be provided with suitable access to a collector or arterial road to ensure safe, direct transport of salvage to and from the site.
- (3) No portion of the storage area shall be located within 500 feet of any residential use or district.
- (4) Any outdoor storage area shall be completely enclosed by a fence or wall at least six feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two nontransparent gates each of which shall not exceed 48 feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.
- (5) Stored materials shall not be stacked higher than the height of the fence used to enclose the storage area and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
- (6) A management office shall be provided on site.
- (7) Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
- (8) All portions of the storage area shall be accessible to emergency vehicles.
- (9) Vehicles or vehicle bodies shall be stored in rows with a minimum of 20-foot continuous loop drives separating each row of vehicles.
- (10) All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
- (11) Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
- (12) The property shall include at least six acres.
- (13) All fences shall be setback a minimum of 500 feet from any residential use or district.
- (14) In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight

hours.

(15) The planning commission may impose other conditions as are necessary to ensure compliance with this section.

Such conditions shall comply with the requirements of section 94-251.

(c) *Non-exempt small cell wireless facilities.* The modification of existing or installation of new small cell wireless facilities or new utility poles or wireless support structures (jointly, "support structures") used for such small cell wireless facilities that are not exempt from zoning review in accordance with Public Act 365 of 2018, as amended ("Act 365") shall be subject to special exception use review and approval in accordance with the following procedures and standards:

- (1) New installations of support structures designed to support small cell wireless facilities outside of the right-of-way shall be installed on a legal lot. This provision shall not apply to existing support structures, including existing buildings.
- (2) Wireless support structures designed to support small cell wireless facilities outside of the public ROW must be set back from all lot lines (and in the case of a park site, from areas of unrestricted public use) at a distance that is equal to the actual fall zone for the wireless support structure proposed or 50 percent of the height of the support structure, whichever is greater. The fall zone shall be certified by a State of Michigan licensed and registered professional engineer.
- (3) The owner and operator of a wireless support structure for new small cell wireless facilities outside public ROWs shall agree to permit other communication service providers, including local governmental agencies, to use the wireless support structure, upon commercially reasonable terms and conditions. As used herein, "commercially reasonable terms and conditions" shall mean a rental or license rate consistent with the market for metropolitan Grand Rapids and without mandating the use of another entity's towers. This obligation shall not require the owner or operator to permit access where doing so will interfere with the owner or operator's ability to provide or receive signals or with contractual obligations to unrelated third parties.
- (4) In residential districts, the height of support structures outside of public ROWs shall not exceed that minimally required to meet federal, state, and local performance requirements. Subject to FAA standards, any support structure in a residential district shall not be erected at a height to require lighting.
- (5) The applicant shall include in its application for special exception uses information on the screening or landscaping of the site. The wireless support structure may be required to be disguised or stealthed with natural or manmade features such as landscape features, clock towers, steeples, flagpoles etc. in residential or historic districts. Landscape screening and similar environment-blending measures may be required by the planning commission to help screen the ancillary buildings from the surrounding uses, with special consideration for residential uses.
- (6) The planning commission shall base its review of the special exception use request on the standards contained in section 94-250, the standards in this section and Act 365; provided, however that a denial shall meet the following criteria:
 - a. The denial is supported by substantial evidence contained in a written record that is publicly released simultaneously or concurrently.
 - b. There is a reasonable basis for the denial.
 - c. The denial would not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.
- (7) In addition to the provisions set forth herein, the planning commission in its review of an application is subject to all of the following:

- a. An applicant's business decision on the type and location of small cell wireless facilities, support structures, or to be used is presumed to be reasonable. This presumption does not apply with respect to the height of small cell facilities or wireless support structures.
 - b. An applicant shall not be required to submit information about its business decisions with respect to any of the following:
 - 1. The need for a wireless support structure or small cell wireless facilities.
 - 2. The applicant's service, customer demand for the service, or the quality of service.
- (8) The fees for zoning review of a special exception use and associated site plan shall be as set by resolution of the city commission.
- (9) Within one year after a zoning approval is granted, a wireless provider shall commence construction of the approved wireless support structure that are to be operational for use by a wireless services provider, unless the city and the applicant agree to extend this period, or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved wireless support structure within the time required, the zoning approval is void.

(Ord. No. 94-456, § 4, 12-13-94; Ord. No. 95-469, § 1, 10-10-95; Ord. No. 95-473, § 4, 11-28-95; Ord. No. 97-501, § 1, 9-8-97; Ord. No. 98-513, § 4, 4-13-98; Ord. No. 22-666, § 3, 3-28-22)

Secs. 94-255—94-259. - Reserved.

ARTICLE IXA. - OPEN SPACE PRESERVATION

Sec. 94-260. - Purpose.

Act No. 179 of the Public Acts of Michigan of 2001 ("Act 179") requires that cities having a population of 1,800 or more and having undeveloped land zoned for residential development at a certain density must adopt provisions in their zoning ordinances known as "open space preservation" provisions, which permit lands satisfying specified criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than 80 percent, that, as determined by the city, could otherwise be developed under existing ordinances, laws and rules, on the entire land area. The purpose of this article is to adopt open space preservation provisions consistent with the requirements of Act 179.

(Ord. No. 02-493, § 1, 12-9-02)

Sec. 94-261. - Definitions.

Words and phrases used in this article, if defined in Act 179, shall have the same meaning as provided in Act 179.

(Ord. No. 02-493, § 1, 12-9-02)

Sec. 94-262. - Eligibility.

- (a) Land may be developed under the provisions of this article only if each of the following conditions is satisfied:
 - (1) The land shall be zoned in the AA district or S district;
 - (2) The development of land under this article shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering

option provided by this article would also depend on such an extension; and

(3) The clustering option provided pursuant to this article shall not have previously been exercised with respect to the same land.

(b) If all of the preceding conditions are satisfied, the land is eligible for development, at the option of the landowner, in accordance with the provisions of the article.

(Ord. No. 02-493, § 1, 12-9-02)

Sec. 94-263. - Permitted uses.

Only those residential land uses permitted by the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this article.

(Ord. No. 02-493, § 1, 12-9-02)

Sec. 94-264. - Application and review procedure.

(a) The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this article shall be those stated in article X (site plan review) of this chapter and this article. In the event of a direct conflict between article X (site plan review) and this article, this article shall govern.

(b) In addition to the application materials required by article X of this chapter, an application for the development of land under the provisions of this article shall include the following:

(1) A parallel plan prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this article were not exercised.

The parallel plan shall be prepared by the developer showing a feasible development under the requirements of the specific zoning district in which it is located and the requirements of any and all state, county, and city regulations. All lots, roads, and other improvements shall be designed so that they do not adversely impact wetlands, floodplains, or drainage ways, as regulated by federal, state, county, or local agencies.

It must be determined by the planning commission that this parallel plan is able to be physically constructed and meet all current requirements, should the open space plan be denied or not constructed. If there is a question regarding water, septic, wetlands, or floodplains, the planning commission may request validation from the proper regulatory authority. If it is determined, through these responses, that the number of lots proposed is not feasible, the parallel plan shall be revised and resubmitted, minus that number of lots. Detailed engineering is not required at this stage.

The planning commission may also waive the submission of a parallel plan if it is determined that the number of housing units proposed for open space development is clearly below the number that would be permitted on the site. Such waiver must be recorded as part of the minutes of the planning commission.

(2) The parallel plan may be conceptual in nature but shall include at least the following information:

(i) Date, north arrow and scale, which shall not be more than one inch equals 100 feet, and, in all cases, the scale shall be the same as that utilized for the site development plan illustrating the proposed development using the clustering option permitted by this article.

(ii) Location of streets and driveways.

(iii) Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.

- (iv) Location of all utilities that would be necessary to serve a development under the parallel plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems, and community water supply facilities.
 - (v) If development under the parallel plan would require the use of septic tanks and drain fields, the parallel plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Kent County Health Department.
 - (vi) The location of all portions of the land that are unbuildable for residential purposes due to the presence of wetlands, severe slopes, flood plains, or other features prohibiting development for residential purposes.
- (3) A copy of the conservation easement, plat dedication, restrictive covenant, or other legal instrument that would run with the land, and that would have the legal effect of preserving in perpetuity the open space required by this article in an undeveloped state. Such legal instrument shall be reviewed and approved by the city attorney prior to recording, consistent with the terms of this article. The legal instrument shall:
- (i) Indicate the proposed permitted use(s) of the undeveloped open space.
 - (ii) Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures, or other improvements, except such drainage improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, or similar improvements that are approved by the planning commission.
 - (iii) Require that the undeveloped open space be maintained by parties who have an ownership interest in the undeveloped open space.
 - (iv) Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of new trees and new plantings.
- (4) The site development plan for the clustering option permitted by this article shall include the following minimum information, in addition to that required by section 94-280 of this chapter:
- (i) Date, north arrow, and scale which shall not be more than 1" = 100 feet, and, in all cases, the scale shall be the same as that utilized for the parallel plan.
 - (ii) The site development plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.
 - (iii) The site development plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for clustered development, and the percentage of each, as compared to the total site acreage.
 - (iv) The site development plan shall illustrate the location of all lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side, and rear yard building setbacks. The number of lots on the site development plan shall not exceed the number of lots on the parallel plan, as approved by the planning commission, and reduced to accommodate non-dwelling structures, if necessary, as described in subsection 94-265(k).
 - (v) The site development plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.
 - (vi) If clustered development will include septic tanks and drain fields, the site development plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and the drain field location for each lot has been approved by the Kent County Health Department.

- (5) If the development is to be served by public streets, verification that the public rights-of-way and streets comply with right-of-way and street standards. If the development is a site condominium with private streets, verification that the streets comply with section 94-317, subject to subsection 94-265(p).
- (c) When reviewing an application submitted under the terms of this article, the planning commission shall determine whether the parallel plan accurately reflects the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this article were not exercised. If the planning commission determines that the number of dwellings illustrated on the parallel plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, if the clustering option provided by this article were not exercised, the applicant shall submit a revised site development plan for the clustering option reflecting the permitted number of dwellings, as determined by the planning commission.
- (d) The planning commission shall review the site development plan and shall approve, approve with conditions, or deny the site development plan in accordance with this article and applicable provisions of this chapter. The basis for the decision and any conditions imposed relating to an affirmative decision shall be specified in the resolution of the planning commission approving or denying the site development plan. If approved, or approved with conditions, the site development plan as approved shall become part of the record of approval.
- (e) The planning commission may impose reasonable conditions in conjunction with the approval of a site development plan when necessary to effectuate the intent and purpose of this article and as provided in section 94-285.

(Ord. No. 02-493, § 1, 12-9-02)

Sec. 94-265. - Development requirements.

- (a) *Required open space.* At least 20 percent of the land proposed for development under the provisions of this article shall remain in a perpetually undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land, as approved by the city attorney. The following areas shall not constitute open space:
- (1) The area within all public street rights-of-way.
 - (2) The area within all private street easements.
 - (3) Any easement for overhead utility lines, unless adjacent to open space.
 - (4) The area within a platted lot or site condominium unit.
 - (5) Off-street parking areas.
 - (6) Detention and retention ponds.
 - (7) Community drain fields.
 - (8) Golf course.
- (b) *Standards for open space.* The following standards shall apply to the open space required pursuant to this article:
- (1) The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, or other use which, as determined by the planning commission, is substantially similar to these uses.
 - (2) The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
 - (3) If the land contains a lake, stream, or other body of water, the planning commission may require that a portion of the open space abut the body of water.
 - (4) A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition

or be landscaped to help preserve or enhance the existing views.

- (5) A portion of the open space shall be reasonably usable by the residents of the land for passive recreational uses such as hiking or picnicking.
 - (6) Open space shall be located so as to be reasonably accessible to the residents of the clustered development. Safe and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
 - (7) Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands, or agricultural land.
- (c) *Use of open space.* All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the planning commission, in its discretion, may permit structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use.
 - (d) *Houses abutting the open space.* A minimum of 50 percent of all dwelling units within the development shall abut or overlook the dedicated open space.
 - (e) *Underlying zoning district.* The development of land under this article shall comply with all requirements of this chapter applicable to the zoning district in which the land is located, except those setback and yard size requirements that must be adjusted to allow the clustering option permitted under this article.
 - (f) *Uniform lot size.* Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the planning commission. Flag lots or panhandle lots shall not be permitted.
 - (g) *Building envelopes.* The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the planning commission. The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.
 - (h) *Lot width.* Each lot shall have a minimum width equal to no less than 75 percent of the minimum lot width specified for the zoning district in which the land is located, unless otherwise approved by the planning commission.
 - (i) *Maximum number of lots.* The clustered portion of the development shall contain not more than the maximum number of lots, as determined from the parallel plan approved by the planning commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in subsection (j).
 - (j) *Nondwelling unit structures.* Lots containing nondwelling structures such as a clubhouse and its related amenities shall be subject to all requirements of this article applicable to lots containing dwellings and shall further be subject to all other requirements of this chapter and other provisions of the city code applicable to the type of structure proposed. However, the planning commission may, in its discretion, permit the enlargement of a lot containing a nondwelling structure so as to reasonably accommodate it.
 - (k) *Reduction in lots for non-dwelling structures.* If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced by the number of dwelling lots equivalent to the area of the lot containing the nondwelling structure, rounded up to the nearest whole number. For the purposes of this subsection, the number of equivalent dwelling lots shall be based on the average area of lots containing dwellings in the clustered development.
 - (l) *Perimeter lots.* Notwithstanding any other provision of this article, the planning commission may require that the clustered development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).

- (m) *Pedestrian circulation.* Adequate pedestrian circulation shall be provided by the applicant for on-site circulation. Adequ access shall be provided to all open space/recreational spaces from the residential areas. Natural paths or bike paths are encouraged within the development. Paths provided within the development shall be constructed of asphalt, gravel, or other similar material as approved by the planning commission.
- (n) *Sidewalks.* The planning commission may require that sidewalks or non-motorized trails be constructed.
- (o) *Grading.* Grading within the clustered development shall comply with the following requirements:
 - (1) To preserve the natural appearance of the land, all graded areas, cuts, and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
 - (2) All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures, or otherwise, except as permitted by the planning commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the planning commission.
 - (3) Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding, or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.
- (p) *Private streets.* If the clustered development is a site condominium, private streets may be permitted in accordance with section 94-317. The planning commission may, however, modify the requirements for private streets in a clustered development and in doing so, shall consider the following criteria:
 - (1) Number and type of dwelling units served by the private street;
 - (2) Traffic generation;
 - (3) Existing topography and vegetation;
 - (4) Security provisions;
 - (5) Interrelationship with the public street network;
 - (6) Future installation of public utilities;
 - (7) Likelihood of public dedication of the roadway.
- (q) *Other laws.* The development of land under this article is subject to all other applicable city ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.
- (r) *Subdivision, site condominium regulations.* After or in conjunction with approval of a clustered site development plan pursuant to this article, the developer shall comply with the requirements and procedures for subdivisions or site condominiums as applicable.

(Ord. No. 02-493, § 1, 12-9-02)

Sec. 94-266. - Amendments to an approved site development plan.

- (a) An approved clustered site development plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the planning commission and the applicant, except as otherwise stated below with respect to a minor change.
- (b) A minor change may be approved by the planning director. The planning director shall notify the planning commission of the minor change and state his conclusion that the change does not substantially alter the basic

design or conditions required for the plan by the planning commission.

The following shall be considered minor changes:

- (1) Reduction of the size of any building, building envelope, or sign.
 - (2) Movement of buildings or signs by no more than ten feet.
 - (3) Plantings approved in the landscaping plan may be replaced by similar types of plantings.
 - (4) Changes requested by the city for safety reasons.
 - (5) Changes which will preserve natural features of the land without changing the basic site layout.
 - (6) Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the site development plan which are deemed by the planning director to be not material or significant in relation to the entire site and which the planning director determines would not have any significant adverse effect on the development or on adjacent or nearby lands or the public health, safety, and welfare.
- (c) The planning director may refer any decision regarding any proposed change in an approved site development 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 planning director may consult with the chairperson of the planning commission.
- (d) Should the planning director determine that a requested change in the approved site development plan is not minor, resubmission to the planning commission for an amendment shall be required, and the planning commission shall consider the change in accordance with the same procedures as for an original application.

(Ord. No. 02-493, § 1, 12-9-02)

Sec. 94-267. - Performance guarantees.

The planning commission, in its discretion, may require reasonable performance guarantees or assurance deemed satisfactory in the circumstances and authorized by law. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved clustered site development plan, including any conditions thereto, and construction and placement of all the improvements required thereby.

In its discretion, the planning commission may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed, as verified by the planning commission.

(Ord. No. 02-493, § 1, 12-9-02)

Sec. 94-268. - Time limitations

Each development permitted pursuant to this article shall be under construction within one year after the date of approval of the site development plan by the planning commission. If this requirement is not met, the planning commission may, in its discretion, grant an extension not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the clustered development.

If the clustered development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the planning commission under the terms of this article in order to exercise the clustering option.

(Ord. No. 02-493, § 1, 12-9-02)

Secs. 94-269—94-275. - Reserved.

ARTICLE X. - SITE PLAN REVIEW

Sec. 94-276. - Purpose.

This article establishes standards and requirements for the review and approval by the planning commission of site plans. As used in this article, "site plan" includes the documents and drawings as specified by this article which are necessary as a part of the land development review process to ensure that a proposed land use or activity is in compliance with applicable local ordinances and state statutes, and is compatible with the character of the surrounding area, the adjacent uses of land, the natural environment, the capacities of public services and facilities, and the public health, safety and welfare.

(Ord. No. 88-367, § 39, 1-10-89; Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-277. - Scope.

The provisions of this article shall apply to the creation of a use or the erection of a building or structure requiring site plan review as specified in this article, except in connection with planned unit developments under article VIII. The standards and requirements provided by this article shall be in addition to those required elsewhere in this chapter which are applicable to the use or activity under consideration. The planning commission may adopt procedures to encourage preliminary, informal review of proposed site plans. 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. The building official shall not issue a building permit for any use, building or structure requiring site plan review until a final site plan has been reviewed and approved as provided by this article.

(Ord. No. 88-367, § 39, 1-10-89; Ord. No. 98-525, § 9-14-98)

Sec. 94-278. - Site plan review and approval by planning commission required.

Site plan review and approval by the planning commission as provided by this article shall be required prior to the creation of any of the following uses or the construction or erection of any buildings or structures in connection therewith:

- (1) All permitted principal and associated permitted accessory uses (including any permitted regulated issues) in the following zone districts (except as provided by section 94-279):
 - a. ARM district, multiple-family residential (except those accessory uses excluded from site plan review by section 94-279).
 - b. ARM district one, multiple-family residential (except those accessory uses excluded from site plan review by section 94-279).
 - c. RMT district, mobile home or trailer coach park (to the extent allowed by state law).

- d. ORP district, office, research and parking.
- e. C-1 district, local commercial.
- f. C-2 district, community commercial.
- g. C-3 district, highway commercial.
- h. C-4 district, outdoor commercial.
- i. ML district, light industry.
- j. MH district, heavy industry.
- k. MP district, industrial park.
- l. Principal uses permitted in the AA district under subsections 94-171(b)(4), (5), (6), (7), and (16) and accessory uses to such principal uses.

The standards and requirements of this chapter shall also apply to special exception and unique uses as provided in section 94-248.

(Ord. No. 98-525, § 1, 9-14-98; Ord. No. 01-474, § 2, 4-9-01)

Sec. 94-279. - Exemptions.

- (a) Notwithstanding subsection 94-278(1), the following shall be exempt from the requirement of site plan review and approval by the planning commission as provided by this article, but shall instead be subject to review by the building official to verify compliance with applicable zoning standards and requirements:
 - (1) A single one- or two-family dwelling on a lot.
 - (2) Multiple housing with more than two dwelling units but not more than four dwelling units.
 - (3) Accessory uses permitted under subsection 94-172(c)(1) in the ARM district and accessory uses permitted under subsection 94-173(c) in the ARM district one.
 - (4) The principal uses permitted under subsection 94-171(b)(1), (2), (3), (8), (9), (10), (11), (12), (13), (14), and (15), and accessory uses to such principal uses in the AA district.
 - (5) A "state licensed residential facility (six or less persons)" on a lot on which there is no other principal building or use.
 - (6) The construction of any building addition which does not increase existing usable floor area by more than 25 percent or 5,000 square feet, whichever is less. This subsection shall not be construed to exempt any new construction otherwise subject to site plan review under section 94-278.
 - (7) Construction solely on the interior of an existing building that does not increase usable floor area or increase the number of parking spaces by five or more spaces.
 - (8) The creation of any permitted principal use or permitted accessory use, or the erection of any buildings or structures in connection therewith, in any of the following zone districts (unless site plan review and approval by the planning commission is specifically required for the use, building or structure by the applicable district regulations in Article VII):
 - a. "A" district, single-family residential.
 - b. "A-2" district, duplex, two-family residential.
 - c. "SA" district, suburban residential, single-family.
 - d. "S" district, suburban residential.

(b) Notwithstanding subsection 94-278(1), the following shall also be exempt from the requirement of site plan review and approval by the planning commission under this article, but shall instead be subject to review under the provisions specified by this section below:

- (1) Mineral mining, subject to the requirements of Article VII of Chapter 34.
- (2) Planned Unit Developments (PUDs), subject to the requirements of Article VIII of this Chapter.
- (3) Site condominium projects, subject to the requirements of Article XI of this Chapter.
- (4) Temporary uses, subject to the requirements of Article XVIII of this Chapter.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-280. - Information required for site plans.

Except as otherwise specifically provided by this article, site plans shall contain the information required by this section, as deemed necessary by the planning commission to adequately review a proposed use or activity and to meet the purposes and intent of this article. The types of information and the level of detail required by the planning commission for its review may vary depending upon the scale, scope or nature of the use under consideration. The information shall be presented in sufficient detail to describe, where appropriate, adequate dimensions to show the size and placement of all proposed structures, and adequate contour elevations to determine the existing and proposed configuration of the site for engineering purposes. Further, the required information shall be provided in sufficient detail to determine the demand on the capacities of public services and facilities.

- (1) An accurate site plan, drawn to a scale not larger than one inch equals 100 feet (one inch = 100 feet) a minimum of one inch to 200 feet scale or larger and showing:
 - a. Property boundaries, property dimensions (including width, length, acreage and frontage) and north arrow.
 - b. A project description.
 - c. Existing zoning of the property and zoning of all adjacent properties within 300 feet.
 - d. The location, size, height, and use of all existing and proposed buildings, structures, or man-made features, including proposed setbacks, lot lines, typical layout, and distances between structures and between structures and lot lines.
 - e. The dimensions and number of proposed lots.
 - f. The location, surface width, and right-of-way width, as applicable, public rights-of-way, streets, drives, alleys, easements, acceleration and deceleration lanes, pedestrian walkways, and loading areas, including relationship to existing rights-of-way. The site plan shall also include any private streets if they are existing or otherwise permitted under this chapter.
 - g. The location of parking areas and number of parking spaces by size, as specified in Article XVI of this chapter. Parking spaces shall be designated by lines showing individual spaces.
 - h. The location and specifications of exterior lighting.
 - i. The location of all existing and proposed landscaping and vegetation, including number of trees and shrubs by species and caliper.
 - j. All known natural resources or natural features to be preserved.
 - k. The location, height and type of existing and proposed fences, walls, retaining walls, screening, berms and buffer zones.
 - l. The location of dumpsters, waste disposal areas, and loading facilities.

- m. The location and size of existing and proposed hydrants and utilities, including proposed connections to public water supply systems.
 - n. The location and size of all surface and subsurface water drainage facilities, and county and/or local drainage ways, existing and proposed, with flow and runoff calculations, and floodplain areas, bodies of water, wetlands, or other unbuildable areas, if present on the site.
 - o. The location and size of all signs in accordance with Article XIV of this chapter.
 - p. The approximate locations of all buildings, structures and driveways on properties within 100 feet of any lot line of the subject properties.
 - q. The location and size of proposed open spaces, including recreational areas, and the purpose proposed for the open space areas.
 - r. Driveway/access specifications.
 - s. Locations of existing or proposed above or below ground storage facilities, and any containment structures, for chemicals, flammable materials, or hazardous materials.
 - t. For residential developments, density calculations, number and types of residential units, and floor area per habitable space.
 - u. The square footage that will be devoted to nonresidential purposes, and the number of rooms in hotels or motels.
- (2) A topographic map showing present and proposed elevations at contour levels of not more than five feet, and showing the relationship of the topography of the land to adjoining land. Where excavation, fill or recontouring of the site is involved, proposed grading and final contours shall be shown.
- (3) In addition to the required maps and drawings, a narrative (shown on the site plan or submitted separately) which contains the following information:
- a. The owner's name and address; and the applicant's name and address, if not the same as the owner.
 - b. The name, address and phone number of the individual who prepared the plan, and the date of preparation.
 - c. The common description and complete legal description of the property.
 - d. The approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
 - e. Dwelling unit densities by type, if applicable.
 - f. A development and construction schedule indicating the intended date(s) for commencement of construction of all or portions or phases of the project.
 - g. Deed restrictions or other covenants affecting the land.
 - h. Proposed method of providing sewer and water service, as well as other public and private utilities.
 - i. Proposed method of providing storm drainage.
 - j. Permits and/or approvals required by state, federal, county, or other local agencies.
- (4) Any additional information that is deemed by the planning commission to be reasonably necessary to adequately evaluate the proposed use or activity and its effects on the city, including, without limitation, additional studies (e.g., traffic impact analysis, impacts on natural features and drainage, soil tests), graphics (e.g., aerial photography), or written materials.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-281. - Application for site plan review.

- (a) An application for site plan review must be submitted by the applicant to the planning director. If the site plan is readily reproducible by a copy machine and does not exceed 12 by 18 inches in size, one copy of the plan shall be submitted. If the site plan is not readily reproducible or exceeds 12 by 18 inches in size, 15 copies of the plan shall be submitted. The site plan must be submitted at least 30 days prior to the planning commission meeting at which it is first to be considered. An application shall not be considered complete unless all of the following has been provided:
- (1) Fifteen copies of the site plan meeting the requirements of section 94-280.
 - (2) A site plan review fee. Transmittals shall not be made unless the required fees have been paid in full. The amount of the fees shall be established by the city commission by resolution and may include escrow accounts to cover the city's costs of professional consultants and other expenses related to the application.
- (b) The planning director shall review the site plan and, if complete, shall schedule consideration of the site plan as an item on the agenda at the next regular planning commission meeting. The planning director may also distribute copies of the site plan to other city departments for review and comment prior to review by the planning commission as provided by this article.

(Ord. No. 98-525, § 1, 9-14-98; Ord. No. 05-524, § 4, 2-14-05)

Sec. 94-282. - Preliminary review by city staff.

- (a) The planning director, building official, city engineer, fire chief, and such other city officials or employees (city staff) that are interested in a proposed site plan or who might assist the city in the review process, shall be provided the opportunity to review the site plan prior to review by the planning commission.
- (b) At the planning director's request, the applicant (or the applicant's authorized representatives) shall meet with the planning director and other city staff members to discuss the city's preliminary comments regarding the site plan. City staff and the applicant shall attempt to resolve any technical issues raised by the staff's comments prior to review of the site plan by the planning commission. If determined necessary by the planning director following the staff review meeting, the planning director may request the applicant to prepare and submit a revised site plan prior to review by the planning commission. Issues regarding the site plan that cannot be resolved by city staff and the applicant as a result of the meeting shall be referred to the planning commission for decision.
- (c) The planning director shall prepare a written report to the planning commission summarizing the city staff's review of the site plan, including a description of any changes made by the applicant to the plan as a result of the review, a summary of staff comments, and any issues regarding the site plan that could not be resolved by staff and the applicant. Staff members that have reviewed the site plan may also submit their written comments, if any, to the planning director for transmittal to the planning commission.
- (d) Statements made by city staff to the applicant in the course of its preliminary review of a site plan as provided by this section shall not constitute legally binding commitments, and shall not affect the applicability of the standards and requirements for formal approval of site plans by the planning commission as required by this article.
- (e) The planning commission may adopt additional procedures to encourage preliminary, informal review of proposed site plans consistent with the intent of this section.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-283. - Standards for site plan review by planning commission.

The planning commission shall review the site plan following the preliminary review of city staff pursuant to section 94-282 (except as provided in section 94-289). The planning commission's review shall be based on the purposes, objectives and requirements of this article and on the standards provided by this section. The standards provided by this section are intended to provide a frame of reference for the planning commission in making its decision and to provide some guidelines for applicants preparing site plans. The standards are not intended as inflexible requirements, nor are they intended to discourage creativity, invention or innovation in the land development process.

- (1) *Dimensional requirements.* The dimensional arrangement of buildings and structures conforms to the required yards, setback, height, and other applicable bulk and placement regulations of this chapter.
- (2) *Building arrangement.* The proposed buildings and structures have a compatible relationship to the site terrain, landscaping, open space, and the other buildings and structures, existing and proposed. The bulk, location and height of proposed buildings and structures, as well as the general character of the development, should minimize any adverse effect to other development in the surrounding area and should not place demands on public services or facilities in excess of capacity.
- (3) *Drainage of surface water.* Proper site drainage should be provided 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 roof areas, canopies and paved areas and carried away in an underground drainage system. Temporary onsite storage to reduce peak 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 ponding.
- (4) *Utility services.* Utility distribution lines shall be underground. Other or associated utility installations above ground shall be located so as to have a harmonious relationship to neighboring properties and to the site.
- (5) *Vehicular access and parking.* The provisions for vehicular loading and unloading and parking, and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways shall not create hazards to safety, and shall not place demands on public services or facilities in excess of capacity. Drives, streets and other elements shall be designed to promote safe and efficient traffic operations within the site and shall provide safe and efficient vehicular access to and from the site in light of adjacent streets and curb cuts. Off-street parking and loading areas shall be provided as required by this chapter in a manner that will minimize noise, glare, odor and other effects on uses on the site or on adjacent properties.
- (6) *Pedestrian access.* Pedestrian access should be provided between major activity areas, employment centers, service centers and residential areas. Sidewalks should be provided along the street unless determined by the planning commission to be undesirable or unnecessary or because pedestrian circulation is provided in other ways. At a minimum, if sidewalks are not provided, pedestrian movement along the street right-of-way should not be hindered by rocks, boulders, fences or other obstructions.
- (7) *Exterior lighting.* Exterior lighting shall not create undue hazards to motorists traveling on adjacent public streets, nor damage the value or diminish the usability of adjacent properties. Lighting should be adequate for the safety of occupants or users of the site.
- (8) *Landscaping.* The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. Plant material should be used to enhance appearance of the site, to screen unsightly or harsh elements, and to provide visual relief from large monotonous features such as parking lots. Landscaping, buffers, and/or

greenbelts should be preserved or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Landscaping, buffer zones, and other aspects of the site plan shall comply with the requirements of section 94-344.

- (9) *Signs*. The size and location of signs should be considered in relation to signs on adjacent sites, and shall be located to avoid impairment of traffic safety and the visibility of motorists. Every sign shall be proportionate in its design and in its visual relationship to buildings and surroundings as an accessory use to onsite structures. Every sign shall be designed as an integral architectural element of the building(s) and site(s) to which it principally relates.
- (10) *Special features*. Storage areas, mechanical areas, service areas, truck loading areas, utility buildings and structures, and similar features should be located and/or screened so as to be unobtrusive and not interfere with access to or circulation within the site or detract from the visual impression of the site.
- (11) *Emergency access*. All buildings and structures shall be arranged so as to permit sufficient access to emergency vehicles.

(Ord. No. 98-525, § 1, 9-14-98; Ord. No. 01-482, § 2, 12-10-01; Ord. No. 07-551, § 4, 7-9-07)

Sec. 94-284. - Conflicts with laws or private restrictions.

- (a) A site plan that violates, or that is inconsistent with, local, state or federal law or regulations shall not be approved.
- (b) The approval of a site plan shall not be considered a waiver of deed restrictions or covenants that apply to the property.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-285. - Conditions of approval.

The planning commission may impose reasonable conditions in conjunction with the approval of a site plan for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of those who will use the proposed use or activity under consideration, residents and landowners immediately adjacent to the proposed use, and the community as a whole; be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity; be necessary to meet the intent and purpose of this chapter; be related to the standards established in this chapter for the land use or activity under consideration; and be necessary to ensure compliance with this chapter.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-286. - Site plan approvals.

- (a) The planning commission shall review the site plan and shall approve, approve with conditions, or deny the site plan in accordance with this article and applicable provisions of this chapter. The basis for the decision and any conditions imposed relating to an affirmative decision shall be specified in the resolution of the planning commission approving or denying the site plan. If approved, or approved with conditions, the site plan as approved shall become a part of the record of approval.
- (b) Upon approval of a site plan, the planning director and the applicant shall sign and date three copies of the site plan as approved. One signed copy of the approved site plan shall be kept on file by the planning department; one copy

shall be forwarded to the building inspector; and one copy shall be returned to the applicant.

- (c) Approval of a site plan shall expire (and shall be null and void) one year from the date of approval unless a building permit is issued prior to that time and the construction proceeds to completion in accordance with the building permit and site plan. However, the planning commission may approve an extension of the expiration period for up to one additional year, if the extension is requested prior to the expiration of the initial period and the applicant presents reasonable evidence that the delay in commencing construction was due to unforeseen difficulties beyond the control of the applicant. If the extension is not granted due to the applicant's failure to meet the conditions for an extension as provided by this section, or if construction is not commenced prior to the expiration of a granted extension, the site plan approval shall be null and void and a new application shall be required.
- (d) A site plan which has been denied or approved subject to conditions by the planning commission may not be resubmitted for review by the planning commission for a period of 120 days from the date of denial or approval with conditions, except on the basis of new evidence found valid by the planning commission.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-287. - Changes to an approved site plan.

- (a) Subsequent to its approval, a site plan may be changed only by the mutual agreement of the planning commission and the applicant, except minor changes as provided by subsection 94-287(b). The planning commission shall not agree to a change in an approved plan unless the change conforms to all applicable standards and requirements of this chapter. The decision to approve a change to an approved site plan shall be made by the planning commission at a regularly scheduled or special planning commission meeting.
- (b) Minor changes to an approved site plan may be approved by the planning director upon certification in writing to the planning commission that the proposed revision does not alter the basic design or any specified conditions of the plan as approved by the planning commission. For purposes of this section, a minor change is any of the following, provided that the applicable minimum requirements of the zoning ordinance continue to be met:
- (1) A reduction of the size of any building.
 - (2) Change in the location of a building, sign or trash dumpster by no more than ten feet.
 - (3) Replacement of plantings approved in the site plan landscape plan with similar types of plantings on a one-to-one basis or greater basis.
 - (4) Any change in signs including the number, height, size, or setback.
 - (5) Changes required or requested by the city or another governmental agency for safety reasons.
- (c) An applicant requesting a change to an approved site plan by the planning commission or the planning director shall provide the planning director with three copies of the site plan indicating the proposed change. If the change is approved as authorized by this section, the three copies of the modified site plan shall be signed, dated and distributed as provided by Section 94-286.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-288. - Performance guarantees.

Performance guarantees to ensure compliance with the provisions of this chapter and any conditions imposed under this article may be required by the planning commission at the time of approval of a site plan as authorized under section 4e of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-289. - Variances.

If a site plan requires one or more variances, an application for the variance(s) shall be filed and considered by the board of zoning appeals after preliminary city staff review pursuant to section 94-282. The application for the variance(s) shall be considered by the board of zoning appeals pursuant to article III of this chapter before the planning commission considers the site plan pursuant to section 94-283 and this article X.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-290. - Enforcement.

A site plan approval by the planning commission in connection with a proposed use or activity shall have the full force and effect of this chapter. Subsequent actions relating to that use or activity authorized shall be consistent with the site plan as originally approved or as subsequently changed as provided by this article. Any violation of an approved plan shall be grounds for the city to order that all construction be stopped, and to order that building permits and certificates of occupancy be withheld until the violation is removed or adequate guarantee of removal of the violation is provided to the city. Further, violations of any approved plan, or failure to comply with any requirements of this article, including conditions of approval, shall be considered a violation of this chapter.

(Ord. No. 98-525, § 1, 9-14-98)

Sec. 94-291 - Building facades.

All building facades subject to site plan review in the ORP, C-1, C-2, C-3, C-4, ML, MH and MP districts shall comply with section 94-357.

(Ord. No. 06-547, § 4, 8-28-06)

Secs. 94-292—94-305. - Reserved.

ARTICLE XI. - STANDARDS AND REQUIREMENTS FOR SUBMISSION, REVIEW AND APPROVAL OF SITE CONDOMINIUM PROJECTS

Sec. 94-306. - Purpose and scope.

- (a) Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a lot for purposes of determining compliance with the requirements of this chapter and other applicable laws, ordinances and regulations. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets (public or, if approved, private), and other areas available for use by all owners of condominium units within the project. This article is intended to ensure that site condominium units and developments are regulated in a similar manner and are entitled to the same privileges as any other lot or development regulated by the city.
- (b) This article requires preliminary review by the planning commission followed by final review and approval by the city

commission of site condominium project plans to ensure that site condominium projects comply with this chapter. Site condominium projects may be approved as provided by this article in any zoning district for the uses permitted by this chapter in the zoning district in which the project is located.

(Ord. No. 92-408, § 1(5-D.1), 5-12-92; Ord. No. 95-479, § 3, 2-13-96)

Sec. 94-307. - Definitions.

- (a) 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:

Building envelope means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. (In a single-family residential site condominium project, for example, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.)

Building site means either:

- (1) The area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope and the area around and contiguous to the building envelope; or
- (2) The area within the condominium unit (as described in subsection (1) of this definition), taken together with any contiguous and appurtenant limited common element.

For purposes of determining compliance with the applicable requirements of this chapter, including, without limitation, height, area, yard and density requirements, or with other applicable laws, ordinances or regulations, a "building site" shall be considered to be the equivalent of a "lot."

Condominium act means Act No. 59 of the Public Acts of Michigan of 1978 (MCL 559.101 et seq., MSA 26.50(101) et seq.), as amended.

Exempt change means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this article. Exempt changes shall be limited to the following:

- (1) A change in the name of the project, in the name of a public or private street within the project, or in the name of the developer of the project;
- (2) A change in the voting rights of co-owners or mortgagees; or
- (3) Any other change in the site condominium project which, as determined by the planning commission, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography, or any other aspect of a project which is subject to regulation under this chapter.

Limited common element means an area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium project for the exclusive use of the owner of the site condominium unit.

Major change means a change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that could result in:

- (1) An increase of 20 percent or more in the number of site condominium units;
- (2) A reduction of five percent or more in the area of the building site for any site condominium unit;
- (3) A reduction of five percent or more in the total combined area of the general common elements of the site condominium project;

- (4) A reduction of five percent or more in the total combined area of all limited common elements of the site condominium project; or
- (5) Any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this chapter, including, without limitation, a change in the location of public or private streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the planning commission to constitute a major change to the site condominium project.

Minor change means a change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that will result in:

- (1) An increase of less than 20 percent in the number of site condominium units or a decrease in the number of site condominium units;
- (2) A reduction of less than five percent in the area of the building site for any site condominium unit;
- (3) A reduction of less than five percent in the total combined area of the general common elements of the site condominium project;
- (4) A reduction of less than five percent in the total combined area of all limited common elements of the site condominium project; or
- (5) Any other minor variation in the site configuration, design, layout, topography or other aspect of the project which is subject to regulation under this chapter, and which, as determined by the planning commission, does not constitute a major change.

Site condominium project means a plan or project consisting of two or more site condominium units established in compliance with the condominium act.

Site condominium project plan means the plans, drawings and information prepared for a site condominium project as required by section 66 of the condominium act and as required by this article for review of the project by the planning commission and the city commission.

Site condominium unit means a condominium unit established in compliance with the condominium act which consists of an area of vacant land and a volume of vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.

- (b) Except as otherwise provided by this article, the following words and phrases, as well as any other words or phrases used in this article which are specifically defined in the condominium act, shall conform to the meanings given to them in the condominium act: "common elements," "condominium documents," "condominium unit," "contractible condominium," "convertible area," "expandable condominium," "general common elements" and "master deed."

(Ord. No. 92-408, § 1(5-D), 5-12-92; Ord. No. 96-479, §§ 4, 5, 2-13-96)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 94-308. - Review of preliminary plans by the planning commission.

- (a) Prior to final review and approval of a site condominium project plan by the city commission, a preliminary site condominium project plan shall be reviewed by the planning commission in accordance with the procedures, standards and requirements provided by this article.
- (b) Application for review and approval of a site condominium project plan shall be initiated by submitting to the

planning director:

- (1) A minimum of 15 copies of a preliminary site condominium project plan project plan which complies with the requirements of section 94-311; and
 - (2) A filing fee in accordance with the fees established by resolution of the city commission which may include escrow accounts to cover the city's costs of professional consultants and other expenses related to the application.
- (c) The planning commission shall review the preliminary site condominium project plan in accordance with the standards and requirements contained in section 94-310, and in accordance with the following additional standards and requirements:
- (1) In its review of a site condominium project plan, the planning commission may consult with the zoning administrator, city attorney, city engineer, city fire chief, city planning director or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems, public and private streets, project layout and design, or other aspects of the proposed project.
 - (2) The building site for each site condominium unit shall comply with all applicable provisions of this chapter, including, without limitation, minimum lot area, minimum lot width, required front, side and rear yards, maximum building height, and public and private street frontage requirements. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side and rear yards shall be determined by measuring the distance from the equivalent front, side or rear yard boundaries of the building site to the closest respective front, side or rear boundary of the building envelope. On private streets, the front yard boundary of the building site shall be at least 30 feet from the centerline of the adjoining private street (and this 30-foot setback shall be required even if a modification is approved under section 94-317(d) regarding the width of the private street easement or paved surface of the private street).
 - (3) Except with respect to private streets approved for a site condominium project under section 94-317, site condominium projects shall comply with all requirements regarding design standards and provision of required improvements (including, but not limited to, street trees in section 74-90.1), as provided for subdivisions by article IV of chapter 74 of the City Code, provided that references therein to "subdivision" and "lot" shall mean "site condominium project" and "building site," respectively.
- (d) Portions of the preliminary plan as relevant to the reviewing authority in question shall be submitted by the applicant to the county health department, county road commission, county drain commission, state department of natural resources, state department of public health and other appropriate state and county review and enforcement agencies having direct approval or permitting authority over any aspect of the proposed site condominium project.

(Ord. No. 92-408, § 1(5-D.3), 5-12-92; Ord. No. 96-479, § 6, 2-13-96; Ord. No. 05-524, § 3, 2-14-05; Ord. No. 05-535, § 1, 9-26-05)

Cross reference— Planning commission, § 58-26 et seq.

Sec. 94-309. - Planning commission recommendation.

After reviewing the preliminary site condominium project plan, the planning commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan, and, if the recommendation is to deny approval, the reasons for denial. The planning commission shall provide a copy of

its written recommendations to the applicant and to the city commission. A recommendation by the planning commission to approve (or approve with conditions) a preliminary project plan shall not constitute a final approval of the plan and shall not confer any rights upon any person.

(Ord. No. 92-408, § 1(5-D.4), 5-12-92)

Cross reference— Planning commission, § 58-26 et seq.

Sec. 94-310. - Review and approval of final plans by city commission.

- (a) After receiving the planning commission's recommendations on the preliminary plan, the applicant shall submit to the planning director a minimum of 15 copies of a final site condominium development plan which complies with the requirements of this section and of section 94-311. The planning director shall forward the copies of the final plan to the city commission.
- (b) The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the planning commission based on its prior review of the preliminary plan. If any of the planning commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the planning commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the planning commission. Changes made to the plan other than those necessary to incorporate the recommendations of the planning commission shall be reviewed by the planning commission as provided by this article prior to approval of the plan by the city commission.
- (c) After receiving the planning commission's recommendations on the preliminary plan and a final site condominium development plan from the applicant, the city commission shall proceed to review and may approve, deny or approve with conditions the plan in accordance with the standards provided by section 94-308 and other applicable procedures, standards and requirements provided by this article.
- (d) As a condition of approval of a final site condominium project plan:
 - (1) The city commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city commission covering the estimated cost of required improvements associated with the site condominium project for which approval is sought be deposited with the city as provided by section 4e of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended.
 - (2) The city commission may impose additional conditions of approval as provided by section 94-312.

(Ord. No. 92-408, § 1(5-D), 5-12-92)

Sec. 94-311. - Contents of site condominium project plans.

A complete condominium project plan shall include the following documents and information, as applicable to the project under consideration:

- (1) All of the documents and information required by section 66 of the condominium act, including, without limitation:
 - a. A survey plan.
 - b. A floodplain plan, if the project lies within or abuts a floodplain area.
 - c. A utility plan, showing all sanitary sewer, water and storm sewer lines and related easements for installation,

repair and maintenance of all utilities.

- d. The size, location, area and horizontal boundaries of each condominium unit, and the vertical boundaries and volume for each unit comprised of enclosed air space.
 - e. A number assigned to each condominium unit.
 - f. Building sections showing the existing and proposed structures and improvements, including their location on the land. Any proposed structure or improvement shown should be labeled either "must be built" or "need not be built." To the extent that the developer is contractually obligated to deliver utility conduits, buildings, sidewalk, driveways, landscaping and access roads, the same shall be shown and designated as "must be built," but the obligation to deliver such items exists whether or not they are so shown and designated.
- (2) A site plan which complies with section 94-278.
- (3) To the extent not provided under subsection (1) or (2) of this section, the condominium project plan shall also include the following documents and information:
- a. The location of all proposed drains, drainage ditches, ravines, culverts, changes in grade and other natural or artificial drainage facilities or improvements including, without limitation, a drainage plan showing the general flow of surface water from each building site within the site condominium project to any adjacent building site or lot or to an approved drainage course.
 - b. The nature, location and size of the general and limited common elements (including any information required to be submitted for private streets as provided by section 94-317), building envelopes and building sites.
 - c. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed (including, without limitation, the maintenance provisions which will apply to any proposed private streets).
 - d. A narrative describing the overall objectives of the proposed site condominium project, and a copy of the proposed bylaws for the project.

The condominium project plan and associated documents and information shall be provided at the level of detail as determined necessary by the planning commission for review of a preliminary plan or by the city commission for review of a final plan.

(Ord. No. 92-408, § 1(5-D.6), 5-12-92; Ord. No. 96-479, § 7, 2-13-96)

Sec. 94-312. - Construction in compliance with approved final site condominium project plan.

No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site condominium project plan as approved by the city commission, including any conditions of approval.

(Ord. No. 92-408, § 1(5-D.7), 5-12-92)

Sec. 94-313. - Commencement of construction; issuance of permits.

No construction, grading, tree removal, soil stripping, or other site improvements or changes shall be commenced by any person and no building, construction or grading permit shall be issued by the building inspector for a site condominium project until:

- (1) A final site condominium project plan has been approved by the city commission;
- (2) All conditions to commencement of construction imposed by the city commission have been met; and
- (3) All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.

(Ord. No. 92-408, § 1(5-D.8), 5-12-92; Ord. No. 96-479, § 8, 2-13-96)

Sec. 94-313.1. - Consistency with approved drainage plan required.

- (a) A building permit required by the City Code for the excavation, construction, erection, conversion or repair of any land, building or structure proposed for a building site within a site condominium project for which a site condominium project plan has been approved shall not be issued until a building permit application has been submitted showing that the effect of the proposed work is substantially consistent with the drainage plan approved for the project regarding flow of surface water from the building site to any adjacent building site or lot or to an approved drainage course.
- (b) A certificate of occupancy required by the City Code for the use or occupancy of any building or structure on a building site shall not be issued unless the building official determines that the work completed on the building site pursuant to a building permit issued by the city is substantially consistent with the drainage plan approved for the project regarding flow of surface water from the building site to any adjacent building site or lot or to an approved drainage course.
- (c) The requirements of subsections (a) and (b) shall be clearly and legibly reproduced verbatim in the master deed for the site condominium project.
- (d) No work shall be conducted on a building site, except in compliance with the drainage plan approved for the project, and conditions on the building site after completion of the work shall be maintained at all times in compliance with the approved plan.
- (e) This section applies only to building sites within site condominium projects for which a drainage plan has been approved for the site condominium project as provided by this article. Any building site for which a drainage plan has not previously been approved under this article is subject to the drainage requirements in chapters 18 and 67 of the City Code.

(Ord. No. 96-479, § 9, 2-13-96; Ord. No. 13-612, § 4, 2-11-13)

Sec. 94-314. - Expandable or convertible condominium projects.

Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the city commission in compliance with the procedures, standards and requirements of this article.

(Ord. No. 92-408, § 1(5-D.9), 5-12-92)

Sec. 94-315. - Review and approval of changes to approved site condominium projects.

Any change proposed in connection with a project for which a final site condominium project plan has previously been approved by the city commission shall be subject to review as provided by this section:

- (1) *Major changes.* Any change which constitutes a major change shall be reviewed by the planning commission and reviewed and approved, denied, or approved with conditions by the city commission as provided by this article

for the original review and approval of preliminary and final plans in accordance with the standards provided by section 94-308 and other applicable procedures, standards and requirements.

- (2) *Minor changes.* Any change which constitutes a minor change shall be reviewed and approved, denied, or approved with conditions by the planning commission alone, in accordance with the standards provided by section 94-308 and other applicable procedures, standards and requirements, without the need for further review and approval by the city commission.
- (3) *Exempt changes.* Any change which constitutes an exempt change shall not be subject to review by the city under this article, but a copy of the changes proposed, and of any changes subsequently made if at all different than proposed, shall be filed with the planning director as soon as the changes are proposed or made.

(Ord. No. 92-408, § 1(5-D.10), 5-12-92)

Sec. 94-316. - Incorporation of approved provisions in master deed.

All provisions of a final site condominium project plan which are approved by the city commission as provided by this article shall be incorporated by reference in the master deed for the site condominium project. Further, all major changes to a project shall be incorporated by reference in the master deed. A copy of the master deed as filed with the county register of deeds for recording shall be provided to the city within ten days after filing the plan with the county.

(Ord. No. 92-408, § 1(5-D.11), 5-12-92)

Sec. 94-317. - Private streets.

- (a) *In general.* Private streets may be approved in place of public streets for site condominium projects as part of the site condominium project approval process as provided by this article, and subject to the standards and requirements provided by this section.
- (b) *Private street defined.* For purposes of this section, "private street" means any undedicated street or road that provides, or is intended to provide, the primary means of ingress and egress to two or more building sites within a site condominium project. All extensions, additions or branches of or to a private street shall be considered part of the private street that abuts the public road. "Private street" also includes an access serving a single building site, if that building site does not have the requisite amount of frontage on a public street as required by this chapter.
- (c) *Design standards; highway permit fees.* Except as otherwise specifically approved by the planning commission as provided by section 94-317(d), all private streets and driveway approaches on private streets shall meet the design standards and pay the applicable highway permit fees that would apply to an equivalent public street or driveway approach on a public street as provided by article IV of chapter 74 of the city code, the city's "Rules and Regulations for Highway Permits and Utility Line Permits," as revised, and the city's "Standard Specifications for Street Construction," as revised. As used in this section, "equivalent public street or driveway approach on a public street" means that if the private street or driveway approach on a private street is located in the AA agricultural zone district as provided by this chapter, the private street or driveway approach must meet the design standards that would apply to the street or driveway approach in the AA zone district if it was a public street or a driveway approach on a public street. Similarly, if the private street or driveway approach on a private street is located in a residential zone district (other than the AA zone district) or in a commercial or industrial zone district, the private street or driveway approach must meet the design standards that would apply to the street or driveway approach in the residential, commercial or industrial zone district (as applicable) if it was a public street or a driveway approach on a public street.
- (d) *Modification of maximum grade and/or width.* Pursuant to its review and approval of the preliminary site

condominium project plan, and subject to the minimum standards provided by this section, the planning commission may approve a modification of the design standards otherwise applicable under section 94-317(c) solely with regard to the following: The maximum permitted grade of a private street; the minimum required width of a private street easement; and/or the minimum required width of the paved surface of a private street.

- (1) In determining whether to approve any such modification, the planning commission shall consider the following factors:
- a. Whether the proposed modification is reasonably necessary or desirable to preserve existing natural features on the property such as topography, vegetation, water bodies, wetlands, etc.
 - b. Whether the private street will be of such width, surface and grade to assure safe passage and maneuverability of private vehicles, waste disposal vehicles and emergency vehicles if the proposed modification is approved.
 - c. The impacts, if any, of the proposed modification, on soil erosion or sedimentation of any lakes, streams, wetlands or other effects on the natural environment.
 - d. Whether adequate provisions have been made in the master deed for proper and continued maintenance of the private street (including, without limitation, snow removal).

The planning commission shall also provide the building official, the fire chief, the chief of police, the city engineer (and any other city officials as determined appropriate by the planning commission) with an opportunity to review and comment on any proposed modification. The planning commission shall consider the comments received from such other city officials in determining whether to approve a proposed modification.

- (2) In no case may the planning commission approve a modification of the maximum slope, minimum easement width or minimum pavement width standards otherwise applicable to a private street that are less restrictive than the following minimum standards:
- a. A private street shall be located within a private street easement that is at least 50 feet wide at all points. The paved surface of a private street shall be at least 20 feet wide at all points.
 - b. A three-foot wide road shoulder shall be provided along each side of the paved surface of a private street and around the circumference of the paved surface of any required turn-around area.
 - c. A private street shall not exceed a grade of ten percent; provided that within 30 feet of the intersection of a private street with any other private street or with any public right-of-way, a private street shall not exceed a grade of four percent.
- (e) *Storm drainage.* A private street shall be constructed in a manner determined adequate by the city engineer to provide effective stormwater drainage and to prevent run-off onto adjacent property.
- (f) *Bridges and culverts.* If a private street crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure, for example) must be approved by the city engineer and must comply with applicable state and local requirements.
- (g) *Street names.* A private street shall be given a street name that is not the same or similar to any other street name in the city. A street sign bearing the name given the private street of substantially the same design, size and color of street signs provided by the city for public streets shall be erected and maintained at no expense to the city at the intersection of the private street with another private street or a public right-of-way.
- (h) *Street address numbers.* Street address numbers for all properties located on a private street shall meet the street address requirements for public streets as provided by article IV, chapter 18, of this Code.
- (i) *Private street plan.* The site condominium project plan shall include at least the following additional information with

regard to any proposed private streets:

- (1) The location, route, dimensions, design and grade of the private street;
 - (2) The relation of the private street to adjacent or intersecting public or private streets;
 - (3) Existing or proposed curb cuts;
 - (4) The building sites, buildings or dwelling units, existing and proposed, which will be provided access by the private street;
 - (5) The location of public utilities within the private street easement and within 20 feet of the easement;
 - (6) The location of any drainage courses, lakes, streams or other natural bodies of water within the private street easement and within 100 feet of the easement; and
 - (7) The street name and location of street signs.
- (j) *Maintenance provisions.* A private street may not be approved without adequate provision being made in the master deed to insure the continued repair and maintenance of the private street (including, without limitation, street signs), and complete financing of the costs thereof by the private parties benefitting from the private street.
- (k) One residential building permit for a house may be issued by the building official following the construction of the base asphalt coat of the private street system, as shown on the approved and final site condominium project plan and approved by the city engineer.

No other building permits may be issued until the private street system has been fully constructed in compliance with the approved and final site condominium project plan and approved by the city engineer.

For the purposes of this section, the term "fully constructed" means that the private street system has been constructed with the approved sub-grade, base coat and final top coat of asphalt, along with any required curbing, driveways, signage, storm sewer appurtenances, soil erosion control measures and other related devices, as shown on the final and approved site condominium project plan.

(Ord. No. 96-479, § 10, 2-13-96; Ord. No. 13-611, § 6, 1-28-13)

Sec. 94-318. - Sidewalks; pedestrian lanes.

If sidewalks are not otherwise required under this chapter, the planning commission may recommend and the city commission may require the final site condominium project plan to include the installation of sidewalks or pedestrian lanes along public or private streets. In considering the need for sidewalks or pedestrian lanes, the following criteria shall be considered:

- (1) The amount of current and future pedestrian traffic passing by or within the site.
- (2) Whether a sidewalk or pedestrian lane would enhance the safety of pedestrians currently walking by the site, as well as the safety of future pedestrians.
- (3) The existing and future volume of traffic on the public or private streets within the site and adjacent to the site.
- (4) The existence or probability of sidewalks or pedestrian lanes being constructed on adjacent properties in order to create or complete a usable system of sidewalks or pedestrian lanes.
- (5) The location of the proposed use.
- (6) The location of nearby uses or facilities which attract pedestrians such as schools, churches, public buildings, parks and recreation areas, and shopping areas. If sidewalks or pedestrian lanes are required, adequate provision shall be made in the master deed to ensure their continued repair and maintenance.

(Ord. No. 99-540, § 1, 10-25-99)

Secs. 94-319—94-335. - Reserved.

ARTICLE XII. - SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 94-336. - Visibility at intersections in residential and agricultural districts.

On a corner lot in any residential or agricultural district nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2½ feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lot and a line joining points along the street lines of such lot 50 feet from the point of their intersection.

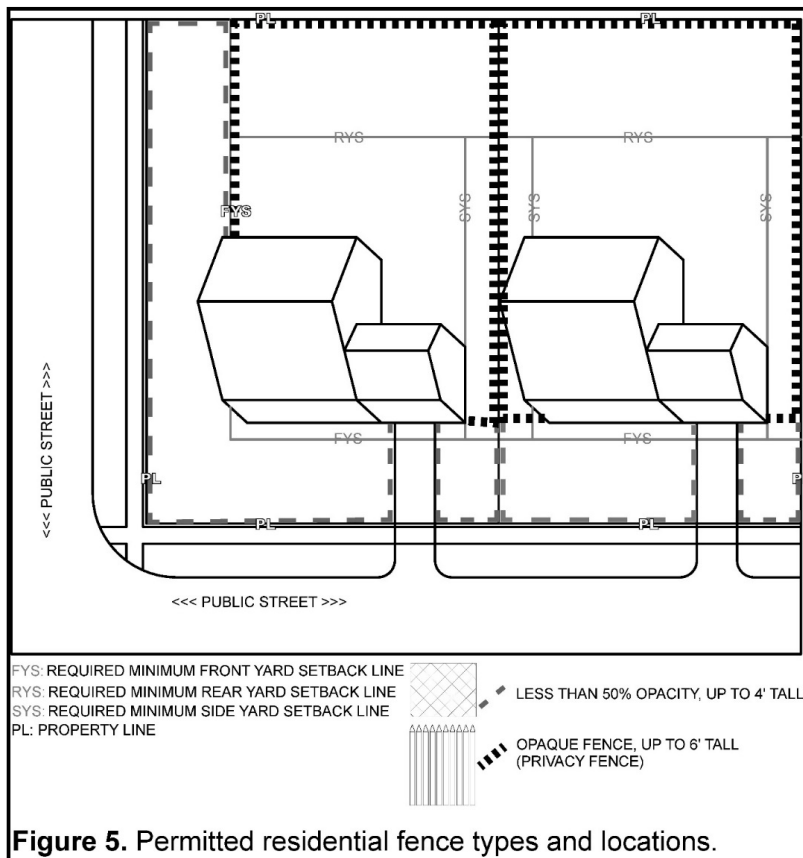
Cross reference—Vegetation, ch. 90.

Sec. 94-337. - Fences and walls.

- (1) The following requirements apply to all fences and walls:
 - (a) No fence shall be constructed of a material which is of such low strength as to be likely to collapse under the weight of a child or other person weighing up to 100 pounds.
 - (b) All contiguous fencing shall have uniform spacing between any slats, posts, or other repeating elements.
- (2) The following requirements apply to fences and walls in residential zoning districts and the AA-Agricultural district:
 - (a) In residential districts, fences and walls located in a required front yard setback shall not exceed four feet in height.
 - (b) Fences used for nonagricultural purposes that are above three feet in height and are located in the required front yard setback shall not exceed 50 percent opacity, as measured as the distance between slats, boards, pickets, split rails, iron posts or similar structural material.
 - (c) Fences and walls located in a required side or rear yard setback shall not exceed six feet in height.
 - (d) Fence posts shall not extend above the top of the fence; however, decorative post caps can project a maximum of four inches above the top of the tallest adjacent fence section.
 - (e) Decorative fence tops, lattice and rails are allowed but shall be included in the overall fence height measurement.
 - (f) Fences used for nonagricultural purposes shall not be constructed of a woven wire, chain link or similar material which has spaces larger than two and a half inches between the wires or chain link. This requirement shall not apply to wrought iron, split rail or similar fences.
 - (g) Fences shall be installed with the "good" side facing outwards. The good side will be the finished side, which does not show the supports, posts or similar structural components.
 - (h) Residential fences in excess of 50 percent opacity shall be primarily composed of one or a mix of the following materials:
 1. Stained, painted, or comparably finished lumber
 2. Vinyl or composite plastic
 3. Pressure treated lumber
 4. Other materials as deemed compatible with the intent of this chapter after review by the Walker Board of

Zoning Appeals.

- (i) Residential fences not exceeding 50 percent opacity shall be primarily composed of one or a mix of the following:
1. Wrought iron or a similar metal alloy.
 2. Stained, painted, or comparably finished lumber.
 3. Vinyl or composite plastic.
 4. Split rail.
 5. Chain link, subject to the limitations of this section.
 6. Pressure treated lumber.
 7. Other materials as deemed compatible with the intent of this chapter after review by the Walker Board of Zoning Appeals.
- (j) Residential walls shall be primarily faced with one or a mix of the following materials:
1. Brick.
 2. Stone.
 3. Stucco.
 4. Other materials as deemed compatible with the intent of this chapter after review by the Walker Board of Zoning Appeals.



- (3) The following requirements apply to fences and walls in nonresidential and nonagricultural zoning districts:
- (a) Fences and walls located in a required front yard setback shall not exceed six feet in height.
 - (b) Fences and walls in a required side or rear yard setback shall not exceed ten feet in height.
 - (c) Fences shall not be constructed of a woven wire, chain link or similar material which has spaces larger than two and a half inches between the wires or chain link. This requirement shall not apply to wrought iron, split rail or

similar fences.

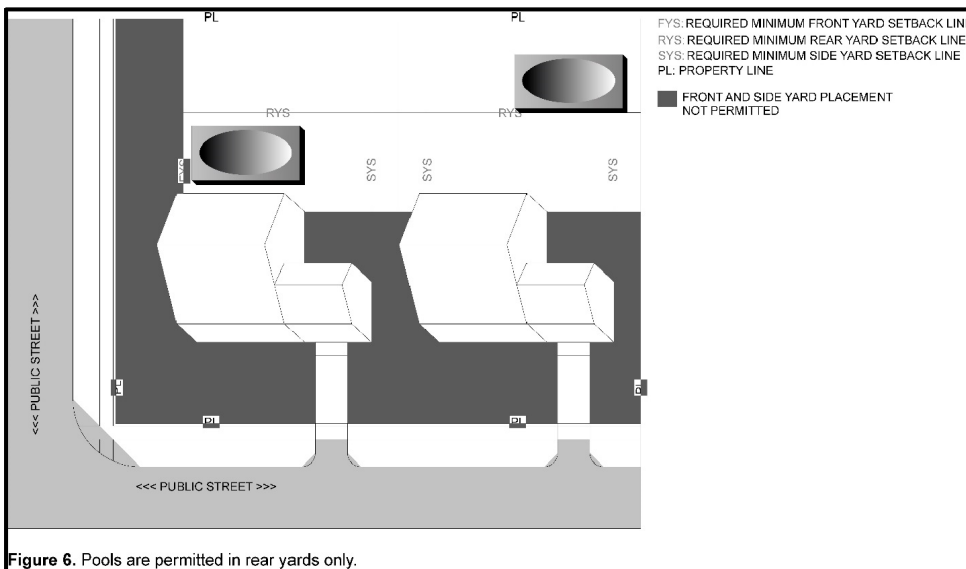
- (4) No fence, wall or other structure in any zoning district shall be constructed or located within a drainage easement described in a final subdivision plat or a final site condominium project plan, or within a drainage easement of the city or other governmental entity which is recorded with the Kent County Register of Deeds or otherwise established by law.
- (5) No planting of trees or other vegetation shall be made or located in any zoning district to materially impede the flow of surface water within a drainage easement described in a final subdivision plat or a final site condominium project plan, or within a drainage easement of the city of other governmental entity which is recorded with the Kent County Register of Deeds or otherwise established by law.

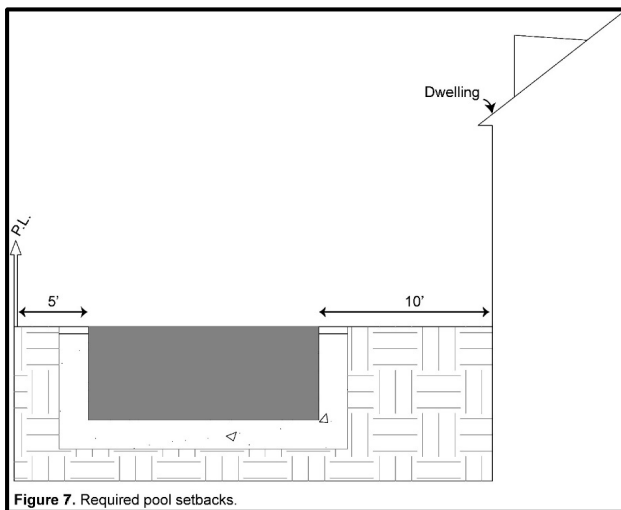
(Ord. No. 72-164, 2-22-72; Ord. No. 94-456, § 5, 12-13-94; Ord. No. 98-512, § 1, 4-13-98; Ord. No. 08-558, § 3, 7-14-08; Ord. No. 11-602, § 2, 9-26-11; Ord. No. 16-632, § 1, 9-26-16; Ord. No. 17-635, § 2, 7-10-17)

Cross reference— Buildings and building regulations, ch. 18; vegetation, ch. 90.

Sec. 94-338. - Accessory buildings and swimming pools.

- (a) All accessory buildings shall be located within the rear yard and at least ten feet away from any other building. If any private garage is located less than ten feet from a dwelling house, the garage shall be made fire resistant in the manner required for attached garages.
- (b) Swimming pools constructed, erected or placed in or on the ground as accessory to a residential dwelling unit shall be located within the rear yard. A wall of a swimming pool shall be located at least five feet from a side or rear property line and at least ten feet from a dwelling. The requirements of this subsection shall apply to any swimming pool for which a building permit is required under the building code of the city.
- (c) No accessory building or swimming pool in any zoning district shall be constructed or located within a drainage easement described in a final subdivision plat or a final site condominium project plan, or within a drainage easement of the city or other governmental entity which is recorded with the Kent County Register of Deeds or otherwise established by law.





(Ord. No. 91-392, § 1, 3-12-91; Ord. No. 98-512, § 2, 4-13-98; Ord. No. 16-632, § 1, 9-26-16)

Cross reference— Buildings, ch. 18.

Sec. 94-339. - Erection of more than one principal building or structure on a lot.

Every building to be erected or moved shall be located on a lot, and in no case shall more than one principal building used for residential purposes be located on one lot, except as may be otherwise provided by this chapter. More than one principal building used for business, commercial or industrial uses may be located on a lot only if the additional building is an integral part of the same business, commercial or industrial operation and provided the building otherwise complies with the provisions of this chapter. No principal building used for business, commercial or industrial uses shall be located on the same lot as a principal building used for residential purposes, except as may be otherwise provided by this chapter.

(Ord. No. 72-164, 2-22-72; Ord. No. 91-392, § 2, 3-12-91)

Sec. 94-340. - Exceptions to height regulations.

The height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances (not to be construed to include signs) usually required to be placed above the roof level and not intended for human occupancy provided, however, that the height of wireless communications towers and antennas shall comply with section 94-355 of this chapter.

(Ord. No. 97-503, § 3, 10-13-97)

Sec. 94-341. - Existing nonconforming lots.

When a parcel of land in a residential or agricultural district which was in existence at the time the ordinance from which this chapter derives took effect does not constitute a lot because it does not meet the area or width requirements of its district, but has at least 50 percent of the area and width requirements of its district, it may be used for single-family uses, and the side yards may be reduced by the proportion that the width fails to meet the minimum requirement of its district for width at the building line, subject to the limitation that no side yard shall be less than seven feet in width without approval of the board of zoning appeals. If any such lot has less than 50 percent of the area or width required by this district, a building permit shall not be refused by the building inspector merely on the basis of the size of the lot, provided that the board of zoning appeals finds that:

- (1) Public water and sewer services are available for the lot;

- (2) There is a front yard of at least 35 feet and a rear yard of at least 25 feet, and side yards shall be proportionately reduced subject to the limitation that no side yard shall be less than seven feet in width without approval of the board of zoning appeals;
- (3) The lot has an area of at least 6,000 square feet;
- (4) The proposed building will meet the requirements of the building code for the city and will conform generally with the architecture, structure and exterior design of buildings within 500 feet of such lot; and
- (5) Except as to plats recorded prior to December 16, 1957, such lot did not at any time adjoin land of the same owner in single ownership available for use in connection with such lot.

(Ord. No. 72-168, 4-20-72; Ord. No. 72-178, 10-19-72; Ord. No. 80-276, § 1, 6-24-80)

Sec. 94-342. - Sanitation; outside toilets.

- (a) All sewerage and toilets shall be connected to sewer mains or an adequate and effective septic tank and drain tile field as approved by the county department of health.
- (b) Outside portable toilets or privies will be permitted in zoned recreational districts for a maximum period of ten consecutive days, not renewable within the following ten consecutive days, upon issuance of a permit therefor by the city building inspector. The building inspector shall authorize the issuance of a permit for the aforesaid use where the applicant presents evidence that such outside toilet will be equipped with an adequate and effective chemical to sanitarily treat the sewerage, as approved by the county department of health, so that it will not constitute a health hazard and source of filth. A fee of \$1.00 per each unit, with a maximum of \$5.00 per project, shall be charged for the issuance of such permit.
- (c) Outside portable toilets or privies for construction personnel will be permitted at new construction projects until a time when sewerage and toilets are connected to sewer mains or an adequate and effective septic tank and drain tile field, as approved by the county department of health, or 120 days, whichever comes first, upon issuance of a permit by the building inspector. The building inspector shall not issue a permit for the aforesaid use unless the applicant presents evidence that such outside toilet will be equipped with an adequate and effective chemical to sanitarily treat the sewerage, as approved by the county department of health, so that it will not constitute a health hazard and source of filth.

Cross reference— Utilities, ch. 86.

Sec. 94-343. - Household pets and domestic animals.

The keeping of household pets for the enjoyment or recreation of the occupants of a dwelling unit, and not for sale, boarding or breeding, shall be permitted as an accessory use on parcels used for residential purposes, as provided by this section. No more than three dogs shall be kept or housed in or at any one dwelling unit; however, any litter of dogs which causes the limit of three dogs to be exceeded shall not constitute a violation of this provision for a period of four months after birth. Household pets must be confined in the dwelling, or in facilities located in the rear yard which must be maintained in a clean and healthful condition, inoffensive to the residents of adjacent property. The board of zoning appeals may, upon application, hear and determine complaints regarding household pets, may limit the number of household pets kept, and may prescribe the manner of keeping household pets in accordance with precautions necessary to prevent noise, odors or other conditions offensive to a reasonable person as a resident of adjacent property, or to prevent pollution of the water supply or the spread of infection and disease. Domestic animals are prohibited in any residential district; provided, that horses may be permitted in residential districts as a special exception as provided by section 94-167. Animals other than household pets and domestic animals are prohibited in any zoning district.

(Ord. No. 75-217, § 3, 4-22-75; Ord. No. 87-353, § 1, 10-13-87; Ord. No. 13-611, § 2, 1-28-13)

Sec. 94-344. - Buffer zone, landscaping, parking, and lighting.

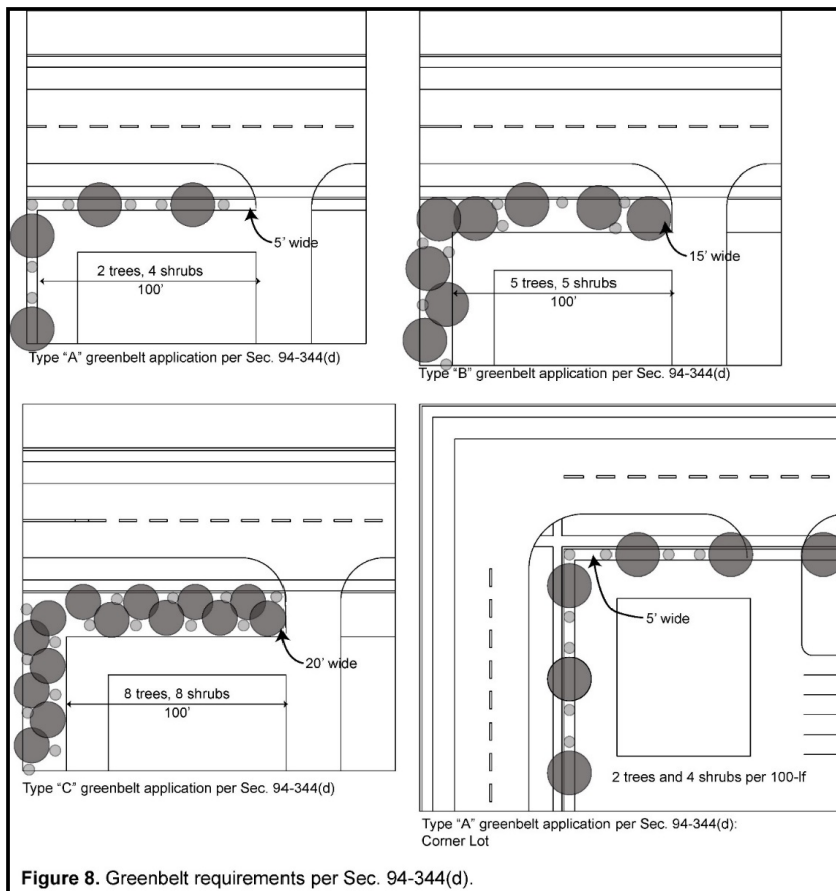
- (a) *Definitions.* For the purposes of this section, a "buffer zone" is defined as a strip of land abutting exterior boundaries of a lot (including any right-of-way line) and reserved solely for plant material, or fencing (if otherwise permitted in this chapter), to be used as a visual, sound, or privacy barrier.
- (b) *Intent.* It is the intent of this section to require the use of buffer zones and landscape screening to reduce the negative impacts between potentially incompatible land uses and to provide for specific landscape requirements within parking areas. It is further intended to preserve and enhance aesthetic qualities, privacy, and property values within the city.
- (c) *Scope.* This section is applicable to all new site plans and development proposed after the effective date of this section. Furthermore, this section is applicable to all expansions, renovations, or alterations that increase the gross floor area of the structure by 25 percent or more above the floor area as it existed on the effective date of the ordinance amending this section. In addition, subsection (f) is applicable to all new or expanded parking areas having a total of more than 25 parking spaces.
- (d) *Buffer zones.* Buffer zones are required on properties in the C-1, C-2, C-3, C-4, ORP, ML, MH and MP districts when they adjoin properties in certain zoning districts as set forth in Table 1. Table 2 specifies the requirements for each buffer zone type listed in Table 1.

Table 1

Zoning District of Proposed Use	Adjacent Zoning District or Land Use: A, A-2, SA, S, AA, ARM	Adjacent Zoning District or Land Use: C-1, C-2, C-3, C-4, ORP, RMT	Adjacent Zoning District or Land Use: ML, MH, MP
C-1, C-2, C-3, C-4, ORP	Type B	Type A	Type A
ML, MH, MP	Type C	Type B	Type A

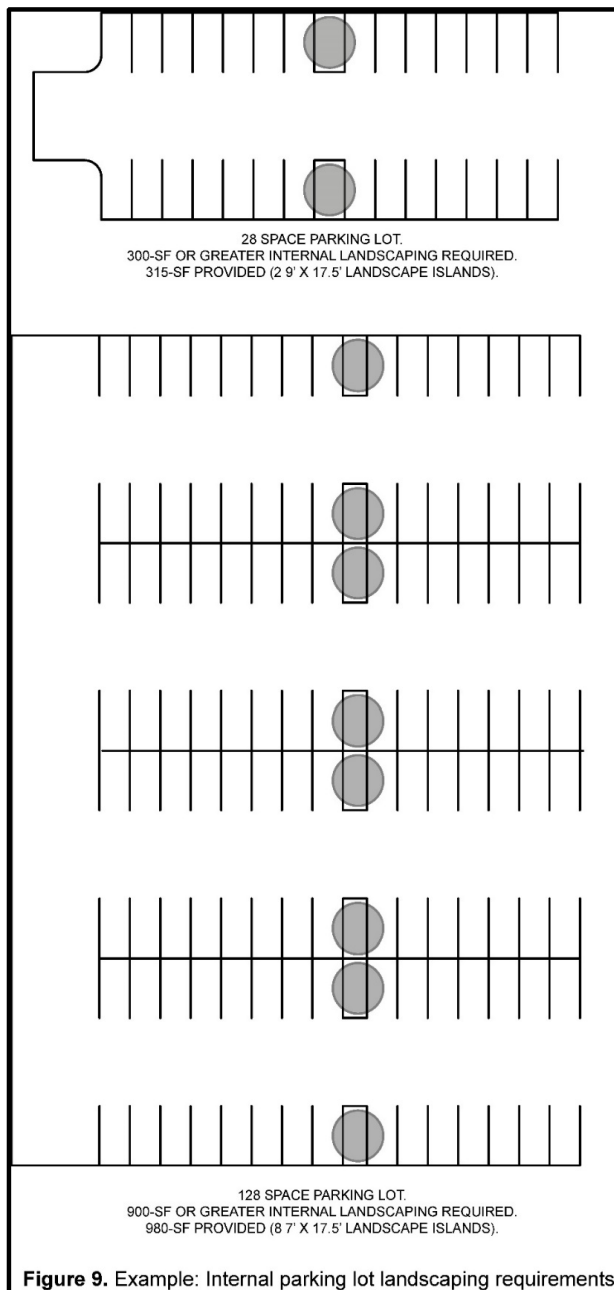
Table 2

Feature	Buffer Zone Type	Buffer Zone A	Buffer Zone B	Buffer Zone C
Width in Feet		5	15	20
Required Trees/100 Feet		2	5	8
Required Shrubs/100 Feet		4	5	8



- (1) The number of trees and shrubs in Table 2 is required for every 100 linear feet of buffer zone length provided, however, that buffer zone length will be rounded to the nearest increment of 100 feet.
 - (2) For purposes of this section, an "adjacent zoning district or land use" as described in Table 1 includes all zoning districts or land uses on properties directly across a public right-of-way from the subject property.
 - (3) The existence of access ways or driveways within a buffer zone will not minimize the requirements for trees and shrubs.
 - (4) Evergreen trees are required for buffer zone types B and C, while either canopy or evergreen trees may be used in buffer zone type A.
 - (5) All areas of the buffer zones outside of trees, shrubs, and/or flowerbeds shall be covered with a living ground cover.
 - (6) The buffer zone requirements of this section apply whether or not the property in the adjacent zoning district as set forth in Table 1 is developed.
 - (7) Storm water detention and retention areas shall be permitted within buffer zones provided that they do not reduce the landscape/screening effect.
 - (8) For reasons of conflicting uses, unfavorable topography or other unique or extraordinary circumstances, the planning commission as part of site plan review (or the planning director if site plan review is not required) may increase or decrease landscape plantings in any required buffer zone if any increase or decrease is found to be necessary to reasonably achieve the intent of this section as stated in subsection (b) above.
- (e) *Front yard; commercial, industrial zones.* Notwithstanding any other provision of this section, all properties in the C-1, C-2, C-3, C-4, ORP, ML, MH, and ORP Districts shall have a buffer zone in the front yard regardless of the adjacent zoning districts or land uses. Unless a type B or type C buffer zone is otherwise required under subsection (d), the buffer zone in the front yard shall, at a minimum, be a type A buffer zone as described in subsection (d) above.

- (f) *Parking, landscaping.* Parking areas on properties in all zoning districts in excess of 25 spaces shall be landscaped according to the following:
- (1) For parking areas with 26-99 parking spaces, 100 square feet of landscaped area per 12 parking spaces, or part thereof, shall be required.
 - (2) For parking areas with 100 or more parking spaces, 100 square feet of landscaped area per 15 parking spaces, or part thereof, shall be required.
 - (3) Landscaped islands shall be dispersed throughout the parking area in order to break up large expanses of pavement and shall be protected by raised curbs or other similar barriers.
 - (4) Planting islands shall be at least 180 square feet in area with a minimum width of nine feet.
 - (5) A minimum of one deciduous tree shall be provided for each planting island, with the balance of the island covered with grass, shredded bark, or other living cover. Lighting structures may be permitted in the planting islands.



- (g) *Plant requirements.* For trees and shrubs required by subsections (d), (e), and (f) of this section, minimum plant sizes

at the time of installation shall conform to the following:

Table 3

Deciduous canopy tree	2 ½ inch caliper
Evergreen tree	8 ft. in height
Deciduous shrub	2 ft. in height
Upright evergreen shrub	2 ft. in height
Spreading evergreen shrub	24 in. spread

- (1) Trees shall be spaced at a minimum distance that is the average width of such trees one year after the date of planting.
 - (2) The planning department shall keep on file a suggested species list to accommodate various site situations.
 - (3) In effort to allow flexibility in design, various types of required landscaping may be substituted with the approval of the planning commission as part of site plan review provided that the desired screening effect is achieved. If site plan review is not required, the planning director may approve such substitution.
 - (4) If a property owner cannot plant trees or shrubs required by this section due to unfavorable planting conditions, the planning director may grant the property owner not more than six months after completion of the building or site improvements to install the required trees or shrubs. The planning director may require a performance guarantee as a condition of such approval.
- (h) *Existing plant material.* Existing tree and plant material, which complies with the standards of this section, may be retained and shall count toward meeting the requirements of subsection (d), (e) and (f) of this section.
- (i) *Dumpsters.* In the C-1, C-2, C-3, C-4, ORP, ML, MH, and MP districts, all dumpsters and other detached storage facilities shall be screened on all sides by a continuous, opaque screen six feet in height. The screen may be comprised of berms, plant material, screen walls or fences, or any combination of these elements. Gates shall be kept closed except when the dumpster or other detached storage facility is being utilized or serviced.
- (j) *Lighting.* Lighting requirements:
- (1) Any lighting poles or other structures shall be concealed as much as possible within the landscaped areas.
 - (2) When adjacent to a property zoned for residential uses or used for residential purposes, all lighting poles or other lighting structures on the entire site shall not exceed 20 feet in height.
 - (3) All lighting shall be directed away from any adjacent properties zoned for residential uses or used for residential purposes.
 - (4) For purposes of this section, properties in the AA agricultural district shall be considered as zoned for residential uses.
- (k) *Performance guarantees.* The planning commission (or the planning director if site plan review is not required) may require performance guarantees to ensure compliance with the requirements of this section.
- (l) *Conflict.* In the event of any conflict between this section and other provisions of this chapter or between subsections of this section, the more stringent provision shall control.

(Ord. No. 01-482, § 1, 12-10-01; Ord. No. 16-632, § 1, 9-26-16)

Sec. 94-345. - Moving buildings and structures.

Before the building official shall issue a permit for moving any dwelling, building or structure into or within the city, the building official shall inspect such dwelling, building or structure to determine whether the dwelling, building or structure complies with the provisions of the building code, and shall inspect the site to which it is proposed to move the dwelling, building or structure to determine that such dwelling, building or structure will comply with the requirements of the building code and of this chapter after such move. No permit shall be issued unless the building official is satisfied that such building, dwelling or structure complies with the requirements of the building code and will comply with the requirements of this chapter and building code in such new site; provided that if deficiencies exist which can be remedied, a permit may be issued upon the deposit of a satisfactory performance bond with the city treasurer or the satisfactory escrow of sufficient moneys to ensure that the structure after moving will comply fully with the requirements of the building code and this chapter and, in such event, the permit shall specify the deficiencies and there shall be filed with the building official plans and specifications for the remedying of such deficiencies. The moving of any such building or structure shall further be made under permits issued pursuant to and in compliance with the ordinances of the city specifically governing the moving of buildings and structures.

Cross reference— Moving of buildings, § 18-166 et seq.

Sec. 94-346. - Public sewer and water.

If public water and/or sewer service is located adjacent to any lot within a commercial or industrial zone, any building constructed on such lot shall be connected to all such public services.

(Ord. No. 72-164, 2-22-72)

Cross reference— Utilities, ch. 86.

Sec. 94-347. - Private garages in the "A," "A-2," "SA," "S" and "AA" districts.

For each residential dwelling to be constructed, erected or moved upon any lot in the "A," "A-2," "SA," "S" or "AA" districts, there shall also be a private garage at least 12 feet in width by 22 feet in length; provided further, that there shall be a private garage, as described above, for each residential unit within a residential dwelling located in the "A-2" duplex district, two-family residential.

(Ord. No. 77-239, § 2, 7-12-77; Ord. No. 77-240, § 3, 9-13-77)

Sec. 94-348. - Driveways, service drives, and access drives.

No property within a residentially zoned area shall be used in conjunction with a commercial or industrial use for purposes of a driveway, service drive, access drive, or other such similar purpose unless such property shall be rezoned for commercial or industrial use.

(Ord. No. 78-251, § 5, 9-12-78)

Sec. 94-349. - Temporary quarters.

Where damage caused by fire, flood, wind or other such calamity occasions the need for temporary living or office quarters, the building official may approve by permit the conditions for use of a temporary structure for a period of 90 days. Such structure shall comply with the requirements of the building code and county health regulations.

(Ord. No. 81-282, § 2, 3-10-81)

Sec. 94-350. - Minimum requirements for dwellings outside of mobile home parks.

All dwellings located outside of mobile home parks shall comply with the following requirements:

- (1) *Area.*
 - a. Every dwelling unit shall have, exclusive of porches, garages, breezeways, terraces, attics and basements (except as provided in subsection (1)b.) a floor area of not less than:
 1. Single-family dwelling: 960 square feet.
 2. Two-family dwelling: 960 square feet per unit.
 3. Multiple-family dwelling: square footage as required for unit size as listed in section 94-172(f).
 - b. Finished basement; floor area. Notwithstanding any provision of this article to the contrary, a basement, or a part thereof fully enclosed by four walls, may be used for dwelling purposes and the floor area of the basement, or of the fully enclosed part thereof, as the case may be, shall be included in the floor area of a dwelling unit for the purposes of subsection (1)a., provided that the following conditions are met:
 1. The basement, or the fully enclosed part thereof, shall comply with the building code of the city, as amended from time to time; and
 2. All walls and the ceiling of the basement, or of the fully enclosed part thereof, shall be covered with an interior finish. For purposes of this section, "interior finish" means wainscoting, paneling, drywall, plaster or other similar finish, excluding paint, applied structurally or for acoustical treatment, insulation, decoration or similar purposes.
- (2) *Foundation.* There shall be a foundation of concrete or block around the entire exterior perimeter of all dwellings. The foundation shall have a minimum depth of 42 inches below grade. The foundation shall provide maximum exposed foundation above grade of 16 inches and a minimum exposed foundation above grade of eight inches. A wood foundation is also acceptable provided it meets the standards established for wood foundations contained in the construction code adopted by the city. The requirement of a foundation around the exterior perimeter of a dwelling as set forth in this subsection shall not apply to a "four season" porch used as living space in the dwelling provided that such porch shall not exceed 250 square feet in area and that such porch is designed and constructed in accordance with applicable construction code requirements.
- (3) *Attachment to foundation.* All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the city, or, if a mobile home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards."
- (4) *Minimum height required.* All habitable space within a dwelling unit shall be provided a minimum height between floor and ceiling of seven feet six inches.
- (5) *Storage areas required.* All one- and two-family dwellings shall provide storage areas (either within a basement or in an attic, or in a separate, fully enclosed structure) of not less than 15 percent of the living area of the dwelling unit, exclusive of storage space for automobiles. Such storage areas shall not be counted in determining whether the dwelling unit complies with the minimum floor area requirements of this chapter.
- (6) *Minimum width required.* The minimum width of any single-family dwelling unit shall be 22 feet for at least 67 percent of its length, measured between the exterior part of the walls having the greatest length.
- (7) *Minimum ingress and egress.* All dwelling units shall provide a minimum of two separate points of ingress and egress.
- (8) *Steps or porch areas required.* All single-family dwelling units shall provide steps or porch areas permanently

attached to the foundation where there exists an elevation differential of more than one foot between a door and the surrounding grade.

- (9) *Interior access to basement or crawl space.* All dwelling units shall provide from within the dwelling unit at least one means of access to any basement or crawl space.
- (10) *Crawl space.* All dwellings without basements shall provide a crawl space below the entire floor of the dwelling not less than 18 inches in depth with a vapor barrier consisting of two inches of concrete on the floor of the crawl space. Multilevel dwellings separated by a minimum of three steps between levels shall be exempt from the crawl space requirement. The crawl space shall be provided with adequate means of ventilation approved by the building official.
- (11) *Minimum roof requirements.* All dwelling units shall have a roof assembly designed to carry a 30-pound live load and a ten-pound dead load. A minimum of six inches overhang shall be provided on roof drip edges.
- (12) *Wheels, mechanism, tongue.* The wheels, pulling mechanism and tongue of any mobile home shall be removed prior to placement on a foundation.
- (13) *Dwelling maintenance.* All dwellings shall be maintained in accordance with the currently adopted property maintenance code to protect against deterioration and/or damage.
- (14) *Construction standards.* All mobile homes shall meet the standards of the United States Department of Housing and Urban Development Mobile Home Construction Safety Standards in effect at the time the mobile home is located in the city. All mobile homes shall bear evidence of compliance with the mobile home construction safety standards in accordance with regulations promulgated by the United States Department of Housing and Urban Development in effect at the time the mobile home is located in the city. All other dwellings shall meet the requirements of the construction code adopted by the city.
- (15) *Building permits.* Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan, adequate to illustrate compliance with the requirements of this section and all other requirements of this chapter, including but not limited to the requirements of the district in which the unit is to be located, shall be submitted to the building inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to ensure that the dwelling complies with the standards applicable to mobile homes set forth in this section before a permit will be issued.
- (16) *Additions.* All additions to dwellings located outside mobile home parks shall meet the requirements of the construction code adopted by the city.
- (17) *Water and sewer connections.* All dwellings shall be connected to a sewer system and water supply system approved by the city.
- (18) *Electrical connection.* All dwellings shall be connected to overhead or underground electrical service. The service head, service mast or lateral, meter and service entrance conductor used to connect a dwelling to electrical service shall be attached to the exterior of the dwelling. The service panel used to connect a dwelling to electrical service shall be attached to the interior of the dwelling.

(Ord. No. 83-307, § 1, 4-12-83; Ord. No. 83-314, §§ 1, 2, 10-11-83; Ord. No. 01-474, § 1, 5-14-01; Ord. No. 19-650, § 1, 7-6-19)

Sec. 94-351. - Satellite dish antennas.

- (a) No satellite dish antenna shall be constructed, installed, maintained or located in any district except in conformance with subsection (b) of this section and the following requirements:
 - (1) The satellite dish antenna shall be located only in the rear yard except that in a C-1, C-2, C-3, C-4, CPUD, MPUD, IPUD, ORP, ML, MH and MP district, the satellite dish antenna may also be located in the side yard.

- (2) The satellite dish antenna shall be located at least ten feet from all lot lines.
 - (3) The height of the satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed 15 feet, except that (i) in a C-1, C-2, C-3, C-4, CPUD, MPUD, IPUD, ORP, ML, MH and MP district, a satellite dish antenna may be mounted on the roof of the building provided that its height (including any platform or structure upon which the antenna is mounted) does not exceed 15 feet measured from the point where the satellite dish antenna is attached to the roof, and (ii) in an AA, A, A-2, SA, S, RPUD, ARM, ARM district one, or RMT district, a satellite dish antenna may be mounted on the roof of a building provided that its diameter does not exceed 24 inches and the height of the satellite dish antenna (including any structure upon which the antenna is mounted) does not exceed 36 inches measured from the point where the satellite dish antenna is attached to the roof.
 - (4) The rear yard shall be planted with a compact hedge, or other plants or trees approved by the building inspector, which shall have a height, density and location so as to screen the satellite dish antenna from adjoining properties. This subsection shall not apply to roof-mounted satellite dish antennas permitted under subsection (3) above. This subsection shall also not apply in a C-1, C-2, C-3, C-4, CPUD, MPUD, IPUD, ORP, ML, MH or MP district, unless the property on which the satellite dish antenna is located is contiguous with property in an AA, A, A-2, SA, S, RPUD, ARM, ARM district one or RMT district.
 - (5) The satellite dish antenna shall be permanently attached to a foundation, except that roof-mounted satellite dish antennas permitted under subsection (3) above shall be permanently attached to the roof.
 - (6) The satellite dish antenna and the construction, installation, maintenance and operation thereof shall comply with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations.
- (b) Building permit required.
- (1) No satellite dish antenna shall be constructed, installed, maintained or operated unless a building permit therefor has been issued in accordance with the procedures in subsection (b)(2).
 - (2) Prior to issuance of a building permit to construct, install, maintain or operate a satellite dish antenna, an application therefor and a site plan showing the proposed location of the satellite dish antenna, the foundation or roof to which the satellite dish antenna will be permanently attached, the height, density and location of required screening, and the dimensions of the satellite dish antenna, including any platform or structure upon which the antenna will be mounted, shall be submitted. Each application shall be accompanied by a fee established by resolution of the city commission to cover the costs of processing the application. No part of the fee shall be refundable. The building inspector shall review the application and the site plan and shall issue a building permit for the satellite dish antenna only upon finding that the satellite dish antenna conforms to the requirements of this section.

(Ord. No. 84-319, § 1, 11-13-84; Ord. No. 95-460, § 1, 4-11-95)

Sec. 94-352. - Accessory buildings and private garages.

Accessory buildings, including private garages, may be erected in any zoning district for the purposes permitted in the zoning district in which the accessory building is located, subject to the requirements of the applicable district regulations and the requirements of this section.

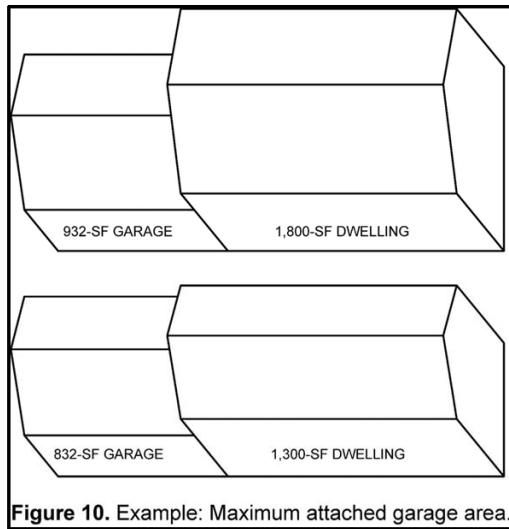
- (1) *General.* The following regulations are applicable to all accessory buildings and private garages in any zoning district.
 - a. *Attached or detached.* An accessory building may be erected either attached as an integral part of, or

detached from, the main building to which it is accessory. If erected as an integral part of the main building to which it is accessory, the accessory building shall comply with all of the requirements of this chapter applicable to the main building. Accessory buildings shall be considered to be an integral part of the main building when connected by a continuous breezeway, portico, covered colonnade or similar permanent architectural device.

- b. *Compatible construction.* In the A, A-2, SA and S districts, all accessory buildings in excess of 200 square feet shall be constructed of materials which are similar to and compatible with the main building to which they are accessory, and shall be of a similar and compatible architectural character.
 - c. *Vacant lots.* An accessory building shall not be erected on a vacant lot, or prior to the time of construction of the main building to which it is accessory. Further, an accessory building shall not be occupied or used unless or until the main building to which it is accessory is also being occupied or used, or after such time as the occupation of use of the main building has ceased.
 - d. *Floor area ratios.* An accessory building shall not be permitted where its placement on the lot would exceed the maximum usable floor area and accessory building floor area requirements of section 94-166, set forth in the schedule of district regulations.
 - e. *Floor area measurement.* For purpose of determining the square footage of the floor area of an accessory building, the measurement shall be the length times the width of the exterior of the building, measured from the outside corners of the building frame.
 - f. *Projections.* No roof, cornice, or any other part of an accessory building may project more than 24 inches from the inside of the building frame, unless the entire structure's dimensions fall within the accessory building's allowable square footage.
 - g. *Shape.* The length of an accessory building shall not exceed two times its width.
 - h. *Portable accessory buildings.* Portable accessory buildings without a permanent foundation and capable of being moved intact shall meet all of the requirements applicable to accessory buildings which are not portable. In addition, portable accessory buildings shall be properly anchored in a method approved by the building official.
 - i. *Commercial use.* An accessory building which is accessory to a residential dwelling unit shall not be used for the conduct of any business, trade, occupation, profession or industry.
 - j. *Foundation.* The foundation shall provide maximum exposed foundation above grade of 16 inches and a minimum exposed foundation above grade of eight inches. A wood foundation is also acceptable provided it meets the standards established for wood foundations contained in the construction code adopted by the city.
- (2) *Private garages; single-family and two-family residential dwellings.* Only one private garage, attached or detached, per dwelling unit is permitted by right on a lot occupied for single family or two-family residential purposes in the A, A-2, SA, S, AA and ARM districts, as provided by this section.
- a. *Maximum size, detached private garage.* The maximum size permitted by right of a detached garage shall not exceed the following:
 - 1. For a single-family residential dwelling: 832 square feet of floor area.
 - 2. For a two-family dwelling: 528 square feet of floor area per dwelling unit.
 - b. *Maximum size, attached private garage.* The maximum size permitted by right of a private garage attached to a dwelling unit shall not exceed the following:
 - 1. For a single-family residential dwelling. 832 square feet of floor area for the first 1,300 square feet of

habitable floor area contained in the dwelling. In addition, for each whole increment of five square feet that the floor area of the dwelling unit exceeds 1,300 square feet, the floor area of the attached private garage may be increased by one square foot.

- 2. For a two-family dwelling. 528 square feet of floor area per dwelling unit.



- c. *Eaves height.* The maximum eaves height of a detached private garage shall be as follows:

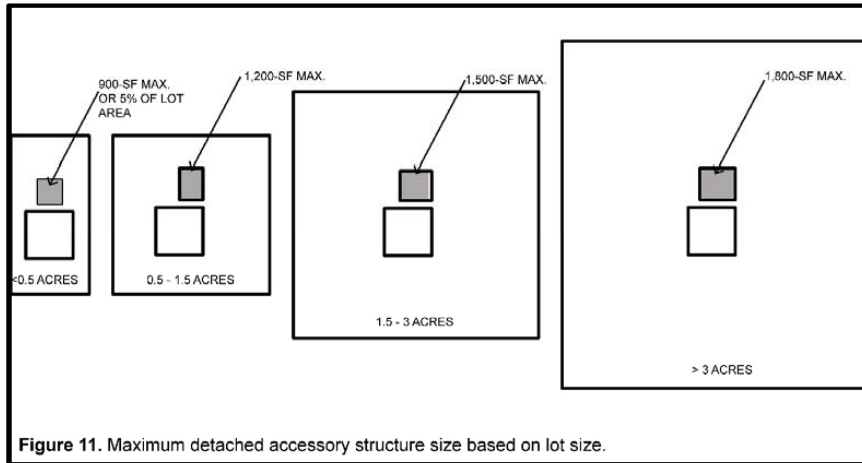
Side/Rear Yard Setback of Accessory Building	Maximum Eaves Height
Both rear yard and side yard setback of not less than 5 feet	10 feet
Both rear yard and side yard setback of not less than 10 feet	12 feet
Both rear yard and side yard setback of not less than 15 feet	14 feet

- (3) *Additional accessory buildings; single-family and two-family residential dwellings.* In addition to the attached or detached private garage permitted under subsection (2), and except as otherwise provided by subsection (3)d., only one additional accessory building shall be permitted by right on a lot occupied for single-family or two-family residential purposes in the A, A-2, SA, S, AA and ARM districts, as provided by this section.

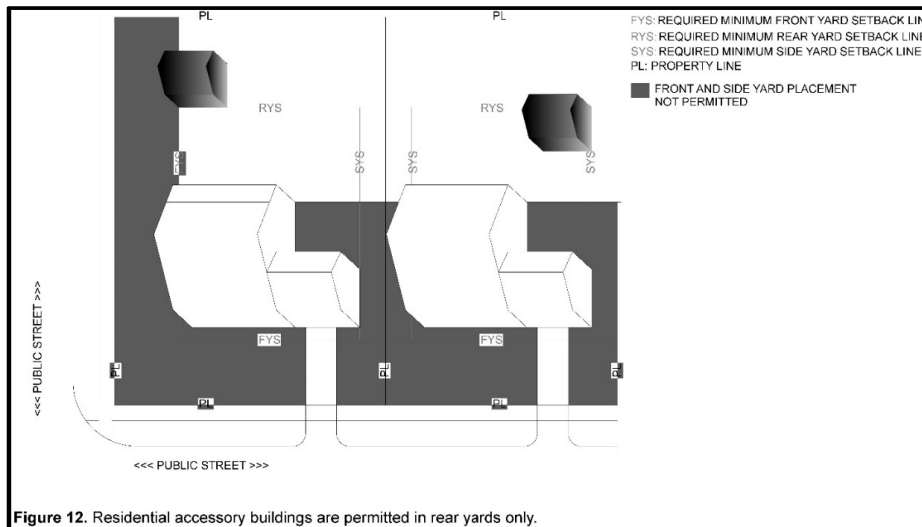
- a. *Maximum size.* In the A, A-2, SA, S, AA, and ARM districts, the maximum size of the accessory building shall be as follows:

Lot Area	Maximum Size
Not more than ½ acre	900 square feet or 5% of lot area, whichever is less
More than ½ acre but not more than 1½ acres	1,200 square feet

More than 1½ acres but not more than 3 acres	1,500 square feet
More than 3 acres	1,800 square feet



- b. *Setback.* In the A, A-2, SA, S, AA, and ARM districts, all accessory buildings shall be located in the rear yard, shall have a side yard setback and a rear yard setback of at least five feet, and if located less than ten feet from the dwelling, shall be made fire resistant in such manner as is required for attached garages.

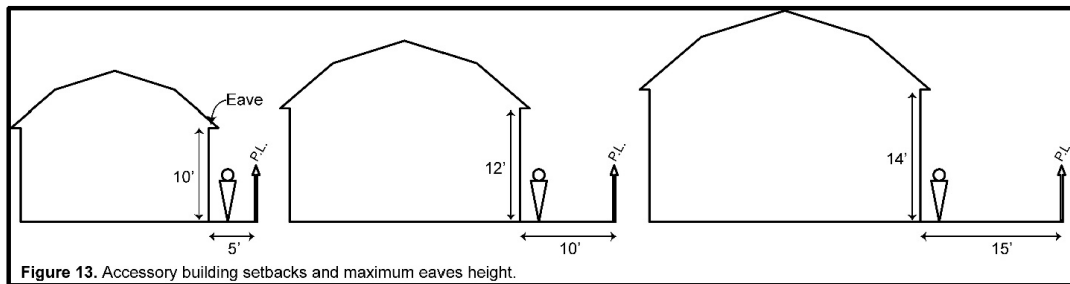


- c. *Eaves Height.* In the A, A-2, SA, S, AA, and ARM districts, the maximum height of eaves on accessory buildings shall be as follows:

Side/Rear Yard Setback of Accessory Building	Maximum Eaves Height
Both rear yard and side yard setback of not less than 5 feet	10 feet
Both rear yard and side yard setback of not less than 10 feet	12 feet

Both rear yard and side yard setback of not less than 15 feet

14 feet



- d. *Exceptions.* Notwithstanding the limitations of this subsection (3), the following additional accessory buildings shall also be permitted per lot: A pool house, garden house, greenhouse, and/or a children's playhouse, or similar buildings for a use customarily incidental to the use of a lot occupied for purposes of a single-family or two-family residential dwelling, not to exceed 100 square feet in combined total area, and with an eaves height not to exceed ten feet.
- (4) Subsections (1), (2) and (3) shall not apply to any building located within the AA zone district on a lot of at least five acres if:
- The building is permitted as a principal use of the lot for general or specialized farming as provided by [section 94-171\(b\)\(1\)](#), or as accessory to the principal use of the lot for those farming purposes as provided by [section 94-171\(c\)](#); and
 - The building is used solely in connection with the commercial production of agricultural products in accordance with generally accepted agricultural and management practices (and is not used for any other principal or accessory use permitted in the AA zone district, including, without limitation, any purposes accessory to permitted dwellings or residential uses on the farm).
- Farm buildings which meet the requirements under subsections (4)a. and b., above, and are therefore exempt from the requirements of subsections (1), (2) and (3) shall remain subject to all other applicable requirements of this chapter, including, without limitation, any applicable district regulations.

(Ord. No. 88-369, § 1, 1-10-89; Ord. No. 91-392, § 3, 3-12-91; Ord. No. 91-394, § 1, 6-11-91; Ord. No. 94-432, § 1, 4-25-94; Ord. No. 00-467, § 1, 10-23-00; Ord. No. 04-514, § 1, 7-12-04; Ord. No. 16-632, § 1, 9-26-16)

Sec. 94-352a. - Decks.

A deck may be erected as an accessory structure either attached as a part of, or detached from, a residential dwelling. An attached or detached deck may be located in the rear or side yard provided that no part of the deck shall be less than five feet from the rear and side lot lines. An attached deck may be located in the front yard, as a porch for the front of a residential dwelling, provided that the attached deck or porch is set back at least 25 feet from the front lot line for the parcel.

(Ord. No. 97-498, § 1, 9-8-97)

Sec. 94-353. - Additional setbacks for structures adjacent the Grand River.

- (a) Notwithstanding any other provision of this chapter, no principal or accessory building shall be hereafter

constructed, erected, installed, or enlarged within a minimum of 100 feet of the shoreline of the Grand River.

(b) No clearance zone.

- (1) A strip 50 feet bordering and parallel to the bank of the Grand River, as measured from the shoreline, shall be maintained in its natural vegetative state, except for the permitted clearing of dead or obnoxious plants.
- (2) The zoning administrator may allow limited clearing of the no clearance zone, but only when required for construction of a permitted building or structure outside the no clearance zone, provided that the land cleared is returned to a vegetative state that is comparable to that which existed prior to the clearing.

(Ord. No. 94-456, § 6, 12-13-94)

Sec. 94-354. - Through lots.

(a) As used in this section, the following terms shall mean as follows:

Local street means:

- (1) A street designed, intended or used to provide direct access (rather than through traffic) to 50 or fewer residential dwellings and which is traveled by less than 500 cars per day; or
- (2) A street designated as a local residential street by the city's master plan.

Through lot (also referred to as a "double frontage lot") means a lot, other than a corner lot, with frontage on more than one street (as depicted in Figure 1 under the definition of "lot types" in section 94-5 of this chapter).

- (b) Notwithstanding any other provision of this Code, through lots are prohibited in the A, A-2, SA, S, AA, ARM, ARM district one, RPUD-1 and RPUD-2 zoning districts (and for lots used for residential purposes in the MPUD zoning district) unless determined by the city to be essential to provide separation of residential development from any street designed, intended or used for purposes other than a local street or to overcome disadvantages due to unique topography. If a through lot is proposed as a platted lot within a subdivision, the determination whether the through lot is essential as provided by this section shall be made by the planning commission and city commission pursuant to their review of the plat under chapter 74 of this Code. If a through lot is proposed as a building site within a site condominium development, that determination shall be made by the planning commission and city commission pursuant to their review of the site condominium project plan under article XI, chapter 94 of this Code. For lots other than platted lots or site condominium building sites, the determination shall be made by the planning commission.
- (c) If a through lot is determined essential as provided by section 94-354(b), and therefore not prohibited, the planning commission and/or the city commission (as applicable, depending on whether a platted lot, site condominium building site, or other lot is involved as provided by section 94-354(b)) shall:
 - (1) Determine which street the dwellings on the lot shall face.
 - (2) Determine from which street all access to the lot (including driveway openings) shall be gained.
 - (3) Designate the "primary" front yard and "secondary" front yard for the lot. The use, setback, width and area of the primary front yard shall conform with all requirements and limitations applicable to front yards under chapter 94 of this Code. The use, setback, width and area of the secondary front yard shall conform with all requirements and limitations applicable to rear yards under chapter 94 of this Code, provided that no accessory buildings, swimming pool or fence within the secondary front yard shall be located closer to the nearest edge of the adjoining street right-of-way than allowed by the applicable primary front yard setback.

The determinations made by the city under sections 94-354(c)(1), (2) and (3) above, shall be consistent with the direction faced, access gained and yards provided for a majority of dwellings and/or buildings on adjoining and adjacent lots, except as otherwise determined necessary by the city to mitigate any potential adverse traffic conditions

or other public health, safety or welfare impacts caused, directly or indirectly, by the through lot.

(Ord. No. 96-478, § 1, 2-13-96)

Sec. 94-355. - Wireless telecommunications towers and antennas.

(a) *Purpose and goals.* This section establishes regulations for the siting of wireless communications towers and antennas. Further, this section is intended to: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the city; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) protect the public health and safety in relation to communication towers; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the city shall give due consideration to the city's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(b) *Definitions.* As used in this section, the following terms shall have the meanings set forth below:

Alternative tower structure means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals, excluding satellite dish antenna as defined in section 94-5 of this chapter.

Backhaul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Heavy commercial zoning district means the C-2, C-3, and C-4 districts as provided in this chapter.

Industrial zoning district means the ML and MH districts as provided in this chapter.

Preexisting towers and preexisting antennas means any tower or antenna for which a building permit has been properly issued prior to the effective date of this section, including permitted towers or antennas that have not yet been constructed so long as such permit is current and not expired.

Residential zoning district means the A, A-2, SA, S, AA, ARM, ARM district one, and RMT districts as provided in this chapter.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular

telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(c) *Applicability.*

- (1) *New towers and antennas.* All new towers or antennas in the city shall be subject to the regulations of this section (section 94-355), except as provided in sections 94-355(c)(2) through (4), inclusive.
- (2) *Amateur radio station operators/receive only antennas.* This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- (3) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of sections 94-355(d)(6) and (d)(7).
- (4) *AM array.* For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(d) *General requirements.*

- (1) *Principal or accessory use.* Notwithstanding any other provision of this chapter, antennas and towers may be considered either principal or accessory uses. Notwithstanding any other provision of this chapter (including without limitation, section 94-339), a different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on the lot.
- (2) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with zoning district development regulations, including, but not limited to, setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within the lot.
- (3) *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the building official an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the city or within one mile of the border of the city, including specific information about the location, height, and design of each tower. The building official may share such information with other applicants applying for administrative approvals by the building official or special exception use approvals by the planning commission under this section or other organizations seeking to locate antennas within the jurisdiction of the city, provided, however, that the building official is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (4) *Aesthetics.* Towers and antennas shall meet the following requirements:
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable FAA standards, shall be painted a neutral color so as to reduce visual obtrusiveness.
 - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping so that they will blend into the natural setting and surrounding buildings.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (5) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting shall be shielded or otherwise directed away from adjacent properties and the

lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

- (6) *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal or state government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring the towers and antennas into compliance with the revised standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with the revised standards and regulations constitutes grounds for the removal of the tower or antenna at the owner's expense.
- (7) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in chapter 18 of the City Code or any applicable state or city codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with the standards. Failure to bring the tower into compliance within that 30 day period constitutes grounds for the removal of the tower or antenna at the owner's expense.
- (8) *Measurement.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the city irrespective of municipal and county jurisdictional boundaries.
- (9) *Not essential services.* Notwithstanding any other provision of this chapter, towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- (10) *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the city have been obtained and shall file a copy of all required franchises with the building official.
- (11) *Public notice.* For purposes of this section, any request for special exception use approval or variance, or any appeal of an administrative approval by the building official, shall require public notice to all abutting property owners and all property owners of properties that are located within 500 feet of the parcel on which the tower or antenna is located, in addition to any notice otherwise required by chapter 94 or applicable law.
- (12) *Signs.* No signs shall be allowed on an antenna or tower, except as required by subsection (13) below.
- (13) *Emergency contact.* Each tower shall have a sign of six square feet in area identifying the name and address of the tower owner and the telephone number for contacting the owner or its representative in case of emergency. The location of the sign shall be determined by the building official in the case of administratively approved uses, or by the planning commission in the case of special exception uses.
- (14) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of section 94-355(h).
- (15) *Multiple antenna/tower plan.* The city encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- (16) *Other regulations.* In addition to the requirements of this section, the installation or construction of a tower or antenna shall comply with chapter 18 of the City Code and all applicable federal, state, or local laws, rules, and regulations.

(e) *Permitted uses.*

- (1) *General.* The uses listed in this section are deemed to be permitted uses and shall not require administrative approval by the building official or special exception use approval by the planning commission pursuant to this section.
- (2) *Permitted uses.* Notwithstanding any other provisions of this chapter, the following uses are specifically permitted in any zoning district:
 - a. Antennas or towers located on property owned, leased, or otherwise controlled by the city, provided that a license or lease authorizing the antenna or tower has been approved by the city.

(f) *Administratively approved uses.*

- (1) *General.* The following provisions shall govern the issuance of administrative approvals by the building official for towers and antennas.
 - a. The building official may administratively approve the uses listed in subsection (2) below.
 - b. Each applicant for administrative approval shall apply to the building official providing the information set forth in sections 94-355(g)(2)a. and 94-355(g)(2)c. and a non-refundable fee as established by resolution of city commission to reimburse the city for the costs of reviewing the application.
 - c. The building official shall review the application for administrative approval and grant the approval if the proposed use complies with sections 94-355(d), 94-355(g)(2)d., and 94-355(g)(2)e.
 - d. The building official shall respond to each application within 60 days after receiving it by either approving or denying the application. If the building official fails to respond to the applicant within that 60-day period, then the application shall be deemed to be approved.
 - e. In connection with any administrative approval, the building official may, in order to encourage shared use, administratively waive any zoning district setback requirements in section 94-355(g)(2)d. or separation distances between towers in section 94-355(g)(2)e. by not more than 50 percent.
 - f. In connection with any administrative approval, the building official may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
 - g. If an administrative approval is denied, the applicant shall file an application for special exception use approval by the planning commission pursuant to section 94-355(g) prior to filing any appeal that may be available under this chapter.
- (2) *List of administratively approved uses.* The following uses may be approved by the building official after conducting an administrative review if such towers and antennas comply with all of the provisions of this section and the following:
 - a. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with the tower or antenna, in any heavy commercial or industrial zoning district.
 - b. Locating antennas on existing structures or towers consistent with the terms of subsections (1) and (2) below.
 1. *Antennas on existing structures.* Any antenna which is attached to an existing structure other than a tower may be approved by the building official as an accessory use to any commercial, industrial, office, institutional, or multifamily structure of eight or more dwelling units, provided:
 - A. The antenna does not extend more than 30 feet above the highest point of the structure;
 - B. The antenna complies with all applicable FCC and FAA regulations; and
 - C. The antenna complies with all applicable building codes.
 2. *Antennas on existing towers.* An antenna which is attached to an existing tower may be approved by the

building official and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas by more than one carrier on existing towers shall be approved, provided that the co-location is accomplished in a manner consistent with the following:

- A. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the building official allows reconstruction as a monopole.
- B. Height.
 - (i) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the co-location of an additional antenna.
 - (ii) The height change referred to in subsection B.(i) above may only occur one time per communication tower.
 - (iii) The additional height referred to in subsection B.(i) above shall not require an additional distance separation as set forth in section 94-355(g). The tower's pre-modification height shall be used to calculate such distance separations.
- C. Onsite location.
 - (i) A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved onsite within 50 feet of its existing location.
 - (ii) After the tower is rebuilt to accommodate co-location, only one tower may remain on the site.
 - (iii) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to section 94-355(g)(2)e. The relocation of a tower hereunder shall in no way be deemed to cause a violation of section 94-355(g)(2)e. provided, however, that the onsite relocation of a tower within the separation distances to residential units or residentially zoned lands as established in section 94-355(g)(2)e. shall only be permitted when approved by the building official upon finding that the relocated tower is consistent with the goals set forth in section 94-355(a) and the public health, safety, and welfare.
- c. *New towers in non-residential zoning districts.* Locating any new tower in a non-residential zoning district other than industrial or heavy commercial, provided that a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the building official concludes the tower is in conformity with the goals set forth in section 94-355(a) and the requirements of section 94-355(d); the tower meets the setback requirements in section 94-355(g)(2)d. and separation distances in section 94-355(g)(2)e., the tower complies with sections 94-355(g)(2)f., sections 94-355(g)(2)g., and 94-355(h), and the tower meets the following height and usage criteria:
 - (1) For a single user, up to 90 feet in height;
 - (2) For two users, up to 120 feet in height; and
 - (3) For three or more users, up to 150 feet in height.
- d. Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the building official is in conformity with the goals set forth in section 94-355(a).
- e. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(g) *Special exception use approvals.*

(1) *General.* The following provisions shall govern the issuance by the planning commission of special exception use approvals for towers or antennas:

- a. If the tower or antenna is not a permitted use under section 94-355(e) or permitted to be approved administratively pursuant to section 94-355(f), then special exception use approval is required for the construction of a tower or the placement of an antenna in all zoning districts.
- b. Applications for special exception use approvals under this section shall be subject to the procedures and requirements of article IX ("standards and requirements for submission, review and approval of special exception uses and unique uses") of this chapter, except as modified in this section.
- c. In granting a special exception use approval, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- d. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. An applicant for special exception use approval shall submit the information described in this section and a non-refundable fee as established by resolution of the city commission to reimburse the city for the costs of reviewing the application.

(2) *Towers.*

a. *Information required.* In addition to any information required for applications for special exception use approvals pursuant to article IX of this chapter, applicants for special exception use approval by the planning commission for a tower shall submit the following information:

- (1) A site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in section 94-355(g)(2)e., adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parring, and other information deemed by the city planner and the planning commission to be necessary to assess compliance with this section.
- (2) Legal description of the parent tract and leased parcel (if applicable).
- (3) The setback distance between the proposed tower and the nearest residential unit, and residentially zoned properties (platted or unplatted).
- (4) The separation distance from other towers described in the inventory of existing sites submitted pursuant to section 94-355(d)(3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- (5) A landscape plan showing specific landscape materials.
- (6) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
- (7) A description of compliance with sections 94-355(d)(3), (4), (5), (6), (7), (10), (12), and (13), sections 94-355(g)(2)d. and e., and all applicable federal, state or local laws.
- (8) A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
- (9) Identification of the entities providing the backhaul network for the tower(s) described in the application

and other cellular sites owned or operated by the applicant in the city.

- (10) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers, or structures to provide the services to be provided through the use of the proposed new tower.
 - (11) A description of the feasible location(s) of future towers or antennas within the city based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- b. *Factors considered in granting special exception use approvals for towers.* In addition to any standards for consideration of special exception use approval applications pursuant to article IX of this chapter, the planning commission shall consider the following factors in determining whether to issue a special exception, use approval, although the planning commission may waive or reduce the burden on the applicant of one or more of these criteria if the planning commission concludes that the goals of this section are better served thereby, consistent with the public health, safety and welfare:
- (1) Height of the proposed tower;
 - (2) Proximity of the tower to residential structures and residential district boundaries;
 - (3) Nature of uses on adjacent and nearby properties;
 - (4) Surrounding topography;
 - (5) Surrounding tree coverage and foliage;
 - (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (7) Proposed ingress and egress; and
 - (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as provided in section 94-355(g)(2)c.
 - (9) Willingness of the applicant to allow co-location of antennas at a reasonable charge on the applicant's existing towers within the city and within one mile of the city's boundaries.
 - (10) Willingness of the applicant to allow co-location of antennas on the proposed tower at a reasonable charge.
- c. *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the planning commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (1) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause

interference with the applicant's proposed antenna.

- (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- d. *Setbacks.* The following setback requirements shall apply to all towers for which special exception use approval is required; provided, however, that the planning commission may reduce the standard setback requirements if the goals of this section would be better served thereby, consistent with the public health, safety and welfare:
- (1) Towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line provided, however, that all towers must be setback a distance equal to at least 100 percent of the height of the tower from the nearest edge of the public right-of-way.
 - (2) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- e. *Separation.* The following separation requirements shall apply to all towers and antennas for which special exception use approval is required; provided, however, that the planning commission may reduce the standard separation requirements if the goals of this section would be better served thereby, consistent with the public health, safety and welfare.
- (1) Separation from off-site uses/designated areas.
 - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site-uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
 - (b) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-site use/designated area	Separation distance
Single-family or duplex residential units ¹	200 feet or 300 percent height of tower, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval (or site condominium approval) which is not expired	200 feet or 300 percent height of tower ² , whichever is greater
Vacant unplatted residentially zoned lands ³	100 feet or 100 percent height of tower, whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100 percent height of tower, whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

¹ Includes modular homes and mobile homes used for living purposes.

² Separation measured from base of tower to closest building setback line on adjoining property.

³ Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residentially zoned land greater than duplex.

(2) Separation distances between towers.

(a) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.

(b) The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:
Existing Towers—Types

	Lattice	Guyed	Monopole 75 ft. in height or greater	Monopole less than 75 ft. in height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 ft. in height or greater	1,500	1,500	1,500	750
Monopole less than 75 ft. in height	750	750	750	750

f. *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the planning commission may waive such requirements, as it deems appropriate.

g. *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which special exception use approval is required; provided, however, that the planning commission may waive such requirements if the goals of this section would be better served thereby, consistent with the public health, safety and welfare:

(1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.

(2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

(3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(h) *Buildings or other equipment storage.*

(1) *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with antennas mounted on structures or rooftops shall comply with all of the following requirements:

a. The cabinet or structure shall not contain more than 144 square feet of gross floor area or be more than six feet in height.

b. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than five percent of the roof area.

c. Equipment storage buildings or cabinets shall comply with all applicable building codes.

The equipment cabinet or structure shall not be included in calculating maximum building height for purposes of section 94-188.

- (2) *Antennas mounted on utility poles or light poles.* The equipment cabinet or structure used in association with antennas mounted on utility poles or light poles shall be located in accordance with the following:
- a. In all districts, the equipment cabinet or structure may be located:
 - (1) In a front or side yard, provided that the cabinet or structure is no greater than three feet in height or ten square feet of gross floor area and the cabinet/structure is located a minimum of three feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42 to 48 inches and a planted height of at least 36 inches.
 - (2) In a rear yard, provided that the cabinet or structure has an eave height of not more than ten feet and not more than 240 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.
- (3) *Antennas located on towers.* The equipment cabinet or structure used in association with antennas mounted on towers shall not contain more than 240 square feet of gross floor area or have an eave height of more than ten feet, and shall be located in accordance with the minimum yard and setback requirements of the zoning district in which it is located.
- (4) *Modification of building size requirements.* The requirements of subsections (h)(1) through (3) may be modified by the building official in the case of administratively approved uses, or by the planning commission in the case of uses permitted by special exception use, to encourage co-location.
- (5) *Compatibility.* The equipment cabinet or structure used in association with all antennas located in residential districts shall be designed and constructed with materials (such as siding and shingles) compatible with residential dwellings, as determined by the building official in the case of administratively approved uses, or by the planning commission in the case of special exception uses.
- (i) *Removal of abandoned antennas and towers.* Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within that 90-day period shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- (j) *Nonconforming uses.*
- (1) *Not expansion of nonconforming use.* Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
 - (2) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.
 - (3) *Rebuilding damaged or destroyed nonconforming towers or antennas.* Notwithstanding section 94-355(i), bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval by the building official or special exception use approval by the planning commission and without having to meet the separation requirements specified in section 94-355(g)(2)d. and e.

The type, height, and location of the tower onsite shall be of the same type and intensity as the facility originally approved by the city. The rebuilt facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in section 94-355(i).

(k) *PUD districts; MP district.*

- (1) Notwithstanding any provision of this section, wireless telecommunications towers and antennas shall be permitted in the RPUD-1, RPUD-2, CPUD, MPUD, and IPUD districts only if they are included in the PUD final area site plan approved by the planning commission pursuant to article VIII of this chapter. In reviewing a request to permit a wireless telecommunications tower or antenna in a PUD district, the planning commission shall apply the criteria set forth in this section as applicable.
 - (2) Notwithstanding any other provision of this section, wireless telecommunications towers and antennas shall be permitted in the MP district only if they are included in the development plan approved by the planning commission pursuant to section 94-182 of this chapter. In reviewing a request to permit a wireless telecommunications tower or antenna in a MP district, the planning commission shall apply the criteria set forth in this section as applicable.
- (l) *Conflict.* Except as provided in subsection (k), in the event of any conflict between the regulations of this section and any other provision of this chapter, the provisions of this section shall control.

(Ord. No. 97-494, § 3, 3-24-97)

Sec. 94-356. - Standards for residential driveways.

- (a) All residential driveways that are greater than 125 feet in length (measured from the public or private street right-of-way to the closest point of the residential structure to be measured along the center line of the driveway) shall comply with the following requirements:
 - (1) The driveway must be approved by the building official after review and recommendation by the fire chief or his designee for compliance with this section.
 - (2) The inside radius of all horizontal curves shall be a minimum of 25 feet.
 - (3) The design of any bridge or crossing of a culvert greater than 48 inches in diameter shall be approved by a registered professional engineer. All bridges and culverts shall be capable of supporting a vehicle with a front axle weight of 18,000 pounds and a rear axle weight of 30,000 pounds.
 - (4) All gates blocking access to a residential driveway shall have any emergency access code determined by the fire department and shall cause the gate to remain open until the code is cancelled, or be equipped with a keyed switch that will keep the gate open. The keyed switch must use a Knox Box Key.
 - (5) The driveway shall have a surface capable of supporting a vehicle with a front axle weight of 18,000 pounds and a rear axle weight of 30,000 pounds and shall be maintained in a condition which is accessible to and useable by fire and other emergency vehicles during construction on the lot or parcel served by the driveway.
 - (6) The surface of the driveway shall have a minimum width of ten feet except that the driveway entrance at the road shall meet the requirements of the city for driveway approaches.
 - (7) The area within two feet of each side of the driveway surface, and within 13 feet six inches above the driveway surface, shall be kept reasonably free of obstructions, such as tree trunks and large branches, which may interfere with use of the driveway by fire vehicles.
 - (8) A clear area allowing for the maneuvering and turn-around of firefighting apparatus will be provided near the

end of the driveway at the residential structure. The design and location of the clear area shall be approved by the building official after review and recommendation by the fire chief or his designee.

- (9) Every driveway over 400 feet in length shall widen to 22 feet for 60 feet in length to provide a passing/pullout lane. Any driveway over 800 feet in length shall have at least two such passing/pullout lanes. The location of the passing/pullout lane(s) must be approved by the building official after review and recommendation by the fire chief or his designee. When it is deemed necessary, because of the distance from a water source or for efficiency of operations to mark passing lanes, such lanes will be marked with a sign as required by the building official after review and recommendation by the fire chief or his designee.
- (b) All residential driveways that are 800 feet or more in length, measured as provided in subsection (a) above, shall comply with the following requirements:
 - (1) The requirements of subsection (a) of this section shall be met.
 - (2) Marker posts, for purposes of providing distance information to the main structure(s) for fire or other emergency response personnel, may be required. The need for these posts and their locations shall be determined by the building official after review and recommendation by the fire chief or his designee.
 - (3) An adequate number of additional passing/pullout lanes so as to allow uninterrupted fire department access and operations shall be provided as approved by the building official after review and recommendation by the fire chief or his designee.
- (c) For purposes of this section, a "residential driveway" means an improved or unimproved path, road, or ground surface that provides vehicular access from a public or private street to a single-family or two-family residential dwelling.

(Ord. No. 02-488, § 1, 10-14-02)

Sec. 94-357. - Architecture and building facade design standards.

- (a) *Purpose and scope.* The purpose of this section is to provide design standards for the review of commercial, office and industrial buildings in order to achieve the following community objectives:
 - (1) To ensure compatibility of land uses and to mitigate the impact of development on nearby properties.
 - (2) To ensure that uses of land shall be situated in appropriate and harmonious relationships.
 - (3) To promote the use of land in a socially and economically desirable manner.
 - (4) To encourage building facade treatments that are articulated and enhanced in order to reduce the massive scale and impersonal appearance of large buildings.
 - (5) To maintain and improve community character by creating a pedestrian scale element for urbanized sites.
 - (6) To combine and coordinate architectural styles, building forms and building relationships.
 - (7) To encourage developers to use a more creative approach in the design of buildings.
 - (8) To create a sense of "place" and add elements of uniqueness to development projects, thereby boosting the value, quality and economic sustainability of the City of Walker's urbanized areas.
 - (9) To enhance and protect property values on the site and throughout the city.

These standards are intended to balance the property owner's right to develop land with the cultivation of urban environments that are built to human scale, create an attractive street frontage, and incorporate means and materials that enhance visual interest, economic value and private market sustainability within the city.

The requirements and standards of this section shall apply to all uses in the ORP, C-1, C-2, C-3, C-4, ML, MH, MP, MPUD, CPUD and IPUD districts. The planning commission shall apply the requirements and standards of this section to the uses in these districts as part of the planning commission's site plan review pursuant to article X of this chapter or, for PUD districts, pursuant to article VIII of this chapter.

In PUD districts, however, the requirements and standards of this section may be modified by the planning commission based on findings linked to section 94-213 and the following:

- (1) The proposed material quality, combinations and colors are consistent with the overall facade design plan and the building design concept.
- (2) The proposed facade design and materials are consistent or compatible with existing buildings on the site or in the general area.
- (3) Strict adherence to the requirements of this section is not necessary to achieve the purposes of this section due to the building's size, orientation, location or similar factors.

The PUD process, however, shall not be used only as a means to avoid or reduce the intent, purpose and standards of this section.

- (b) *Building facades.* All facades, as defined in section 94-5, of buildings in the zoning districts identified in subsection (a) shall comply with the requirements of this section. Facade materials shall be complementary to existing or proposed buildings within and around the site, provided that such buildings adhere to the standards herein. It is not intended to discourage contrasts in design materials, but special attention shall be given to avoid adverse effects on the economic stability and value of surrounding businesses.

(1) *Facade materials and colors.*

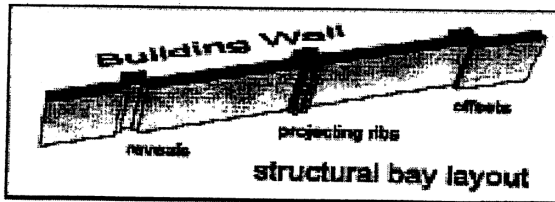
- a. A significant percentage of the building facade must be constructed from one or more of the following materials:
 - i. Traditional hard coat stucco;
 - ii. Brick;
 - iii. Natural or cast stone;
 - iv. Tinted and/or textured masonry block;
 - v. Glass;
 - vi. Architectural precast panels;
 - vii. Textured concrete;
 - viii. Decorative steel siding, fascia or panels;
 - ix. Exterior cedar materials;
 - x. Similar materials as approved by the planning commission.
- b. Smooth-faced gray concrete block and smooth-faced tilt-up concrete panels are discouraged as primary facade materials.
- c. Pole-barn-style metal siding, vinyl siding and aluminum siding are prohibited as primary facade materials. These sidings may be used as facade trim material.
- d. Facade colors should complement existing or adjacent structures.
- e. All facades shall include materials consistent with, but not necessarily identical to, those on the front. Use of markedly inferior materials for side and rear facades shall be prohibited.

(2) *Wall designs and features.*

- a. Facades shall be designed to eliminate large expanses of blank walls. Among other methods, this can be accomplished via the application of two or more of the following every 50 feet in wall length:
 - i. Doors with corniced parapets over the main entry door;
 - ii. Display windows that orient street-level customers to product;
 - iii. Arched entryways, awnings, arcades or outdoor patios;
 - iv. Recessed entryways;
 - v. An expression of architectural or structural bays through a change in plane no less than 12 inches in width, such as offsets, reveals or projecting ribs. See figure 1.
 - vi. Change in texture, color or masonry pattern;
 - vii. Pilasters, piers or columns;
 - viii. Other applications as approved by the planning commission.

At least one of the elements above shall repeat horizontally or vertically.

Figure 14

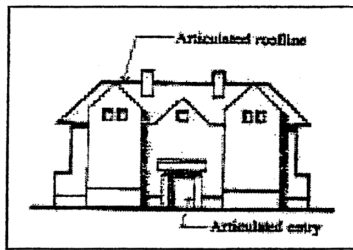


- b. Facades that are side or rear walls and that do not face a public or private street may include false windows and door openings defined by frames, sills and lintels, or similarly proportioned modulations of the wall, but only when actual doors and windows are not feasible, as determined by the planning commission.

(3) *Building entrances.*

- a. Building facades shall exhibit clearly defined, highly visible and articulated (see figure 2) entrances that feature at least two of the following:
 - i. Canopies or porticos;
 - ii. Overhang;
 - iii. Recesses or projections of at least three percent of wall length;
 - iv. Arcades;
 - v. Raised cornice parapets over the door;
 - vi. Distinctive roof forms;
 - vii. Arches;
 - viii. Outdoor patios;
 - ix. Display windows;
 - x. Planters or wing walls that incorporate landscaped areas and/or places for sitting;
 - xi. Other applications as approved by the planning commission.

Figure 15



(4) *Bases and top treatments.*

- a. All facades shall have a recognizable "base" consisting of one or more of the following:
 - i. Thicker walls, ledges or sills;
 - ii. Integrally textured materials such as stone or other masonry;
 - iii. Integrally colored and patterned materials such as smooth-finished stone or tile;
 - iv. Lighter or darker colored materials, mullions or panels;
 - v. Planters;
 - vi. Other applications as approved by the planning commission.
- b. All facades shall have a recognizable "top" consisting of one or more of the following:
 - i. Cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials;
 - ii. Sloping roof with overhangs and brackets;
 - iii. Stepped parapets;
 - iv. Other applications as approved by the planning commission.

(5) *Roofs.*

- a. Screening devices shall be used to conceal flat sections of roofs and rooftop equipment, such as HVAC units, from public view.
- b. High-intensity and/or reflective primary colors are prohibited on any roof area visible from a public or private road, service drive, parking area or adjacent property.

(6) *Industrial buildings.*

- a. For purposes of industrial buildings only, "facade," as used in this section, shall mean any exterior wall of a building that faces and is visible from a public or private street, a freeway, or an adjoining residential zoning district or residential use.
- b. Subject to subsection (b)(6)c. below, each separate entrance of a multitenant industrial building shall comply with subsection (3) regardless of whether the entrance is located on a facade as defined herein.
- c. For industrial buildings, the planning commission may modify the facade requirements of this section. with special consideration to exterior walls and loading dock areas that do not face a public or private street, based on the following standards:
 - i. The proposed material quality, combinations and colors are consistent with the overall facade design plan and the building design concept.
 - ii. The proposed facade design and materials are consistent or compatible with existing buildings on the site or in the general area.
 - iii. Strict adherence to the requirements of this section is not necessary to achieve the purposes of this section due to the building's size, orientation, location or similar factors.

- (7) *Building elevation plan submittal requirements.* At the time of application for site plan review or PUD site plan review applicant shall submit the appropriate number of copies of the proposed building elevation plans and colored render a materials list to the planning director. These will be distributed to the planning commission.

The planning commission may seek comment from the building official and/or a third-party architect to determine if and how the submitted plans meet the standards of this section, Fees for a third-party architect will be paid for via the standards of the city's escrow policy.

In order to assure compliance with this section, the building elevation plans and a materials list shall be approved as part of the final site plan or PUD site plan.

Presentation of material samples to the planning commission is encouraged.

- (8) *Renovations and alterations to existing buildings.* When renovations, alterations or additions are made to an existing building that require site plan review pursuant to article X of this chapter (except for minor changes to an approved site plan under section 94-287(b)) or modification of a PUD final area site plan pursuant to article VIII of this chapter (except for minor modifications to an approved PUD final area site plan under subsection 94-213(10)b., all facades of the existing building shall comply or be brought into compliance with the requirements and standards of this section.

However, the planning commission may modify the extent of the facade improvements otherwise required by this section based on the following standards:

1. The pre-existing building's size, shape and construction materials.
2. The potential visual impact on adjacent sites.
3. The pre-existing building's setbacks, location and orientation.
4. The size of the expanded, altered, or renovated area in relation to the existing building.
5. Whether the requirements of this section are necessary to achieve the purposes of this section.

This section shall apply to the facade requirements for renovations, alterations or additions to an existing building notwithstanding any contrary provision of article VI.

(Ord. No. 06-547, § 2, 8-28-06; Ord. No. 16-632, § 1, 9-26-16)

Sec. 94-358. - Prohibition on marihuana establishments and medical marihuana facilities.

- (a) Pursuant to law and Section 6 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended, marihuana establishments are prohibited within the boundaries of the city.
- (b) Marihuana facilities are prohibited within the boundaries of the city.

As used in this section, "marihuana establishment(s)" means that term as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1 as amended, and "marihuana facility(ies)" means that term as defined in the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.

(Ord. No. 18-645, § 1, 1-14-19)

Editor's note— Ord. No. 18-645, § 1, adopted Jan. 14, 2019 repealed the former § 94-358 and enacted a new § 94-358 as set out herein. The former § 94-358 pertained to prohibition on marihuana facilities and derived from Ord. No. 17-636, § 2, adopted July 10, 2017.

Sec. 94-359. - Backyard chickens.

- (1) The keeping of backyard chickens is permitted as an accessory use if all the following conditions are met:
 - (a) The parcel of land is located within a residential zoning district and the principal use of the parcel is a single-family residential dwelling.
 - (b) The parcel of land is not less than 0.5 acres in size.
 - (c) No more than five chickens may be kept on any parcel of land.
 - (d) Chickens that crow and roosters shall not be permitted.
 - (e) The outdoor slaughtering of chickens is prohibited.
 - (f) Chickens shall not be allowed to roam the parcel or any public streets, land, alleys, vacant lots or other open or public places, or upon any third-party premises.
 - (g) The enclosed area where the chickens are kept shall be located within the rear yard (as defined in the Zoning Ordinance), not within the main building or any attached accessory buildings, and shall be at least 20 feet from any dwelling and at least ten feet from any property line.
 - (h) Materials used to construct the enclosed areas shall exclude tarps, plastic, fabric, rubber, paper, cardboard, or other non-traditional building materials.
- (2) Chicken coops shall be kept and maintained in a manner so as to minimize to the greatest extent possible any adverse impacts to the property on which they are kept, surrounding properties, and any other areas of the city, including, without limitation, dust, dirt, noise, odor, vermin, the attraction of other birds or animals, the potential spread of infection, disease or contamination or other health or safety hazards or nuisance conditions. All chicken coops shall:
 - (a) Be constructed and maintained in compliance with all applicable building code regulations;
 - (b) Be of sufficient size and design, and constructed of such material, so that it can be maintained in a clean, orderly and sanitary condition;
 - (c) Be kept, at all times, in a clean, orderly and sanitary condition, in good repair, and in compliance with all applicable health and safety laws and regulations;
 - (d) Be a maximum of 80 square feet in area and eight feet in height;
 - (e) Contain sufficient square footage to allow the chicken housed within to move around freely, and provide an interior height of at least six inches higher than the head of the chicken in the enclosure when the chicken is in the normal standing position. A run for chickens shall be of a length, width, and height to provide adequate space for an animal to exercise.
 - (f) Be enclosed on all sides and from above.
 - (g) Be screened from view from the street and neighboring properties with a sight-obscuring fence, wall or landscaping in such quantities to sufficiently prevent the sight of the area from the street or neighboring properties during all seasons.
- (3) All chickens shall be fed only within the confines of the chicken coop. All feed for the animals shall be stored in sealed containers that will prevent intrusion by insects, rodents and other vermin.
- (4) Litter must be regularly removed and properly disposed of in compliance with all local, state, and federal regulations.
- (5) The keeping of chickens shall follow all other local, state, and federal regulations.
- (6) Prior to installation of any backyard chicken enclosure or keeping of any backyard chickens, a registration and application form must be submitted to the city zoning administrator which includes a property address, a property parcel ID number, and a signed and dated acknowledgement of the terms of this section.

(Ord. No. 17-638, § 2, 7-10-17)

Sec. 94-360. - Small cell wireless facilities.

- (a) *Definitions.* Consistent with Act No. 365 of the Public Acts of Michigan of 2018, as amended ("Act 365"), for purposes of this section the following words and phrases shall be defined as follows. In the event of a conflict between the definitions herein and Act 365, the provisions of Act 365 shall control.
- (1) *Co-locate* means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Collocation" has a corresponding meaning. Collocation does not include make-ready work or the installation of a new utility pole or new wireless support structure.
 - (2) *Applicable codes* means that term as defined in Act 365 and any additional ordinances or resolutions adopted by the city.
 - (3) *Micro wireless facility* means a small cell wireless facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior antenna more than 11 inches in length.
 - (4) *Public right-of-way* or *ROW* means the area on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:
 - a. A private right-of-way;
 - b. A limited access highway;
 - c. Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, PA 354 of 1993, MCL 462.109;
 - d. Railroad infrastructure.
 - (5) *Small cell wireless facilities* means a wireless facility that meets both of the following requirements:
 - a. Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements shall not exceed six cubic feet in volume.
 - b. All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
 - (6) *Wireless facility* means equipment as a fixed location that enables the provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include any of the following:
 - a. The structure or improvements on, under, or within which the equipment is co-located.
 - b. A wireline backhaul facility.
 - c. Coaxial or fiber-optic cable between utility poles or wireless support structures or that otherwise is not immediately adjacent to or directly associated with a particular antenna.
 - (7) *Wireless infrastructure provider* means any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, that builds or installs

wireless communication transmission equipment, wireless facilities, or wireless support structures and who, when filing an application with an authority under the Act, provides written authorization to perform the work on behalf of a wireless services provider.

(8) *Wireless services provider* means a person that provides wireless services.

(9) *Wireless provider* means a wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the MPSC.

(10) *Wireless support structure* means a freestanding structure designed to support or capable of supporting small cell wireless facilities. Without limitation, wireless support structure does not include a utility pole.

(b) *Applicability.*

(1) *Permitted use not requiring a zoning permit.*

a. A wireless provider is not required to obtain a zoning permit, zoning review or approval, or pay zoning fees or rates for the following activities:

1. The replacement of a small cell wireless facility with a small cell wireless facility that is not larger or heavier, in compliance with applicable codes.
2. Routine maintenance of a small cell wireless facility, utility pole, or wireless support structure.
3. The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.

b. Except that an application for a permitted use shall remain subject to the application and permit approval process contained in chapter 79 of the Walker Code, the collocation by a wireless provider of small cell wireless facilities, and the construction, maintenance, modification, operation, or replacement of wireless support structures or utility poles in, along, across, upon, and under a public ROW is a permitted use allowed in all zoning districts and is not subject to zoning review or approval only if consistent with the following:

1. A wireless support structure or utility pole in the ROW installed or modified on or after March 12, 2019, shall not exceed 40 feet above ground level.
2. A small cell wireless facility in the ROW installed or modified after March 12, 2019, shall not extend more than five feet above an authority pole, utility pole or wireless support structure on which the small cell wireless facility is co-located.

(2) *Special exception uses requiring planning commission approval.* Except as provided above, the following activities that take place within or outside of the public ROW are special exception uses in any district and are subject to zoning review and approval:

- a. The modification of existing or installation of new small cell wireless facilities.
- b. The modification of existing or installation of new wireless support structures used for such small cell wireless facilities.

(Ord. No. 22-666, § 2, 3-28-22)

Secs. 94-361—94-375. - Reserved.

ARTICLE XIII. - REGULATED USES

Footnotes:

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Cross reference— *Amusements and entertainments, ch. 10; businesses, ch. 22.*

Sec. 94-376. - Purpose and findings.

- (a) In the development and execution of this article, 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 will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this article. 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 by this chapter or the City Code.
- In regulating sexually oriented businesses, it is the purpose of this article 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 business within the city. The provisions of this article 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 article 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 article to condone or legitimize the distribution of obscene material.
- (b) Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the city commission, and on findings incorporated in the cases of *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 122 S. Ct. 1728 (2002); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *DLS, Inc. v. City of Chattanooga*, 107 F3d 403 (6th Cir. 1997); *East Brooks Books, Inc. v. City of Memphis*, 48 F3d 220 (6th Cir. 1995); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F3d 435 (6th Cir. 1998); *Deja Vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 7923 F2d 470 (6th Cir. 1991); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *J.L. Spoons, Inc. v. City of Brunswick*, 49 F. Supp. 2d 1032 (N.D. Ohio 1999); *Triplett Grille, Inc. v. City of Akron*, 40 F3d 129 (6th Cir. 1994); *Nightclubs, Inc. v. City of Paducah*, 202 F3d 884 (6th Cir. 2000); *O'Connor v. City and County of Denver*, 894 F2d 1210 (10th Cir. 1990); *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 2001 U.S. App. LEXIS 26007 (6th Cir. Dec. 6, 2001); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F3d 683 (10th Cir. 1998); *Connection Distrib. Co. v. Reno*, 154 F3d 281 (6th Cir. 1998); *Sundance Assocs. V. Reno*, 139 F3d 804 (10th Cir. 1998); *American Library Association v. Reno*, 33 F3d 78 (D.C. Cir. 1994); *American Target Advertising, Inc. v. Gianni*, 199 F3d 1241 (10th Cir. 2000); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F3d 1413 (8th Cir. 1994); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 2002 U.S. Dist. LEXIS 1896 (D. Md., Feb. 6, 2002); *Currence v. Cincinnati*, 2002 U.S. App. LEXIS 1259 (6th Cir., Jan. 24, 2002); and other cases; and on testimony to Congress in 136 Cong. Rec. S 8987; 135 Cong. Rec. S 14519; 135 Cong. Rec. S 5636; 134 Cong. Rec. S 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona—1979; Minneapolis, Minnesota—1980; Houston, Texas—1997; Amarillo, Texas; Garden Grove, California—1991; Los Angeles, California—1977; Whittier, California—1978; Austin, Texas—1986; Seattle, Washington—1989; Oklahoma

City, Oklahoma—1986; Cleveland, Ohio; Dallas, Texas—1997; St. Croix County, Wisconsin—1993; Bellevue, Washington—1998; Newport News, Virginia—1996; New York Times Square Study—1994; and from, "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the city commission finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the problems that the city is seeking to abate and prevent in the future.

(Ord. No. 83-312, § 1, 8-23-83; Ord. No. 03-498, § 1, 4-14-03)

Sec. 94-377. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this article unless otherwise specifically stated:

- (a) *Adult cabaret* means a nightclub, restaurant, or other establishment which regularly features or displays:
 - (1) Live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity; or
 - (2) Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area.
- (b) *Adult merchandise store* means an establishment that emphasizes merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area. An establishment emphasizes merchandise that is predominantly distinguished by its "emphasis on matter depicting, describing, or relating to any specified sexual activity or any specified anatomical area" if any one or more of the following applies to the establishment:
 - (1) 25 percent or more of the establishment's retail display space (excluding bathrooms, office areas, fitting rooms, eating areas, storage areas, closets, and other nonpublic areas) is used for the sale of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
 - (2) 25 percent or more of the establishment's visible inventory is comprised of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
 - (3) 25 percent or more of the establishment's gross revenues are generated by the sale or rental of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
 - (4) The establishment is operated consistently with its being an adult-orientated [adult-oriented] business (e.g., advertising is directed to an "adults only" market; the establishment self-imposes, or imposes consistent with the state or federal law, prohibitions on minors being present in the establishment, etc.).
- (c) *Adult motel* means a hotel, motel or similar establishment that:
 - (1) Offers accommodation to the public for any form of consideration and provides patrons with close-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area; or

- (2) Offers a sleeping room for rent, or allows a tenant or occupant of a sleeping room to subrent the room, for a period that is less than ten hours, if the rental of such rooms accounts for more than ten percent of the establishment's revenues.
- (d) *Adult-oriented business* means a business or commercial establishment engaging in one or more of the following enterprises:
- (1) Adult cabaret;
 - (2) Adult merchandise store;
 - (3) Adult motel;
 - (4) Adult theater;
 - (5) Escort agency;
 - (6) Nude model studio; or
 - (7) Sexual encounter center.
- (e) *Adult theater* means a theater, concert hall, auditorium, or similar establishment which regularly features live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity or which regularly or primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area. This definition includes, without limitation, establishments which offer individual viewing booths.
- (f) *Body-art establishment* means a body-piercing establishment or a tattoo parlor, or a combination of a body-piercing establishment and a tattoo operated on the same premises.
- (g) *Body piercing* means the perforation [perforation] of human tissue, other than an ear, for a non-medical purpose and other than perforation [perforation] of human tissue by a licensed medical practitioner.
- (h) *Body piercing establishment* means an establishment where body piercing is performed, whether or not it is in exchange for compensation or any other form of consideration.
- (i) *Escort* means a person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (j) *Escort agency* means a person or entity which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An escort agency is deemed to be operated in the location where (1) a request for an escort is received, or (2) the escort and the person requesting the escort are together.
- (k) *Massage* means a method of treating the external parts of the human body by rubbing, stroking, kneading, tapping, or vibrating with the hand or any instrument.
- (l) *Massage establishment* means any establishment having a fixed place of business where massages are administered for pay, including, but not limited to, massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include (1) a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the state, (2) barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulders, or (3) any other person or establishment exempted from the massage parlor or massagist licensing pursuant to section

22-50 of the City Code. This definition shall also not be construed to include a nonprofit or governmental organization owning or operating a community center, swimming pool, tennis court, fitness center, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.

- (m) *Material* means anything tangible, whether through the medium of reading, observation, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, vide disk, film, transparency, slide, audiotape, audio disk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the project of any technology, whether that technology is available on the effective date of the ordinance that added this definition or becomes available after that date.
- (n) *Merchandise* means material and novelties.
- (o) *Novelty* means any instrument, device, or paraphernalia which depicts or describes any specific anatomical area or any specific sexual act, or which is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth-control and disease-prevention products.
- (p) *Nude model studio* means any place where a person who displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculptured [sculpted], photographed, or similarly depicted by any other person who pays money or any form of consideration, but does not include the following:
- (1) An educational institution funded, chartered, or recognized by the State of Michigan; or
 - (2) Any modeling session for a local, nonprofit organization that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two-dimensional or three-dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
- (q) *Sexual encounter center* means an establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist, or psychiatrist licensed to practice in Michigan, that offers:
- (1) Activities between male and female persons and/or persons of the same sex when one or more of the persons exposes or displays any specified anatomical area; or
 - (2) The matching and/or exchanging of persons for any specified sexual activities.
- (r) *Specified anatomical area* means any or more of the following:
- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola; or
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (s) *Specified sexual activity* means any of the following:
- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or
 - (2) A sex act, actual or stimulated, including intercourse, oral copulation, or sodomy; or
 - (3) Masturbation, actual or simulated; or
 - (4) Excretory functions as part of, or in connection with, any of activities set forth in (1), (2) or (3) above.
- (t) *Tattoo, tattooed, tattooing* means any method of placing permanent designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin with ink or any other substance, by the aid of needles or other instruments designed to touch or puncture the skin, resulting in either the coloration of the skin, or the

production of scars and scarring.

- (u) *Tattoo parlor* means an establishment where persons are tattooed for consideration, other than by a licensed medical practitioner, or any place where tattooing is regularly conducted whether or not it is in exchange for compensation.

(Ord. No. 83-312, § 1, 8-23-83; Ord. No. 00-466, § 2, 10-23-00; Ord. No. 01-470, § 2, 1-22-01; Ord. No. 02-495, § 2, 1-13-03; Ord. No. 03-498, § 2, 4-14-03; Ord. No. 03-501, § 1, 6-9-03)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 94-378. - Regulated uses.

The following uses are subject to the provisions of this article:

Adult-oriented businesses;

Body art establishments;

Massage establishments.

(Ord. No. 83-312, § 1, 8-23-83; Ord. No. 00-466, § 3, 10-23-00; Ord. No. 01-470, § 3, 1-22-01; Ord. No. 03-498, § 3, 4-14-03)

Cross reference— Amusement parlors, § 10-26 et seq.; massage parlors and massagists, § 22-26.

Sec. 94-379. - Location of regulated uses.

- (a) Any of the regulated uses listed in section 94-378 is permitted if:

- (1) The use is located within a district where the use is permitted and complies with all other regulations applicable in such district.
- (2) The use is located outside a 100-foot radius from any lot zoned or occupied for residential or agricultural purposes, or upon which is located a school, public park, library, child care facility, or church or place of worship.
- (3) The use is located outside a 500-foot radius from any other regulated use.
- (4) For purposes of this section, the measurement of a radius shall be measured in a straight line from the nearest property line of the use to the nearest property line of the residential or agricultural property, school, public park, library, child care facility, church, or place of worship.
- (5) The use is operated to comply with all applicable provisions of the City Code and applicable state and federal law. Nothing in this article shall be construed to permit activity that is otherwise prohibited by the City Code (including, but not limited to, "public nudity" which is prohibited by section 50-42 of the City Code) or by applicable state or federal law.

- (b) An adult-oriented business shall not be located in the same structure or building or on the same parcel as another adult-oriented business, body art establishment, or massage establishment.

(Ord. No. 83-312, § 1, 8-23-83; Ord. No. 03-498, § 4, 4-14-03)

Sec. 94-380—98-382. - Reserved.

Editor's note— Ord. No. 03-498, § 5, adopted April 14, 2003, repealed §§ 94-380—94-382, which pertained to conditions and limitations; limit on reapplication; and expansion and discontinuance of use, and derived from Ord. No. 83-312, § 1, adopted Aug. 23, 1983.

Secs. 94-383—94-405. - Reserved.

ARTICLE XIV. - SIGN REGULATIONS

Footnotes:

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Editor's note— Ord. No. 07-551, § 2, adopted July 9, 2007, amended art. XIV in its entirety and enacted similar provisions as set out herein. The former art. XIV derived from Ord. No. 72-164, adopted Feb. 22, 1972; Ord. No. 83-313, §§ 1—5, adopted Aug. 9, 1983; Ord. No. 85-321, §§ 5, 6, adopted April 9, 1985; Ord. No. 87-356, §§ 5—7, adopted Jan. 12, 1988; Ord. No. 88-368, §§ 2, 3, adopted Jan. 10, 1989; Ord. No. 91-392, §§ 4, 5, adopted March 12, 1991; Ord. No. 91-394, § 2, adopted June 11, 1991; Ord. No. 92-406, § 1—3, adopted April 14, 1992; Ord. No. 92-409, §§ 8—10, adopted July 14, 1992; Ord. No. 98-511, § 1, adopted April 13, 1998; Ord. No. 02-489, § 1, adopted Oct. 14, 2002; and Ord. No. 04-515, § 1, adopted July 12, 2004.

Sec. 94-406. - Purpose, intent and general.

(a) *Purpose and intent.* This article is intended to regulate the size, number, location and manner of display of signs in the city in a manner consistent with the following purposes:

- (1) To protect and further the health, safety and welfare of city residents, property owners and visitors.
- (2) To reduce traffic and pedestrian accidents caused by signs which obstruct vision, distract, disorient or confuse drivers or pedestrians, or are improperly secured or constructed.
- (3) To conserve and enhance community character by reducing visual clutter which can arise due to excessive signage, temporary signage or other signage that is improperly located or unreasonably distracting.
- (4) To promote uniformity in the size, number and placement of signs within districts.
- (5) To promote the economic viability of commercial areas by minimizing visual clutter and allowing for proper placement of signs to safely direct motorists to their destination.
- (6) To promote the use of signs that are safe, aesthetically pleasing, compatible with their surroundings and legible in the circumstances in which they are seen.

The regulations contained in this article involve a determination by the city that the sign owner's or user's right to convey a message must be balanced against the public's right to be free of signs which unreasonably compete for attention, distract drivers and pedestrians, or produce confusion. In balancing the sign owner's or user's desire to attract attention with the public's right to be free of unreasonable distractions, it is recognized that sign regulations should afford businesses a reasonable opportunity to communicate. It is also determined, however, that oversized, projecting, distracting, cluttered or crowded signs can lead to pedestrian and driver confusion, disorientation and distraction, and endanger the public health, safety and welfare. To lessen such adverse consequences, reasonable limitations and restrictions are appropriate with respect to the placement, construction, size, type, and design of signs in relation to the location of buildings and uses and the availability of other means of communication.

It is further the purpose and intent of this article to regulate, in a manner appropriate to the city, signs which utilize advancements in technology. These newer technologies pose additional risks of impacting adjacent areas and adversely dominating the environment in which they operate unless regulated in a reasonable fashion, particularly in the case of larger signs. On-site signs utilizing these newer technologies are found to be different in kind and character from larger off-site signs. While reasonable regulations are likely to minimize adverse secondary effects from on-site digital and similar signage in terms

of preserving the character and repose of adjacent areas, protecting property values, and reducing traffic hazards caused by undue distractions, those same regulations regarding similar off-site signs will not sufficiently minimize such adverse secondary effects due to the latter's sheer size, visibility, and nature.

- (b) *Permits required.* A sign permit shall be required for the erection, use, construction or alteration of all signs except those exempted herein. For purposes of this section, "alteration" shall not mean changing the sign copy to promote, advertise, or identify another use, the normal maintenance of a sign, or changing the text of reader boards.
- (c) *Sign measurement.* Except as otherwise expressly provided for in this article, all signs shall comply with the following requirements:
 - (1) The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight-line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame, architectural feature or other material or color forming part of the display or used to differentiate the sign from the background against which it is placed.
 - (2) The area of a freestanding sign that has two or more faces shall be measured by including the area of all sign faces. However, if two such faces are placed back to back and are no more than two feet apart at any point, the area of the two back-to-back faces shall be counted as one face with the larger of the two sign faces to be counted as the relevant sign face for sign area measurement purposes.
 - (3) The height of a freestanding sign shall be measured as the vertical distance from the highest point on the sign to the grade of the adjacent street or parking lot, whichever is spatially closer to the sign.
- (d) *Design, construction and location standards.* Except as otherwise expressly provided in this article, all signs shall comply with all of the following requirements:
 - (1) All signs shall be properly maintained so as not to become unsightly through disrepair or as a result of the weather.
 - (2) Sign supports, braces, guys, and anchors shall be maintained in such a manner as not to cause a public safety hazard.
 - (3) Signs shall be constructed to withstand all wind and vibration forces that can be normally expected to occur in the vicinity, per the standards of the Michigan Building Code. The sub-grade base material of any ground-mounted sign must be constructed in a manner such that the sign and sign base will meet the wind loading capacity required under the Michigan Building Code, as reviewed and verified by the building official.
 - (4) Subject to subsections (8) and (9), illuminated signs shall ensure that the source of any illumination is enclosed, shielded and directed so as to prevent light from shining towards adjacent parcels or spaces.
 - (5) A light pole or other supporting member shall not be used for the placement of any sign unless the building official determines that such pole or supporting member is specifically designed for such use and all building code and other applicable structural and safety requirements are satisfied.
 - (6) A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
 - (7) No sign or its supporting mechanism shall project into or be placed within the right-of-way of a street.
 - (8) There shall be no flashing, blinking, scrolling, strobe, or intermittent illumination on or from any sign.
 - (9) Except as otherwise provided herein, electronic reader boards are permitted as on-site signs so long as no part of the display shall scroll, move or change more often than once every 30 seconds. Background graphics or displays are also subject to this restriction. Electronic reader boards, as accessory components of on-site signs,

may not exceed 50 percent of the permitted sign area allowed for that sign. An electronic reader board must have installed a fully operational ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the following:

- a. The maximum brightness levels shall not exceed 0.2 foot candles over ambient light levels measured at 150 feet of the source, consistent with subsection b., below. Certification must be provided to the city demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the city in its reasonable discretion to ensure that the specified brightness levels are maintained at all times.
- b. Brightness of digital signs shall be measured and regulated as follows:
 - (i) At least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the preset location.
 - (ii) The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
 - (iii) If the difference between the readings is 0.2 foot candles or less, the brightness is properly adjusted.
- (10) No sign shall interfere with the clear vision area of any highway, street or road, or at the intersection of two or more streets, or at the intersection of a sidewalk or improved public street and a driveway.
- (11) No physical part of a sign or a sign itself shall move.
- (12) All signs are subject to the applicable height regulations noted in this article.

(Ord. No. 07-551, § 2, 7-9-07; Ord. No. 08-558, § 4, 7-14-08; Ord. No. 10-579, §§ 4, 5, 3-8-10; Ord. No. 11-603, §§ 2, 3, 9-26-11; Ord. No. ~~16-634~~, § 3, 1-9-17)

Sec. 94-407. - Permitted signs and signboards.

Only those signs expressly authorized in a district, as provided for in this article, may be constructed, located or used in any district.

(Ord. No. 07-551, § 2, 7-9-07; Ord. No. 10-579, § 6, 3-8-10)

Sec. 94-408. - Nonconforming signs and billboards.

All signs and billboards shall conform to the regulations as set forth in this article and its amendments. Any sign or billboard not conforming shall be deemed a nonconforming use and shall be subject to the provisions in article VI, except that section 94-138 shall not apply to signs and billboards.

(Ord. No. 07-551, § 2, 7-9-07)

Sec. 94-409. - Signs in residential districts.

- (a) A single community entrance sign may be permitted in an AA, A, A-2, SA, S, ARM, ARM District One, RMT Residential, RPUD-1, RPUD-2 district or the residential portion of a MPUD district. The community entrance sign shall be in compliance with section 94-406, be limited to a ground-mounted sign, not exceed 24 square feet in area, be located a minimum of five feet from the street right-of-way line, not exceed four feet in height, not exceed two feet in width as measured from face to face, and be constructed primarily from carved wood, brick, stone, wrought iron, terra cotta, glazed tile or similar decorative material in order to reflect and enhance the residential character of the area.

- (b) Signs for churches and public or private schools in AA, A, A-2, SAS, S, ARM, ARM District One, RMT Residential, RPUD-1, F district, or the residential portion of an MPUD district, shall be limited to a single ground-mounted sign not to exceed 24 square feet in area; shall be located a minimum of five feet from the street right-of-way line; shall not exceed four feet in height, shall not exceed two feet in width as measured from face to face; shall be constructed primarily from carved wood, brick, stone, wrought iron, terra cotta, glazed tile, in order to reflect and enhance the residential character of the area. In addition, and where not in conflict, such signs shall be subject to the standards and limitations contained in subsection community entrance signs.
- (c) Reader boards are not permitted in residential districts, except for churches and schools; provided that those signs with reader boards are subject to the standards found in subsection (b).

(Ord. No. 07-551, § 2, 7-9-07; Ord. No. 10-579, § 7, 3-8-10)

Sec. 94-410. - Signs in mixed use and commercial districts.

- (a) This section applies to all signs within a C-1, C-2, C-3, C-4, CPUD and the nonresidential portions of an MPUD district, except as otherwise noted in this article.
- (b) A lot shall only be allowed one freestanding/pylon sign or one ground-mounted sign, not one of each type of sign.
- (c) Freestanding/pylon signs shall comply with the following requirements:
- (1) Freestanding/pylon signs shall display the street address numbers of the site(s) to which they principally relate. The street address numbers shall be legible from the associated street.
 - (2) Only one freestanding/pylon sign is allowed per lot.
 - (3) Freestanding/pylon signs shall be allowed one square foot in area for each one lineal foot of front building wall, subject to the following:
 - i. The front building wall will be that considered when determining the front building setback.
 - ii. For corner lots, the front building wall will be that facing the street that carries the most average daily traffic.
 - iii. For development sites involving 100,000 square feet of building area or less, the maximum permitted total area for a freestanding/pylon sign is 80 square feet, regardless of front building wall length.
 - iv. For development sites involving more than 100,000 square feet of building area, the maximum permitted total area for a freestanding/pylon sign is 120 square feet, regardless of front building wall length.
 - (4) Freestanding/pylon signs and their supporting mechanisms shall be in compliance with section 94-406 and shall be located a minimum of five feet from any lot line.
 - (5) No freestanding/pylon sign shall exceed a maximum height of 20 feet, as measured according to subsection 94-406(c)(3).
 - (6) No freestanding/pylon sign shall exceed two feet in width, as measured from face to face.
 - (7) The supporting mechanism(s) of a freestanding/pylon sign shall not exceed 30 percent of the overall width of the sign.
 - (8) Freestanding/pylon signs shall have only structural support in the area between the ground surface immediately below the sign and eight feet above the ground.
 - (9) If the structural support mechanisms of a sign consists of more than one pole, a pole cover may be used to cover each such support pole, provided that in no case shall the horizontal distance between a pole cover and another pole cover, or between a pole cover and any uncovered pole or other structural support, be less than three feet, as measured between the closest points of adjacent pole covers or uncovered supports.
 - (10) No freestanding/pylon sign shall be permitted on the same lot as a billboard unless the freestanding sign is not

visible from the traveled portion of a freeway or the freestanding sign is located more than 500 feet from the billboard. The minimum distance between billboards shall be governed by section 94-413.

- (d) Ground-mounted signs shall comply with the following requirements:
- (1) Ground-mounted signs shall display the street address numbers of the site to which they principally relate. The street address numbers shall be legible from the associated street.
 - (2) Only one ground-mounted sign is allowed per lot.
 - (3) Ground-mounted signs and their supporting mechanisms shall not exceed six feet in height or 48 square feet in area. The required masonry base shall be included in the overall height measurement.
 - (4) Ground-mounted signs and their supporting mechanisms shall comply with sections 94-406 and 94-407 and shall be located a minimum of five feet from any lot line.
 - (5) No ground-mounted sign shall exceed two feet in width as measured from face to face.
 - (6) The supporting mechanism(s) of a ground-mounted sign shall consist of a block, brick or textured concrete base with the street address numbers presented in a manner legible from the adjacent street. The minimum height for this required masonry base shall be 18 inches above grade.
- (e) Wall-mounted signs shall comply with the following requirements:
- (1) Wall-mounted signs shall be allowed one square foot in area for each one lineal foot of front building wall, subject to the following:
 - i. The front building wall is that considered when determining front building setbacks.
 - ii. For corner lots, the front wall will be that facing the street that carries the most average daily traffic.
 - iii. For development sites involving 100,000 square feet or less of building area, the maximum permitted total area for wall-mounted signage is 80 square feet, regardless of front building wall length.
 - iv. For development sites involving more than 100,000 square feet of building area, the maximum permitted total area for wall-mounted signage is 120 square feet, regardless of front building wall length.
 - v. The aggregate area of wall-mounted signs on multi-occupant buildings shall not exceed the limitation in this section (see subsections (1), (1)iii., and (1)iv.). The area of wall-mounted signs for each occupant or tenant of a multi-occupant building shall not exceed one square foot for each one lineal foot of front building wall occupied by such occupant or tenant.
 - vi. Wall-mounted signs are only allowed on the front building wall, except that buildings on corner lots may be allowed wall-mounted signs on both walls facing streets. However, wall-mounted signs shall not face a residential zoning district unless the district and the building are separated by a public or private street or another nonresidential zoning district. Wall-mounted signs placed on corner lot buildings shall not exceed the square footage permitted per this subsection.
 - vii. Wall-mounted signs may be permitted on non-front building walls or non-corner lots for property adjacent to I-96, U.S. 131 or I-196. Such wall-mounted signage shall be subject to review and approval by the city planning commission. Such wall-mounted signage square footage shall apply towards the amount granted per this subsection.
- (f) Directional signs are permitted subject to the following restrictions:
- (1) Directional signs may contain a logo of an on-premises establishment, but no advertising text or copy.
 - (2) Directional signs shall not exceed four square feet in area or three feet in height, and shall be set back at least five feet from any lot line.
 - (3) Directional signs shall be limited to traffic circulation and parking control functions.

(4) Directional signs shall be limited in number to one sign per onsite driveway plus two additional on-site signs. An inc number of signs exceeding these standards shall be reviewed and approved by the city planning commission.

(g) Canopy, awning and marquee signs are permitted subject to the following restrictions:

(1) Canopy, awning and marquee signs shall be illuminated by either shielded external light fixtures or internal light fixtures that do not project a glare or create a visual hazard on adjacent streets, service drives or residences.

(2) Canopy, awning and marquee signs shall be included in the square footage calculations for wall-mounted signs as described in subsection (e).

(Ord. No. 07-551, § 2, 7-9-07; Ord. No. 08-558, § 5, 7-14-08; Ord. No. 13-611, § 3, 1-28-13; Ord. No. 16-634, § 3, 1-9-17)

Sec. 94-411. - Signs in office and industrial districts.

(a) This section applies to all signs within an ORP, ML, MH, MP or IPUD district.

(b) Freestanding/pylon signs are not allowed.

(c) Ground-mounted signs shall comply with the following requirements:

(1) Ground-mounted signs shall display the street address numbers of the site(s) to which they principally relate. The street address numbers shall be legible from the associated street.

(2) Only one ground-mounted sign is allowed per lot.

(3) Ground-mounted signs and their supporting mechanisms shall not exceed six feet in height or 48 square feet in area. The required masonry base shall be included in the overall height measurement.

(4) Ground-mounted signs and their supporting mechanisms shall be in compliance with section 94-406 and shall be located a minimum of five feet from any lot line.

(5) No ground-mounted sign shall exceed two feet in width as measured from face to face.

(6) The supporting mechanism(s) of a ground-mounted sign shall consist of a block, brick or textured concrete base with the street address numbers presented in a manner legible from the adjacent street. The minimum height for this required masonry base shall be 18 inches above grade.

(d) Wall-mounted signs shall comply with the following requirements:

(1) Wall-mounted signs shall be allowed one square foot in area for each one lineal foot of front building wall, subject to the following:

i. The front building wall is that considered when determining front building setbacks.

ii. For corner lots, the front wall will be that facing the street that carries the most average daily traffic.

iii. For development sites involving 100,000 square feet or less of building area, the maximum permitted total area for wall-mounted signage is 80 square feet, regardless of front building wall length.

iv. For development sites involving more than 100,000 square feet of building area, the maximum permitted total area for wall-mounted signage is 120 square feet, regardless of front building wall length.

v. The aggregate area of wall-mounted signs on multi-occupant buildings shall not exceed the limitation in this section (see subsections (1), (1)iii., and (1)iv.). The area of wall-mounted signs for each occupant or tenant of a multi-occupant building shall not exceed one square foot for each one lineal foot of front building wall occupied by such occupant or tenant.

vi. Wall-mounted signs are only allowed on the front building wall, except that buildings on corner lots are allowed wall-mounted signs on both walls facing streets. However, wall-mounted signs shall not face a residential zoning district unless the district and the building are separated by a public or private street or

another nonresidential zoning district. Wall-mounted signs placed on corner lot buildings shall not exceed the square footage permitted per this subsection.

vii. Wall-mounted signs may be permitted on non-front building walls or non-corner lots for property adjacent to I-96, U.S. 131 or I-196. Such wall-mounted signage shall be subject to review and approval by the city planning commission. Such wall-mounted signage square footage shall apply towards the amount granted per this subsection 94-411(d).

(e) Directional signs are permitted subject to the following restrictions:

- (1) Directional signs may contain a logo of an on-premises establishment, but no advertising text or copy.
- (2) Directional signs shall not exceed four square feet in area or three feet in height, and shall be setback at least five feet from any lot line.
- (3) Directional signs shall be limited to traffic and parking control functions.
- (4) Directional signs shall be limited in number to one sign per onsite driveway plus two additional onsite signs. An increase in the number of signs exceeding these standards shall be reviewed and approved by the city planning commission.

(f) Canopy, awning and marquee signs are permitted subject to the following restrictions:

- (1) Canopy, awning and marquee signs shall be illuminated by either shielded external light fixtures or internal light fixtures that do not project a glare or create a visual hazard on adjacent streets, service drives or residences.
- (2) Canopy, awning and marquee signs shall be included in the square footage calculations for wall-mounted signs as described in subsection (d).

(Ord. No. 07-551, § 2, 7-9-07; Ord. No. 08-558, § 6, 7-14-08; Ord. No. 13-611, § 4, 1-28-13; Ord. No. 16-634, § 3, 1-9-17)

Sec. 94-412. - Temporary signs.

Commercial special event signs, community special event signs realtor signs and political signs shall only be permitted consistent with the standards noted in this Section.

- (1) *Commercial special event signs.* Commercial special event signs shall be classified according to the definitions noted in section 94-5.
 - a. Pedestrian signs and portable manual reader board signs are not allowed.
 - b. Inflatable signs are allowed via a temporary sign permit.
 - c. Flag and streamer signs are allowed without a temporary sign permit, subject to the following standards:
 - i. A minimum lot width of 300 feet.
 - ii. A minimum setback from all lot lines of five feet.
 - iii. A minimum height/clearance standard of ten feet as measured from the ground immediately beneath the flag and streamer signs.
 - iv. A strand length equal to the front lot line multiplied by three, but not to exceed 1,500 feet of strand.
 - v. The lot must be zoned C-4 Outdoor Commercial.
 - d. Banner signs, yard signs, and flag and streamer signs are permitted only in nonresidential zoning districts.
 - e. Banner signs, yard signs and inflatable signs shall not be placed on any lot, parcel or premises unless a sign permit has been issued by the zoning administrator.
 - f. Applications for banner signs, yard signs and inflatable signs shall include the following:

- i. The name, mailing address, e-mail, fax number and telephone number of the property owner, business owner for the permit.
 - ii. Identification of the street address and parcel number of the parcel on which the sign is to be placed.
 - iii. A site plan, drawn to scale, accurately identifying the location of the proposed sign on the subject property.
 - iv. A scaled drawing which accurately depicts the dimensions and display area of the proposed sign.
 - v. Identification of the specific calendar dates on which the sign will be displayed.
 - vi. A nonrefundable application fee, in an amount established by resolution of the city commission.
- g. Commercial special event signs shall be located in compliance with section 94-406.
- h. Commercial special event sign permits may authorize the display of the approved signs for up to seven consecutive days, except as noted herein for inflatable signs.
- i. A maximum of two commercial special event signs shall be authorized by a permit.
 - j. In a nonmultitenant building, up to ten permits authorizing the valid display of approved commercial special event signs may be issued in a calendar year for any individual business, except for inflatable signs, which are limited to a total of 14 display days in a calendar year.
 - k. In the case of a multitenant building, up to ten permits authorizing the valid display of approved commercial special event signs may be issued in a calendar year for any individual business, except for inflatable signs, which are limited to a total of 14 display days in a calendar year.
- l. Yard signs shall not exceed 12 square feet in area or four feet in height and shall not be mounted higher than six feet above the surrounding ground level.
- m. Banner signs shall not exceed 30 square feet in area and shall not be mounted higher than the building roofline.
- n. Inflatable signs shall be subject to the following regulations:
- i. Signs shall not be mounted on, or anchored to, any roof surface.
 - ii. An inflatable sign shall not be more than 20 feet in height, as measured from the point where the sign rests on a surface or from the point of tie-down if it does not rest on a surface.
 - iii. Signs shall be securely anchored to the ground or to a building in accordance with the requirements of the Walker codes as amended.
 - iv. Any electrical motor, pump or similar device used to inflate the sign shall be installed in accordance with the requirements of the Walker codes as amended.
 - v. Signs shall be set back a minimum distance of one and one-half times its height from all property lines.
 - vi. Signs shall not interfere with traffic or pedestrian circulation or visibility.
 - vii. Signs shall not interfere with or obstruct fire lanes or utility lines.
 - viii. Signs shall not result in a reduction of the number of parking spaces required for the site on which the inflatable sign is located.
 - ix. All signs shall be equipped with a quick deflation system so that the sign will deflate instantly if it breaks loose from its anchor.
 - x. All signs shall be taken down if wind speeds exceed 30 knots (35 mph). The installer of the sign shall be responsible for monitoring weather conditions.
 - xi. Signs may be illuminated from the inside or by exterior lights placed to direct light glare away from

- adjacent roadways and properties.
- xii. Signs shall not have any flashing, colored or blinking lights.
 - xiii. An inflatable sign installer shall carry at least one million dollars in liability insurance coverage and shall provide proof of this to the zoning administrator prior to the issuance of the temporary sign permit.
 - o. All commercial special event signs shall be removed by the applicant or property owner when the approved permit expires.
 - p. Holiday periods: A single banner sign, not to exceed 30 square feet in area, or a single yard sign, not to exceed 12 square feet in area or four feet in height and not be mounted higher than six feet above the surrounding ground level, shall be allowed for each tenant without a temporary sign permit in compliance with the following holiday periods:
 - i. Martin Luther King Jr. Day and seven days prior;
 - ii. Valentine's Day and seven days prior;
 - iii. President's Day and seven days prior;
 - iv. Easter and seven days prior;
 - v. Memorial Day and seven days prior;
 - vi. July 4 and seven days prior;
 - vii. Labor Day and seven days prior;
 - viii. Halloween and seven days prior;
 - ix. Veteran's Day and seven days prior;
 - x. Thanksgiving and seven days prior and through January 2.

The single banner sign or single yard sign shall be located in compliance with section 94-406, shall not be mounted higher than the building roofline and must be removed by the end of the first working day after the holiday period ends.

(2) *Community special event signs.*

- a. Community special event signs are permitted in any zoning district without a sign permit.
- b. A community special event sign may be located either on or off the lot on which the special event is to be held.
- c. The maximum number, size and height of community special event signs shall be as follows:
 - i. A maximum of two community special event signs shall be permitted for a special event.
 - ii. The display of community special event signs shall be limited to the 14 days immediately preceding and including the date of the special event.
 - iii. Each community special event sign shall have a maximum size of 24 square feet in area.
 - iv. Each community special event sign shall be located in compliance with section 94-406.
 - v. Each community special event sign shall not be mounted or displayed higher than 25 feet above the ground immediately under the sign.
 - vi. All community special event signs shall be removed within 48 hours of the conclusion of the special event which is being advertised.

(3) *Realtor signs.*

- a. Realtor signs are permitted in any zoning district without a sign permit.
- b. A realtor sign may only be located on a lot offered for sale, lease or rent.

- c. The maximum number, size and height of realtor signs shall be as follows:
 - i. A maximum of two realtor signs shall be permitted for a specific lot.
 - ii. In nonresidential zoning districts, each realtor sign may have a maximum size of 16 square feet in area.
 - iii. In residential zoning districts, each realtor sign may have a maximum size of six square feet in area.
 - iv. Ground-mounted realtor signs may not exceed a maximum height above ground level of four feet.
 - v. Each realtor sign shall be located in compliance with section 94-406.
 - vi. All realtor signs shall be removed within 48 hours of the conclusion of the sale, lease or rental which is being advertised.
- (4) *Political signs.*
- a. Political signs are permitted in any zoning district without a sign permit.
 - b. Each political sign shall be located in compliance with section 94-406.
 - c. For lots zoned residential or agricultural, no more than one political sign per candidate or issue is allowed on a lot, a political sign may not exceed six square feet in area, and a political sign may not be mounted higher than four feet above the surrounding ground level.
 - d. For lots zoned commercial, office or industrial, no more than one political sign per candidate or issue is allowed on a lot, a political sign may not exceed 16 square feet in area, and a political sign may not be mounted higher than six feet above the surrounding ground level.
- (5) *Contractor signs.*
- a. Contractor signs are permitted in any zoning district without a sign permit.
 - b. A contractor sign may only be located on a lot where the contractor is conducting work.
 - c. The maximum number, size and height of contractor signs shall be as follows:
 - i. One contractor sign per business shall be permitted on a specific lot.
 - ii. Each contractor sign may have a maximum size of twelve (12) square feet in area.
 - iii. Ground-mounted contractor signs may not exceed a maximum height above ground level of four feet.
 - iv. Each contractor sign shall be located in compliance with section 94-406.
 - v. All contractor signs shall be removed within two weeks of the completion of onsite work.
- (6) *Temporary construction site signs.*
- a. Temporary construction site signs are permitted in any zoning district without a sign permit.
 - b. A temporary construction site sign may only be located on a lot where a development project has been approved by the city.
 - c. The maximum number, size and height of temporary construction site signs shall be as follows:
 - i. A maximum of two signs shall be permitted within the boundaries of a specific development project.
 - ii. Each sign may have a maximum size of 32 square feet in area.
 - iii. Ground-mounted signs may not exceed a maximum height above ground level of six feet.
 - iv. Each sign shall be located in compliance with section 94-406.
 - v. All signs shall be removed within two weeks of the completion of the development project that is being advertised.

(Ord. No. 10-579, § 8, 3-8-10; Ord. No. 11-595, §§ 1—6, 8, 3-28-11)

Sec. 94-413. - Billboards.

Billboards are, by their size and nature, different in scope, impact, and purpose from other types of signage in the city. Among other matters, billboards advertise or communicate goods, services or messages not conducted, sold, or generated on the lot where the billboard is located. Billboards are significantly larger in size than other types of stand-alone signage allowed in the city and their principal purpose is to attract the attention of the travelling public and to divert that attention from the road. The potential impact of a billboard on adjacent areas is significantly greater than other types of signage. Moreover, the potential for distraction to motorists and pedestrians is greater than for other signs. Recently, more businesses desire to utilize advancements in technology which allow signs (including billboards) to change copy electronically (e.g., utilizing an LED or digital type of sign). These newer technologies exacerbate the potential negative impacts of a billboard in terms of dominating the environment in which they operate due to light spillover and light pollution as well as creating additional distractions for the travelling public. The intent of this section is to:

- (1) Establish size, illumination, location and operating standards and regulations for billboards, and
- (2) Prohibit billboards utilizing these newer technologies in order to minimize the secondary effects that can accompany the display of these types of signs, preserve the character and repose of adjacent areas, protect property values in all areas of the city, and reduce traffic, pedestrian, and similar hazards caused by undue distractions.

In addition to the provisions of subsection 94-406(a) and this section 94-413, the city's basis for regulating billboards in the manner chosen is further identified in findings of fact adopted by the city commission on the same date with this ordinance amendment (Resolution No. ___).

Notwithstanding any other provision of this article to the contrary, billboards are only allowed within 100 feet of a freeway on property in the IPUD, ML, MH, or MP zoning districts, subject to all of the following regulations:

- (1) Each billboard may not exceed a height of 35 feet above the preexisting grade at the base of the billboard support pole(s).
- (2) Each billboard shall be located not less than 1,000 feet from residential zoning districts and not less than 1,500 feet from any existing residential dwelling or uses.
- (3) Each billboard shall be located not less than 2,000 feet from any other billboard. For purposes of this subsection, the distance between billboards on opposite sides of the freeway shall be measured as the distance between the points at which lines drawn perpendicular to the freeway from the location of each billboard intersect with a line along the center of the freeway.
- (4) Each billboard shall be located not less than 500 feet from any other freestanding sign which is located on the same side of the freeway within the city and which is visible from the traveled portion of the freeway; provided, however, that the minimum distance between billboards shall be governed by subsection (3).
- (5) Each billboard shall have a minimum setback of 20 feet from the freeway right-of-way, as measured from the closest point or edge of the billboard.
- (6) All measurements provided for in this section shall be measured radially and without respect to political or jurisdictional boundaries.
- (7) The area of a sign panel on a billboard shall not exceed three square feet for each one foot between the billboard and the nearest property line that intersects the property line abutting the freeway; provided, however, that the width of each sign panel on a billboard shall not exceed 14 feet and the length of each sign panel on a

billboard shall not exceed 48 feet and, provided further that, notwithstanding the preceding provisions, irregularly shaped sign extensions not exceeding three percent of the area of a sign panel may extend beyond the perimeter of a sign panel on a billboard.

- (8) No billboard shall contain more than one sign panel facing the same direction of traffic on the freeway.
- (9) No billboard shall contain more than two sign panels.
- (10) The light rays of an illuminated billboard shall be cast directly upon the billboard and shall not be visible to or directed towards motorists on the freeway except as reflected from the billboard.
- (11) The sign area limitations in sections 94-410 and 94-411 shall not include the area of billboards permitted by this section.
- (12) Billboards shall be permitted in the MP district pursuant to all other requirements of this section, subject to the following:
 - a. If a development plan has been approved for an industrial park, billboards shall be permitted provided that the development plan and restrictive covenants are first amended pursuant to section 94-182.
 - b. If a development plan has not been approved for an industrial park, a billboard shall be permitted provided that the owner of the property submits a written statement to the planning commission that either the billboard shall be included in the development plan and restrictive covenants when the property is developed for an industrial park or the billboard shall be removed prior to the development of the property as an industrial park.
- (13) Each billboard shall comply with section 94-406.
- (14) No billboard shall be erected unless a building permit has been issued therefore by the building inspector.
- (15) A billboard shall not be constructed within the freeway right-of-way and shall not be constructed on any private property located between the boundary lines of the freeway, including, without limitation, railroad rights-of-way, utility easements, and other property owned or leased by railroads, utility companies, or any other private parties.
- (16) Digital billboards and mechanical billboards, as defined in section 94-5, are prohibited.

(Ord. No. 07-551, § 2, 7-9-07; Ord. No. 10-579, § 9, 3-8-10; Ord. No. 11-603, § 4, 9-26-11)

Sec. 94-414. - Temporary construction site signs.

In addition to the signs otherwise permitted by this article, temporary construction site signs are permitted in any zone district subject to the following provisions:

- (1) *Number of signs permitted.* One temporary construction site sign is permitted for each street frontage of a development project, except that one additional sign may be erected on any frontage which is in excess of 500 lineal feet. Separate street frontages shall not be combined for purposes of computing total frontage. A temporary construction site sign permitted in connection with one (1) street frontage shall not be placed on any other frontage.
- (2) *Location.* Temporary construction site signs shall be located in compliance with section 94-406. Further, temporary construction site signs shall not be located nearer to a right-of-way line than one-half the minimum yard setback required for the principal building on the lot.
- (3) *Height.* A temporary construction site sign shall not exceed 12 feet in height measured from ground level at the base of the sign.
- (4) *Area.* The total area of the largest exposed surface of a temporary construction site sign shall not exceed 48

square feet, except that in connection with the construction of not more than one single-family dwelling or of not more than one two-family dwelling, the total area of the largest exposed surface of a temporary construction site sign shall not exceed 16 square feet.

- (5) *Installation and construction.* Temporary construction site signs which are not affixed to a building or structure shall be firmly anchored in the ground and shall be constructed and fastened to supports capable of withstanding a minimum of ten pounds of pressure per square foot of the area of a sign.
- (6) *Removal.* Unless the board of zoning appeals after public notice and hearing finds that a reasonable need for continued use of the sign exists and an absence of injurious effect on contiguous property is shown, temporary construction site signs shall be removed upon the earlier of the following:
- a. Completion of the construction of a project;
 - b. Issuance by the building inspector of a certificate of occupancy for all or any portion of a project; or
 - c. Within two years of the date of final plat approval where the development involves platted lots, whichever occurs first.

(Ord. No. 07-551, § 2, 7-9-07)

Sec. 94-415. - Removal of accessory signs.

Notwithstanding any other provision of this chapter, with the exception of billboards, freestanding signs, freestanding/pylon signs, ground-mounted signs, and directional signs are permitted only when accessory to a principal use of and a principal building on a lot or premises. Notwithstanding any other provision of this chapter, with the exception of billboards, freestanding signs, freestanding/pylon signs, ground-mounted signs, and directional signs are prohibited on a vacant lot. Notwithstanding any other provision of this chapter, with the exception of billboards, sign faces of any type must be removed upon the cessation of the principal use on the lot on which the sign face was associated. If a building associated with a principal use on a lot is demolished, with the exception of billboards, all freestanding signs, freestanding/pylon signs, ground-mounted signs, and directional signs shall be removed from the lot at the same time as the principal building. With the exception of billboards, any freestanding signs, freestanding/pylon signs, ground-mounted signs, and directional signs remaining on a lot after demolition of the principal building shall constitute a violation of this chapter notwithstanding that such signs may have been lawfully nonconforming prior to the demolition of the principal building.

(Ord. No. 16-630, § 1, 9-26-16)

Secs. 94-416—94-435. - Reserved.

ARTICLE XV. - PERFORMANCE STANDARDS FOR SOUND, VIBRATION, ODOR, GASES, GLARE AND HEAT, LIGHT, ELECTROMAGNETIC RADIATION, SMOKE, DUST, DIRT, FLY ASH, DRIFTED AND BLOWN MATERIAL AND RADIOACTIVE MATERIALS

Footnotes:

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Cross reference— *Environment, ch. 34.*

Sec. 94-436. - Prohibited levels.

It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building or equipment dangerous to human life or health or that produces irritants to the sensory perception greater than the measures established in this article which are hereby determined to be the maximum permissible hazards to humans or human activities.

Sec. 94-437. - Sound.

The intensity levels of sound created by any activity or operation or use of any land, building or equipment shall be governed by the city noise control ordinance, article IV of chapter 34 of this Code.

(Ord. No. 89-382, § 1, 1-9-90)

Sec. 94-438. - Vibration.

All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 root-mean-square of one-inch r.m.s. measured at any lot line of its source.

(Ord. No. 85-323, § 1, 11-12-85)

Sec. 94-439. - Odor.

The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air or as to produce a public nuisance or hazard beyond lot lines, is prohibited.

Sec. 94-440. - Toxic gases.

The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated, except as required in the provision of essential services.

Sec. 94-441. - Glare and heat.

Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

Sec. 94-442. - Light.

All lighting shall be arranged to reflect light away from adjoining properties in residential and agricultural districts.

Sec. 94-443. - Electromagnetic radiation.

The rules and regulations of the Federal Communications Commission as of the date of the adoption of the ordinance from which this article derives with respect to the propagation and dissemination of electromagnetic radiation are hereby made a part of this article and shall be on file in the office of the building inspector.

Sec. 94-444. - Smoke, dust, dirt and fly ash.

It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than two minutes in any one-half hour which is:

- (1) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart. The Ringelmann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this article, shall be the standard. However, the readings of smoke densities may be used when correlated with the Ringelmann Chart. A Ringelmann Chart shall be kept in the office of the administrative official.
- (2) Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in subsection (1), except when the emission consists only of water vapor.

The quantity of gasborne or airborne solids shall not exceed two-tenths of one grain per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

Sec. 94-445. - Drifted and blown material.

The drifting or airborne transmission beyond the lot line of dust, particles or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.

Sec. 94-446. - Radioactive materials.

Radioactive materials shall not be emitted so as to be unsafe to human health or life.

Secs. 94-447—94-465. - Reserved.

ARTICLE XVI. - OFFSTREET PARKING AND LOADING REGULATIONS

Sec. 94-466. - Required offstreet parking generally.

Offstreet parking required in conjunction with all land and building uses shall be provided as prescribed in this section:

- (1) The minimum number of offstreet parking spaces shall be determined in accordance with the table in section 94-467. For uses not specifically mentioned therein, offstreet parking requirements shall be interpreted by the board of zoning appeals from requirements for similar uses.
- (2) Any area once designated as required offstreet parking shall not be changed to any other use unless and until equally required facilities are provided elsewhere. Offstreet parking existing at the effective date of the ordinance from which this section derives in connection with the operation of an existing building or use shall not be reduced to an amount less than would be required in this article for such building or use.
- (3) The offstreet parking may be provided either by individual action or by a parking program carried out through public action, whether by a special assessment district or otherwise.
- (4) Two or more buildings or uses may collectively provide the required offstreet parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for each individual use computed separately. However, if an offstreet parking area is shared by two or more buildings or uses, the operating hours of which do not overlap, the total required number of parking spaces may be reduced to reflect the peak hour demand, as determined appropriate by the planning commission.
- (5) Required offstreet parking shall be for the use of occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The use of required offstreet parking for storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited. Offstreet parking, whether public or private, for nonresidential uses

shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the offstreet parking lot, without crossing any major thoroughfare.

- (6) (a) Residential offstreet parking spaces shall comply with this subsection and shall be located on the lots they are intended to serve.
- (b) Residential offstreet parking spaces may only be provided on an improved parking surface, which is defined as a uniform surface meeting the following minimum construction standards:

Material Type	Material Depth	Base Material and Depth
Asphalt	2 inches	Aggregate at 4 inches
Poured Concrete	4 inches	Sand at 2 inches
Bricks/Paving Stones	2 inches	Sand at 4 inches

Note: Application of all materials shall support a front axle weight of 18,000 pounds and a rear axle weight of 30,000 pounds and shall otherwise adhere to American Association of State Highway and Transportation Officials (AASHTO) standards.

- (c) Residential offstreet parking spaces for the following uses may only be provided on an improved parking surface, as defined in subsection (b):
 - i. Lots with an area equal to or less than one acre, that contain one or two dwelling units, and that have a front building setback of 65 feet or less from the road right-of-way.
 - ii. All lots containing multiple-family dwellings.
 - (d) Gravel is prohibited.
 - (e) Residential offstreet parking spaces for motor vehicles must be contiguous to the residential driveway.
 - (f) Residential offstreet parking spaces on any lot that contains one or two dwelling units cannot cover more than 30 percent of a required front yard.
 - (g) Residential offstreet parking spaces must maintain a three-foot setback from any property line.
- (7) If offstreet parking in permanent public ownership and operation exists in quantity and location greater than would be necessary to fulfill the parking requirements of this article for the existing contiguous buildings, then the excess number of parking spaces may be prorated to the land area within 300 feet as measured under subsection (5). The planning commission shall calculate the proration of the excess number of parking spaces and, based on that calculation, may apply a credit towards the minimum number of parking spaces otherwise required to be provided prior to the issuance of a certificate of occupancy for any new building or new use.

(Ord. No. 88-367, §§ 22, 23, 1-10-89; Ord. No. 13-611, § 1, 1-28-13; Ord. No. 17-637, § 1, 7-10-17)

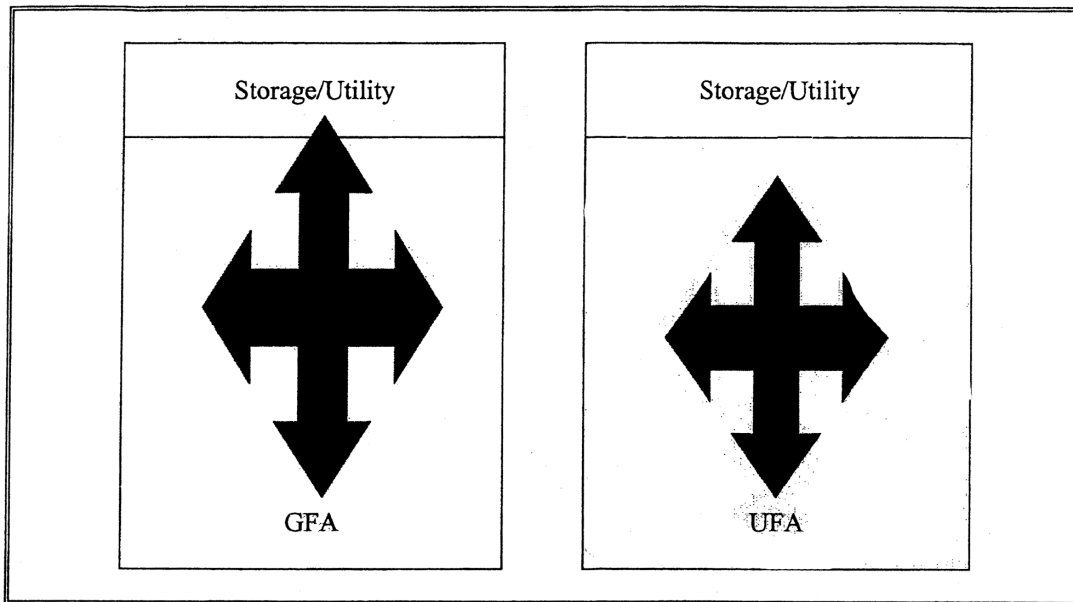
Sec. 94-467. - Table of required offstreet parking spaces.

- (a) For purposes of this section, the following definitions shall apply:

Floor area: The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of the exterior walls or from the centerline of walls separating dwelling units. Unenclosed porches, courtyards, patios and cellars shall not be considered as part of floor area, except when utilized for commercial or industrial purposes.

Gross floor area (GFA): The area within the perimeter of the outside walls of the building, without deduction for hallways, stairs, closets, storage rooms, utility rooms, inventory rooms, thickness of walls, columns or other features (as illustrated below).

Usable floor area (UFA): That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers (as illustrated below). Floor area used or intended to be used for hallways, stairways, elevator shafts, utility or sanitary facilities or for the storage or processing of merchandise or food products shall be excluded from this computation of UFA. Measurement of UFA shall be the sum of the horizontal areas of each story of a structure measured from the internal faces of the exterior walls.



Floor Area

(b) The minimum number of off-street parking spaces shall be determined in accordance with the following table:

Use	Spaces	Per Unit of Measurement (Rounded Off to Nearest Unit)
Residential Uses		
Detached single-family residential	2	Each dwelling unit
Multifamily residential	2	Each dwelling unit
Residential units above commercial establishments	2	Each dwelling unit plus the required number of spaces for the commercial establishment as required by this section

Civic and Institutional Uses		
Hospitals, housing for the elderly, nursing homes, adult foster care facilities, independent living facilities	1¼	Each bed
Private clubs, fraternities, dormitories	1	2 beds, or 100 square feet usable floor area (UFA), whichever is greater
Theaters, auditoriums	1	3 seats
Churches, mortuaries	1	3 seats, or 21 square feet of usable floor area (UFA) of auditorium, whichever is greater
Elementary, junior high schools	1	2 teachers, employees and administrators; or 21 square feet of usable floor area (UFA) of largest auditorium or other public assembly room, whichever is greater
High schools, colleges	1	2 teachers, employees and administrators; plus 1 space per 6 students; or 21 square feet of usable floor area (UFA) of largest auditorium or other public assembly room, whichever is greater
Dancehalls, exhibition halls and assembly halls without fixed seats	1	100 square feet of usable floor area (UFA)
Community center	1	300 square feet of gross floor area
Note: 3050 Walkent-Knottnerus Site. 41,000 sq. ft. building. 1,278 occupancy load.		
Commercial and Office Uses		
Banks	1	300 square feet of gross floor area (GFA), plus 3 stacking spaces per teller/ATM lane
Offices—General	1	500 square feet of usable floor area (UFA), plus 1 parking space for each 2 employees
Professional offices of doctors and dentists with no overnight stay	10	First doctor or dentist

	8	Second doctor or dentist
	6	Third doctor or dentist
	4	Each additional doctor or dentist
Stadiums and sports arenas	1	4 seats, or 12 feet of benches
Bowling alleys	7	Alley
Swimming pools	1	30 square feet of water area
Restaurants/fast food establishments with drive-up windows	1	2 customer seats plus 1 space per employee at peak hours plus 5 stacking spaces per drive-up window
Restaurants/banquet halls/fast food establishments without drive-up window	1	2 customer seats plus 1 space per employee at peak hours
Commercial/retail building not more than 50,000 square feet except as otherwise specified in this article	1	200 square feet of usable floor area (UFA)
Commercial/retail building more than 50,000 square feet except as otherwise specified in this article	1	250 square feet usable floor area (UFA)
Hotels, motels, extended stay establishments, rooming houses	1	Each sleeping room
Auto repair shops (motor and/or body)	1	Each 200 square feet of gross floor area (GFA) in the structure
Beauty parlors or barbershops	2	Each barber or beauty shop chair
Conference centers	1	4 meeting room seats
Auto/vehicle wash—Manual	1	Each employee plus 3 stacking spaces per stall
Auto/vehicle wash—Automatic/tunnel	10 stacking spaces	Each tunnel or stall plus 1 space per employee

Child care centers	1	Each 300 square feet of gross floor area (GFA)
Bar/Night Club	1	2 customer seats plus 1 space per employee at peak hours
Extra:	1	100 square feet of dance floor area
Industrial, Manufacturing and Warehousing Uses		
Industrial uses, including manufacturing, assembly, processing, research, packaging, research and testing laboratories; creameries, bottling works; printing, plumbing, or electrical workshops; telephone exchange buildings	1½	Each 1,000 square feet of gross floor area (GFA) or 1 space per employee on largest shift, whichever is greater
Industrial uses such as wholesale business, distribution, truck terminals, and warehousing	1	Each 15,000 square feet of gross floor area (GFA) or 1 space per employee, whichever is greater
Industrial office areas	1	Each 300 square feet of office area plus the required number of spaces for the industrial uses as required by this section
Movie Studio	1	Every 2 employees, measured at peak shift

(Ord. No. 88-361, § 6, 6-14-88; Ord. No. 06-545, § 1, 3-27-06; Ord. No. 10-588, § 4, 10-11-10)

Sec. 94-468. - Offstreet parking lot layout, construction and maintenance.

Offstreet parking spaces shall be designed, constructed and maintained in accordance with the following requirements:

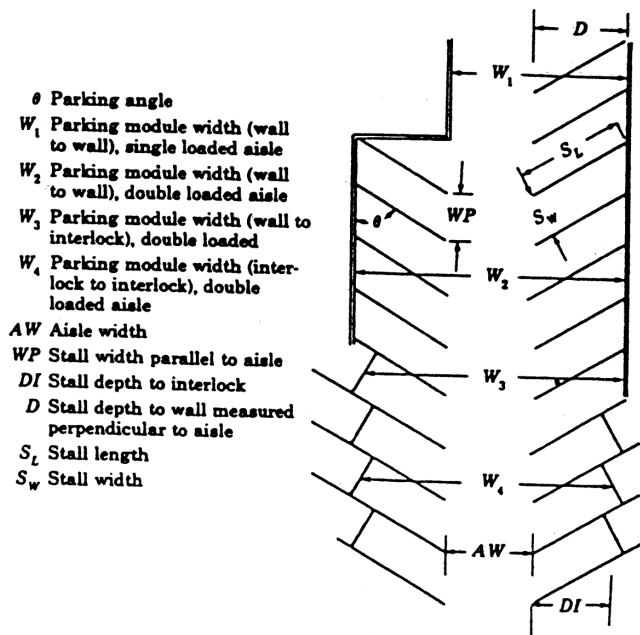
- (1) Offstreet parking spaces shall comply with all minimum stall width, stall depth, aisle width, parking module width and other requirements prescribed by table 9-1 and figure 9-1 below. (The dimensional terms in table 9-1 are defined by the diagram in figure 9-1.)

Table 9-1
Parking Layout Dimension Requirements

S_w	WP	D	DI	AW	W_1	W_2	W_3	W_4
Basis	Stall	Stall	Stall	Aisle		Wall-		Interlock
Stall	Width	Depth	Depth to	Width		to-		to
Width	Parallel	to Wall	Interlock	(feet)		Wall		Interlock
(feet)	to Aisle	(feet)	(feet)			(feet)		(feet)
	(feet)							

Two-way aisle—90 degrees	9.00	9.00	17.5	17.5	26.0	N/A	61.0	64.0	61.0
Two-way aisle—60 degrees	9.00	10.4	18.0	16.5	26.0	N/A	62.0	46.0	59.0
One-way aisle—75 degrees	9.00	9.3	18.5	17.5	22.0	40.5	59.0	N/A	57.0
One-way aisle—60 degrees	9.00	10.4	18.0	16.5	18.0	39.0	54.0	N/A	51.0
One-way aisle—45 degrees	9.00	12.7	16.5	14.5	15.0	41.0	48.0	N/A	44.0

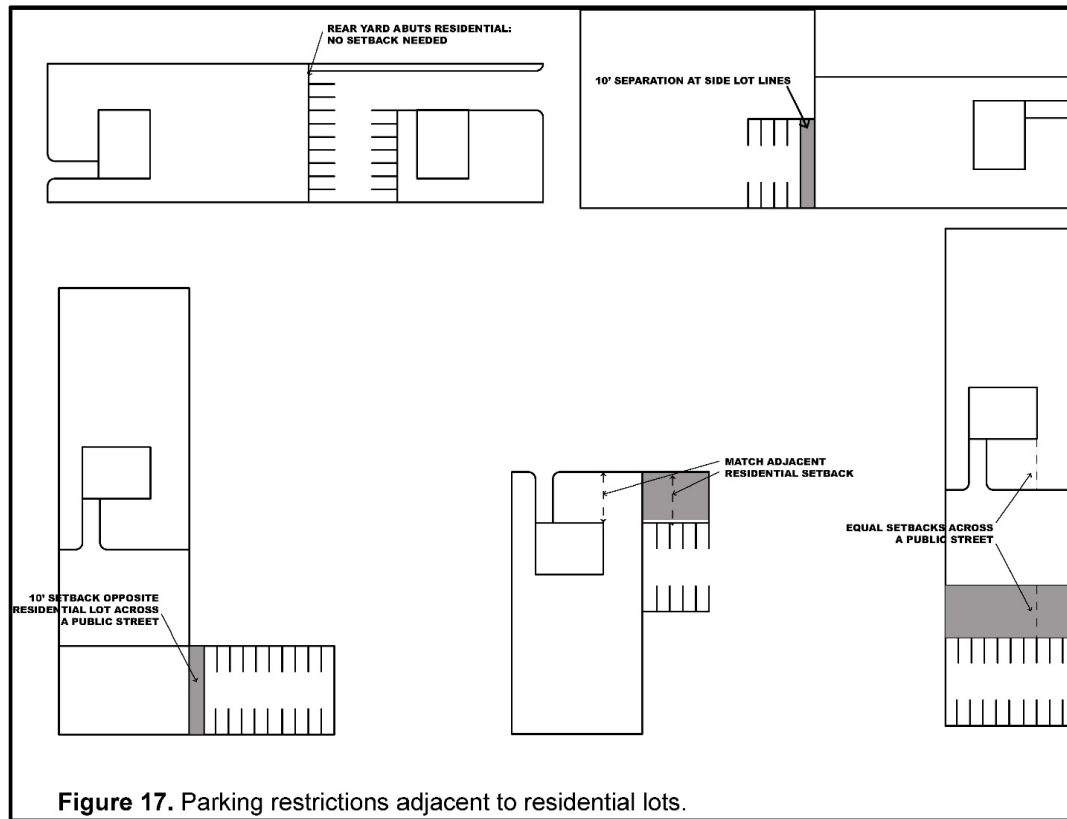
Figure 16



- (2) Adequate ingress and egress shall be provided for vehicles to the parking lot by means of clearly limited and defined drives not less than 12 feet in width.
- (3) Parking spaces shall be set back from abutting residential districts as follows:

Where the parking lot abuts residential districts	Required setback of parking spaces
At side lot lines	10 feet from such side lot line
With contiguous common frontage in same block	Equal to the residential required setback, or average of existing setback in common block frontage, whichever is less
Across the street and opposite residential lots fronting on such street	Equivalent to the opposite residential required setback

Across the street and opposite, or contiguous to and in same block, with residential side lot lines on such street	10 feet from street lot lines
Rear lot line	None



- (4) The land between the setback line and the lot line in a parking lot required by subsection (3) is for the purposes of this article called a buffer strip. There shall be bumper stops or wheel chocks provided so as to prevent any vehicle from projecting over the buffer strip. The ground of the buffer strip shall be used only for the purpose of plant materials.
- (5) Where buffer strips are not required, bumper stops or wheel chocks shall be provided, so located as to prevent any vehicle from projecting over the lot line.
- (6) Where the boundary of any offstreet parking space is located within 20 feet of property zoned for residential use, a suitable chainlink wire fence shall be provided, or such other fence which, in the judgment of the building inspector, serves the same function and is not detrimental to surrounding properties, but shall not extend into the required front open space of the abutting residential lot.
- (7) The parking lot shall be drained to dispose of surface water. Surface water from any offstreet parking area or loading area of 1,000 square feet or more must be disposed of through an underground drainage system in such manner that both streets and neighboring properties are not harmed or their use impaired. The underground system must include such catchbasins, manholes, storm sewer connection and other structures as may be necessary to properly dispose of such surface water. If a storm sewer system is available, the drainage system of the offstreet parking area or loading area shall be connected to it. No offstreet parking area or loading area drainage system may be connected to a sanitary sewer system.
- (8) The surface of the parking lot, including drives and aisles, excepting the buffer strips, shall be constructed of a dustless and durable all-weather surfacing material.
- (9) Parking structures may be built to satisfy offstreet parking regulations when located in other than residential

districts, subject to the area, height, bulk and placement regulations of such district in which located.

- (10) Required offstreet parking areas for three or more vehicles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any vehicle may be parked and unparked without moving another.

(Ord. No. 72-164, 2-22-72; Ord. No. 93-421, § 1, 7-13-93; Ord. No. 16-632, § 1, 9-26-16)

Sec. 94-469. - Offstreet loading and unloading.

On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, wholesaling or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading in order to avoid interference with public use of highways, streets or alleys. The space for standing, loading and unloading services shall not include any portion of the layout for offstreet parking pursuant to the requirements of section 94-468 (including, without limitation, offstreet parking spaces, parking aisles, and defined drives for ingress and egress).

Such loading and unloading space shall be in an area minimum ten feet by 40 feet with a 14-foot height with a 14-foot height clearance and shall be provided according to the following table:

Gross usable floor area in square feet	Loading and unloading spaces required in terms of square feet of usable floor area
0 to 20,000	One space
20,001 to 100,000	One space plus one space for each 20,000 square feet of excess over 20,000 square feet
100,001 to 500,000	Five spaces plus one space for each 40,000 square feet of excess over 100,000 square feet
Over 500,000	Fifteen spaces plus one space for each 80,000 square feet of excess over 500,000 square feet

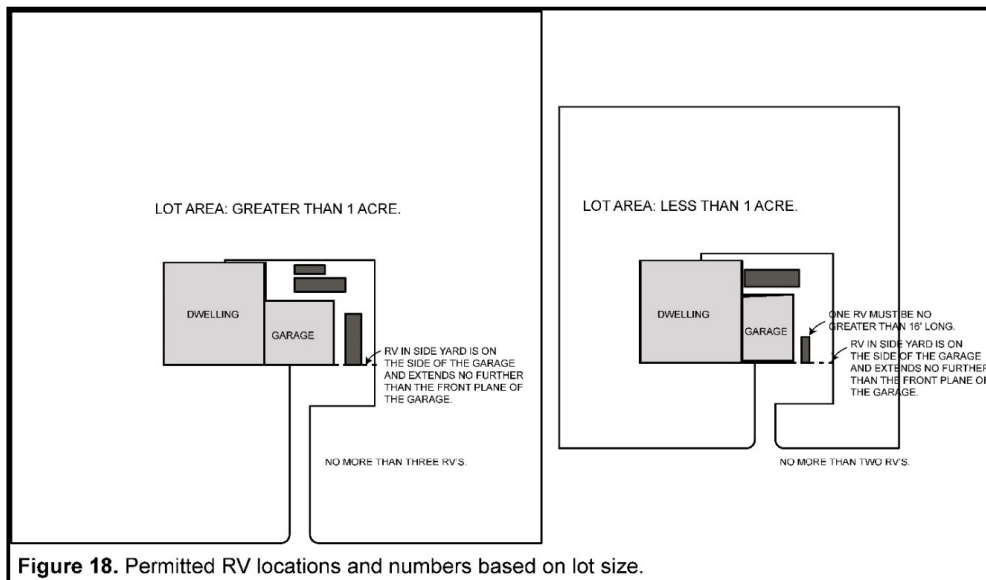
(Ord. No. 93-421, § 2, 7-13-93)

Sec. 94-470. - Parking, storage or use of major recreational equipment; parking and storage of mobile home dwellings.

- (a) For purposes of this article, "major recreational equipment" is defined as including boats and boat trailers; travel trailers; pickup campers or coaches (designed to be mounted on automotive vehicles); motorized dwellings; tent trailers; snowmobiles; ORVs (off-road vehicles) and similar vehicles or equipment; and cases or boxes used for transporting recreational equipment, whether occupied by recreational equipment or not. "Major recreational equipment" does not include "mobile home dwellings."
- (b) No major recreational equipment shall be parked or stored on any lot in a residential district except as follows:
 - (1) All major recreational equipment shall be parked or stored either wholly within a carport or enclosed building, or within the rear yard or side yard of the lot, as provided by this section.
 - (2) If the lot is less than or equal to one acre in size, a maximum of one piece of major recreational equipment, plus one additional piece of major recreational equipment that is not more than 16 feet long, may be stored on the lot outside of a carport or enclosed building. If the lot is larger than one acre, a maximum of three pieces of major

recreational equipment may be stored on the lot outside of a carport or enclosed building. However, in no case shall more than one piece of equipment be parked or stored within the side yard of any lot at any one time.

- (3) If parked or stored within the side yard, the equipment shall be parked or stored only in the side yard which is adjacent to the garage and shall not extend any farther toward the street than the closest adjacent principal building (or closest adjacent portion of the building) next to which the equipment is parked or stored. In no case shall the equipment be parked or stored within, or extend into, the front yard of the lot or within a side yard that is not adjacent to a garage.



- (4) Notwithstanding any other provision of this section to the contrary, a maximum of one piece of major recreational equipment may be parked within the front yard of a residential lot during loading and unloading of the equipment, but in no case for a period to exceed 72 hours provided, however, that:
- Major recreational equipment (except a boat) which exceeds 34 feet in length or eight and one-half feet in width shall not be parked or stored anywhere, or for any purpose, on a residential lot for more than 48 hours; and
 - A boat which either (i) exceeds 34 feet in length, or (ii) exceeds nine feet in width, shall not be parked or stored anywhere, for any purpose or for any period of time, on a residential lot unless it is within a wholly enclosed building.
- (5) Major recreational equipment shall not be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any other location not approved for those purposes.
- (6) The parking or storage of major recreational equipment shall comply with all other applicable laws and ordinances, including, without limitation, article V of chapter 78 of this Code.
- (c) For purposes of this section, the length of any major recreational equipment, other than trailers, shall be measured from the rear of the unit to the front of the unit or the front of the hitch attached to the unit, whichever is longer. The length of any major recreational equipment that is a trailer of any type shall be measured from the rear of the trailer to the front of the hitch.
- (d) No mobile home dwelling shall be parked or stored for any period of time on any residential lot or in any location not approved for such use, except as otherwise permitted by section 94-173 or section 94-350.

(Ord. No. 88-360, § 1, 6-14-88; Ord. No. 91-392, § 7, 3-12-91; Ord. No. 91-393, § 1, 6-11-91; Ord. No. 16-632, § 1, 9-26-16)

- (a) Automotive vehicles of any kind or type (except as permitted in section 94-470) without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.
- (b) Automotive trailers of any kind or type (except as permitted in section 94-470) with or without current license plates shall not be parked or stored on any residentially zoned property other than in a completely enclosed building or within the rear yard or side yard of the lot. If parked or stored within the side yard, the automotive trailer shall be parked or stored only in the side yard which is adjacent to the garage and shall not extend any farther toward the street than the closest adjacent principal building (or closest adjacent portion of the building) next to which the trailer is parked or stored. In no case shall the trailer be parked or stored within, or extend into, the front yard of the lot or within a side yard that is not adjacent to a garage. Notwithstanding any other provision of this subsection, a maximum of one automotive trailer may be parked in the front yard of a residential lot during loading and unloading but in no case for a period to exceed 48 hours. For purposes of this subsection, an "automotive trailer" is any trailer designed or used to be drawn by a motor vehicle to carry persons or property.
- (c) It shall be illegal to park or garage a commercial vehicle on any lot in a residential or agricultural district except that one commercial vehicle per lot shall be permitted if such vehicle is not larger than a regularly manufactured pickup or panel truck of 1½ ton capacity and is operated by a member of the family residing on such lot.

(Ord. No. 98-522, § 1, 6-8-98)

Sec. 94-472. - Driveways and areas used for display or storage of property in commercial zones.

All driveways and areas used for the display or storage of any tangible property in connection with any use permitted in a commercial zone shall comply with the provisions of subsections (1), (3), (6), (7) and (8), and the first and last sentences of subsection (4) of section 94-468; provided, that this section shall not apply to:

- (1) Areas used for the storage of plants, trees and shrubbery.
- (2) The area within a drive-in theater or outdoor theater used for the parking of vehicles from which persons observe the movies or other entertainment.

(Ord. No. 74-109, 9-20-74)

Secs. 94-473—94-495. - Reserved.

ARTICLE XVII. - UNIQUE USES

Sec. 94-496. - General requirements for allowance.

Unique uses may be permitted only as expressly provided for by this article and in accordance with the standards and requirements of article IX of this chapter.

(Ord. No. 88-367, § 24, 1-10-89)

Sec. 94-497. - Unique uses permitted after review and approval by the planning commission.

The following uses of land and structures may be permitted as unique uses in any zoning district within the city if approved by the planning commission as provided by this article and as provided by article IX of this chapter:

- (1) Airports.

- (2) Amusement parks.
- (3) Circuses.
- (4) Fairgrounds.
- (5) Federal, state, county or municipal service buildings and facilities.
- (6) Racetracks.
- (7) Major recreational facilities.
- (8) Public utility buildings and structures.
- (9) Natural resources utilization, exploitation, mining or development (not including mineral mining), except that water wells shall be considered an accessory use and not a unique use.
- (10) Removal of sod, or removal or redistribution of topsoil, except as necessarily incident to normal farming operations or to the performance of work with respect to a building or structure under a permit issued pursuant to the building code of the city.

(Ord. No. 88-367, § 25, 1-10-89; Ord. No. 91-395, § 10, 8-13-91; Ord. No. 97-503, § 5, 10-13-97)

Secs. 94-498—94-520. - Reserved.

ARTICLE XVIII. - ZONING PERMIT REQUIRED

Footnotes:

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Editor's note— Ord. No. 21-661, § 1, April 26, 2021, amended Art. XVIII in its entirety, in effect repealing and reenacting said Art. XVIII to read as set out herein. The former Art. XVIII, §§ 94-521—94-523, pertained to temporary uses and derived from Ord. No. 88-358, § 1, adopted March 8, 1988; Ord. No. 99-528, §§ 1—6, adopted Feb. 8, 1999; Ord. No. 19-653, § 3, adopted Nov. 25, 2019; Ord. No. 20-655, § 1, adopted July 27, 2020.

Sec. 94-521. - Purpose.

The requirements of this article are intended to provide for the regulation and permitting of the uses and associated improvements described in section 94-523.

(Ord. No. 21-661, § 1, 4-26-21)

Sec. 94-522. - Standards and procedures applicable to uses requiring a zoning permit.

In addition to the requirements of section 94-523, all permitted uses provided for by this article shall be subject to the following requirements:

- (1) *Zoning permit required.* It shall be unlawful to engage in any use as provided by this article within the city without first obtaining a zoning permit therefor. Upon application, the zoning administrator shall issue a zoning permit for any of the uses set forth in section 94-523.
- (2) *Applications.*
 - a. All applicants must submit an application for a zoning permit that includes the following information:
 1. The location where the permitted use is proposed.
 2. The name of the proposed use/event.
 3. The approximate number of people proposed to participate in/attend the event or use.

4. The proposed duration of the use.
 5. The name and contact information of the property owner and written authorization for use if applicant is not the property owner.
 6. The name and contact information for the applicant if different from the owner.
 7. The type of use proposed and a brief description of the event or use.
 8. A site plan showing the location of the proposed event or use, as well as such other information in sufficient detail as the zoning administrator determines is reasonably necessary to adequately review the application and to ensure that the use will be conducted in a manner consistent with the requirements of this article; and
 9. If the permitted use or event is proposed to take place on public property, a comprehensive liability insurance in the amounts of at least \$500,000.00 per occurrence for bodily injury and property damage, and \$1,000,000.00 in the aggregate, with a company authorized to do business in the state. The City of Walker shall be named as additional insured (as provided by section 64-522(14)).
- b. *Submission deadline.* All applications for a zoning permit shall be made at least 21 days prior to the proposed commencement date for the use, provided that the zoning administrator may approve a lesser time period consistent with the requirements of this article.
- (3) *Standards of review.* A zoning permit as provided by this article shall not be granted unless the zoning administrator determines that the proposed use meets all the following requirements:
- a. *Nuisance, hazardous features.* The use will not result in any hazard or nuisance to the contiguous or adjacent users or uses of property or otherwise be contrary to the public health, safety or welfare of the community.
 - b. *Traffic and circulation.* The use will not create hazardous vehicular or pedestrian traffic conditions on or adjacent to the site of the use or result in traffic in excess of the capacity of streets serving the use. A zoning permit shall not be issued if the zoning administrator determines that the proposed use will:
 1. Unreasonably interfere with the use of the street or sidewalk for pedestrian or vehicular travel;
 2. Unreasonably interfere with the view of, access to, or use of property adjacent to the street;
 3. Interfere with street cleaning or snow removal activities;
 4. Cause damage to the sidewalk or street, or to trees, benches, landscaping, or other objects lawfully located therein;
 5. Cause violation of any state or local laws; or
 6. Reduce the effectiveness of or access to any utility pole, street lighting, sign, or other traffic control device.
 - c. *Public facilities and services.* Adequate utility, drainage, refuse management, sanitary facilities, emergency services and access, and similar necessary facilities and services shall be available for such use.
 - d. *Natural environment.* The use will not have a substantially adverse impact on the natural environment.
 - e. *Site suitability.* The site is suitable for the proposed use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health or property.
 - f. *Building, electrical, and other codes.* The proposed use and all associated improvements, including, but not limited to, tents, stands, temporary electrical systems, temporary heating systems, and temporary lighting systems will comply with all applicable provisions of the building code, the National Electrical Code, and such other codes as are from time to time adopted or amended pursuant to chapter 14 of this Code.
- (4) *Signs.* Temporary signs proposed in connection with a use requiring a zoning permit may be allowed in such

shape, size, construction, location and duration as approved by the zoning administrator in compliance with the provisions of article XIV of this chapter applicable to the zoning district in which the use will be located, provided that where the zoning administrator determines that a temporary sign proposed in connection with a use requiring a zoning permit will result in a hazard or nuisance or will otherwise be contrary to the public health, safety or welfare of the community, the zoning administrator may impose more restrictive requirements than required by article XIV of this chapter.

- (5) *Conditions to approval.* Reasonable conditions may be imposed by the zoning administrator related to such matters including, but not limited to, location, size, height, construction, screening, parking, traffic and pedestrian access, hours of operation, noise, odor, sanitation, disposal of trash or refuse, lighting and electrical systems, or any other physical or operational aspects of a proposed use which might adversely affect health, safety or welfare. Any condition imposed must be clearly specified in writing by the zoning administrator on the zoning permit. Conditions imposed shall ensure the following:
- a. That public services and facilities affected by a proposed use will be capable of accommodating increased service and facility loads caused by the use;
 - b. That the natural environment and natural resources and energy will be conserved and protected;
 - c. Compatibility with adjacent uses of land; and
 - d. The protection of the health, safety and welfare and the social and economic well-being of those who will participate in the use requiring a zoning permit, residents and landowners immediately adjacent to the proposed use, and the community as a whole.
- (6) *Issuance or denial.*
- a. Prior to the zoning administrator's determination to issue or deny a zoning permit, the application shall be reviewed by other city staff members including, without limitation, the building official, city engineer, fire chief, and police chief. The zoning administrator shall consider the recommendation of such city staff in deciding to issue or deny the zoning permit under this section and in imposing conditions pursuant to subsection 94-522(5).
 - b. If the zoning administrator determines that the application complies with the requirements set forth in sections 94-522 and 94-523, other applicable ordinances, state and federal statutes, the zoning administrator shall issue a zoning permit within 14 days of submission of the application. The following information shall be clearly indicated by the zoning administrator on any permit issued:
 1. The authorized commencement and termination dates of the zoning permit;
 2. Specification of any conditions to approval imposed pursuant to this article;
 3. The name, address and telephone number of the person(s) or organization(s) to whom the permit is issued (referred to in this article as the "owner or operator");
 4. The type of use for which the zoning permit has been issued, including a general listing of the types of activities the use will involve; and
 5. The location of the site for which the permit has been issued, and a general indication of the location of activities on the site.
 - c. If the zoning administrator determines that the application does not sufficiently comply with the requirements set forth in sections 94-522 and 94-523, the zoning administrator shall deny the permit and shall provide the applicant with a written statement of the reasons for the denial within 14 days of submission of the application.

- (7) *Validity.*

- a. A zoning permit is valid only at the location described in the permit.
 - b. A zoning permit is valid only for the uses or activities described in the permit, subject to any conditions imposed.
 - c. A zoning permit is valid only for the dates and duration specified in the permit.
 - d. A zoning permit is valid only if conspicuously and continuously displayed at the site of the use for the duration of the permit.
- (8) *Termination.* All zoning permits are valid for the entire period as stated in the permit, unless revoked or suspended prior to termination. At the end of the time period stated in the permit, the use shall be discontinued, and all temporary structures shall be removed. Failure to comply with this requirement shall be a violation of this chapter.
- (9) *Revocation or suspension.* The zoning administrator may revoke or suspend a zoning permit at any time on the failure of the owner or operator of the use covered by the permit to comply with any or all requirements of this article or conditions imposed upon issuance of the zoning permit or with any other applicable provisions of state or local law. The zoning administrator shall notify the owner or operator of the use for which the permit has been granted, stating reasons for its revocation. Upon receipt of such notice, the owner or operator of such activity shall cease operation of the activity immediately. The provisions of this subsection shall not be deemed to preclude the use of any other remedy prescribed by law or by this chapter with respect to violations of the provisions of this chapter.
- (10) *Appeal of zoning administrator's determination.* An appeal by any person aggrieved by an action of the zoning administrator in granting, denying, revoking or suspending a zoning permit may be made to the zoning board of appeals in accordance with this chapter. Any request for an appeal must be made within five business days of the decision being appealed.
- (11) *Fees.* The fee for a zoning permit required by this article shall be established by resolution of the city commission. No permit shall be issued unless such fee has been paid to the city.
- (12) *Maintenance and cleanup of premises for temporary uses.*
- a. The area occupied by the use requiring a zoning permit must be kept in a neat and well-kept manner at all times.
 - b. A cash deposit of \$200.00 shall be required at the discretion of the zoning administrator to ensure the cleaning and removal of all temporary improvements, signs, trash, and debris, within 24 hours after the closing of certain uses requiring a zoning permit. Failure to clean and remove all temporary improvements, signs, and debris will result in a forfeiture of the \$200.00 deposit. Acceptance of the zoning permit constitutes the grant of permission by the owner or operator of the use for the city to enter the premises to clean. The city may bill the owner or operator for additional expenses incurred to clean the premises.
- (13) *Use of public property; approval required; liability insurance required.*
- a. No portion of a use requiring a zoning permit under this article may take place on the public right-of-way or other publicly owned property unless the applicant has first obtained written permission or applicable permits from the agency having jurisdiction over the property.
 - b. Prior to the issuance of a zoning permit for a use that will take place, wholly or in part, on publicly owned property, the applicant shall obtain comprehensive general liability insurance in amounts of at least \$500,000.00 per occurrence for bodily injury and property damage, and \$1,000,000.00 in the aggregate, with a company authorized to do business in the state. The insurance shall insure the applicant against liability for death or bodily injury to persons or damage to property which may result from the temporary use or conduct

incident thereto and shall name the city as an additional insured party. The insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Proof of such insurance shall be furnished to the city prior to the issuance of the permit.

(Ord. No. 21-661, § 1, 4-26-21)

Sec. 94-523. - Uses permitted with and without obtaining a zoning permit.

(a) *Uses permitted without obtaining a zoning permit from the zoning administrator.* Subject to the requirements of this section, the following uses are permitted without a zoning permit being issued:

- (1) Temporary portable construction buildings and temporary portable leasing office buildings, subject to the following restrictions:
 - a. No occupancy certificate can be granted for the subject site until the portable building is removed.
 - b. The portable building must be accessible via a dustless and durable paved surface.
 - c. The portable building must be able to accommodate off-street parking in the ratio of one nine-foot by 17.5-foot area with an adjacent 26-foot wide aisle per 300 square feet of gross floor area; and
 - d. Approved portable or permanent sanitary facilities must be available to the portable building.
- (2) Migrant workers' facilities for seasonal occupancy in the AA - Agricultural zoning district, subject to the regulations in section 94-171(c)(4).
- (3) Temporary roadside farm stands selling agricultural products in the AA - Agricultural zoning district, subject to the regulations listed in section 94-171(c)(5).
- (4) Short-term outdoor camping events, subject to the following restrictions:
 - a. These events are limited to residential zone districts and the P-SP - Public/Semi-Public zone district;
 - b. The event must be on an occupied parcel with a minimum land area of one acre;
 - c. Approved drinking water and sewage facilities must be available on the same parcel as the proposed temporary campsite; and
 - d. Compliance with all city code provisions and applicable state and county requirements.
- (5) Unlisted accessory uses subject to the discretion of the zoning administrator, reserving the right to defer to the zoning board of appeals as to classification of use and nature of the approval required, based on proposed duration of event, relationship to surrounding properties and transportation network, and similar matters.
- (6) Designated activities associated with small cell wireless facilities, utility poles, wireless support structures and micro wireless facilities as provided for in section 94-360(b)(1)a.

(b) *Permitted uses upon obtaining a zoning permit from the zoning administrator.* Subject to the requirements of section 94-522, and subject to the requirements of this section, the zoning administrator may, upon application, issue a zoning permit for any of the following uses:

- (1) Temporary outdoor sales or tent sales by retail merchants. The temporary outdoor sale and display of customary store goods and merchandise in connection with the promotional activities of retail merchants is permitted, subject to the following additional requirements:
 - a. Maximum permit period: 14 days in a calendar year.
 - b. Location: Such temporary outdoor sale and display of goods and merchandise is permitted only in the C-1, C-2, C-3, C-4, CPUD, or SDD zoning districts and shall be conducted on the same lot or parcel on which such goods and merchandise are sold in connection with an existing business.

- c. Outdoor display of used items prohibited: The long-term outdoor display of used appliances, used furniture, used plumbing, used building materials, and other similar used merchandise shall not be authorized under this
- (2) Outdoor Christmas tree sales. The temporary sale of Christmas trees may be stored, displayed and sold outdoors subject to the following additional requirements:
- a. Maximum permit period: 60 days in a calendar year.
 - b. Location: Christmas trees may be sold outdoors on property located in the C-1, C-2, C-3, C-4, CPUD, ML, MH, IPUD, and SDD zoning districts. Except as required by the zoning administrator, the display of Christmas trees need not comply with the setback requirements of this chapter, provided that no tree shall be displayed within the public right-of-way.
- (3) Temporary roadside farm stands displaying and selling produce and associated items in certain zoning districts other than AA - Agricultural, subject to the following additional requirements:
- a. Maximum permit period: May 15 through November 15 of each year.
 - b. Location: Temporary outdoor displays and sales of produce at a roadside stand is permitted only in the C-1, C-2, C-3, C-4, CPUD, SDD, ML, MH, MP, and ORP zoning districts. Except as required by the zoning administrator, the roadside stand need not comply with the setback requirements of this chapter provided that no produce or the roadside stand shall be located within the public right-of-way.
 - c. Parking: The roadside stand shall have adequate parking, but the parking area shall not be required to have a dustless and durable all-weather surfacing material, notwithstanding subsection 94-468(8).
 - d. Prohibition on sales of other items: No items other than produce or eggs shall be displayed or sold at a roadside stand permitted under this section.
 - e. Definition: For purposes of this section, "produce" shall mean fresh fruits, vegetables, baked goods and similar food products provided for direct sale to retail customers. The term "produce" shall not include flowers or any other plants or plant materials (except fresh fruits and vegetables as provided herein). Eggs shall mean eggs that are produced on the property on which they are sold, and in conjunction with an approved backyard chickens permit per section 94-359.
- (4) Temporary outdoor events in nonresidential districts. The following temporary outdoor uses are permitted only in the C-1, C-2, C-3, C-4, CPUD, SDD, P-SP, ORP, MP, ML, MP, and MH zoning districts (subject to the requirements set forth in 1. through 4. below) include, but are not limited to: Carnivals, festivals, competitive athletic events, charitable walks and runs, concerts, auto shows, and similar uses as determined by the zoning administrator. The temporary outdoor uses permitted in this subsection shall be subject to the following additional requirements:
- a. Maximum permit period: Seven days in any 12-month period for a single event and 30 days in a calendar year for all temporary outdoor uses permitted under this section.
 - b. Hours: Such temporary uses shall not be permitted to operate between the hours of 11:00 p.m. through 8:00 a.m.
 - c. Parking: Adequate parking shall remain on the premises or adequate off-street parking on nearby property to avoid traffic congestion and safety hazards. The applicant shall provide the zoning administrator with written documentation of the consent of the property owner to parking on other property if such premises are not owned by the applicant.
 - d. Security: Adequate security shall be provided to protect the public health and safety including private security guards and limited access points.
 - e. Sanitation: Adequate facilities shall be provided on the premises for the proper disposal of wastes.

- (5) Mobile food vending is permitted in all zoning districts, subject to the following requirements:
- a. Each individual mobile food vendor must obtain a license from the clerk's office of chapter 22, article I of this Code to operate within the city limits.
 - b. The property owner or event organizer offering mobile food vending shall obtain a zoning permit as required under section 94-522(1) of this Code.
 - c. Mobile food vendors may not park overnight at any mobile food vending event location.
 - d. A 12-foot one-way aisle where one-way vehicle circulation is required must be maintained around mobile food vending.
 - e. A 26-foot two-way aisle where two-way vehicle circulation is required must be maintained around mobile food vending.
 - f. Mobile food vending may not impede the use of a minimum number of parking spaces based on the site's parking demand according to section 94-467 of this chapter.
 - g. Mobile food vending must be setback at least ten feet from any building.
 - h. No alcoholic beverages may be sold via mobile food vending - unless this alcohol service part of an otherwise permitted event such as a temporary outdoor event in a commercial district or outdoor festivals, fairs, carnivals, craft shows, athletic tournaments and events, concerts, farmer's markets, auto shows permitted in the P-SP - Public/Semi-Public zoning district or as permitted by the Michigan Department of Licensing and Regulatory Affairs and/or the Michigan Liquor Control Commission
 - i. All mobile food vending must comply with the City of Walker's noise ordinance.
 - j. No mobile food vendor may be located within 200 feet of an open brick-and-mortar restaurant unless the restaurant or the restaurant's property owner gives written permission; and
 - k. Mobile food vending may be located in a public right-of-way or on public property where all the following apply:
 1. The mobile food vending activity is stationary and is authorized by an owner of property adjacent to the right-of-way location.
 2. The front and rear ends of the mobile food vendor do not extend beyond the adjacent boundary of the hosting property.
 3. The public right-of-way is in a location where on-street parking is permitted.
 4. The mobile food vendor is not within 60 feet of an intersecting street.
 5. No portion of the mobile food vendor shall be parked directly across from a driveway.
 6. No portion of the mobile food vendor shall block any driveway.
- (6) Outdoor restaurant seating is permitted only in C-1, C-2, C-3, C-4, CPUD, and SDD zoning districts, subject to the following requirements:
- a. Restaurants in possession of a current and valid business license from the City of Walker are eligible to apply for a permit to allow for temporary outdoor restaurant seating.
 - b. The temporary use of parking lots or similar privately-owned spaces (such as grass surfaces, accessory concrete or paved surfaces, etc.) for outdoor restaurant seating must have adequate off-street parking remaining on the premises or adequate off-street parking on nearby property to avoid traffic congestion and safety hazards.
 - c. The applicant must provide the zoning administrator with written documentation from the property owner

- consenting to the use of the space in question for such purposes if the premises are not owned by the applicant.
- d. Hours of operation for outdoor restaurant seating are limited to 7:00 am until 11:00 p.m.
 - e. The applicant shall provide the zoning administrator with the proposed date range for temporary outdoor restaurant seating.
 - f. Outdoor restaurant seating operations must comply with all State of Michigan and Kent County codes and regulations.
- (7) Home occupations are permitted as an accessory use in all residential zoning districts, subject to the following requirements:
- a. License: A home occupation shall be licensed with the city clerk as required under chapter 22 of the City Code.
 - b. Zoning permit: A home occupation shall have a zoning permit as required under section 94-521(1) of the City Code.
 - c. Maximum floor area: The home occupation shall be clearly incidental and subordinate to its residential purpose and shall not exceed 25 percent of floor area within the dwelling unit.
 - d. Employees: No person other than occupants of the dwelling unit, residing on the premises shall be engaged in such home occupation.
 - e. Use of accessory building or garage: The use of a garage or accessory building in connection with a home occupation is prohibited.
 - f. Alterations: A home occupation shall not require alterations that are not customary to a residential use.
 - g. Exterior storage: Outdoor storage in connection with a home occupation is prohibited.
 - h. Signage: There shall be no change to the outside appearance of the building or other visible evidence of the conduct in connection with a home occupation.
 - i. Traffic: No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
 - j. Parking: Any need for parking generated by the conduct of such home occupation shall be met off the street and as allowed under section 94-466 of this code. Additionally, one commercial vehicle may be allowed per the requirements of section 94-471(c) of this code.
 - k. Nuisance: No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot; and
 - l. Prohibited home occupations: Uses prohibited as home occupations include, but are not limited to: Animal processing, automotive repairs, animal hospitals, animal kennels, furniture finishing and refinishing, warehousing, auto repair, landscaping operations, building and trade contractor shops and yards, welding and machine shops.
- (8) Unlisted accessory uses substantially similar in nature and scope to the uses set forth in section 94-523(b)(1)–(7) as determined by the zoning administrator, reserving the right to defer such determination to the board of zoning appeals as to classification of use and nature of the approval required, based on proposed duration of event, relationship to surrounding properties and transportation network, and similar matters.

(Ord. No. 21-661, § 1, 4-26-21; Ord. No. 22-666, § 4, 3-28-22)

Secs. 94-524—94-549. - Reserved.

ARTICLE XIX. - SUSTAINABLE ENERGY

Footnotes:

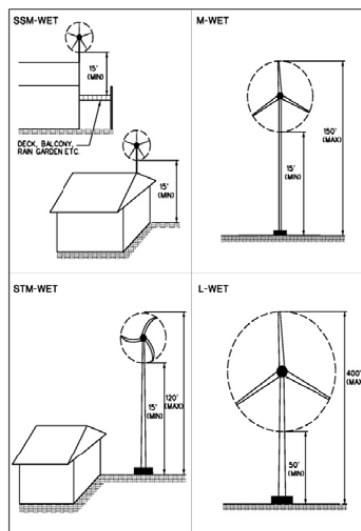
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Editor's note— Ord. No. 09-572, § 1, adopted June 16, 2009, added § 94-524 to the Code. At the editor's discretion, reserved §§ 94-524 through 94-549 have been added to art. XVIII to accommodate growth and the new provisions have been redesignated as §§ 94-550 through 94-555. Also at the editor's discretion, the single section included in the ordinance has been broken down into multiple sections to make its various provisions easier to locate.

Sec. 94-550. - Purpose and intent.

The purpose of this section is to establish regulations for the location, installation and operation of wind energy turbines (WETs). Among other goals, the regulations in this section are intended:

- (1) To promote the safe, effective and efficient use of WETs to produce electricity and reduce the consumption of fossil fuels.
- (2) To preserve and protect public health, safety, welfare and quality of life by minimizing the potential adverse impacts of WETs.
- (3) To establish standards and quantifiable procedures to direct the site location, engineering, installation, maintenance and decommissioning of WETs.
- (4) To define and delineate between various types of WETs in order to properly regulate the different WET technologies. (See Figure 1.)

Figure 1

(Ord. No. 09-572, § 1A., 10-16-09)

Sec. 94-551. - Definitions.

Ambient sound level: The amount of background noise at a given location prior to the installation of a WET which may include, but is not limited to, traffic, machinery, lawnmowers, general human activity and the interaction of the wind with the landscape. Ambient sound level is measured on the decibel-dB(A)-weighted scale as defined by the American National Standards Institute (ANSI).

Anemometer: A wind speed indicator constructed for the purpose of analyzing the potential for installing a WET at a given location. An anemometer includes a tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, a data logger, instrument wiring and telemetry devices used to monitor or transmit wind speed and wind flow characteristics over a period of time. Telemetry data can include instantaneous wind speeds or characterizations of a wind resource at a given location.

Decommissioning: The process of terminating the operation of a WET by completely removing the entire WET and all related buildings, structures, foundations, supports, equipment and, as appropriate, onsite access roads.

Large wind energy turbine (L-WET): A tower-mounted wind energy system, standing greater than 150 feet tall and up to 400 feet tall, that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) L-WETs have nameplate capacities that identify maximum kilowatts.

Medium wind energy turbine (M-WET): A tower-mounted wind energy system standing between 150 feet tall and 121 feet tall that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) M-WETs have nameplate capacities that do not exceed 250 kilowatts.

Nacelle: The encasement which houses the interior electricity-generating components, gear box, drive tram, brakes and related equipment of a WET.

Net metering: A special metering and billing agreement between utility companies and their customers which facilitates the connection of sustainable energy generating systems to the power grid.

Occupied building: A structure used by or which houses residents, customers, workers or visitors.

Operator: The entity responsible for the day-to-day operations and maintenance of a WET.

Owner/applicant: The person, firm, corporation, company, limited liability corporation or other entity seeking city approval under this section, as well as its successor(s), assign(s) or transferee(s), for a WET or anemometer. An owner/applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WET or anemometer. The duties and obligations regarding a zoning approval for any approved WET or Anemometer shall be with the owner/applicant of the WET or anemometer, and jointly and severally with the owner and operator or lessee of the WET or Anemometer if different than the owner/applicant.

Rotor: A blade of a WET that is connected to the rotor hub and nacelle and acts as an airfoil assembly that extracts kinetic energy directly from the wind.

Rotor diameter: The cross-sectional dimension of the circle swept by the rotating blades of a WET.

Shadow flicker: The moving shadow created by the sun shining through the rotating blades of a WET. The amount of shadow flicker created by a WET is calculated by a computer model that measures WET location, elevation, and tree cover, location of adjacent structures, wind activity and sunlight angle.

Small tower-mounted wind energy turbine (STM-WET): A tower-mounted wind energy system standing up to 120 feet that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) STM-WETs have nameplate capacities that do not exceed 30 kilowatts.

Structure: Anything constructed or erected that involves permanent location on the ground or attachment to something having such a location.

Small structure-mounted wind energy turbine (SSM-WET): A structure-mounted wind energy system that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) SSM-WETs are attached to a structure's roof, walls or another elevated surface. SSM-WETs have nameplate capacities that do not exceed ten kilowatts. The total height of a SSM-WET unit does not exceed 15 feet as measured from the highest point of the adjacent roof or structure, excluding chimneys, antennae or other similar features.

Survival wind speed: The maximum wind speed, as designated by the WET manufacturer, at which a WET in an unattended state is designed to survive without damage to any structural equipment or the loss of the ability to function normally.

Total height: The vertical distance as measured from the ground level of the base of a WET tower to the uppermost vertical extension of a rotor blade, or the maximum height reached by any part of a WET.

Tower: A freestanding monopole that supports a WET.

Wind energy overlay district: A specific zoning district for the location of L-WETs.

Upwind turbines: As opposed to a "downwind turbine," an upwind turbine has the rotor blades facing into the wind source direction.

Wind energy turbine (WET): A structure-mounted or tower-mounted small, medium or large wind energy conversion system that converts wind energy into electricity through the use of specialized equipment and structures.

(Ord. No. 09-572, § 1B., 10-16-09)

Sec. 94-552. - Applicability.

This article applies to all WETs proposed for construction after the effective date of the ordinance adding this article. All WETs constructed prior to the effective date of the ordinance adding this article shall not be required to meet the standards of this article; however, any physical modification to an existing WET that materially alters the size, type, equipment or location shall require approval per the standards of this Section.

(Ord. No. 09-572, § 1C., 10-16-09)

Sec. 94-553. - Temporary uses.

Anemometers are permitted in all zoning districts as a temporary use, subject to the provisions of this section.

- (1) The construction, installation or modification of an anemometer shall require a building permit;
- (2) Anemometers must conform to all applicable local, state and federal safety, construction, environmental, electrical, communications and FAA requirements;
- (3) Anemometers are subject to the requirements of this article for total height, setbacks, separation, location, safety and decommissioning that correspond to the size of the WET(s) proposed on the site;
- (4) An anemometer without an accompanying WET shall not be located on a site for more than 13 months when testing for SSM-WET, STM-WET or M-WET installation potential; and,
- (5) An anemometer without an accompanying WET shall not be located on a site for more than three years when testing for L-WET installation potential.

(Ord. No. 09-572, § 1D., 10-16-09)

Sec. 94-554. - Permitted uses.

- (A) SSM-WETs and STM-WETs are a permitted use in all zoning districts, subject to the following:
- (1) *[Building permit.]* SSM-WETs and STM-WETs must receive a building permit prior to construction, installation, relocation or modification. The owner/applicant or operator must apply for and receive the building permit.
 - (2) *[Minimum requirements.]* All SSM-WETs and STM-WETs shall be subject to the following minimum requirements:
 - a. *[Upwind turbines.]* Upwind turbines shall be required unless otherwise approved by the planning commission, based on technical specifications and site-specific information.
 - b. *Visual appearance.*
 - i. SSM-WETs and STM-WETs, including accessory buildings and related structures, shall be a nonreflective, nonobtrusive color, such as white, gray or black.
 - ii. The appearance of the WET and all accessory structures shall be maintained throughout the life of the unit.
 - iii. Exterior lighting of a tower, rotor blades and nacelle shall only be allowed in order to meet FAA mandatory requirements.
 - iv. Exterior lighting of accessory buildings or entrance points shall be permitted, provided that such exterior lighting fixtures shall be full cutoff "shoebox" fixtures. These fixtures shall not be mounted on poles or other structures that exceed a height of 20 feet, as measured from the grade at the base of the fixture.
 - v. SSM-WETs and STM-WETs may not contain commercial signage, banners, flags or advertising logos, except for the identification of the turbine manufacturer and unit specifications for regulatory purposes.
 - (3) *Ground clearance.* The lowest extension of any rotor blade or other exposed moving component of an SSM-WET or STM-WET shall be at least 15 feet above the ground, as measured from the highest point of grade within 30 feet of the base of the WET. In addition, the lowest extension of any rotor blade or other exposed moving component of an SSM-WET or STM-WET shall be at least 15 feet above any outdoor areas intended for human use that are located below the WET. Examples include balconies, roof gardens, etc.
 - (4) *Noise control.*
 - a. Where an adjacent parcel contains a residential use, the noise produced by a SSM-WET or STM-WET may not exceed the lowest ambient sound level that exists between the hours of 9:00 p.m. and 9:00 a.m. along any adjacent property line used for residential purposes.
 - b. Where no adjacent parcel contains a residential use, the noise produced by a SSM-WET or STM-WET may not exceed the lowest ambient sound level that exists between the hours of 9:00 p.m. and 9:00 a.m. on the parcel, plus five decibels dB(A).
 - (5) *Vibration.* An SSM-WET or STM-WET shall not produce vibrations that are perceptible to humans beyond any property line upon which a WET is located.
 - (6) *Wire supports.* Guy wires or similar apparatus shall not be allowed as part of an SSM-WET or STM-WET installation.
 - (7) *SSM-WET height.* The mounted height of an SSM-WET shall not exceed 15 feet above the highest point of the adjacent roof or structure.
 - (8) *SSM-WET setbacks.*
 - a. An SSM-WET shall be setback a minimum of 15 feet from any property line, public right-of-way, public easement or overhead utility lines.
 - b. If the SSM-WET is affixed by any extension to a structure's walls, roof or other elevated surface then the setback from property lines, public rights-of-way, public easements or overhead utility lines shall be

measured from the furthest outward extension of moving WET components.

- (9) *SSM-WET separation distances.* If more than one SSM-WET is installed on a property, then a distance equal to the mounted height of the adjacent SSM-WET must be maintained between the bases of each SSM-WET.
- (10) *STM-WET height.* The total height of a STM-WET shall not exceed 120 feet.
- (11) *STM-WET setbacks.*
 - a. On a property containing occupied buildings, STM-WETs shall only be located in the rear yard.
 - b. An STM-WET shall be setback a minimum of 20 feet from all occupied buildings on the subject property. This setback will be measured from the base of the tower.
 - c. A minimum setback equal to the total height of the STM-WET shall be required to any property line, public right-of-way, public easement or overhead utility lines. This setback will be measured from the base of the tower. This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl or bend within a distance less than the total height of the WET.
- (12) *STM-WET separation distances.* If more than one STM-WET is installed on a property, then a distance equal to the total height of the tallest STM-WET must be maintained between the bases of each STM-WET.
- (13) *Site plan review.* SSM-WETs and STM-WETs are subject to site plan review by the planning commission, subject to the following:
 - a. SSM-WETs and STM-WETs shall be exempt from the site plan review standards found in article X but shall be subject to the standards and requirements contained in this section.
 - b. Owner/applicants of SSM-WETs and STM-WETs proposed for installation shall provide the following to the city:
 - i. A completed application for site plan review plus any applicable fees and/or escrow deposit approved by the city commission;
 - ii. A scaled site plan drawing clearly illustrating the proposed WET(s) and all accessory structures/equipment in relation to all onsite and adjacent buildings, property lines, rights-of-way, public easements and overhead utility lines. Setbacks as required in this section shall be shown to scale on the site plan.
 - iii. A scaled site plan that clearly displays property dimensions, existing buildings on the subject property and on adjacent properties, sidewalks, non-motorized pathways and streets.
 - iv. A scaled site plan that includes existing and proposed on-site grading/topography at two-foot contour intervals.
 - v. Product-specific technical information from the manufacturer of the SSM-WET or STM-WET. This information shall include the proposed total height and type of WET, maximum noise output in decibels, total rated generating capacity, product dimensions, rotor blade diameter and a detail of accessory structures.
 - vi. Documented compliance with the noise and vibration generation requirements set forth in this article.
 - vii. Documented compliance with applicable local, state and federal regulations including, but not limited to, public safety, construction, environmental, electrical, communications and FAA requirements.
 - viii. Proof of liability insurance.
 - ix. Documented evidence that the utility company has been informed of, and approved, the owner/applicant's intent to install an interconnected, customer-owned generator. Off-grid systems shall be exempt from this requirement.
 - x. A narrative that explains the proposed methods that will be used to perform maintenance on the WET(s)

in compliance with the manufacturer's recommendations and requirements.

- xi. A narrative that explains how the WET will be tested after installation for compliance with the noise and vibration regulations of this section.

(14) *Safety requirements:*

- a. If the SSM-WET or STM-WET is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's current service regulations that meet federal, state and industry standards applicable to wind power generation facilities. Any such connection shall be inspected and approved by the appropriate utility company.
- b. The SSM-WET or STM-WET shall be equipped with an automatic braking, governing or feathering system in order to prevent uncontrolled rotation, over-speeding or excessive pressure on the WET.
- c. A clearly visible warning sign regarding voltage shall be placed at the base of the WET.
- d. The structural integrity of the WET shall conform to the design standards of the International Electrical Commission; specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.

(15) *Signal interference.* The SSM-WET or STM-WET shall not interfere with communication systems, such as, but not limited to, radio, telephone, television, satellite or emergency services communication systems.

(16) *Decommissioning.*

- a. The SSM-WET or STM-WET owner/applicant shall complete decommissioning within 12 months after the end of the WETs useful life. The term "end of useful life" is defined as zero electricity generation for a period of 12 consecutive months from a particular WET.
- b. All decommissioning expenses are the responsibility of the owner/applicant.
- c. The planning commission may grant an extension of the decommissioning period based upon request of the owner/applicant. Such extension period shall not exceed one calendar year.
- d. If the SSM-WET or STM-WET Owner/Applicant fails to complete the act of decommissioning within the period described in this section, the SSM-WET or STM-WET shall thereafter be deemed a public nuisance and subject to abatement as provided by law.
- e. For STM-WETs, following removal of all items noted in (e) above, the site shall be graded and stabilized to prevent soil erosion in a manner consistent with the post-WET use of the property.

(17) *Public noise complaints.* Should an aggrieved person allege that the SSM-WET or STM-WET is not in compliance with the noise requirements of this article, the administrative enforcement procedure shall be as follows:

- a. The complainant shall notify the city zoning administrator in writing regarding the noise level.
- b. The zoning administrator shall coordinate with the police department to test the decibel level for compliance with the standards of this article.
- c. If the test results are unsatisfactory, the complainant may request a noise level test by a certified acoustic technician. The complainant will be required to submit a cash deposit in an amount sufficient to pay for the noise level test.
- d. If the noise level test indicates that the noise level complies with the standards of this article, then the city will use the deposit to pay for the test.
- e. If the noise level test indicates that the WET is in violation of this article, then the owner/applicant shall reimburse the city for the noise level test while taking immediate action to bring the WET into compliance

with this article. The city may require the WET to be shut down until compliance can be achieved.

- f. Under circumstances as noted in [subsection] e. above, the city shall refund the cash deposit to the complainant.

(B) Onsite solar energy systems are a permitted accessory use in all zoning districts, subject to the following:

(1) Criteria for the use of all solar energy systems.

- a. Building permit required. Onsite solar energy systems must receive a building permit prior to construction, installation, relocation, operation or modification. The owner/applicant or operator must apply for and receive the building permit from the Walker Community Development Department.
- b. Each system shall conform to applicable industry standards and all applicable laws.
- c. Onsite solar energy systems, including solar cells, collectors, panels, and other solar energy collection systems or equipment shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to the city prior to installation.
- d. Onsite solar energy systems that are roof-mounted, wall-mounted, or are otherwise attached to a building or structure shall be permanently and safely attached to the building or structure.

(2) Visual appearance: All onsite solar energy systems:

- a. Onsite solar energy systems shall be a nonreflective, nonobtrusive color, such as matte black or grey.
- b. Onsite solar energy systems may not be positioned so as to direct glare toward eye level on public rights-of-way or toward windows of occupied buildings on adjoining properties.
- c. The appearance of the onsite solar energy system structure shall be maintained throughout the life of the structure.
- d. Onsite solar energy systems may not contain commercial signage, banners, flags or advertising logos, except for the identification of the turbine manufacturer and unit specifications for regulatory purposes.

(3) Dimensional requirements: Wall-mounted onsite solar energy systems.

- a. Onsite solar energy systems that are wall-mounted shall not exceed the height of the building wall to which they are attached.
- b. Onsite solar energy systems that are wall-mounted shall not be mounted on any wall that faces public rights-of-way.

(4) Dimensional requirements: Roof-mounted onsite solar energy systems.

- a. Roof-mounted onsite solar energy systems must confine to the dimensions of the roof.
- b. Onsite solar energy systems that are mounted on the roof of a building shall not project more than six feet above the highest point of the roof but, in any event, shall not exceed the maximum building height limitation for the zoning district in which it is located.

(5) Dimensional requirements: Ground-mounted onsite solar energy systems.

- a. No ground-mounted onsite solar energy system may exceed six feet in height.
- b. On a property containing occupied buildings, ground-mounted onsite solar energy systems shall only be located in the rear yard.
- c. An onsite solar energy system shall be setback a minimum distance of five feet from any lot line.

(Ord. No. 09-572, § 1E., 10-16-09; Ord. No. 19-651, § 2, 7-6-19)

Sec. 94-555. - Special exception uses.

Medium wind energy turbines (M-WETs) shall be considered a special exception use within the AA-Agricultural; ORP-Office, Research and Parking; C-1 through C-4 Commercial; ML-Light Industrial, MH-Heavy Industrial and MP-Industrial Park zoning districts.

Large wind energy turbines (L-WETs) shall be considered a special exception use only within the Wind Energy Overlay district.

- (1) M-WETs and L-WETs must receive a building permit prior to construction, installation, relocation or modification. The owner/applicant or operator must apply for and receive the building permit.
- (2) All M-WETs and L-WETs shall be subject to the following minimum requirements:
 - a. *[Upwind turbines.]* Upwind turbines shall be required unless otherwise approved by the Planning Commission, based on technical specifications and site-specific information.
 - b. *Visual appearance.*
 - i. M-WETs and L-WETs shall be mounted on a tubular tower.
 - ii. M-WETs and L-WETs, including accessory buildings and related structures, shall be a nonreflective, nonobtrusive color, such as white, gray or black.
 - iii. The appearance of the WET and all accessory structures shall be maintained throughout the life of the unit.
 - iv. Exterior lighting of a tower, rotor blades and nacelle shall only be allowed in order to meet FAA-mandated requirements.
 - v. Exterior lighting of accessory buildings or entrance points shall be permitted, provided that such exterior lighting fixtures shall be full cutoff "shoebox" fixtures. These fixtures shall not be mounted on poles or other structures that exceed a height of 20 feet, as measured from the grade at the base of the fixture.
 - vi. M-WETs and L-WETs shall not contain commercial signage, banners, flags or advertising logos, except for the identification of the turbine manufacturer and unit specifications for regulatory purposes.
- (3) *Ground clearance.*
 - a. *M-WET.* The lowest extension of any rotor blade or other exposed moving component of an M-WET shall be at least 15 feet above the ground, as measured from the highest point of grade within 50 feet of the base of the tower. In addition, the lowest extension of any rotor blade or other exposed moving component of an M-WET shall be at least 15 feet above any outdoor areas intended for human use that are located below the WET. Examples include balconies, roof gardens, etc.
 - b. *L-WET.* The lowest extension of any rotor blade or other exposed moving component of an L-WET shall be at least 50 feet above the ground, as measured from the highest point of grade within 150 feet of the base of the tower.
- [[4]] *Shadow flicker.* The owner/applicant(s) or operator(s) shall conduct an analysis of potential shadow flicker onto any occupied building with direct line-of-sight to the M-WET or L-WET. The analysis shall identify the locations of shadow flicker that may be caused by the WET and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year, and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed 30 hours per year.
- (5) *Noise control.*
 - a. Where an adjacent parcel contains a residential use, the noise produced by an M-WET or L-WET may not exceed the lowest ambient sound level that exists between the hours of 9:00 PM and 9:00 AM along any

adjacent property line used for residential purposes.

- b. Where no adjacent parcel contains a residential use, the noise produced by an M-WET or L-WET may not exceed the lowest ambient sound level that exists between the hours of 9:00 PM and 9:00 AM on the parcel, plus 5 Decibels dB(A).
- (6) *Vibration.* An M-WET or L-WET shall not produce vibrations that are perceptible to humans beyond any property line upon which a WET is located.
 - (7) *Wire supports.* Guy wires or similar apparatus shall not be allowed as part of an M-WET or L-WET installation.
 - (8) *Electrical system.* All electrical controls, control wiring, grounding wires, power lines, and all other electrical system components of the M-WET or L-WET shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.
 - (9) *Quantity of WETS.*
 - a. No more than one M-WET shall be installed for every two and one-half acres of land included in the subject parcel.
 - b. The number of L-WETs shall be determined based on WET setbacks and separation distances as required in this section.
 - (10) *Total height.*
 - a. The total height of an M-WET shall not exceed 150 feet.
 - b. The total height of an L-WET shall not exceed 400 feet.
 - (11) *M-WET setbacks and separation.*
 - a. *Occupied building setback.* An M-WET shall be setback at least 20 feet from all occupied buildings on the subject parcel, as measured from the base of the tower.
 - b. *Property line setbacks.* With the exception of the locations of public roads (see below) and parcels with occupied buildings (see above), all internal property line setbacks shall be equal to the total height of the M-WET, as measured from the base of the tower. This setback may be reduced by the planning commission as part of a special exception use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the total height of the WET.
 - c. *Public road setbacks.* Each M-WET shall be set back from the nearest public road a distance equal to the total height of the M-WET, as measured from the nearest boundary of the road right-of-way to the base of the tower.
 - d. *Communication and electrical lines.* Each M-WET shall be set back from the nearest above-ground public electric power line or telephone line a distance equal to the total height of the M-WET, as measured from the base of the tower to from the existing power line or telephone line.
 - e. *Tower separation.* M-WET separation shall be based on industry standards and the manufacturer's recommendations.
 - (12) *L-WET setbacks and separation.*
 - a. *Occupied building setback.* Each L-WET shall be set back from the nearest occupied building located on the same parcel as the L-WET a minimum of two times its total height, or 1,000 feet, whichever is greater, as measured from the base of the tower.
 - b. *Property line setbacks.* With the exception of the locations of public roads (see below) and parcels with

occupied buildings (see above), all internal property line setbacks shall be a minimum of one and one-half times the total height of the L-WET, as measured from the base of the tower. This setback may be reduced by the planning commission as part of a special exception use permit if the applicant provides a registered engineer's certification that the L-WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the total height of the WET.

- c. *Wind Energy Overlay district setbacks.* There shall be a setback distance equal to two times the total height of the L-WET, as measured from the base of the tower, to any border of the Wind Energy Overlay district.
 - d. *Public road setbacks.* Each L-WET shall be set back from the nearest public road a minimum distance of 400 feet or one and one-half times the total height of the L-WET, whichever is greater, as measured from the nearest boundary of the road right-of-way to the base of the tower.
 - e. *Communication and electrical lines.:* Each L-WET shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 400 feet or one and one-half times its total height, whichever is greater, as measured from the base of the tower to from the existing power line or telephone line.
 - f. *Tower separation.* L-WET tower separation shall be based on industry standards and manufacturer's recommendations.
- (13) *Access driveway.* All L-WETs shall be accessible from an access road in order to offer an adequate means by which public safety vehicles may readily access the site in the event of an emergency. All access roads shall be constructed to standards approved by the city engineer, police chief and fire chief.
- (14) *Signal interference.* An M-WET or L-WET shall not interfere with communication systems, such as, but not limited to, radio, telephone, television, satellite or emergency services communication systems.
- (15) *Special exception use permit required.* M-WET and L-WET projects require a special exception use permit prior to the commencement of any on-site construction. Special exception use permit applications for M-WET(s) and L-WET(s) shall follow the administrative procedures prescribed in article IX.

As part of the application for a special exception use permit, the owner(s)/applicant(s) of proposed M-WET and L-WET projects shall provide the following to the city:

- a. A narrative explaining the proposed methods that will be used to perform maintenance on the WET(s) in compliance with the manufacturer's recommendations and requirements.
- b. A copy of the lease, or recorded document, with the landowner(s) if the owner/applicant does not own the land for the proposed M-WET or L-WET.
- c. A statement from the landowner(s) of a leased site that he/she will abide by all applicable terms and conditions of the special exception use permit, if approved.
- d. In the case of a condominium development, a copy of the condominium development's master deed and bylaws addressing the legal arrangement for the M-WET or L-WET.
- e. The proposed number, representative types and total height of each M-WET or L-WET to be constructed; including their manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated capacity, rotor diameter, and a description of ancillary facilities.
- f. Documentation verifying the developer/manufacturer's confirming specifications for M-WET or L-WET tower separation as proposed on the site plan.
- g. Documented compliance with the noise, vibration and shadow flicker requirements set forth in this article.
- h. Engineering data concerning construction of the M-WET or L-WET and its base or foundation, including soil

boring information.

- i. A certified, registered engineer's certification that certifies the M-WET or L-WET meets or exceeds the manufacturer's construction and installation standards.
- j. The anticipated construction schedule.
- k. A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries.
- l. An agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the L-WET
- m. A copy of the WET maintenance and operation plan, including anticipated regular and scheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the M-WET or L-WET to conduct maintenance, if applicable.
- n. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications standards.
- o. Documented compliance with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and any applicable airport overlay zone regulations.
- p. Proof of comprehensive liability insurance.
- q. A statement indicating if hazardous materials will be used and stored on the site.
- r. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- s. A written description of the anticipated life of each M-WET or L-WET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the M-WET(s) or L-WET(s) become inoperative or nonfunctional.
- t. A decommissioning plan that will be carried out at the end of the M-WET's or L-WET's useful life, which shall be submitted as a participating landowner agreement, regarding equipment removal upon termination of the lease.
 - i. As part of the participating landowner agreement, an independent and certified professional engineer shall estimate the total cost of decommissioning ("decommissioning costs") with no regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment.
 - ii. When determining this amount, the city may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the city after the first year of operation and every fifth year thereafter.
 - iii. M-WET and L-WET owner(s) shall post and maintain decommissioning funds in an amount equal to 100 percent of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal or state chartered lending institution chosen by the owner(s) and participating landowner(s) posting the financial security. The bonding company or lending institution shall be authorized to conduct such business as approved by city.
 - iv. Decommissioning funds shall be in the form of a performance bond made out to the city.
 - v. A condition of the bond shall be notification by the bond company to the city when the bond is about to expire or be terminated.

- vi. Failure to keep the bond in effect while an M-WET or L-WET is in place will be a violation of the special except a lapse in the bond occurs, the city may take action, up to and including requiring the cessation of operation the bond is reposted.
 - vii. The owner(s)/applicant(s) shall be responsible to record, at its sole expense, a copy of the approved participating landowner agreement with the Kent County Register of Deeds and supply a copy, after recording, to the city.
 - u. A study assessing any potential impacts on the natural environment, including, but not limited to, assessing the potential impact on endangered species, bats, birds and/or other wildlife, wetlands and fragile ecosystems. The study shall conform to state and federal wildlife agency recommendations based on local conditions.
 - v. Other relevant information as may be requested by the city to ensure compliance with the requirements of this article.
- (16) *Site plan review required.* M-WETs and L-WETs are subject to site plan review by the planning commission consistent with the following:
- a. M-WET and L-WET projects are exempt from the site plan review standards found in article X.
 - b. Owner/applicants of proposed M-WET and L-WET projects shall provide the following to the city:
 - i. A completed and signed application for site plan review by the planning commission plus any applicable fees and/or escrow deposit approved by the city commission;
 - ii. A scaled site plan, sealed by a professional engineer, including:
 - 1. Contact information for the owner(s)/applicant(s) and operator(s) of the M-WET or L-WET as well as contact information for all property owners on which the M-WET or L-WET is located.
 - 2. A site location map with identification and location of the properties on which the proposed M-WET or L-WET will be located.
 - 3. The location and dimensions of all proposed WET(s) and all accessory structures/equipment, including security fencing, exterior lighting and power grid connectivity equipment, whether buried or above ground.
 - 4. The location of all on-site and adjacent property lines, rights-of-way, public easements and overhead utility lines.
 - 5. The location and dimension of all setbacks as required in this section.
 - 6. All property dimensions, zoning districts, existing buildings on the subject property and on adjacent properties, sidewalks, non-motorized pathways, large trees and streets.
 - 7. Existing and proposed on-site grading/topography at two-foot contour intervals.
 - 8. Soil erosion and storm water drainage plans per chapter 34 of the City Code.
 - 9. Plan view and cross sectional details of all proposed access drives.
- (17) *Safety requirements.*
- a. If the M-WET or L-WET is connected to a public utility system for net metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's current service regulations that meet federal, state and industry standards applicable to wind power generation facilities. Any such connection shall be inspected and approved by the appropriate utility company prior to operation.
 - b. The M-WET or L-WET shall be equipped with an automatic braking, governing or feathering system in order to prevent uncontrolled rotation, over-speeding or excessive pressure on the WET.

- c. Security measures shall be in place to prevent unauthorized trespass and access. Each M-WET or L-WET shall not be higher than 15 feet above ground surfaces. All access doors to M-WETs or L-WETs and accessory electrical equipment shall be locked and/or fenced as appropriate.
- d. All spent lubricants, cooling fluids, and any other materials shall be properly and safely removed in a timely manner.
- e. Each M-WET or L-WET shall have one sign, not to exceed two square feet in area, posted at the base of the tower and on the security fence if applicable. The sign shall contain at least the following:
 - 1. A warning of high voltage;
 - 2. Names of manufacturer and owner/operator(s);
 - 3. Emergency contact numbers (list more than one number).
- f. The structural integrity of the WET shall conform to the design standards of the International Electrical Commission; specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.

(18) *Decommissioning.*

- a. The M-WET or L-WET owner/applicant shall complete decommissioning within 12 months after the end of the WETs useful life. The term "end of useful life" is defined as zero electricity generation for a period of 12 consecutive months from a particular WET.
- b. Decommissioning shall include the removal and disposal of each M-WET or L-WET, accessory buildings and structures, electrical components, and all foundations to a minimum depth of 60 inches.
- c. All access drives to the M-WET or L-WET shall be removed, cleared, and graded by the owner/applicant, unless the property owner(s) requests, in writing, a desire to maintain the access drives. All access drives shall remain private and the city shall have no duty to undertake any maintenance or repair of such drives.
- d. The WET site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner/applicant of the M-WET or L-WET or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.
- e. All decommissioning expenses are the responsibility of the owner/applicant.
- f. The planning commission may grant an extension of the decommissioning period based upon a reasonable and explanatory request by the owner. Such extension period shall not exceed one calendar year.
- g. The performance bond agent shall release the decommissioning funds noted in subsection (14)T. when the owner/applicant has demonstrated in writing, and the city concurs in writing, that decommissioning has been satisfactorily completed.
- h. If the M-WET or L-WET owner/applicant fails to complete the act of decommissioning within the period described in this article, then, consistent with the participating landowners' agreement, the city may proceed as follows:
 - i. The city may proceed to collect against the performance bond and request a release of the decommissioning funds.
 - ii. The commission shall designate a contractor to complete the decommissioning.
 - iii. All decommissioning expenses shall be charged to the performance bond of the owner/applicant, or its successors or assigns or such other means available at law or equity.
 - iv. All outstanding Decommissioning expenses shall become a lien against the premises.

- v. Nothing herein shall limit the right of the city to pursue all means of enforcement otherwise available at law this article including, without limitation, seeking injunctive relief.

(19) *Certification and compliance.*

- a. The city shall be notified of a change in ownership of an M-WET or L-WET or a change in ownership of the property on which the M-WET or L-WET is located within 60 days of such a transaction.
- b. The city reserves the right to inspect any M-WET or L-WET, in order to ensure compliance with the article. Any cost associated with the inspections shall be paid by the owner/applicant of the WET.
- c. A sound pressure level analysis shall be conducted from a reasonable number of sampled locations at the perimeter and in the interior of the property containing any M-WETs or L-WETs to demonstrate compliance with the requirements of this article. Proof of compliance with the noise standards is required within 90 days of the date the M-WET or L-WET becomes operational. Sound shall be measured by a third-party, qualified professional, with the associated fees being paid by the owner/applicant.
- d. The M-WET or L-WET owner/applicant or operator(s) shall provide the city with a copy of the yearly WET maintenance inspection.

(20) *Public noise and shadow flicker complaints.*

- a. *Noise.* Should an aggrieved person allege that the M-WET or L-WET is not in compliance with the noise requirements of this article, the administrative enforcement procedure shall be as follows:
 - i. The complainant shall notify the city zoning administrator in writing regarding the noise level.
 - ii. The zoning administrator shall coordinate with the police department to test the decibel level for compliance with the standards of this article.
 - iii. If the test results are unsatisfactory, the complainant may request a noise level test by a certified acoustic technician. The complainant will be required to submit a cash deposit in an amount sufficient to pay for the noise level test.
 - iv. If the noise level test indicates that the noise level complies with the standards of this article, then the city will use the deposit to pay for the test.
 - v. If the noise level test indicates that the WET is in violation of this article, then the owner/applicant shall reimburse the city for the noise level test while taking immediate action to bring the WET into compliance with this article. The city may require the WET to be shut down until compliance can be achieved.
 - vi. Under circumstances as noted in [subsection] v. above, the city shall refund the cash deposit to the complainant.
- b. *Shadow flicker.* Should an aggrieved person allege that the M-WET or L-WET is not in compliance with the shadow flicker requirements of this article, the administrative enforcement procedure shall be as follows:
 - i. The complainant shall notify the city zoning administrator in writing regarding the shadow flicker level.
 - ii. The zoning administrator shall examine the shadow flicker complaint on the site.
 - iii. If the zoning administrator finds justifiable cause, a shadow flicker level test by a certified technician may be authorized by the city. The complainant will be required to submit a cash deposit in an amount sufficient to pay for the shadow flicker level test.
 - iv. If the shadow flicker level test indicates that the shadow flicker level complies with the standards of this article, then the city will use the deposit to pay for the test.
 - v. If the shadow flicker level test indicates that the WET is in violation of this article, then the owner/applicant shall reimburse the city for the shadow flicker level test while taking immediate action to

bring the WET into compliance with this article. The city may require the WET to be shut down until compliance can be achieved.

- vi. Under circumstances as noted in [subsection] v. above, the city shall refund the cash deposit to the complainant.

(Ord. No. 09-572, § 1F., 10-16-09)