

Chapter 32 ZONING¹

ARTICLE I. IN GENERAL

Sec. 32-1. Short title.

This chapter shall be known and may be cited as the City of Fraser Zoning Ordinance and shall be referred to herein as "this chapter."

(Ord. No. 279, § 1.00, 12-12-96)

Sec. 32-2. Construction of language.

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

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The term "lot" includes any site or parcel comprising an individual piece of land, whether created by platting, splitting, condominium or other legal process.
- (7) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (8) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (9) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunctions "and," "or," "either...or," the conjunction shall be interpreted as follows:

¹Editor's note(s)—Ord. No. 279, adopted Dec. 12, 1996, amended Ch. 32, Zoning, in its entirety, to read as herein set out. Due to the extensive derivation of former Ch. 32, the user is directed to the Code Comparative Table in this Code for the history of this chapter prior to Ord. No. 279.

Cross reference(s)—Pool and billiard rooms restricted near churches and schools, § 4-55; buildings and building regulations, Ch. 6; community development, Ch. 7; flood protection, Ch. 11; planning, Ch. 20; streets, sidewalks and other public places, Ch. 25; subdivision regulations, Ch. 26; installation and preservation of trees by developers, builders, etc., at time of construction, § 29-51 et seq.

State law reference(s)—Authority to regulate land use, MCL 125.581 et seq., MSA 5.2931 et seq.

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- a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply but not in combination.

(10) Terms not herein defined shall have the meaning customarily assigned to them.

(Ord. No. 279, § 16.00, 12-12-96)

Sec. 32-3. Definitions.

[The following words, terms or phrases, as used in this chapter, shall have their given meanings:]

Abandonment. To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abutting. Having a common border with, or being separated from such a common border, by a right-of-way, alley or easement.

Accessory building (accessory structure). A subordinate building or structure detached from, but located on the same lot as, the principal structure, the use of which is clearly incidental and accessory to that of the principal structure. For measurement of area proposed, an attached garage or deck shall be considered an accessory structure.

Accessory sign. See "Sign" definitions.

Accessory use. A use of land or a portion of the building customarily incidental and subordinate to the actual principal use of land or building and located on the same parcel of property with such principal use.

Adult arcade. Means any place to which the public is permitted or invited, wherein coin-operated, slug-operated, or for compensation, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video screens, videotape decks, computer screens, or other image-producing devices are maintained to show images to five (5) or fewer persons at a time and where the images so displayed are distinguished or characterized by the depicting or describing of "specific sexual activities" or "specified anatomical areas".

Adult book store, adult video store or adult novelty store. Means a commercial establishment which as one of its principal business purposes (meaning either a substantial or significant portion of its stock in trade) offers for sale or rental, or for any form or consideration, any one (1) or more of the following:

- (1) Books, computer diskettes, tapes or hard drives, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas", or
- (2) Instruments, devices, or paraphernalia, which are designed for use in connection with "specified sexual activities." Condoms and clothing articles are excepted.

Adult cabaret-non-liquor establishment. Means a nightclub, bar, restaurant or similar commercial or noncommercial establishment which does not furnish or serve alcoholic beverages or permit the consumption of alcoholic beverages which permits any of the following:

- (1) Persons who appear in a state of nudity or semi-nudity, or

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- (2) Live performances characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or
 - (3) Films, motion pictures, video cassettes, slides, computer presentations, or other moving-image reproductions characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult cabaret-liquor establishment. Means a nightclub, bar, restaurant or similar commercial or noncommercial establishment which serves, furnishes or permits the consumption of alcoholic beverages which permits any of the following:

- (1) Persons who appear in a state of nudity or semi-nudity, or
- (2) Live performances characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or
- (3) Films, motion pictures, video cassettes, slides, computer presentations, or other moving-image reproductions characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult motel. Means a hotel, motel, or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration and provides patrons with closed circuit television transmissions of X-rated motion pictures or motion pictures equivalent to X-rated motion pictures and has a sign visible from the public right-of-way advertising the availability of this type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period that is less than eight (8) hours.

Adult motion picture theater. Means a commercial establishment where for any form of consideration films, motion pictures, video cassettes, or similar photographic reproductions are regularly shown which are X-rated or the equivalent of X-rated.

Adult theater. Means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas".

Alarm fence. A fence with a low voltage electric alarm system designed to alert security personnel.

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

Alterations. Any change, addition, or modification in construction, type of occupancy or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed." (Also see "Structural alteration.")

Amusement device. Amusement device means any coin, token or otherwise mechanically or electronically operated device which may be operated or set in motion by the insertion of a coin, token or other mechanical or electronic means. Examples of such devices, by way of illustration and not by way of limitation, are video games, dart games, pinball machine, skee-ball machine, air hockey machine, pool table, miniature pool table, shuffle board, motion picture machine, bagatelle, pigeonhole, pingame, puckgame, marblegame, baffleboard, tabletop game, music playing machine commonly known as "juke box" or any similar machine, instrument or contrivance.

Amusement device center. A structure, tenant space or building containing six (6) or more amusement devices.

Antenna. (See also "Satellite dish antenna") A wire or set of wires used in transmitting and receiving electromagnetic waves and including the supporting structure including, but not limited to, amateur radio antennas, television antennas and satellite receiving dishes.

Apartments. The term "apartments" shall mean the dwelling units in an apartment building as defined herein.

Architectural features. Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Automobile repair garage. A place where the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and undercoating of automobiles.

Automobile wash. (See "Car wash.")

Automobile wrecking yard. (See also "Junkyard.") The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two (2) or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima facie evidence of an automobile wrecking yard.

Basement (cellar). A basement is that portion of a building partly below grade but so located that the average vertical distance from the grade to the floor is greater than the average vertical distance from the grade to the ceiling; provided, however, that if the average vertical distance from the grade to the ceiling is five (5) feet or more, such areas shall be considered as a story.

Bedroom. A room in a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

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

Billboard. See "Sign" definitions ("Outdoor advertising.")

Block. A block shall include the property having frontage on one (1) side of a street and lying between the two (2) nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way.

Buildable area. The buildable area of a site or lot is the space remaining after the minimum yard space requirements of this chapter have been deducted.

Building. A structure, either temporary or permanent, having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels in a building. This shall include tents, awnings or vehicles situated on private property and used for purposes of a building. When any portion thereof is completely separated from every other part thereof by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

Building, apartment. A building containing three (3) or more dwelling units whose entrances are from a common hallway or series of hallways or porch.

Building group. A group of two (2) or more detached or semi-detached buildings occupying a parcel of land in common ownership and having yards or courts in common.

Building height. The vertical distance measured from the grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs, or to a point equivalent to the foregoing on any other roof. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

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

Building, main or principal. A building in which is conducted the principal use of the lot on which it is situated.

Building, multiple-family. A building containing three (3) or more dwelling units. The term includes apartments, townhouses, two (2), three (3) and four (4) plexes and the like. For purposes of these regulations, regardless of how units are equipped, any structure in which dwelling units are available for rental periods of less than one week shall be considered a hotel or motel, not a multifamily dwelling.

Building, multiplex. A building designed exclusively for occupancy by two (2) or more families living independently of each other. Each dwelling unit shall have a separate main entrance directly to the outside.

Building official. The building official of the city or his authorized representative.

Building, one-family detached. A one-family dwelling entirely separated from structures on adjacent lots.

Building permits. A building permit is the written authority issued by the building official permitting the construction, removal, moving, alteration or use of a building in conformity with the provisions of this chapter.

Building, temporary. A structure without permanent foundation erected or devoted to the development of, or in connection with, the principal site used for a limited period of time.

Building, townhouse. A building occupied by three (3) or more families where each dwelling unit is divided from the one adjacent to it by a party wall extending the full height of the building. Each dwelling unit is capable of individual use and maintenance without trespassing upon adjoining properties and utilities and service facilities are independent for each property.

Building, two-family. A detached building designed for or occupied exclusively by two (2) families living independently of each other, such as a duplex dwelling unit.

Car wash. An area of land and/or structure with machine or hand-operated facilities used principally for the cleaning and washing of motor vehicles. In no instance shall a commercial car wash so defined be considered an accessory use.

Car wash, automatic. A building that provides facilities for washing and cleaning motor vehicles, which uses production line methods with a conveyor, blower or other mechanical devices, and which may employ some hand labor for drying, polishing or waxing.

Carport. A partially open structure for sheltering vehicles erected in conformity with the site requirements for garages, except as modified in this chapter.

Carry-out restaurant. (See "Restaurant, Fast-Food").

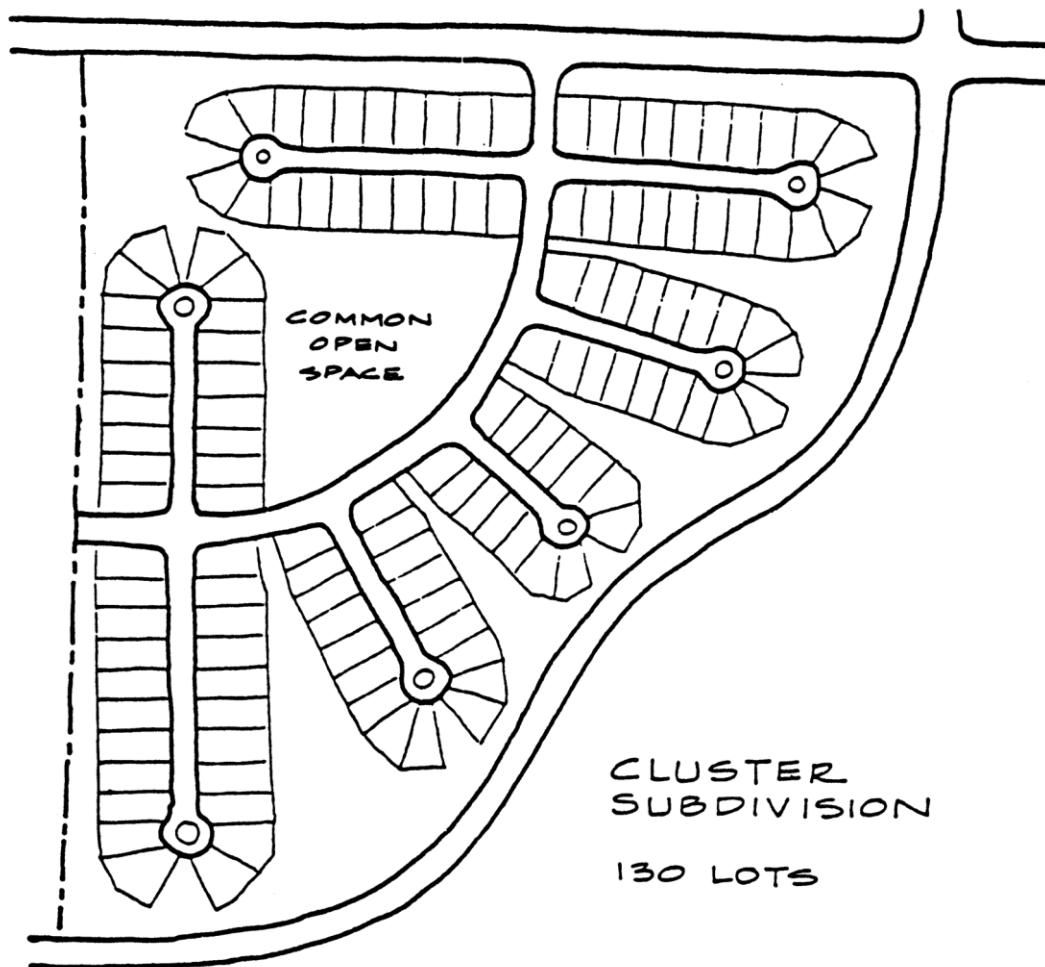
Cemetery. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundaries of such cemetery.

Church or place of religious worship. An institution that people regularly attend to participate in or hold religious services, meetings and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held. The word "church" shall not include or mean an undertaker's chapel or funeral building.

Clinic. A place for the care, diagnosis and treatment of sick or injured persons and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for in-patient care or major surgery.

Club, lodge or fraternity. An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit.

Cluster development. A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.



Commercial establishment. May have other principal business purposes which do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specific anatomical areas" and still be categorized as "adult book store" or "adult video store". Such other business purposes will not serve to exempt such commercial establishment from being so categorized as long as one of its principal business purposes is the offering for sale or rental for consideration, materials depicting or describing "specified sexual activities" or "specified anatomical areas". For purposes of video cassettes or films which are X-rated or of substantially equivalent content of X-rated films, shall be considered to depict or describe "specified sexual activities" or "specified anatomical areas" notwithstanding anymore restrictive definition set forth herein.

Commercial use. An occupation, employment or enterprise dealing with the public that is carried on for profit by the owner, lessee or licensee.

Commission. The word "Commission" shall mean the City of Fraser Planning Commission.

Community center. A place, structure, area or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Community facility. A building or structure owned and operated by a governmental, religious, philanthropic, non-profit agency to provide service to the public.

Conditional rezoning (CR). A rezoning of land which authorizes use or development of property in accordance with specific rezoning conditions and a specific conditional rezoning plan agreed upon between the property owner and the city, the terms of which are incorporated into a written conditional rezoning agreement.

Conditional rezoning agreement. A written agreement approved and executed by the city and property owner which sets forth rezoning conditions, a conditional rezoning plan, and other mutually agreeable terms under which property may be developed or used under a rezoning approved by the city with rezoning conditions as authorized under Section 405 of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

Conditional rezoning plan. A plan prepared by a licensed civil engineer or architect for a development or use of property to be developed or used under a conditional rezoning approved by the city which depicts the location, size, height, design, architecture, or other measures or features of buildings, structures, improvements, landscaping, setbacks and other site components of the property which is the subject of a conditional rezoning, and where appropriate, adjacent property.

Condominium. An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a building. A condominium may include, in addition, a separate interest in other portions of such real property.

Conservation easement. An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural, scenic, open or wooded condition, retaining such areas as suitable habitat for fish, plants or wildlife, or maintaining existing land uses.

Convalescent or nursing home. A convalescent home or nursing home is a home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, where two (2) or more persons are cared for. Such home shall conform and qualify for license under state law, even though state law may have different size regulations.

Court. An open space on the same lot with a building or group of buildings and which is bounded on two (2) or more sides by such building or buildings. A court shall be unoccupied, except as otherwise herein provided.

Deck. A platform structure, customarily constructed of wood, higher than eighteen (18) inches above the mean yard grade.

Density. The number of families residing on, or dwelling units developed on, an acre of land. As used in this chapter, all densities are stated in families or dwelling units per gross acre, that is, per acre of land devoted to residential use, including land in streets, alleys, parks, playgrounds, school yards or other public lands and open spaces donated or dedicated by the developer.

Derrick. Any portable framework, tower mast, and/or structure which is required or used in connection with drilling or re-working a well for the production of oil or gas.

Development. The division of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining excavation, fill or land disturbance; and any use or extension of the use of land.

District (zoning district). A portion of the city within which certain regulations and requirements of various combination thereof apply under the provisions of this chapter.

Drilling pad. The area of surface operations surrounding the surface location of a well or wells. Such area shall not include an access road to the drilling pad.

Drive-in establishment. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, regardless of whether self-servicing is involved.

Dwelling unit. A room or rooms connected together, constituting a separate, independent housekeeping establishment for one (1) family only, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms of dwelling units, and containing independent cooking and sleeping facilities.

Easement. The right of a person, government agency or public utility company to use public or private land owned by another for a specific purpose.

Efficiency unit. An efficiency unit is a dwelling unit consisting of one (1) room exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room providing not less than three hundred twenty (320) square feet of floor area.

Electrified fence. A fence designed to be used with an electric charge sufficient to shock, harm, or kill a living being.

Erected. Built, constructed, altered, reconstructed, moved upon or any physical operation on the premises which is required for the construction. Excavation, fill, drainage and the like shall be considered a part of erection.

Escort. Means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees to privately model lingerie or to privately perform a striptease for another person.

Escort agency. Means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

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

Establishment. Means and includes any of the following:

- (1) The opening or commencement of any sexually-oriented business as a new business;
- (2) The conversion of an existing business, whether or not sexually-oriented, to any sexually-oriented business;
- (3) The addition of any sexually-oriented business to any other existing sexually-oriented business; or
- (4) The relocation of any sexually-oriented business.

Excavation. Any breaking of ground, except common household gardening and ground care incidental to maintaining and improving residential landscaping.

Facade. The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

Family. One (1) or two (2) persons or parents with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than two (2) persons not so related living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of two (2) or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this chapter.

Notwithstanding the definition of the preceding paragraph, a family shall be deemed to include four (4) or more persons not within the second degree of kinship occupying a dwelling unit and living as a single, non-profit housekeeping unit if said occupants are handicapped persons, as defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to

occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

Family day-care home. A home licensed under Public Act No. 116 of the Public Acts of 1973 for six (6) children or less which is the bona fide residence of the operator of the family day care home.

Fast-food restaurant. (See "Restaurant, fast-food" and "Restaurant, drive-in.")

Fence. Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Filling. Is the depositing or dumping of any matter onto or into the ground, except common household gardening and ground care.

First floor. The first floor is the floor of a building approximately at or at the first floor above the mean level of the established grade.

First floor area. The floor area shall be the area measured from the exterior walls of the main structure at the ground floor level, not including garages or enclosed or unenclosed porches, and not including attached utility or accessory rooms having three (3) or more exterior sides.

Floor area, gross. (For the purpose of computing parking) Is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The "floor area" of a building shall include the basement floor area when more than one-half (½) of the basement height is above the established curb level or finished lot grade, whichever is higher (see "Basement" definition). "Floor area" shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of seven (7) feet, ten (10) inches or more, interior balconies and mezzanines. Any space devoted to off-street parking or loading shall not be included in "floor area."

Floor area, livable. The liveable floor area shall be the area of the first floor, plus the area of the floor next above, and/or the area under a sloping roof having a minimum height of five (5) feet when one-half (½) of the floor area has a ceiling height of seven (7) feet six (6) inches.

Floor area, residential. For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

Foot candle. The unit of illumination when the foot is taken as the unit of length. It is the illumination on a surface one (1) square foot in area on which there is a uniformly distributed flux of one (1) lumen, or the illumination produced on a surface all points of which are at a distance of one (1) foot from a directionally uniform point source of one (1) candela.

Frontage. Lot frontage is that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot, except for setback purposes.

Funeral home. A building, or part thereof, used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

Garage, automobile repair. See "Automobile Repair."

Garage, commercial. Any premises, except those described as a private, community or storage garage, available to the public, used principally for the storage of automobiles or motor-driven vehicles, for remuneration,

hire or sale, where any such vehicle or engines may also be equipped for operation, repaired, rebuilt or reconstructed, and where vehicles may be greased, washed or serviced.

Garage, private. An accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory, with no facilities for mechanical service or repair of a commercial or public nature, having capacity for not more than three (3) automobiles.

Garage, public. Any building or premises, other than a gasoline filling station, used for housing or care of more than three (3) automobiles, or where any such automobiles are equipped for operation, repaired or kept for remuneration, hire or sale.

Garbage. Garbage shall mean all wastes, animal, fish, fowl or vegetable matter incident to the preparation, use and storage of food for human consumption, spoiled food, dead animals, animal manure and fowl manures.

Gasoline self-service station. An establishment where liquids used as motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

Gasoline service station. A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair as herein defined for "Automobile Repair Stations" and may include facilities available for the sale of other retail products.

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

Grade, building. The finished grade at the building shall be the building grade.

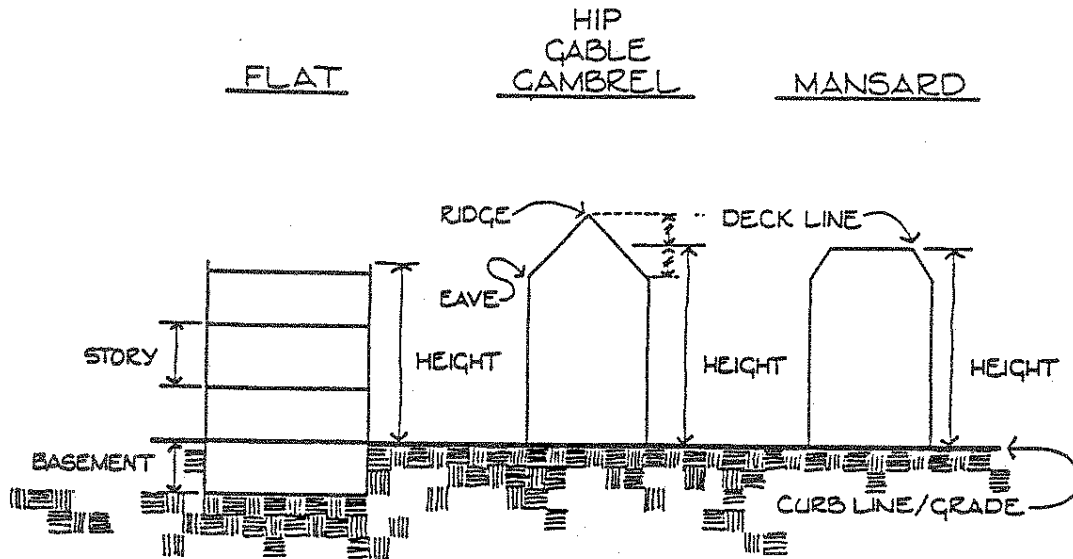
Greenbelt (Also see "Screening"). A strip of land of definite width and location reserved for the planting of shrubs and trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this chapter.

Gross floor area. See "Floor Area, Gross."

Gross site area. The total site area under the ownership of the applicant before any deductions are made for roads, open space, parcels to be separated or planned for later development, and the like.

Hazardous substances. Any substance or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

Height. The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs, measured from the curb level if the building is not more than ten (10) feet from the front lot line or from the grade in all other cases.



Heliport - limited use. Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling and emergency service facilities.

Heliport - unlimited use. Any landing area used by helicopters which, in addition, includes all necessary passenger and cargo facilities, maintenance and overhaul, fueling, service, storage, tie-down areas, hangars, and other necessary buildings and open spaces.

Home occupation. An activity carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes. Home offices that do not increase the street traffic or deal directly with the public are accepted in residential areas without special approval.

Horizontal drilling. The drilling of an oil or natural gas well at an angle so that the well runs parallel to the formation containing the oil or gas.

Hospital. A building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department and the State of Michigan, and is used for primarily in-patient services, and including such related facilities as laboratories, out-patient departments, central service facilities and staff offices.

Hotel. A series of attached, semi-detached or detached rental units which provide overnight lodging and are offered to the public for compensation. Hotels may include a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

House, boarding. A structure in which non-family members are sheltered and fed for profit.

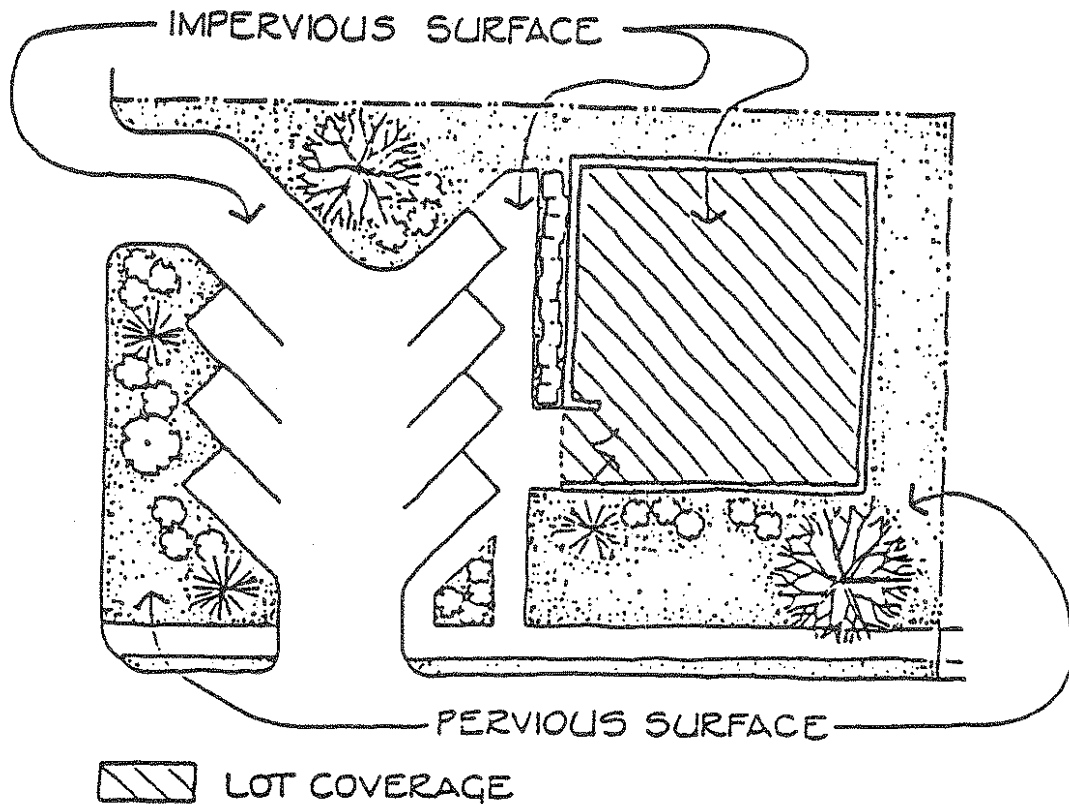
House, rooming. A structure in which non-family members are sheltered for profit.

House, trailer. See "Mobile Home."

Household pet. Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but not be limited to, domestic dogs, domestic cats, domestic tropical birds and rodents.

Hydraulic fracturing or fracking. The process of injecting water, customized fluids, sand, steam, or gas into a gas well under pressure to improve gas recovery.

Impervious surface. A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand, limestone, rock or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots and other similar structures.



Industrial, controlled. A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve nuisances or commonly recognized offensive conditions. Such use shall be within the limits of the district's performance standards.

Industrial, restricted. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing. Such use shall be within the district's performance standards.

Junk. For the purpose of this chapter, the term "junk" shall mean any motor vehicles, machinery, appliances, products, merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose that the product was manufactured.

Junkyard. An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junkyard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Kennel. A kennel is a lot or premises on which four (4) or more dogs, over six (6) months of age, are kept, either permanently or temporarily boarded.

Laboratory. A place devoted to experimental or routine study, such as testing and analytical operations and in which manufacturing of product or products is not permitted.

Lake, private. Any body of water, other than a public lake, which is owned by one (1) person, group of persons, partnership or corporation for use regulated by the owners only.

Landfill. The orderly deposit of earthen materials for the purpose of elevating the grade to develop the site for specific use.

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

Lot. A parcel of land occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records. Each such parcel shall also have its front lot line abutting a public street or approved private road.

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

Lot, corner. A lot where the interior angle of two (2) adjacent sides at the intersection of two streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees (see illustration below).

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

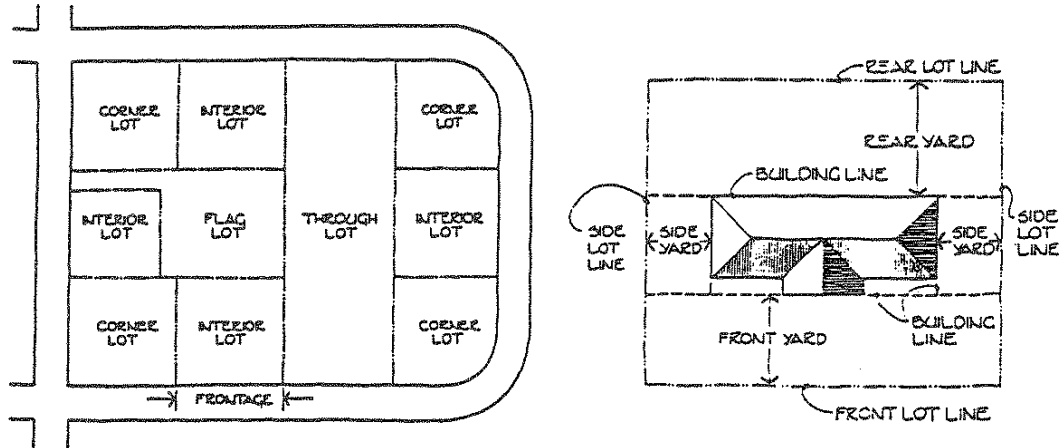
Lot depth. The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, double frontage (also through lot). Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

Lot, interior. Any lot other than a corner lot (see illustration below).

Lot lines. The lines bounding a lot as defined herein:

- (1) *Front lot line.* In the case of an interior lot, that line separating the lot from the street. In the case of a corner lot or double frontage lot, "front lot line" shall mean that line separating the lot from the street which is designated as the front street in the plat as the greater setback and shall be so designated in the application for a building permit.
- (2) *Rear lot line.* That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.
- (3) *Side lot line.* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.



Lot of record. A parcel of land, the dimensions of which are shown on recorded plat on file with the county register of deeds at the time of inception of this chapter or in common use by city or county officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

Lot, substandard. A lot or parcel of land that has less than the required minimum area or width as established by the zoning district in which it is located, and provided that such lot or parcel was of record and a legally created lot on the effective date of this chapter.

Lot width. The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines if the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot at a distance equal to the front setback required for the district in which the lot is located. The axis of a lot shall be a line joining the midpoint of the front and rear property lines.

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

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

Major thoroughfare. An arterial street which is intended to serve as a large volume trafficway for both the immediate area and the region beyond, and may be designated as a major thoroughfare, parkway, freeway, expressway or equivalent terms to identify those streets comprising the basic streets of the street plan. Any street with a width, existing or proposed, of one hundred twenty (120) feet or greater shall be considered a major thoroughfare.

Marginal access road. A service roadway parallel to a major thoroughfare which provides access to abutting properties and protection from through traffic.

Master plan. The comprehensive plan, including graphic and written material, indicating the general location for streets, parks, schools, public buildings and all physical development of the municipality, and including any uniform part of such plan and amendment to such plan, or parts thereof, as adopted by the planning commission.

Mezzanine. An intermediate floor in any story occupying not to exceed one-third ($\frac{1}{3}$) of the floor area of such story (see illustration for "Story").

Mean grade. Mean grade is defined as the arithmetic average of elevations of points on the boundary lines of a site (parcel of land) uniformly spaced and not more than one hundred (100) feet apart.

Mobile home. A structure transportable in one or more sections which is built on a chassis and is designed to be used as a dwelling, with or without permanent foundation, when connected to the required facilities; and

includes the plumbing, heating, air conditioning and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Mobile home park. A parcel or tract of land under the control of a person upon which two (2) or more mobile homes are located on a nonrecreational basis; and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street equipment, or facility used or intended for occupancy of mobile homes which is not intended for use as a temporary trailer park, and licensed pursuant to the provisions of Act 419, Public Acts of 1976. (MCL 125.1101 et seq.; MSA 19.855(1) et seq.)

Motel. A series of attached, semi-detached or detached rental units containing a bedroom, bathroom and closet space. Units shall provide for overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle.

Municipality. The City of Fraser.

Natural gas compressor station. A facility designed and constructed to compress natural gas originating from a gas well, or collection of such wells operating as a midstream facility for delivery of gas to a transmission pipeline, distribution pipeline, natural gas processing plant, or underground storage field, including one (1) or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

Natural gas processing plant. A facility designed and constructed to remove materials such as ethane, propane, butane, methane and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, but not including facilities or equipment that is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from the natural gas.

Neighborhood. A sub-community area used in planning to describe a service area with a radius of approximately one-half (½) mile defined to support a park or convenience commercial uses. Boundaries are often defined along major or secondary roads, railroads, freeways or natural features, such as drainageways.

Nonconforming structure or building. A building or structure or portion thereof existing on the effective date of this chapter amendments hereto, and that does not conform to the provisions of this chapter relative to height, bulk, area or yards for the district in which it is located.

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

Nude model studio. Means any place where a person appears in the state of nudity or displayed specified anatomical areas to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by any other person who pays money, or any other form or consideration.

Nudity or state of nudity. Means the exposure of the human male or female genitals, pubic area, or buttocks with less than a fully-opaque covering, the showing of the female breasts with less than a fully-opaque covering of any part of the nipple or areola, or the showing of the covered male genitals in a discernibly turgid state.

Nuisance. The word "nuisance" shall include nuisance factor below and any public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or detrimental to health, safety or welfare; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this chapter, nuisances and all such nuisances are hereby declared illegal.

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

smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people (particularly at night), passenger traffic, and invasion of non-abutting street frontage by traffic.

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

Nursing home (also convalescent or rest home). A home, whether operated for profit or not, for the care of the aged, infirmed, or those suffering from bodily disorders, wherein seven (7) or more persons are housed or lodged and furnished with licensed personal care.

Nursery school, day school, child center. An establishment wherein seven (7) or more children, not related by bonds of consanguinity or fostership to the family living on the premises, are cared for remuneration. Such schools or centers need not have a resident family on the premises.

Occupancy load. The number of persons that a building can hold, as determined by the fire marshal or as determined by the city's building code.

Occupied. The word "occupied" includes arranged, designed, built, altered, converted to, rented or leased, or intended to be occupied.

Off-street parking lot. A facility other than for single-family dwellings providing vehicular parking spaces along with adequate drives and aisle for maneuvering so as to provide access for entrance and exit for the parking of more than two (2) vehicles.

Oil and gas. Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or any other products or similar substances that are produced by drilling an oil or gas well.

Oil and gas development. The well site preparation, construction, drilling, redrilling, hydraulic fracturing, and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas. The definition does not include natural gas compressor stations and natural gas processing plants or facilities performing the equivalent functions.

Oil or gas well. A pierced or bored hole drilled or being drilled in the ground for the purpose of, or to be used for, producing, extracting or injecting gas, oil, petroleum or another liquid related to oil or gas production or storage, including brine disposal or being drilled for an exploration for such purposes.

Oil or gas well site. The location of facilities, structures, materials and equipment whether temporary or permanent, that are used for or incidental to the preparation, construction, drilling, production or operation of an oil or gas well, or exploration for a potential oil or gas well.

Open air business uses. Open air business uses not conducted from a wholly enclosed building, if operated for profit, shall include the following uses and other such uses as determined by the planning commission:

- (1) Bicycle, trailer, recreation vehicle, motor vehicle, manufacturing homes, farm implements, boats, or home equipment sale or rental services.
- (2) Outdoor display and sale of garages, swimming pools and similar uses.
- (3) Retail sales of fruit, vegetables and perishable foods.

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- (4) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
 - (5) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.

Open front store. A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations or automobile service stations.

Open space. Land used for recreation, resource protection, amenity and/or buffers. In no event shall any area of a lot constituting the minimum lot area or setback nor any part of an existing or future road or right-of-way be counted as constituting open space.

Open space, common. Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.

Outdoor storage. The keeping, in an unroofed area, of any goods, junk material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

Outlot. A lot in a subdivision which is recommended or restricted from use for building purposes, whether or not deeded to the city, but which is not dedicated as a street or public reservation or private park.

Parcel. A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

Parcel of record. A parcel of record is an area of land described by a metes and bounds description and which is not necessarily a lot of record in a subdivision plat.

Park. Any public or private improved land available for recreational, educational, cultural or aesthetic use, or scenic purposes.

Parking space. An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, and full accessibility for the parking of permitted vehicles. Tandem parking stalls in single-family detached, single-family attached, and townhome residential uses shall be considered to be fully accessible for the purpose of this definition.

Pawnbroker use. Means pawnbroker businesses as defined in the Fraser Code of Ordinances, State Public Acts or substantially similar business.

Performance guarantee (also maintenance guarantee). Any security accepted by the city in the form of cash, certified check, performance bond, surety bond or certificate of deposit endorsed to the city, provided that the city shall not surcharge more than ten (10) percent of the total performance costs to ensure that all improvements, facilities or work required by this chapter will be completed in compliance with the chapter, regulations, and the approved plans and specifications of a development.

Permitee and/or licensee. Means a person in whose name permit and/or license to operate a sexually-oriented business has been issued as well as the individual listed as the applicant on the application for permit and/or license.

Person. Means any individual, proprietorship, partnership, corporation, association or any other legal entity.

Planned development. A proposed use of the land which requires the submission of a site plan for more than one building or structure to be approved as to requirements of this chapter, including spacial relationships and vehicular and pedestrian circulation.

Planned shopping center. A business development of three (3) or more outlets characterized by a unified grouping of such retail outlets served by a common circulation and parking system.

Planned unit development (PUD). A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

Porch, enclosed. A covered entrance to a building or structure and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

Porch, open. An uncovered entrance to a building or structure which is unenclosed, and projects out from the wall of said building or structure.

Principal building. A building in which the primary use of the lot on which the building is located is conducted (also see main building).

Principal use. The main use of land or structures, as distinguished from a secondary or accessory use (also see "Main Use") a site may be occupied by more than one principal use.

Private drive. A means of vehicle access serving one (1) property or one (1) dwelling.

Private street or road. A street or road which the landowners of property served by the private road are responsible for its maintenance and which conforms to all requirements of the city engineering ordinance.

Public street or road. All public property reserved or dedicated for street traffic.

Public utility. Any person, firm or corporation, municipal department, board or commission duly authorized to furnish, and furnishing under federal, state or municipal regulations, to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.

Putrescible. Subject to decay and decomposition and to becoming putrid.

Recreation vehicles.

- (1) A "travel trailer" is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.
- (2) A "pick-up camper" is a structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.
- (3) A "motor home" is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (4) A "folding tent trailer" is a metal, plastic or canvas folding structure, mounted on wheels and designed for travel and vacation use.
- (5) "Boats" and "boat trailers" shall include boats, jet skis, floats and rafts, plus the normal equipment to transport the same on the highway.
- (6) "Snowmobiles" and "all-terrain vehicles," plus the normal equipment to transport the same on the highway.

Recycling center. A facility that is not a junk yard and in which recoverable resources, such as newspapers, glassware and metal cans, are collected, stored, flattened, crushed or bundled, essentially by hand within a completely enclosed building.

Recycling collection point. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. Processing of such items shall be prohibited. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas, such as in churches and schools.

Recycling plant. A facility that is not a junk yard and in which recoverable resources, such as newspapers, magazines, books and other paper products; glass; metal cans; and other products are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

Repairs. The rebuilding or removal of a part of an existing building for the purpose of maintaining its original type and classification.

Restaurant. A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

Restaurant, drive-in. An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

Restaurant, fast-food. Any establishment whose principal business is the sale of foods, frozen desserts or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where either: 1) foods, frozen desserts or beverages are usually served in paper, plastic or other disposable containers, and where customers are not generally served their food, frozen desserts or beverages by a restaurant employee at the same table or counter where the items are consumed; or 2) the establishment includes a drive-up, drive-through or drive-in service facility.

Rezoning conditions. Commitments or conditions proposed by the applicant that, after review and recommendation by the planning commission, are accepted by the city council, are incorporated into a conditional rezoning agreement, and constitute legally binding regulations in connection with the development and use of the property under the conditional rezoning.

Right-of-way. The right-of-way line shall be the line established by the Michigan Department of Transportation, Macomb County Road Commission, in their right-of-way requirements established for the city or the city's adopted master plan.

Roadside stands. A roadside stand is a temporary building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the premises, and its use shall not make into a commercial district land which would otherwise be a residential district, nor shall its use be deemed an approved commercial activity.

Room. For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing one-, two- or three-bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Rubbish. Means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter, such as slag, stone, broken concrete, fly ash, ashes, tin cans, plastic, glass, scrap metal, rubber, paper, rags, chemicals, or any similar or related combinations thereof.

Satellite dish antenna. A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

Scenic easement. An easement, the purpose of which is to limit development in order to preserve a view or scenic area.

Screening. The method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, hedges, berms or other features. Screening may include one or a combination of the following materials of sufficient mass to be opaque or that shall become opaque after twelve (12) months and which shall be maintained in an opaque condition.

Secondary road. A road that conducts and distributes traffic and carries through-traffic as a lower order major thoroughfare to major activity centers. This is the higher order of street appropriate to a residential neighborhood and residential access to it should be prohibited or severely restricted.

Self-service storage facility (mini-storage). A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors' supplies.

Separate ownership. Ownership of a parcel of property wherein the owner does not own adjoining vacant property.

Setback. The minimum horizontal distance between the front of the building, excluding only steps, and the centerline of the street right-of-way.

Sexual encounter center: Means of business or commercial enterprise that as one of its principal business purposes offers for any form of consideration:

- (1) Contact in the form of wrestling or tumbling between semi-nude or nude persons of the opposite sex; or
- (2) Physical contact between male and female persons and/or persons of the same sex, where one (1) or more of the persons is in a state of nudity and the contact includes actual or simulated specified sexual activity.

Sexually-oriented business. Means any of the following:

- (1) "Adult arcades";
- (2) "Adult book stores and adult video stores";
- (3) "Adult cabarets";
- (4) "Adult motels";
- (5) "Adult motion picture theaters";
- (6) "Adult theaters";
- (7) "Escort agencies";
- (8) "Nude model studios";
- (9) "Sexual encounter centers";
- (10) Other similar uses.

Shopping center. (See "Planned Shopping Center.")

Sign definitions. For the purpose of this chapter, certain words, terms and phrases shall be defined as follows:

Sign. The use of any word, numeral, figure, object, device, letter, symbol, insignia, illustration, design, trademark, or combination of these, by which anything is made known to the general public, or which is commonly understood to be used to attract the attention of the general public, irrespective of whether it is visible from off the site or lot. Customary displays of merchandise or objects and material, without lettering, placed behind a store window are not signs or parts of signs, nor shall the customary, non-communicative architecture of buildings be considered as a sign or part of a sign.

Sign, accessory. A sign which is customarily incidental and subordinate to the principal use of the premises.

Sign, advertising. Shall be known as a non-accessory sign and shall relate to a business, use or service not carried on on the premises upon which the sign is placed.

Sign, area. The area within a continuous perimeter enclosing or making up a sign, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed; provided, however, any open space contained within the outer limits of the display face of a sign, or between any component, panel, strip or figure of any kind composing the display face shall be included in the computation of the area of the sign, whether such open space be enclosed or not by a frame or border. Where a sign consists solely of lettering or other sign elements mounted on a wall of a building without any distinguishing border, panel or background, only the area of a tightly drawn imaginary rectangle enclosing each such letter or other sign elements shall be treated as a single sign for the purposes of area computation. For double-face signs, only one (1) display face shall be measured or counted in computing sign area or items of information where the sign faces are parallel or where the interior angle formed by the faces is sixty (60) degrees or less. If the two (2) faces of a double-faced sign are of unequal area, the area of the signs shall be taken as the area of the larger face.

Sign, construction. Shall mean to build, construct, attach, hang, place, suspend, or affix, and shall also include the painting of wall signs.

Sign, direction. A sign directing vehicular or pedestrian traffic to service window, parking areas or loading areas.

Sign, festoon. A sign where incandescent light bulbs, banners or pennants, or other such features are hung or strung overhead and are not an integral physical part of the building or structure they are intended to serve.

Sign, flashing, animated or moving. A sign that intermittently reflects lights from either an artificial source or from the sun or signs which have movement of any illumination, such as intermittent, flashing, scintillating or varying intensity; or a sign that has any visible portions in motion, either constantly or at intervals, which motion may be caused either by artificial or natural sources.

Sign, ground. A freestanding sign supported by one or more upright braces of reasonable size necessary to support such sign, permanently mounted in or upon the ground or to something requiring location on the ground. A ground sign is any sign with less than ten (10) feet clearance between the bottom of the sign and the established grade.

Sign, identification and nameplate. A wall sign stating the name of a person, firm, or name or description of a certain permitted use.

Sign, mechanical movement. Refers to animation, revolution, movement up and down, or movement sideways.

Sign, non-accessory. A sign which is not accessory to the principal use of the premises.

Sign, outdoor advertising. Any card, cloth, paper, metal, painted glass, wood, plastic, stone or other object of any kind or character whatsoever, placed for non-accessory outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, constructing, posting, painting, printing, tacking, mailing, gluing, sticking, carving or other fastening, affixing, or making visible in any manner whatsoever to the public.

Sign, political. A temporary sign, without permit required, relating to the election of a person to public office, or relating to a political party, or relating to a matter to be voted upon at an election called by a public body.

Sign, portable. A freestanding sign not permanently anchored or secured to either a building or the ground, such as, but not limited to: trailers, "A" frame, "T" shaped, or inverted "T" shaped sign structures.

Sign, projecting. A sign which is affixed to any building or part thereof, or structure which extends beyond the building wall, or parts thereof, or structure by more than twelve (12) inches. A projecting sign shall not include a ground sign as herein defined.

Sign, pylon or pole. A type of sign located in the ground and with a clear space of not less than ten (10) feet between the bottom of the face of the sign and the established grade.

Sign, real estate. A business sign placed upon a property advertising that particular property for sale, or for rent, or for lease.

Sign, real estate development. A temporary business sign placed on premises of a subdivision or other real estate development to indicate a proposed start or to inform relative to availability.

Sign, residential entrance ways. Entrance way structures including, but not limited to, walls, columns, grates, lamps and poles, and any associated landscaping materials or improvements.

Sign, roof A sign which is erected, constructed, or maintained upon the roof or parapet of a building but does not project above or beyond the roof or parapet. (A sign projecting beyond or above the roof or parapet shall be known as an "above-the-roof" sign.)

Sign, signable area. A continuous wall area on the front of the building which is free of windows and doors and major architectural design. So-called mansard roofs may be used for signable area, provided they are within twenty (20) degrees of a vertical plane and wall signs on them are vertical, unless individual letters are used to make up the wall sign.

Sign, vehicle business. A vehicle sign when the vehicle upon which the sign is painted or attached is parked or placed upon the owner's premises primarily for advertising purposes. Currently licensed commercial vehicles in general daily off-site use are not included as part of this definition.

Sign, wall. A sign attached to and placed flat against the exterior wall or surface of any building, no portion of which projects more than twelve (12) inches from the wall but which may or may not project above the roof or parapet.

Site. A parcel of land.

Soil removal. Shall mean removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay, rock or similar materials, or combination thereof.

Sound level. Sound level, in decibels, is defined as the reading of a sound-level meter which conforms to the latest standards of the American Standards Association for Sound-Level Meters. The decibel reading shall be based on the seventy (70) DB weighing network and shall be the average of five (5) readings taken at intervals approximately five (5) feet apart, at the height of five (5) feet above the established grade, or any series of readings which would provide more accurate or representative reading.

Special land use. A use that, owing to some special characteristics attendant to its operation or installation (for example, potential danger or nuisance) is permitted in a district, subject to approval by the city and subject to special requirements, different from those usual requirements for the district in which the special land use may be located.

Specified anatomical areas. Means the less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below the point immediately above the top of the areola, and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

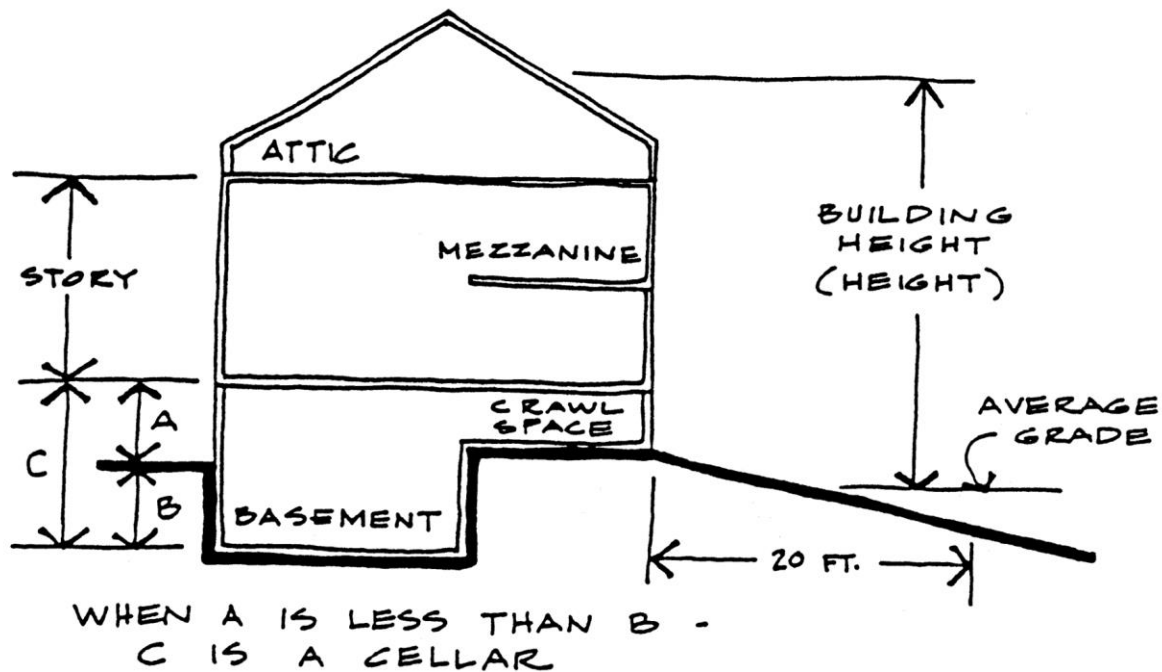
Specified sexual activity. Means and includes any of the following:

- (1) The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, actual or simulated, including intercourse or oral copulation, masturbation, or sodomy.
- (3) Excretory functions, as part of or in connection with any of the activities set forth in (1) and (2) above.

State-equalized valuation. The value shown on the city's assessment roll as equalized through the process of state and county equalization.

Storage well. A well-used for and in connection with the underground storage of natural gas, including injection into or withdrawal from an underground storage reservoir for monitoring or observation of reservoir pressure.

Story. That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the height level of the adjoining ground.



Story, half. An uppermost story lying under a sloping roof, the useable floor area of which, at a height of four (4) feet above the floor does not exceed two-thirds ($\frac{2}{3}$) of the floor area in the story directly below, and the height above at least two hundred (200) square feet of floor space is seven (7) feet six (6) inches.

Street. A public thoroughfare right-of-way which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare, except an alley.

Street, service. A thoroughfare which affords access to property by means of private drive, private roadways or other vehicular accessways (such as private drives in multiple-family developments) and where maintenance is provided by other than the public-at-large.

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

Structural alteration. Any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders, stairways, or any change in the width or number of exits, or any substantial change in the roof.

Structure, outdoor advertising. Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign or billboard may be placed, including outdoor advertising statuary and balloons or other inflatables.

Swimming pool. Any structure or container intended for swimming, located either above or below grade, designed to hold water to depth of greater than twenty-four (24) inches.

Tattoo use. Means commercial establishments which furnish tattoos as either a substantial or significant portion of its business.

Temporary sign (with permit required). A business sign with or without letters and numerals for authorized occasions and events or public and semi-public functions, as may be permitted by the city manager in an appropriate use district.

Temporary sign (without permit required). A window business sign with or without letters and numerals, in business and industrial districts.

Temporary use or building. A use or building permitted to exist for a limited period of time.

Tents. Tents as used in this chapter shall mean a shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground, and shall not include those types of tents used solely for children's recreational purposes.

Townhouse. (See "Buildings.")

Transfer of development rights. The conveyance of development rights by deed, easement, or other legal instrument authorized by local law to another parcel of land and the recording of that conveyance.

Transitional use. A permitted use or structure that by nature or level and scale of activity acts as a transition or buffer between two (2) or more somewhat incompatible uses.

Transplanting. The digging up of a tree from one place on a site and the planting of the same tree in another place on the site.

Tree. A woody plant with an erect perennial trunk, which at maturity is thirteen (13) feet or more in height, which has a more or less definite crown of foliage.

Tree canopy area. The area of land where the outermost limits of the branches of a tree or group of trees projects perpendicularly to the existing grade of a site.

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

Use variance. A relaxation by the zoning board of appeals of the dimensional regulations of the code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.

Useable floor area. (See "Floor Area, Gross.")

Utility room. A utility room is a room used primarily for storage, for housing a heating unit, or for laundry purposes.

Variance. A dispensation permitted on individual parcels of property as a method of alleviating practical difficulty by allowing a reasonable use of the building, structure or property, which, because of unusual or unique circumstances, is denied by the terms of the zoning code. A relaxation by the zoning board of appeals of the

dimensional regulations of the code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this Code would result in unnecessary and undue hardship.

Vertical projection. Any architectural feature which projects into the yard space from the ground up through the first story, excluding chimneys.

Veterinarian clinic. A place for the care, diagnosis and treatment of sick or injured animals and those in need of medical or minor surgical attention. A veterinarian clinic may include customary pens or cages which are permitted only within the walls of the clinic structure.

Wall. An obscuring structure of definite height and location to serve as an obscuring or protective screen in carrying out the requirements of this chapter.

Warehousing and distribution. A use engaged in storage, wholesale and distribution of manufactured products, supplies and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

Wetland. Any area of land which is subject to and regulated by the provisions of the Goemaere-Anderson Wetland Protection Act, as amended.

Woodland or woodlot. A tract of land dominated by trees, but usually also containing woody shrubs and other vegetation.

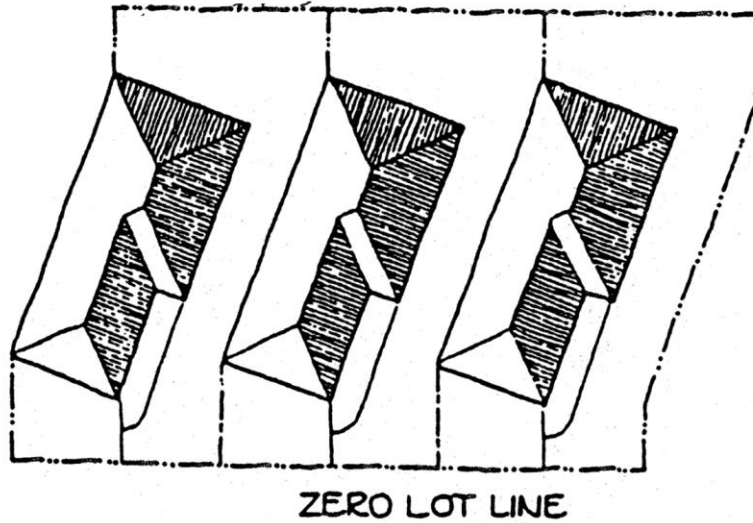
Yard. An open space, unoccupied and unobstructed from the ground upward, except as otherwise provided herein, and being on the same lot with a building. The measurement of a yard shall be construed as the minimum horizontal distance between the right-of-way centerline and the building or structure. A "required yard" is that portion of any lot on which the erection of a main building is prohibited.

- (1) *Front yard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot or street centerline, whichever is applicable, and the nearest line of the main building.
- (2) *Rear yard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.
- (3) *Side yard.* An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

Yard, non-required. Yard in excess of the yard required herein.

Yard, required. The minimum yard as required herein.

Zero lot line. The location of a building on a lot in such a manner that one (1) or more of the building's sides rests directly on a lot line.



Zone. A portion of the territory of the city, exclusive of streets, alleys and other public ways, within which certain uses of land, premises and buildings are not permitted, and within which certain yards and open spaces are required and certain height limits are established for buildings.

Zoning board of appeals. The words "board of appeals" or "zoning board" shall mean the city zoning board of appeals.

(Ord. No. 279, § 16.01, 12-12-96; Ord. No. 314, § 2, 11-8-01; Ord. No. 328, § 1, 2-10-05; Ord. No. 378, § 2, 4-14-16; Ord. No. 391, § 1, 10-11-18)

Secs. 32-4—32-20. Reserved.

ARTICLE II. APPLICATION AND INTERPRETATION

Sec. 32-21. Application.

No building or structure, or part thereof, shall hereinafter be moved into the city, erected, constructed, reconstructed, altered or maintained, and no new use or change in use shall be made or maintained of any structure or land, or part thereof, except in conformity with the provisions of this chapter. No such building structure or use that is otherwise lawful under the terms of this chapter shall exist or be operated in such a manner as to constitute a nuisance as defined herein.

(Ord. No. 279, § 2.00, 12-12-96)

Sec. 32-22. Interpretation.

In interpreting and construing the respective provisions of this chapter, they shall be interpreted and construed to be the minimum requirements for the promotion of public health, safety, convenience, comfort, prosperity and general welfare. Wherever any provision of this chapter imposes more stringent requirements, restrictions or limitations than are imposed or required by the provisions of any other law or chapter, then the provisions of this chapter shall govern. Whenever the provisions of any other law or chapter impose more

stringent requirements than are imposed or required by this chapter, then the provisions of such law or chapter shall govern.

(Ord. No. 279, § 2.01, 12-12-96)

Sec. 32-23. Vested right (structures under construction).

Any structure for which a building permit has been issued and construction begun, or for which a contract or contracts have been entered into pursuant to a building permit issued prior to the effective date of this chapter, may be completed and used in accordance with the plans and applications upon which such building permit was granted. Any such permit for a use which would be nonconforming under this chapter, or any amendment hereto, shall not be renewed in the event construction pursuant to such permit is not commenced within one (1) year from the date of issuance of the permit.

(Ord. No. 279, § 2.02, 12-12-96)

Secs. 32-24—32-30. Reserved.

ARTICLE III. GENERAL PROVISIONS

Sec. 32-31. Access across residential property.

Ingress and egress to a parking lot, loading area, or to a use other than residential, shall not be permitted across or upon land zoned as residential. This provision shall not apply if the planning commission finds that there are special circumstances which indicate that there will be a substantial improvement in traffic safety by reducing the number of driveways to a thoroughfare (also see section 32-50).

(Ord. No. 279, § 3.00, 12-12-96)

Sec. 32-32. Accessory buildings in other than one-family districts.

In multiple-family, commercial or industrial districts, accessory buildings may occupy any of the ground area which the principal building is permitted to cover; provided, however, accessory buildings, such as buildings for parking attendants, guard shelters, gate houses and transformer buildings, may be located in the front or side yard in an IC district. In addition, the following shall apply to the multiple-family and commercial zoning districts:

- (1) Accessory buildings shall be at least ten (10) feet from the principal building and construction shall be governed by section 32-37.
- (2) When an accessory building is intended for other than the storage of accessory motor vehicles, the proposed accessory use shall be verified by the planning commission as truly accessory to the principal permitted use.

(Ord. No. 279, § 3.01, 12-12-96)

Sec. 32-33. Animals.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that non-vicious dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes.

(Ord. No. 279, § 3.02, 12-12-96)

Sec. 32-34. Annexed territory.

All territory which may hereafter be annexed to the city shall be considered to be in the RL district until otherwise classified.

(Ord. No. 279, § 3.03, 12-12-96)

Sec. 32-35. Approval of plats.

No proposed plat of a new or redesigned subdivision shall hereafter be approved except as otherwise authorized by the city's subdivision regulations, unless all lots comprising such plat equal or exceed the minimum size and width requirements set forth in the various districts of this chapter and meet the minimum requirements of this chapter and the city's subdivision regulations and Subdivision Control Act of the State of Michigan, as amended.

(Ord. No. 279, § 3.04, 12-12-96)

Sec. 32-36. Average lot size.

Subject to approval of the city council, reviewed and recommended by the planning commission, a subdivider or developer may vary lot sizes and lot widths, provided the average minimum size and width per dwelling unit meet the requirement in the particular district. For the purposes of lot averaging, the following conditions shall be met:

- (1) In meeting the average minimum lot size, the subdivision shall be so designed as not to create individual lots having an area or width more than ten (10) percent below that area or width required in the particular district and shall not create an attendant increase in the number of lots.
- (2) If a developer plats a subdivision using average minimum lot size, the plat containing such lots must be approved for the entire subdivision. Recording of portion of the plat shall not be permitted.
- (3) All computations showing lot area and the average resulting through this technique shall be indicated on all preliminary plat drawings.

(Ord. No. 279, § 3.05, 12-12-96)

Sec. 32-37. Brick requirement and alteration limitations.

All building elevations facing onto a street, including buildings located on a corner lot and having frontage on a side street, except single-family residences and two-family residences, shall have exterior surface consisting of face brick or other similar decorative building material as approved by the planning commission. All buildings, except single-family residences and industrial buildings in the IR and IC districts, shall also be governed by the following:

- (1) Any building with a brick facade shall not be painted or covered with another material that has not been approved collectively by the city planner and building official.
- (2) All plans for the reconstruction, remodeling, alteration, painting/repainting, or any other changes in the exterior or appearance of any such building or structure front or fronts, including awnings and canopies, shall require planning commission approval when referred by the building official.

(Supp. No. 57)

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(Ord. No. 279, § 3.06, 12-12-96)

Sec. 32-38. Building grades.

When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building, and the yard around the new building shall be graded in such a manner as to meet existing grades and not to permit run-off of surface water to flow onto the adjacent property. If necessary, drain systems will be installed to provide water run-off solutions from new buildings onto existing areas at the new building owner's expense. Final grades shall be approved by the building official. Where final grades are two (2) feet or more above the grade of the fronting road, or when the building official deems necessary, a "certificate of grading and location of building" shall be duly completed and certified by a registered engineer or land surveyor before final grades are approved.

(Ord. No. 279, § 3.07, 12-12-96)

Sec. 32-39. Buildings to be moved.

Any building or structure which has been wholly or partially erected on any premises, located either within or outside of this city, shall not be moved to and placed upon any other premises in this city until a permit for such a move shall have been secured under Article XV of this chapter. Any such building or structure shall fully conform to all the provisions of this chapter in the same manner as a new building or structure. See Chapter 6, Article VIII of the Fraser Code of Ordinances.

(Ord. No. 279, § 3.08, 12-12-96)

Sec. 32-40. Corner clearance.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two (2) feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between such right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection, except landscape treatments may be permitted as provided in the city fence chapter (section 9-5.5 of this Code) and otherwise in the sign regulation (section 32-85).

(Ord. No. 279, § 3.09, 12-12-96)

Sec. 32-41. Dwellings in nonresidential districts.

No dwelling shall be erected in any commercial, industrial or other non-residential districts. However, the sleeping quarters of a watchman or a caretaker, not constructed as permanent sleeping or housekeeping facilities, may be permitted in such districts in conformance with the specific requirements of the particular district.

(Ord. No. 279, § 3.10, 12-12-96)

Sec. 32-42. Engineering code.

All improvements required in this chapter shall comply with the design and construction standards of the city engineering code.

(Ord. No. 279, § 3.11, 12-12-96)

Sec. 32-43. Excavations or holes.

The construction, maintenance or existence within the city of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells, which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare, are hereby prohibited; provided, however, this section shall not prevent any excavation under a permit issued, pursuant to this chapter, where such excavations are properly protected and warning signs posted in such manner as may be approved by the building official, and, provided further, that this section shall not apply to drains created or existing by authority of the state, county, city or other governmental agency. Also see Chapter 6, Article II and Chapter 25, Article II of this Code.

(Ord. No. 279, § 3.12, 12-12-96)

Sec. 32-44. Fences in other than single-family zoning districts.

- (a) *Planning commission approval with site plan.* All fences erected in multiple-family, commercial, industrial, and any other non-residential zoning district shall require approval by the planning commission as part of site plan review, when site plan approval is otherwise required per section 32-103.
- (b) *Administrative approval without site plan.* All fences erected in multiple-family, commercial, industrial, and any other non-residential zoning districts shall require administrative approval and the issuance of a zoning permit under sections 32-242 and 32-243 when site plan approval is not otherwise required under section 32-103.
- (c) *Location.* Such fences shall not be located in the required front yard or enclose any required parking area.
- (d) *Design and prohibited materials.*
 - (1) All fences hereafter erected shall be of an ornamental nature.
 - (2) Barbed wire, razor wire, spikes, nails, or any other sharp point or similar instrument of any kind on top or on the sides of any fence, and electric current or charge in such fences are prohibited.

(Ord. No. 279, § 3.13, 12-12-96; Ord. No. 388, § 1, 10-11-18)

Cross reference(s)—Fences, Ch. 9.

Sec. 32-45. Frontage.

Every dwelling or principal building shall be located on a lot which fronts upon an improved public or an existing private street, road or highway. Modification of this requirement may be permitted by the zoning board of appeals in cases where unusual land or geographic conditions exist.

(Ord. No. 279, § 3.14, 12-12-96)

Sec. 32-46. Garage sales, rummage sales and the like.

No person shall be allowed more than two (2) such sales within any twelve (12) month period. The sale or similar activity shall not be conducted for a period of more than nine (9) consecutive days. In no instance shall more than two (2) garage sales or similar activities be held in any one location within any twelve (12) month period. All such sales or similar activity shall not be conducted within ten (10) feet from the front lot line of the premises. Overnight outside storage of goods or merchandise offered at said garage sale or similar activity is hereby prohibited. No signs advertising a garage sale or similar activity shall be placed upon public property or within the public right-of-way. One (1) on-site sign identifying the garage sale may be placed on the premises, no

larger than six (6) square feet. Two (2) non-accessory signs advertising a garage sale are permitted to be placed upon private property with the consent of an owner of said property and shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.

(Ord. No. 279, § 3.15, 12-12-96)

Sec. 32-47. Locations of improvements in a public easement.

No improvements, structures or building, other than a fence, walk or parking lot, may be erected in a public easement.

(Ord. No. 279, § 3.16, 12-12-96)

Sec. 32-48. Lot computing requirements.

No portion of any lot or parcel used in compliance with the various provisions of this chapter may again be used in determining site compliance with the provisions of this chapter for any proposed additional concurrent use of such lot or parcel or portion thereof.

(Ord. No. 279, § 3.17, 12-12-96)

Sec. 32-49. Measuring setback requirements.

The measurement for determining front, rear and side setback requirements shall be made from the exterior wall of the principal building to the nearest applicable site line.

(Ord. No. 279, § 3.18, 12-12-96)

Sec. 32-50. Nonresidential driveways.

Nonresidential driveways, entrances and exits shall be subject to approval by the applicable agency and by the planning commission after considering the effects on surrounding property, pedestrian and vehicular traffic and the movement of emergency vehicles (also see section 32-31).

(Ord. No. 279, § 3.19, 12-12-96)

Sec. 32-51. Outdoor merchandising.

No person or business shall use any sidewalk or that space between the sidewalk and curb, or any planted strips or open space, or any parking area, or any area of a road right-of-way for displaying for sale, or for any other purpose, any goods or any other articles; or leave any goods, boxes, trucks, barrels, trunks or any other article or thing in or on such areas for a longer time than is necessary for the removal thereof from the transporting vehicle into the place of business or residence or the transportation vehicle to which the sale item is intended to be moved. Commercial sidewalk sales may be permitted for defined time periods as provided in section 32-250 (temporary uses).

(Ord. No. 279, § 3.20, 12-12-96)

Sec. 32-52. Outdoor storage and/or display lots.

When permitted in a particular zoning district, an outdoor storage use shall be enclosed by an approved masonry wall or obscuring metal fence, as approved by the planning commission. The extent of such a wall or fence shall be determined by the planning commission on the basis of usage. (Stored material may not extend above the height of the required wall or fence.) Such wall or fence shall not be less than four (4) feet, six (6) inches in height and may, depending upon land usage, be required to be up to eight (8) feet in height, and shall be subject further to the requirements of section 32-82. A chain-link fence or a landscaped earth mound (berm), both with dense evergreen shrub planting, may be permitted by the planning commission. The planning commission may require vertical decorative or redwood pickets or equal be installed in the fence where, in its judgment, it will better serve to obscure the open storage. Open storage areas shall be hard-surfaced with gravel or other suitable approved material and drained to meet city engineering requirements. If open storage is to park wheeled vehicles, then it shall be paved to parking lot standards or provided with a surface acceptable to the planning commission based on use.

Open air business and uses with permitted outdoor space for display and sales shall not be allowed until approved by the planning commission. Such uses shall be paved and constructed to the same standards of construction as a parking lot, or provided with a suitable surface acceptable to the planning commission.

(Ord. No. 279, § 3.21, 12-12-96)

Sec. 32-53. Portable toilets.

No portable toilet shall be permitted in connection with any use of any site except as required by OSHA and or approved as a temporary use (see section 32-250).

(Ord. No. 279, § 3.22, 12-12-96)

Sec. 32-54. Project entranceways.

See "Sign" section 32-85(2)a.4.

(Ord. No. 279, § 3.23, 12-12-96)

Sec. 32-55. Prohibited occupancy.

In no case shall a travel trailer, motor home, automobile chassis, tent or portable building be used as a dwelling. Mobile homes shall not be used as dwellings, excepting when located in a zoning districts permitting such use as set forth in this chapter. All travel trailers, motor homes and mobile homes parked or stored on lands not approved for such use as herein set forth shall not be connected to sanitary facilities and shall not be occupied as a dwelling.

In the case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.

(Ord. No. 279, § 3.24, 12-12-96)

Sec. 32-56. Public utility electronic equipment enclosures.

- (a) There shall be not more than one (1) structure for each zoning lot, which shall be freestanding with a maximum floor area of two hundred sixty-four (264) square feet devoted to such use.
- (b) The structure shall be located in the rear yard in accordance with the standards applicable to accessory structures where a principal building or use already exists on the property. Where such facility is the only principal use upon the site, the facility shall meet the setback requirements applicable to principal structures.
- (c) On-sites already developed with a single-family residence, such a facility shall be permitted only if the lot exceeds one (1) acre.
- (d) The maximum height of the structure shall be twelve (12) feet.
- (e) Outdoor storage shall be prohibited.
- (f) No antenna or other exterior transmitting and receiving devices shall be permitted.
- (g) All driveways or maneuvering areas servicing the facility shall be hard-surfaced, installed and maintained by the public utility in accordance with all applicable city standards.
- (h) The parking of vehicles pertaining to such use shall be limited to the use of such vehicles in the performance of ongoing service work or repairs to the facility for the period of time necessary to complete such service or repairs.
- (i) The structure shall comply with section 32-37 and shall be maintained against deterioration and/or damage from the elements or from any other cause by prompt and appropriate repairs, painting, and other protective measures.
- (j) Site plan review shall be required as provided in Article VII.

(Ord. No. 279, § 3.25, 12-12-96)

Sec. 32-57. Residential structure conversion.

No existing residential structure or building constructed for principal or accessory residential use shall be converted to any commercial or industrial use, except that such residential structures may be converted to business offices in an appropriate district only upon approval of a properly submitted site plan by the planning commission and by meeting all of the applicable codes and ordinances of the city.

(Ord. No. 279, § 3.26, 12-12-96)

Sec. 32-58. Restoring unsafe buildings.

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 official, or required to comply with his lawful order, provided that the restoration is not contrary to section 32-207 of this chapter.

(Ord. No. 279, § 3.27, 12-12-96)

Sec. 32-59. Side yard setbacks.

In all districts the width of side yards abutting upon a street shall not be less than ten (10) feet where there is a common rear yard. In the case of rear yard abutting a side yard of an adjacent lot, the side yard abutting a street

shall not be less than the required front yard of that district, or the average front yard depth as permitted under provisions of this chapter.

(Ord. No. 279, § 3.28, 12-12-96)

Sec. 32-60. Temporary dwellings.

Any and all basement dwellings and/or other temporary residential dwellings which have been erected and occupied are declared to be unlawful for residence purposes and shall be vacated or altered so as to immediately comply with the provisions of this chapter. The board of appeals may extend such period for not more than one (1) year upon written application by the occupant and proof of undue hardship.

(Ord. No. 279, § 3.29, 12-12-96)

Sec. 32-61. Two-street frontage (double frontage).

A front yard shall be maintained on each street in accordance with the minimum front setback requirements established by the zoning district in which same is located, except where lots are platted with rear yards abutting major or secondary streets and as provided in section 32-59.

(Ord. No. 279, § 3.30, 12-12-96)

Sec. 32-62. Utility approval.

Except as provided elsewhere in this chapter, the erection, construction, alteration, maintenance, addition, reconstruction or replacement by public utilities of underground, surface or overhead distribution of gas, electricity, communications, steam or water transmission or distributing systems, collection, supply or disposal system, including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, and other similar equipment and accessories in connection therewith shall require city council approval pursuant to Article VII, Section 29, of the 1963 Michigan Constitution, after review and recommendation by the planning commission based on the standards outlined in Article XII of this chapter and of Act 368 of the Public Acts of the State of Michigan 1925, as amended.

(Ord. No. 279, § 3.31, 12-12-96)

Sec. 32-63. Vacated right-of-way.

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

(Ord. No. 279, § 3.32, 12-12-96)

Sec. 32-64. Well systems.

A well system on any site for any proposed use shall be tested and approved in accordance with the requirements of the Macomb County Health Department prior to the issuance of any occupancy permit for such site and use and, if for human and domestic consumption, it shall be found satisfactory for domestic consumption.

(Ord. No. 279, § 3.33, 12-12-96)

Sec. 32-65. Yard use.

The portion of a site in front of any dwelling or building shall be used only for ornamental landscaping, driveways and parking space, as provided in this chapter; such yards in front of one- and two-family dwellings shall limit parking to driveways, and the balance of such yard shall be landscaped.

(Ord. No. 279, § 3.34, 12-12-96)

Sec. 32-66. Zero lot line.

Wherever zero yard setback is permitted in this chapter, the structure utilizing this provision shall build on the lot line or at least five (5) feet from the lot line so that desirable spaces relating to public safety will be achieved. Fire-rated construction is required wherever a nonresidential wall is constructed within ten (10) feet of the property line. No building shall be closer than five (5) feet to an adjacent existing building, unless no space is to be provided. Where any building is permitted to build on the lot line and such building does not immediately abut an existing structure for its full length, a ten (10) foot wide permanent maintenance easement, except in the IR and IC districts, shall be obtained from the adjacent property owner, a copy of which shall be submitted with the site plan.

(Ord. No. 279, § 3.35, 12-12-96)

Secs. 32-67—32-70. Reserved.

ARTICLE IV. GENERAL EXCEPTIONS

Sec. 32-71. Access through yards.

For the purpose of this chapter, access drives may cross a required front or be placed in the side yards so as to provide access to rear yards and/or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, driveway or other pavement servicing a like function shall, for the purpose of this chapter, not be considered to be a structure and shall be permitted as necessary in any required yard.

(Ord. No. 279, § 4.00, 12-12-96)

Sec. 32-72. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city, it being the intention hereof to exempt such essential services which primarily serve the city from the application of this chapter.

(Ord. No. 279, § 4.01, 12-12-96)

Sec. 32-73. Height limitations and exceptions.

The height limitations of this chapter may be modified by the zoning board of appeals in their application to church spires, flagpoles, belfries, cupolas, domes, water towers, power transmission lines and towers, radio and television towers, masts and aerials, smokestacks, ventilators, satellite dishes, derricks, cooling towers, and other

similar and necessary mechanical appurtenances pertaining to and accessory to the permitted uses of the zoning districts in which they are located.

(Ord. No. 279, § 4.02, 12-12-96)

Sec. 32-74. Lot area.

Any lot which was of record at the time of the adoption of this chapter, that does not meet the requirements of this chapter for lot width and depth and available space for yards, shall meet the provisions of section 32-212, nonconforming lots.

(Ord. No. 279, § 4.03, 12-12-96)

Sec. 32-75. Porches/terraces, at-grade patios, steps/stairs and decks.

At-grade patios may be constructed within required side and rear yards, but not in a required yard facing upon a street.

Unenclosed and uncovered access porches (i.e., one which is not roofed over) or paved terraces may project into a required rear yard for a distance not exceeding eight (8) feet. Patio and porches covered or partially covered by permanent construction (awnings excepted) shall not project into any required yard space. This shall not be interpreted to include or permit fixed canopies or awnings.

Structures essential for handicapped access may be approved at the discretion of the building official.

Decks may be allowed to project not more than ten (10) feet into the required rear yard or open space, provided that the following conditions are met.

- (a) The deck does not encroach into any easement.
- (b) The deck is not located facing any street.
- (c) The deck conforms with applicable side yard setback requirements.
- (d) The deck is located not less than ten (10) feet from any detached accessory building.
- (e) Any additional structure attached to the deck, such as a gazebo, shall be located at least ten (10) feet from the principal residential structure. An above-ground swimming pool shall be located at least five (5) feet from the principal residence or any accessory structure.
- (f) The deck and all other appurtenant facilities shall conform with all applicable codes and ordinances.

(Ord. No. 279, § 4.04, 12-12-96)

Sec. 32-76. Projections into yards.

Architectural features, such as, but not limited to, window sills, cornices, eaves, bay windows (not including vertical projections), may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard, and may extend or project into a required front or rear yard not more than three (3) feet.

(Ord. No. 279, § 4.05, 12-12-96)

Sec. 32-77. Railroad lines, sidings and spurs.

The installation or extension of all railroad lines, sidings and spurs shall be subject to prior approval of the city council. In any case where such installation will cross a street or highway, plans shall first be submitted for approval as to public safety to the city engineer, city public safety department and Macomb County Road Commission.

(Ord. No. 279, § 4.06, 12-12-96)

Sec. 32-78. Voting place.

The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

(Ord. No. 279, § 4.07, 12-12-96)

Secs. 32-79, 32-80. Reserved.

ARTICLE V. ENVIRONMENTAL PROVISIONS

Sec. 32-81. Intent.

The intent of the environmental provisions is to preserve the quality and character of the city's environment by regulating man-made development and by conserving natural resources. The requirements of this section are promulgated pursuant to the following objectives:

- Screen and buffer incompatible views and activities within and between uses.
- Define the limits of site functions and areas.
- Reduce or eliminate glare into and from adjacent sites and activities.
- Reduce dust and other pollutants from the air.
- Control noise and provide acoustical modification into and from adjacent sites.
- Contain odors and minimize their passage into and from adjacent sites.
- Control the direction and velocity of surface water runoff and minimize soil erosion.
- Moderate interior and exterior temperatures by controlling solar radiation on buildings and paved surfaces.
- Maintain aesthetic quality of property and preserve its value.
- Maintain and enhance the visual quality of the city.

(Ord. No. 279, § 5.01, 12-12-96)

Sec. 32-82. Screening requirements.

Screening shall be required between any use district that abuts any other use district or an existing residentially used lot or parcel, except for adjoining one- or two-family districts or dwellings. Plans shall not be

approved unless a protective wall or a greenbelt with a fence and/or landscaped berm has been properly indicated and meets planning commission requirements.

Rules for the REC, IR and IC districts only:

- (1) The planning commission shall determine the height of an eight (8) inch steel reinforced protective faced brick or approved poured concrete decorative wall from four (4) to six (6) feet, when not specifically determined by chapter, in a manner as to be in harmony with the general character of the neighborhood; and the color of the brick or facing shall be compatible with brick used in the area. Such determination shall be made prior to the issuance of a building permit. When it is determined that masonry will not be feasible, a greenbelt buffer strip of trees and shrubs of not less than eight (8) feet in width, maintained in a healthy growing condition, together with a four (4) foot to six (6) foot chain-link fence with or without view-obscuring pickets, may be substituted by the planning commission.
 - a. Required walls shall be located on the lot line, except where underground utilities or drainage requirements interfere and except in instances that require conformance with front yard setback lines in abutting residential districts. Required walls may, upon approval of the planning commission, be located on the opposite side of an alley right-of-way from a nonresidential district that abuts a residential district when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration in reviewing such request.
 - b. Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except such openings as may be approved by the planning commission.
- (2) Masonry walls may be constructed with openings which do not, in any square section (height and width), exceed twenty (20) percent of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required and shall not reduce the minimum height requirements. The arrangement of the openings shall be reviewed and approved by the planning commission and in accord with the requirements of this chapter.
 - a. If the ornamental masonry wall is substituted for by a greenbelt of at least eight (8) feet, then the greenbelt shall be constructed to the following standards:
 1. Plant material shall not be placed closer than four (4) feet from the fence line or property line.
 2. Where plant materials are planted in two (2) or more rows, planting shall be staggered in rows.
 3. Evergreen trees shall be planted not more than five (5) feet on centers.
 4. Narrow evergreens shall be planted not more than three (3) feet on centers.
 5. Deciduous trees shall be planted not more than thirty (30) feet on centers.
 6. Tree-like shrubs shall be planted not more than ten (10) feet on centers.
 7. Large deciduous shrubs shall be planted not more than four (4) feet on centers.
 - b. Whenever a protective wall or greenbelt is required, it shall be constructed prior to the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained to provide a screen to abutting properties.
 - c. In consideration of requests to waive wall or greenbelt requirements between any districts or existing use, the zoning board of appeals shall refer the request to the planning commission for a recommendation, citing reasons supporting the recommendation.

In such cases as the planning commission determines the changing district to be a future compatible area, the zoning board of appeals may temporarily waive wall requirements for an initial period, not to exceed twelve (12) months. Granting of subsequent waivers shall be permitted, provided that the planning commission shall make a determination as hereinbefore described, for each subsequent waiver prior to the granting of such waiver by the board.

Rules for all zoning districts, except REC, IR and IC:

- (3) In the event that a one- or two-family development results in the creation of an excepted parcel that is not intended for residential development, the one- or two-family development shall be responsible for providing the screening. The type of screening required shall be the same as indicated for the requirements based upon anticipated use of the excepted parcel.
- (4) The planning commission shall determine the height of the wall from four (4) to six (6) feet when not specifically determined by chapter. Such determination shall be made prior to the issuance of a building permit. When it is determined that poured concrete or reinforced masonry wall may not be feasible, a greenbelt buffer strip of trees and shrubs or landscaped berm, maintained in a healthy growing condition, together with a fence, may be substituted by the planning commission.
 - a. *Walls.* Whenever a wall is required, it shall be constructed according to the following standards:
 1. Walls shall be constructed of decorative poured reinforced concrete, reinforced protective face brick, or similar decorative building material acceptable to the planning commission. The color of brick or facing shall be compatible with brick used on the site and shall be durable, weather resistant and easy to maintain.
 2. Walls shall be placed on the lot line and shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except such openings, and the arrangement of such, as may be approved by the planning commission for the purposes of public safety. Where walls are pierced, the openings shall be so spaced as to maintain the overall obscuring character required and shall not reduce the minimum height requirement.
 3. The foundation of any wall shall be constructed to meet the requirements of the building department and the city's engineering chapter. The height of all wall and screening shall be measured from the higher elevation where the land is not level.
 4. No such wall shall be painted nor shall it be constructed of exposed concrete block, cinder block or wood products.
 5. Whenever the layout of the site places passenger vehicular parking areas adjacent to a residential district or use, a minimum five (5) foot high poured decorative concrete wall shall be required. The wall shall be placed on the property line with a five (5) foot wide landscaped greenbelt provided between the wall and parking area. This greenbelt shall be planted with decorative shrubs and grass, ground cover, or other landscape materials acceptable to the planning commission. The wall shall not be permitted to extend into the required front yard setback or the parking lot setback, whichever is less.
 6. Whenever an industrial use or general commercial use abuts a residential use or use district, a six (6) foot high poured decorative concrete wall shall be placed on the property line, with a ten (10) foot wide landscaped greenbelt provided between the wall and the building, parking lot or loading area. Such greenbelt shall be planted with one (1) two-inch deciduous tree for each thirty (30) feet of wall length, or portion thereof. The remainder of the greenbelt shall be planted with decorative shrubs and grass, ground cover, or other acceptable landscape materials as determined to be appropriate by the planning commission.

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- b. *Greenbelts.* If a required decorative wall is substituted for by a greenbelt, then the greenbelt shall be constructed to the following standards:
1. A minimum ten (10) foot wide greenbelt, with a four (4) to six (6) foot high, dark color-coated chain-link fence. The fence requirement may be waived by the planning commission when they feel it is not necessary to meet the intent of this section.
 2. Five (5) foot high evergreen trees and/or one and one-half (1½) inch caliper deciduous trees, planted at staggered intervals an average of not less than ten (10) feet on center. Not more than fifty (50) percent of planting shall consist of deciduous trees.
 3. Shrubs and ground cover or mulches so as to cover the ground at the time of planting. All such plantings shall meet the height and spacing requirements specified herein.
 - (a) Plant material shall not be placed closer than four (4) feet from the fence line or property line.
 - (b) Where plant materials are planted in two (2) or more rows, planting shall be staggered in rows.
 - (c) Evergreen trees shall be planted not more than five (5) feet on centers.
 - (d) Narrow evergreens shall be planted not more than three (3) feet on centers.
 - (e) Deciduous trees shall be planted not more than thirty (30) feet on centers.
 - (f) Tree-like shrubs shall be planted not more than ten (10) feet on centers.
 - (g) Large deciduous shrubs shall be planted not more than four (4) feet on centers.
- c. *Berms.* Whenever a berm is to be used to supplement a greenbelt, it shall be constructed to the following standards:
1. In lieu of the wall, the planning commission may allow the development of a three (3) to six (6) foot high landscaped earthen berm with a twenty-four (24) to forty-eight (48) foot wide greenbelt, meeting the requirements of this section. The landscaped earthen berm shall be planted with two (2) staggered rows of six (6) foot high evergreens, planted at intervals not exceeding ten (10) feet on center. All areas which are not covered with trees shall be covered with acceptable ground cover or shrubs with a maximum height of thirty (30) inches.
 2. Berms shall be designed to be consistent with architectural character of the building(s) to be located on the site and shall consist of landscaped earth mounds possessing a maximum slope ratio of four (4) feet horizontal to one (1) foot vertical, except where retaining walls are used. Side slopes shall be designed and planted with sod or hydro seeded to prevent erosion.
 3. In those instances where a berm is included as part of a greenbelt, a detailed drawing and cross-section of the proposed berm shall be provided as part of the landscape plan. Undulating berms may be acceptable, provided the screening intent is satisfied and a minimum height agreeable to the planning commission is specified.
- (5) Combinations of various screening types (undulating berms, walls, fences, and greenbelts plantings) may be acceptable when the combination accomplishes the objectives of the screening requirements in a more aesthetically pleasing or acceptable manner as determined by the planning commission.
- (6) Unless otherwise expressly directed by the provisions of this chapter, all protective walls or greenbelts shall be provided when required along, and immediately joining, the zoning district boundary line and/or property line and shall be installed so as to lie wholly on the land of the applicant seeking site

plan approval. In instances where drains, trees or other obstacles preclude such location, the planning commission shall determine the most appropriate alternative location.

- (7) All walls or greenbelts required by this chapter shall be completely installed prior to the issuance of an occupancy permit for the use of the premises, except as provided hereinafter.
- (8) In any case where the development of the land and/or buildings has been fully completed and an occupancy permit would otherwise be issued, and the completed installation of the wall, greenbelt and/or landscaping required is prevented by inclement weather or acts of nature beyond the control of the owner, the owner may receive an extension of no more than six (6) months subject to the requirements of section 32-248 of this chapter.
- (9) Maintenance of the wall or any other substituted screening device shall be the responsibility of the property owner on whose property such wall or screen is located and shall thereafter be reasonably maintained to provide a screen to abutting properties.
- (10) In consideration of requests to waive wall or greenbelt requirements between any districts or existing use, the zoning board of appeals shall refer the request to the planning commission for a recommendation, citing reasons supporting the recommendation.

In such cases as the planning commission determines the changing district to be a future compatible area, the zoning board of appeals may temporarily waive wall requirements for an initial period not to exceed twelve (12) months. Granting of subsequent waivers shall be permitted, provided that the planning commission shall make a determination as hereinbefore described for each subsequent waiver prior to the granting of such waiver by the board.

(Ord. No. 279, § 5.01, 12-12-96)

Sec. 32-83. Preservation of wooded and shrubbed areas.

The intent of this section is to preserve the wooded and shrubbed areas of the city to the extent preservation is compatible with reasonableness and the following purposes cited in the city's adopted master plan.

Erosion control.

Conserving water quality.

Maintaining a micro climate.

Filtering pollution from the atmosphere.

Decreasing noise.

Providing a habitat for wildlife.

Visual character.

Recognizing the above-cited benefits of vegetation and woodlands, it is important to integrate these natural features into future development to improve the community's environmental qualities and to enhance the visual character of the constructed environment. Site plan review by the planning commission shall be consistent with this intent and the following provisions:

- (1) The developer or owner of undeveloped property shall provide the planning commission with a detailed description of the natural features and characteristics located on the site if the property is to be altered in anticipation of sale or development. Alterations of the site, such as tree removal, shrub and ground cover removal, regrading or filling, are prohibited prior to submission of an inventory and preservation plan to the planning commission. Any such site alteration shall be considered a violation of the chapter and may require substantial replacement as a condition of site plan approval.

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- (2) The site plan shall meet the requirements of Article VII and further contain:
- a. Current, or not older than five (5) years, 1" = 100' aerial photographs and U.S.G.S. quadrant maps of the area to provide as a vegetation map source.
 - b. A preliminary field survey of typical size and type of trees and other vegetation. Any significant large (twenty-four (24) inch caliper or greater) tree should be noted by type, size and location.
 - c. All groupings of existing trees containing trees that are generally six (6) inches or more in diameter as measured four (4) feet above the ground.
 - d. All thriving existing trees which are not located within and are ten (10) feet larger than the footprint of the proposed principal building, or within the area where the driveway or other improvements are to be located, shall be preserved by the builder or person developing the site. The builder or person developing the site shall erect and maintain suitable barriers (such as snow fencing or cyclone fencing to protect the trees to be preserved from damage caused by construction activities. Such person shall remove any trees that are dead or dying as determined by the building official. This section shall not, however, prevent the homeowner actually occupying the lot from removing any trees from the lot.
 - e. A preservation plan with specifications describing removal of any trees, individually or as groupings, that are six (6) inches or more in diameter, as measured four (4) feet above the ground, as well as shrubbed areas. The plan shall also describe the method to be employed for protection of trees and shrubbed areas designated to remain during construction. The plan and specifications shall include grade changes or other work adjacent to the remaining trees and shrubbed areas which might produce an adverse effect such as, but not limited to, surface drainage, aeration and piling of excavated soil.

- (3) The amount of tree canopy which shall be reserved as a percent of the total site area shall meet the following minimum requirements:

Single-family residential subdivisions Exempt*

Single-family residential acreage 35%

Multiple-family 25%

Office 20%

Neighborhood commercial 15%

Central business 15%

General commercial 10%

Industrial 10%

* Tree preservation to be addressed in tentative preliminary plat or preliminary site condominium subdivision review.

Special consideration in developing wooded areas may be requested; however, any grant of special consideration shall be based upon specific conditions applicable to the site. If special consideration is not granted, the applicant will be required to maintain the percentage of wooded area as required herein. A grant of special consideration may require the planting of replacement trees and/or other vegetation, as determined by the planning commission to be specified as a condition of site plan review.

- a. The following species of trees shall be permitted:
 - 1. Norway maple.

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2. London plane.
 3. Pin oak.
 4. Honey locust.
 5. Sugar maple.
 6. Little leaf linden.
 7. Modesta ash.
 8. Idaho locust.
 9. Moraine locust.
 10. Scarlet hawthorne.
 11. Other species approved by the building department.
- b. All trees planted pursuant to this article shall be of first quality meeting the standards of the American Association of Nurserymen, and shall be guaranteed for one (1) year. The person responsible for planting any tree under this article shall furnish to the city a maintenance bond satisfactory to the city, or shall deposit with the city a sum equal to the amount necessary to replace any such tree that dies within one (1) year of its planting date, based upon a written city schedule.
- (4) The planning commission shall be the exclusive reviewing authority of the detailed requirements of this section, as well as the overall site plan. If the site plan is rejected pursuant to this section, a written reason for rejection will be provided the applicant by the planning commission.

(Ord. No. 279, § 5.02, 12-12-96)

Sec. 32-84. Landscaping requirements.

(a) *General requirements.*

- (1) Whenever any yard (front, side or rear) is not designated for building, off-street parking, loading and unloading, storage or other approved purpose within the terms and requirements of a given zoning district, it shall be landscaped with either approved natural materials or living plant materials which shall be maintained in a sound, weed-free, healthy and vigorous growing condition.

A landscape plan is required in accordance with the following provisions, except for single-family lots and sites in the IR and IC districts:

- (2) All landscaping shall consist either of approved natural materials or living plant materials. All landscaped areas shall be protected from the encroachment of vehicles by curbing or other suitable device. The installation of irrigation systems shall be required to ensure the maintenance of all landscaped areas.
- (3) A detailed landscape plan for all yard areas shall be submitted to the planning commission showing the names (common and botanical), location, spacing, starting size and planting and staking details of all plantings to be installed, and the location and types of all natural materials proposed to be included in the landscape treatment of the yard areas. This provision shall apply to all landscape yards including those expanded beyond the minimum setback requirements of this chapter. This landscape plan shall be reviewed and approved by the planning commission.
- (4) Existing trees, tree stands, natural vegetation and wildlife habitat shall be integrated into the site landscape plan to the maximum extent possible and shall meet the standards of section 32-83 above.

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- (5) Undeveloped portions and subsequent phases of the site shall be seeded, mowed and maintained.
 - (6) The planning commission may approve constructed features of other materials such as masonry walls or brick, stone and cobblestone pavement as a supplement or substitute, upon a showing by the applicant that general plantings will not prosper at the intended location.
 - (7) Landscaping shall be planted, landscape elements shall be installed, and earth moving or grading performed in a sound workmanlike manner and according to accepted good planting and grading procedures, with the quality of plant materials and grading as hereinafter described, and a copy of current acceptable standards is available from the city building department.
 - (8) The owner of property required to be landscaped by this section shall maintain such landscaping in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. All plant materials shall be watered, fertilized and continuously maintained in a sound, weed-free, healthy and vigorous growing condition and shall be kept free of plant diseases and insect pests. All unhealthy and dead material shall be replaced within one (1) year or the next appropriate planting period, whichever comes first.
 - (9) Plant and grass materials shall be of acceptable varieties and species, free of pests and diseases, hardy in Macomb County, and shall conform to standards of the American Association of Nurserymen and the city, and shall have passed any inspections required under state regulations. Standards shall be in written form and made available by the building department. No plant materials used to satisfy some or all planting requirements of this section shall be comprised of non-living materials, except as provided herein.
 - (10) Approved ground cover used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season, with at least three (3) plants per square foot.
 - (11) Lawn grass. Grass areas shall be planted in species normally grown as permanent lawns in Macomb County. Grass may be plugged, sprigged, seeded or sodded, except that rolled sod, erosion reducing net or suitable mulch shall be used in swales or other areas subject to erosion. Grass, sod and seed shall be clean and free of weeds and noxious pests or diseases.

(b) *Design objectives.*

- (1) The following general design objectives and criteria shall be considered in the evaluation of landscape plans:
 - a. Ample variety and quantity of ornamental plants, trees and shrubs should be provided. A few dominant types are usually chosen with subordinate types interspersed for accent. Repeating some types creates unity, but no types should be overused. Variety should be achieved with respect to seasonal changes, species selected, texture, color and size at maturity.
 - b. Landscaping should be encouraged that will serve the functions of enhancing the visual environment, ensuring public safety, moderating the microclimate and minimizing nuisances.
 - c. Landscaping should serve to integrate the project with the site, with a particular sensitivity to the natural topography, drainage and existing native vegetation. It should enhance the architecture of site structures, when possible, by being of similar scale.
 - d. Preservation of the existing landscape material and landforms consistent with the standards of section 32-83 above is mandatory, particularly where mature trees are a part of the site.
 - e. Visual variety should be the aim of landscaping treatment. Landscaping should be used to interrupt large expanses of pavement.

- f. Local soil, water, and other climatic conditions should be considered when choosing landscape materials to create optimum conditions for their survival and to ensure that they will thrive with a minimum amount of maintenance.
- g. Landscaping should be protected from vehicular and pedestrian encroachment. Raised planting surfaces and the use of curbs are ways of achieving this objective.
- h. Species that are a public nuisance or that cause litter should be avoided. When landscaping is to be installed in areas that children will frequent, trees and bushes with sharp needles shall be prohibited.
- i. The aesthetic and functional aspects of the proposed landscaping, both at installation and at maturity, shall be a paramount consideration in review and approval by the planning commission.

(c) *Plants and materials.*

- (1) All plant materials used shall be placed in fertile soil with good surface drainage and shall be given reasonable maintenance necessary to ensure their healthy existence and survival. All natural materials shall be maintained, refurbished or replaced, as necessary, to ensure a pleasing aesthetic quality.
- (2) All proposed landscaped plantings shall meet the minimum size requirements specified in the following table.

(d) Where a landscape plan is required, the following proposed plant materials are specifically prohibited:

- (1) Box elder.
- (2) Soft maple (silver).
- (3) Elm.
- (4) Poplar.
- (5) Willow.
- (6) Horse chestnut (nut bearing).
- (7) Tree of Heaven.
- (8) Catalpa.
- (9) Fruit-bearing trees.
- (10) All thorned trees and shrubs.
- (11) Ribes (Gooseberry).
- (12) Cottonwood.

(See following schedule)

PLANT MATERIAL SIZE

	Minimum Size Allowable								
	Height				Caliper				
	5'-6'	3'-4'	2'-3'	18"-2'	2"	2½"	18"-2' Spread	2" Peat Pot	2 gal. Con- tainer
Evergreens:									

Fir	x								
Spruce	x								
Pine	x								
Hemlock	x								
Douglas Fir	x								
Narrow Evergreen Trees:									
Red Cedar	x								
Arborvitae	x								
Juniper (selected varieties)	x								
Large Deciduous Trees:									
Oak						x			
Maple						x			
Beech						x			
Linden						x			
Ash						x			
Ginko (male only)						x			
Honeylocust (seedless, thornless)						x			
Birch						x			
Sycamore						x			
Small Deciduous Trees (Ornamental):									
Flowering Dogwood (disease resistant)						x			
Flowering Cherry, Plum, Pear						x			
Hawthorn (thornless)						x			
Redbud						x			
Magnolia						x			
Flowering Crabapple						x			
Mountain Ash						x			
Hornbeam						x			
Russian Olive						x			
Large Evergreen Shrubs:									
Irish Yew			x						
Hicks Yew			x						
Upright Yew			x						
Spreading Yew								x	
Pfitzer Juniper								x	
Savin Juniper								x	
Mugho Pine								x	
Small Evergreen Shrubs:									

Brown's, Ward's SebionYews							X		
Dwarf Spreading Juniper							X		
Dwarf Mugho Pine							X		
Euonymous Varieties							X		
Large Deciduous Shrubs:									
Honeysuckle			X						
Lilac			X						
Border Privet (hedgeplantings)				X					
Sumac		X							
Buckthorn		X							
Pyranantha			X						
Weigela		X							
Flowering Quince		X							
Barberry		X							
Cotoneaster (Peking spreading)		X							
Sargent Crabapple		X							
Dogwood (Red Osier Grey)		X							
Euonymous Varieties		X							
Viburnum Varieties		X							
Tail Hedge (hedge planting)			X						
Small Deciduous Shrubs:									
Dwarf Winged				X					
Regal Privet				X					
Fragrant Sumac				X					
Japanese Quince				X					
Cotoneaster (Rockspray,Cranberry)				X					
Ground Cover:									
Periwinkle								X	
Baltic Ivy								X	
Euonymous Varieties								X	
Hall Honeysuckle								X	
Pachysandra								X	
Vines:									
Euonymous Varieties									X
Virginia Creeper									X
Baltic Ivy								X	

Wisteria									X
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(Ord. No. 279, § 5.03, 12-12-96)

Sec. 32-85. Sign regulations.

The erection and maintenance of signs on any parcel of land or structure within the city, or the use of any such parcel for said purpose, are hereby prohibited, except as follows:

- (1) In the office and commercial and industrial districts, or for special land uses, the regulations contained for each respective zoning district and the following shall apply:
 - a. A building permit shall be required for the erection, construction or alteration of any sign in these districts. The planning commission shall either approve or disapprove the application within a reasonable time. The planning commission may delegate its review authority to the building official to approve or deny applications based upon a recommendation of the city planner for signs that meet all chapter requirements or for certain types of signs as the commission may so delegate. Approval may be conditioned upon compliance with reasonable regulations or limitations having regard to the character of the sign, the surroundings in which it is to be displayed, and the purposes of this section. Once the application is approved under the above-described authority, it shall then be reviewed by the building department for conformity with the city building code standards and, if in compliance therewith, the building department shall issue a permit. A permit issued hereunder shall not be assigned or transferred in any manner whatsoever if the sign or signs covered by the permit are to be altered. Applicants shall follow the rules adopted by the planning commission for the processing of sign approvals. An annual permit, fee and bond shall be required for all outdoor advertising signs to be maintained or erected in the city. Such applications, fee and bond shall be submitted to the city in accordance with the rules governing outdoor advertising signs adopted by the city council.
 - b. Flashing, oscillating or intermittent type of illuminated signs or displays and electronic signs with any of these or the following characteristics are hereby prohibited. Also, there shall be no mechanical movement in the sign or changeable message other than provided in subsection (1)r. of this section.
 - c. Specialty lighting, such as neon accent lighting or an "open" sign, may be permitted by the planning commission on a finding that the proposal is in character with the use and not detrimental by reason of being distracting or calling undue attention to the location.
 - d. Portable advertising signs are permitted, subject to the sign regulations of this chapter. By way of example and not limitations, such regulations include sign location, area, number of signs and setbacks. A portable sign is defined as a freestanding sign, not permanently anchored or secured to either a building or the ground, such as, but not limited to, trailers, "A" frame, "T"-shaped, or inverted "T"-shaped sign structures. Vehicle signs are prohibited.
 - e. No sign, except those established and maintained by the city, county, state or federal government shall be located in, project into, or overhang a public right-of-way or dedicated public easement, except as provided in section 32-85(2)1.4.
 - f. All directional signs required for the purpose of orientation, when established by the city, county, state or federal government, shall be permitted in all use districts.
 - g. No sign above a height of three (3) feet shall be located within, project into or overhang the triangular area formed at the intersection of street right-of-way lines at a distance along each line

of twenty-five (25) feet from their point of intersection, except where permitted elsewhere in this chapter.

- h. Outdoor advertising signs shall be prohibited, except as regulated in subsections (1)i. and j. of this section and section 32-85(2)e.3.
- i. One (1) off-site real estate sign directing the public to such real estate may be permitted by the building official during the construction of a building or buildings or the offering for sale of real estate, provided such sign is not larger than nine (9) square feet and observes the setback requirements of the district in which it is to be located.
- j. A limited number of project signs of temporary duration, not exceeding sixty-four (64) square feet in area, may also be permitted, subject to their approval by the zoning board of appeals, which approval shall be for a six (6) month period, subject to renewal, provided such signs conform to the conditions established by the zoning board of appeals to secure harmony with this chapter and, provided further, that there are buildings or home sales continuing in the subdivision being advertised. Each permit for such a sign shall require an issuance fee and any extension beyond the original time stated in the permit shall require an additional extension fee, as determined by resolution of the city council.
- k. Except for freestanding signs, all signs shall be displayed flat against the wall of the building or parallel to the wall of the building. Such wall signs shall not project beyond or overhang the wall or any permanent architectural feature by more than one (1) foot and shall not project above or beyond the highest point of the roof or parapet (except in the CBD community business district, see below).
- l. Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on adjacent streets or property.
- m. Signs used for advertising land or buildings for rent, lease and/or for sale shall be permitted when located on the land or building intended to be rented, leased and/or sold. Such sign(s) area shall be limited to thirty-two (32) square feet in total for any given lot or building, except as provided elsewhere within this section.
- n. Internally lighted canopies and canopies with signage shall be treated as a wall sign. The area of such canopies shall be calculated as the area of the wall sign, unless such canopy is unlighted and opaque. In such event, only the lighted and/or sign portion shall be calculated as a wall sign.
- o. Accessory, freestanding signs shall not be located closer than one hundred (100) feet to any property line of any adjacent residential district. All accessory freestanding signs shall not encroach on the front ten (10) feet of the front yard requirement or as provided in section 32-85(3)b., whichever is greater, and shall be at least ten (10) feet at their lowest point above the sidewalk level or less than four (4) feet in height at the highest point. In addition, no freestanding sign shall be constructed in a manner as to impair observations of pedestrians and vehicles.
- p. Wall signs and behind-the-window signs with lettering or symbols of three (3) inches or less may be permitted, in addition to the permitted signs per establishment.
- q. Temporary window signs, not occupying more than twenty-five (25) percent of the window space, are exempt from the restrictions of this section. Permitted shall be one (1) gasoline price sign, no larger than twenty (20) square feet, for each establishment selling gasoline or diesel fuel as part of its principal permitted use.
- r. Time and temperature devices are permitted in all commercial districts. They may be on a pole or attached to the wall and are subject to the regulations applicable to pylon and wall signs.

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- s. Each individual business or industry occupying its own individual site or lot is entitled to display not more than two (2) signs, except as modified elsewhere in this chapter. One (1) shall be a freestanding type sign, fronting the street or highway to which the establishment has its principal access. (Should a business or shopping center have exclusive access to a second or third major or secondary street as classified in the city's Master Plan, it may place a freestanding identification sign on that street or those streets also. Such sign shall be no larger than one-third ($\frac{1}{3}$) the size of the principal permitted freestanding sign.) The second permitted sign shall be a front wall sign. The wall sign may be used for advertising, while the freestanding sign shall only state the name of the business, a brief description of state licensed products, services or activities offered by the business (such as liquor, notary public, lottery, etc.), and a one- or two-word description of the principal permitted activity conducted on the site.

Shopping centers, office buildings, multi-tenant industrial buildings and other than those noted in parentheses above, shall have no more than one (1) freestanding sign and it shall display on its surface the name of the center or building complex, and it may also include address numbers, except that, at the option of the planning commission, shopping centers, office buildings and multi-tenant industrial buildings may be permitted to place a directory of tenants on their principal freestanding sign. If a directory of tenants sign is permitted by the planning commission, it shall be designed as an integral feature of the freestanding sign and the directory portion of the sign shall have a uniform facing material in terms of appearance and color; the letters shall, in the judgment of the planning commission, be clearly complementary to other tenant businesses in size and character; further, the nameplate for each tenant shall display only the tenant's or establishment's name and a one- or two-word description of the principal permitted activity.

Shopping centers, office buildings, and multi-tenant industrial buildings may also have one (1) identification or nameplate wall sign for each individual tenant business that is, in the judgment of the planning commission, clearly complementary to other tenant businesses in design, color of background, material, lettering, lighting and style. The planning commission may permit a copyrighted or registered style or logo; however, this shall be so executed as not to be detrimental to other businesses in the center or to the overall character of the sign development.

- t. In the event that a sign in the city becomes unsightly or in a state of disrepair, in the opinion of the building official, the sign may be ordered, repaired or removed and failure to comply with such an order shall result in a violation of this chapter.
- u. Noncommercial signs which have substantially the following characteristics:
1. Are constructed using a metal, wood, or plastic frame, or combination thereof, which is inserted into the ground without attachment or insertion into a concrete footing or other constructed footing to anchor the sign;
 2. Have a facing which is constructed primarily of cardboard, paper, plastic, wood, or a combination shall be subject to the following regulations:
 - i. The sign if placed by someone other than the owner of the property shall require the written permission of the property owner which shall be filed with the city clerk.
 - ii. The signs shall in all cases, be placed so that no portion of a sign is placed, or protrudes within two (2) feet of the interior side of any public sidewalk where such a sidewalk is provided, or otherwise is at least two (2) feet outside of the existing road right-of-way.

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- iii. In addition, signs shall be placed so as not to create any sight distance issue and in all cases at least fifteen (15) feet from the intersection of any driveway or street crossing any sidewalks.
 - iv. The signs shall be placed for a period not to exceed forty-five (45) days. Any person placing the sign and the property owner are each independently liable for the removal of signs after a period of forty-five (45) days.
 - v. The total face area for any sign will be limited to an aggregate total of thirty-two (32) square feet.
 - vi. All such temporarily placed signs shall be non-illuminated.
- v. Directional signs for off-street parking areas, open or enclosed, are permitted, providing they do not exceed two (2) square feet in area, are not higher than three (3) feet above curb level, do not obstruct the view of vehicular or pedestrian traffic, and shall not contain advertising.
- (2) *District regulations.* No sign may be erected, displayed or substantially altered or reconstructed, except in conformance with the following regulations:
- a. *All residential districts.*
 - 1. Within all single family residential districts, temporary noncommercial signs shall be placed in accordance with the provisions of section 32-85(1)u. with the exception that the total square feet face area of such signs shall not exceed six (6) square feet.
 - 2. An accessory freestanding ground sign to be used during a residential project development by a project builder may be permitted by the city manager as a temporary use (see section 32-250).
 - 3. For community facility uses, a bulletin board with an area not exceeding sixteen (16) square feet in area, not located closer than ten (10) feet to any other lot, is also permitted. In addition, a twenty (20) square foot identification sign may be placed in the rear half of the required front yard setback.
 - 4. In all residential districts, including all forms of one-family and multiple-family, and in instances where an applicant wishes to construct an entrance identification, such identification shall be limited to the principal street entrance to the development and the following conditions shall apply:
 - (a) Entrance identification signs or structures above a height of two (2) feet from established street grades shall not be permitted within the triangular area formed at the intersection of any street right-of-way lines at a distance along each line of thirty (30) feet from the point of intersection.
 - (b) Entrance identification signs or structures shall be constructed so as to present symmetrical appearance and be in character with the area in terms of size, bulk and use of materials, as determined by the planning commission.
 - (c) No more than two (2) signs shall be permitted associated with entrance identification. Such signs or structures are restricted to identification of the project or subdivision name only, and the sign or lettering shall not exceed a dimension of twenty-four (24) square feet per sign. No more than one (1) sign may be placed on each side of an entranceway or in an entrance road median.
 - (d) A description of the property interest of the applicant and any other parties to the property where entrance structures or signs will be located shall be provided, together with verification information, attachments of documents

evidencing rights to such property, such as deeds, easements and the like, and providing for the maintenance for the entrance structure signs to the satisfaction of the city.

5. As an alternate to 4. above, in the multiple-family district, one (1) non-illuminated sign, shall be permitted, when located on the same lot pertaining to the use of the particular building or buildings, provided it does not occupy the front half of the required front yard space, does not exceed twelve (12) square feet in area, and does not project higher than one (1) story or twelve (12) feet above the level of the ground.
- b. *Office and neighborhood commercial districts.*
1. In all office and neighborhood commercial areas with uses located on individual lots, the wall sign not exceed thirty-two (32) square feet, and the permitted ground or pylon sign shall conform in height and area to the Schedule of Ground and Pylon Sign Regulations, Part I.
 2. For all office and neighborhood commercial areas with uses grouped in a shopping center or office building, the wall sign shall not exceed thirty-two (32) square feet for each occupant. Individual shopping center users occupying the equivalent of multiple units may, at the sole discretion of the planning commission, be permitted to increase their maximum sign size by up to fifty (50) percent of the permitted maximum for every equivalent unit or twenty (20) linear feet of storefront, whichever is greater. A listing of occupants of the center or office building may be permitted as part of the main identification sign by specific approval of the planning commission, within the height and area limits of the permitted sign as required in the Schedule of Ground and Pylon Sign Regulations, Part I.
 3. Lighted signs shall be permitted in the office and neighborhood commercial areas, provided the illumination is direct or low intensity internal. The source of direct illumination shall be completely shielded from public view and no illumination shall be cast upon adjacent residential districts.
- c. *Community business district.* The community business district, because of its special character and the objective to enhance pedestrian identification, shall be regulated by the following requirements:
1. Only one (1) wall sign shall be permitted per establishment, and such sign shall not be larger than thirty-two (32) square feet in area.
 2. A projecting sign may be used in place of the permitted wall sign and may overhang the public right-of-way. Such sign shall not be greater in overall area than twenty (20) square feet on each side, with the name of the shop or proprietor and a very brief description of the proposed business activity. Projecting signs shall be hung at a uniform height and project no further than five (5) feet from the building wall.
 3. A combination of one (1) wall and one (1) projecting sign may be used, provided the combined sign area does not exceed a total display surface of thirty-two (32) square feet. Each side of a projecting sign shall be counted in calculating the total allowable area, even if not lettered upon. Corner locations may have two (2) such wall signs.
 4. The lighting of any community business district sign shall only be with uniform white light, and such illumination shall be indirect, not internal.
 5. Awnings or canopies may be permitted, subject to special land use review; and provided, further, no letter over three (3) inches in height may be displayed on an awning or canopy.

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6. Temporary window signs are permitted, provided they do not exceed more than fifteen (15) percent of the area of the window in which they are displayed. Temporary window signs may not be displayed for more than thirty (30) days, and shall exhibit subject matter of a truly temporary nature.
 7. Banners and other appropriate displays are permitted only for commercial and institutional activities approved by the city manager (section 32-250).

d. *General commercial district.*

1. All general commercial areas shall be regulated by the same standards as the office and neighborhood commercial areas in subsection b. above, with the following exceptions:
 - (a) Individual businesses on individual lots or parcels may have wall signs covering up to fifty (50) percent of their front wall signable area, but in no case larger than forty-eight (48) square feet.
 - (b) Height and area shall be regulated by Part II of the Schedule of Ground and Pylon Sign Regulations.
 - (c) Signs may be either non-illuminated or externally or internally illuminated.

Further, in the general commercial areas, the maximum area of the ground or pylon sign shall be reduced by the following formula if the lot width is less than one hundred (100) feet:

$$\times \text{Area from Schedule} = \text{Maximum Allowable Sign Area}$$

On lot frontages greater than two hundred (200) feet, the maximum allowable pylon or ground sign area may be increased by one (1) percent for every ten (10) feet of lot width on the principal road frontage if over two hundred (200) feet.

Lots that exceed three hundred (300) feet of frontage, the area of the pylon or ground sign may be equally divided in area for two identical ground or pylon signs that if constructed shall be at each end of the lot or site.

e. *Industrial districts.*

1. A permitted principal retail use on a parcel in designated industrial districts shall be regulated by subsection b. above (office and neighborhood commercial).
2. A permitted principal wholesale or industrial site shall have not more than one (1) freestanding or wall sign, containing only the name of the establishments or firms and the name of the principal permitted activity. A directory of tenants for multiple buildings or tenants on a site may be permitted as provided in section 32-85. The wall sign may not be larger in area than twenty (20) percent of the building's front wall signable area, but in no case larger than one hundred (100) square feet. The freestanding sign shall be constructed to the standards of the Schedule of Ground and Pylon Sign Regulations, Part I. In addition to the freestanding or wall sign, the use may have one (1) bulletin board no greater than sixteen (16) square feet, with the company name in no larger than six (6) inch letters and with jobs available listed below in letters no greater in size than four (4) inches. This bulletin board may be placed no closer than ten (10) feet to any property line.
3. Wherever the industrial district abuts a state-numbered highway, outdoor advertising signs may be permitted, subject to the following restrictions:

- (a) Sign illumination shall be employed in such manner so as to prevent intense or brilliant beams or rays of light from being directed at any portion of the main travelled way of the highway or adjacent properties.
 - (b) No sign shall have any movement in any of its parts and shall not contain changing illumination.
 - (c) No such sign shall exceed twenty-five (25) feet in height from the ground.
 - (d) No sign shall exceed three hundred (300) square feet in area. In the case of back-to-back signs or double-front panels, each side shall not exceed three hundred (300) square feet in area.
 - (e) No sign shall be within one thousand five hundred (1,500) feet of another such sign structure. Such sign structure shall not be adjacent or within five hundred (500) feet of an intersecting street, road, highway or railroad crossing on the same side of the highway; nor shall such sign be located within five hundred (500) feet of a zoning district boundary.
 - (f) Official and on-premise signs, as defined in Section 131(c) of Title 23 of the United States Code, shall not be counted, nor shall measurements be made from them for purposes of determining compliance with the spacing requirements provided in this section.
 - (g) No sign shall be located within forty (40) feet of the highway right-of-way line in the IR district, and fifty (50) feet of the highway right-of-way line in the IC district.
 - (h) The spacing requirements apply separately to each side of the highway.
 - (i) The spacing requirements shall be measured along the nearest edge of the pavement of the highway between points directly opposite each sign.
- (3) No freestanding accessory sign shall be erected, displayed or substantially altered or reconstructed, except in conformance with the particular district requirements and the following Schedule of Ground and Pylon Sign Regulations:

a. Schedule of Ground and Pylon Sign Regulations

Part I Maximums (OS, CN, OR, IR, IC Districts) *

	MOVING TRAFFIC LANES			
	TWO		FOUR OR MORE	
Speed Limit (MPH)	Area (sq. ft.)	Height (feet)	Area (sq.ft.)	Height (feet)
25 - 30	20	14	30	16
35 - 40	30	16	54	18
45 - 50	45	18	76	20

Part II Maximums (CBD and CG Districts) *

	MOVING TRAFFIC LANES			
	TWO		FOUR OR MORE	
Speed Limit (MPH)	Area (sq. ft.)	Height (feet)	Area (sq.ft.)	Height (feet)

25 - 30	25	18	40	20
35 - 40	40	20	75	22
45 - 50	65	22	110	24

* Maximum area for permitted freestanding directory signs shall be equal to:

+ (number of tenants × 5.33) = square feet for shopping centers.

+ (number of tenants × 4.0) = square feet for general office buildings.

- b. Minimum distance of the lead edge of any freestanding or ground sign, measured from the road centerline in feet, shall be as follows:
 - 1. All residential, office and/or research districts shall observe three-quarter (¾) the front yard setback, except as provided elsewhere in this chapter.
 - 2. The commercial and industrial districts shall observe the following setbacks from the road centerline, as designated in the city's master plan: major and secondary — seventy (70) feet; collector — fifty-three (53) feet; local — forty (40) feet; cul-de-sac — seventy (70) feet; and on private roads, a setback of ten (10) feet shall be measured from the road's easement or common usage line abutting the subject parcel or site.
- (4) Changeable copy sign shall be permitted in districts other than residential zoning districts as follows:
- a. Changeable copy signs may only be permitted as part of a ground or pylon sign or located on a canopy for gas stations.
 - b. The area of the changeable copy sign shall not exceed fifty (50) percent of the entire sign area.
 - c. The information or advertising communicated by the changeable copy sign shall be limited to events, goods and/or services provided or sold on the site.
 - d. The image or message on the electronic bulletin board shall not change more frequently than once every thirty (30) seconds.
 - e. The sign shall not contain moving text.
 - f. The text of the sign shall not flash or scroll repeatedly or constantly (vertically or horizontally).
 - g. The electronic message board shall operate only between the hours of 6:00 a.m. and 12:00 a.m.
 - h. The LED of the electronic message board shall not be illuminated beyond the default settings of the sign manufacturer's brightness/dimming controls. All light emitted from such sign shall meet any city lighting ordinance provisions and/or codes.
 - i. The owner of an electronic message board shall allow the city to use the electronic message board to communicate emergency public service information approved by the city. The operational restrictions on electronic message boards set forth above shall not apply during any time that the electronic message board is used to communicate authorized emergency public service information for the city.
 - j. The owner agrees to update an approved emergency public service information communication, or discontinue the emergency public service message as soon as possible after receiving a request from the city manager. The owner shall file and keep current at all times with the city manager; the name, email address, phone number, cell phone number, pager and other available emergency contact information of the employee(s) or representative(s) of the owner who has been authorized and designated by the owner to communicate the approved emergency public service message using the electronic message board.

(Ord. No. 279, § 5.04, 12-12-96; Ord. No. 350, § 1, 5-13-10; Ord. No. 352, §§ 2, 3, 8-12-10)

Sec. 32-86. Lighting.

Lighting in all use districts shall conform to the following requirements as to type, location and intensity:

- (1) All outdoor lighting used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect light away from all adjacent residential districts or adjacent residences.
- (2) All outdoor lighting shall be directed toward and confined to the ground areas of lawns parking lots or surface areas, except as noted in subsection (3) below.
- (3) All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
- (4) Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. There shall be no flashing, oscillating, moving or intermittent type of lighting or illumination. In addition, there shall be no bare bulb illumination of any kind exposed to public view.
- (5) There shall be no lights which tend to be harmful to natural forms of vegetation in any use district.
- (6) The intensity of outdoor lighting in all use districts shall be limited to the following maximum amounts:

Schedule of Maximum Illumination
(in foot candles measured at the surface)

Illumination of	Residential	Office and Public Buildings	Commercial	Industrial
General	0.5	0.5	0.5	0.5
Driveway	1.0	3.0	4.0	2.0
Parking	1.0	3.0	4.0	3.0
Walks	0.5	1.0	2.0	1.0
Protective	0.5	2.0	3.0	2.0
Building	0.5	3.0	5.0	5.0
Loading areas	N/A	1.0	1.0	1.0

No light measured (at eye level) at the property line between any non-residential use and any residential district or use shall be greater than one-quarter (¼) foot candle at the side and rear property line, nor greater than one-half (½) foot candle or the intensity of the available street lighting at the front property line, whichever is greater.

(Ord. No. 279, § 5.05, 12-12-96)

Sec. 32-87. Performance standards.

It is the intent of this subsection to regulate all uses except industrial (see Article XI) and require that each permitted use shall be a good neighbor to adjoining properties by control of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity, etc. The sum of the effects of concurrent operations on two or more lots measured at any property line shall not be greater or more offensive to the senses than the standards contained herein. Compliance with the provisions of this subsection by single or mutual changes in operational

levels, scheduling of operations and other adjustments is permitted. In case of conflict among these standards and federal and state regulations, the most restrictive standard or regulation shall apply.

- (1) *Noise.* See Fraser Code Chapter 14.5 (noise chapter).
- (2) *Odors.* Odors from any use shall not be discernible at the property line to a greater degree than odors from plants for the manufacture of electronic equipment. The values given in Table III (Odor Thresholds) in the latest revision of Chapter 5, "Physiological Effects," in the "Air Pollution Abatement Manual," by the Manufacturing Chemists' Association, Inc., Washington, D.C., copyright 1951, shall be used as standard in case of doubt concerning the character of odors emitted. In such case, the smallest value given in Table III shall be the maximum odor permitted.
- (3) *Glare.* Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.
- (4) *Vibration.* Vibration shall not be discernible at any property line to the human sense of feeling.
- (5) *Smoke.* Emission of smoke on the site shall be controlled so that a nuisance will not result. Emission of smoke shall not exceed the number 1 standard as established by the Ringlemann Chart.
- (6) *Gases.* Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive.
- (7) *Electrical radiation.* Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation.
- (8) *Airborne matter general.* There shall not be discharged from any source whatsoever such quantities of air contaminants or other materials which cause injury, detriment or nuisance to the public, or which endanger the comfort, repose, health or safety of persons, or which cause injury or damage to business or property.
- (9) *Storage of hazardous substances.*
 - a. *Definition of hazardous substances.* Hazardous substances include hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; hazardous materials are defined by the U.S. Department of Transportation; critical materials and polluting materials as defined by the Michigan Department of Natural Resources, and hazardous waste as defined by the Michigan Department of Natural Resources.
 - b. *Applicability.* These provisions apply to all businesses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month (equal to about twenty-five (25) gallons or two hundred twenty (220) pounds).
 - c. *Above-ground storage.*
 1. Primary containment of hazardous substances shall be product-tight.
 2. Secondary containment of hazardous substances shall be provided for all facilities, subject to site plan review. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 3. Outdoor storage of hazardous substances when permitted in this chapter is prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance, including an allowance for the expected accumulation of precipitation.

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4. At a minimum, state and federal agency requirements for storage, leak detection, record-keeping, spill prevention, emergency response, transport and disposal shall be met.
- d. *Below-ground storage.*
 1. At a minimum, regulations of the Michigan Department of Natural Resources, Michigan Fire Marshal Division, and the city for the installation, inspection, maintenance of a leak detection system, inventory and record-keeping, emergency response and closure must be met.
 2. All underground storage tanks which have been out-of-service for nine (9) months or longer shall be removed from the site before a building permit is issued. This requirement may be adjusted by the fire marshal in situations where a clear timetable for the safe use of the underground tank is established.
 - e. *Plan review and approval.* Site plans for facilities with hazardous substances shall be reviewed by the fire marshal or his/her designee prior to the approval by the planning commission.

(Ord. No. 279, § 5.06, 12-12-96)

Sec. 32-88. Parking lot landscaping requirements.

The intent of these requirements is to enhance the visual environment of the city; to promote public safety; to moderate heat, wind and other local climatic effects produced by parking lots; and to minimize nuisances, particularly noise and glare.

- (1) *Interior parking lot landscaping.* All interior parking lots, except those in the IR and IC districts, shall incorporate and provide curbed tree planting spaces providing not less than fifty (50) square feet of land area for each tree planted. Trees shall be placed somewhat evenly, either symmetrically or asymmetrically, throughout the parking area. The number of trees required shall be based on a ratio of one (1) tree for each six (6) parking spaces, or fraction thereof. The minimum size of all parking lot trees shall be one and one-half (1½) inches caliper at the time of planting. The following types of trees or similar types are considered to be suitable for parking lots and other intense urban conditions:
 - a. White fir.
 - b. Norway maple.
 - c. Tulip tree (Magnolia).
 - d. Austrian and red pine.
 - e. Moraine, skyline, majestic and sunburst locusts.
- (2) *Frontage landscaping.* Street landscaping shall be required along any public right-of-way line of any street, road or highway equal in depth to the required front yard setback. One (1) tree shall be planted for each thirty (30) linear feet of the landscaping strip and shall be located within the required front yard setback.
- (3) *Vision clearance.* To ensure that landscape materials do not constitute a driving hazard, clear vision-site triangles shall be established at all street intersections and at the intersection of site driveways and streets. As provided and regulated in section 32-39 of this chapter. Internal parking lot landscaping improvements should be located to avoid blocking the vision of drivers within the parking lot.

(Ord. No. 279, § 5.07, 12-12-96)

Secs. 32-89, 32-90. Reserved.

ARTICLE VI. OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 32-91. Intent.

The off-street parking and loading requirements of this chapter are established to prevent congestion on public streets by providing clearly defined parking areas that are separated from roadways; to remove the hazard to pedestrians emerging between parked vehicles onto a public street; to facilitate proper storm-water runoff; to prevent the generation of dust into the area; and to make clear the availability and arrangement of spaces to all users.

(Ord. No. 279, § 6.00, 12-12-96)

Sec. 32-92. General parking requirements.

It shall be the duty of both the owner and occupant of any premises to provide off-street parking spaces as required in this article. Such off-street parking areas shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- (1) Whenever a use or an activity requiring off-street parking is created, enlarged or increased in activity or intensity, off-street parking spaces shall be provided on-site and maintained as required by this chapter.
- (2) The amount of required off-street parking for new uses of buildings, additions to existing buildings, new uses of land and accessory buildings shall be determined in accordance with the regulations in effect at the time the new use or addition was proposed, and the space so required shall be shown on the site plan and shall be irrevocably reserved for such use. No such designated parking area shall be changed to any other use unless and until equal facilities are properly approved and provided elsewhere on the site.
- (3) Off-street parking existing at the effective date of this chapter in conjunction with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- (4) Nothing in this section shall be construed to prevent the collective provisions of off-street parking facilities for two or more buildings or uses on separate sites, provided that, collectively, such parking shall not be less than the sum of requirements for the various uses computed separately. The provision for shared parking shall not be construed to allow for development without parking located reasonably proximate to the development it is intended to serve. Parking shall be reasonably distributed to fulfill the parking needs of each use being served and be irrevocably dedicated to each use.
- (5) The planning commission may permit a reduction of the requirement for shared parking for developments in the CBD community business district, subject to the following conditions and findings:
 - a. A study performed by a recognized traffic engineer shall be provided in support of the request.
 - b. The planning commission may reduce the required parking under this section only if the site or sites contain two (2) or more separate and distinct uses which, by their nature, can use shared parking without having an adverse impact on traffic circulation or without impairing the overall functioning of the site or sites. In the event that there is a change of uses that no longer meets

the criteria established for shared parking, the required number of spaces as provided below in section 32-93 shall be installed.

- c. An overflow or reserve area capable of accommodating the required number of parking spaces shall be specified on the site plan that could accommodate an expansion of the existing parking facilities, should that be required. The developer shall execute an agreement, in a form satisfactory to the city, that will obligate the property owners to install additional parking at the city's request if the need arises.
 - d. Any such provisions for collective parking for two (2) or more buildings or uses on the same site or on separate sites shall be set forth in a recordable instrument recorded at the office of the Macomb County Register of Deeds, describing the lands affected by this agreement.
- (6) Where the owners of two (2) buildings, whose operating hours do not overlap, desire to utilize common off-street parking facilities, the planning commission may permit such dual function provided that the following conditions have been met:
- a. The normal business hours of the two (2) buildings or uses in no way overlap, except for custodial personnel. In the event that there is a change of uses that no longer meets the criteria established for shared parking, the required number of spaces as provided below in section 32-93 shall be installed.
 - b. The common parking lot meets the off-street parking requirements of the larger building or more intensive use, plus fifteen (15) percent.
 - c. The common parking lot meets all of the locational requirements of this chapter with respect to each building or use.
 - d. The site plan shall indicate a reserve area that is capable of accommodating the required number of parking spaces, if necessary. The developer shall execute an agreement, in a form satisfactory to the city, that will obligate the property owners to install additional parking at the city's request if the need arises.
- (7) Off-street parking facilities required herein shall be located within three hundred (300) feet of the permitted use it is intended to serve, such distance to be measured along lines of public access to the property between the nearest point of the parking facility and the building to be served, provided that the said off-street parking facility shall not be separated from the building to be served by any major or secondary thoroughfare so designated by the city master plan, drain or physical barrier or public improvement.
- (8) Required off-street parking may not be enclosed with a gate that would permit it to be closed to either employees or patrons.
- (9) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction shall require one (1) parking space.
- (10) Residential off-street parking spaces for one and two-family uses shall consist of a parking strip, driveway, garage, carport, or combination thereof, and shall be located on the premises they are designated to serve. Parking shall be restricted to paved areas. Paved areas shall not be permitted in any required side yard or any required front yard (except the driveway located in the front yard) unless it is necessary to provide access to a side entry garage, detached garage, or side or rear required parking space(s). Horseshoe drives may not be used to satisfy the parking requirements.
- (11) For the purpose of determining off-street parking requirements for all uses, floor area shall mean one hundred (100) percent of the gross floor area as measured at the exterior walls. Where the number of parking spaces is critical to meeting the chapter requirements, measurement of floor area may be taken from the inside of the exterior walls; in such case, the measurement and area must be certified

on the plan by the professional preparer. For those buildings which feature unique interior natural features, such as atriums and landscaped areas, the floor area occupied by such areas may be deducted from the gross floor area used to calculate parking requirements.

- (12) Whenever drive-through or vehicle stacking lanes are provided, such lanes shall be located so as not to impede pedestrian or vehicular circulation on the site or on abutting sites, nor shall any drive-through lane cross a vehicle maneuvering lane or aisle.

(Ord. No. 279, § 6.01, 12-12-96)

Sec. 32-93. Minimum number of off-street parking spaces.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is most similar in type as determined by the planning commission.

(1) *Residential.*

- a. The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or plot of ground other than in the required front yard space of the building they are intended to serve and shall consist of a parking strip, parking apron, carport and/or garage on the basis of two (2) parking spaces for each dwelling unit. Such parking shall be paved to provide not less than two (2) off-street parking spaces in other than the required front yard space.
- b. Multiple-family residential dwellings shall have two (2) paved off-street parking spaces for each one-bedroom dwelling unit. For each additional bedroom over one (1) per unit, one-half (½) additional parking space shall be provided.
- c. Housing for the elderly. Two (2) spaces for each three (3) units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per unit shall be provided and space shown on the site plan to accommodate such a requirement.
- d. Community buildings (multiple-family). One (1) space for each four (4) persons allowed within the maximum occupancy load, as determined by the fire marshal or his official designate.
- e. In multiple-family residential districts if recreation vehicles are permitted, a secured storage area for such vehicles shall be provided and screened from adjacent uses. No unlicensed motor vehicle of any type shall be parked within the development at any time, except within an enclosed building or a screened storage area, as required in section 32-52. All group off-street parking lots shall be adequately lighted during hours of darkness as regulated in section 32-86.

	<u>Use</u>	<u>Required Parking Spaces</u>
(2)	<i>Institutional.</i>	
a.	Auditoriums (incidental to churches, schools and hospitals)	One (1)space for each three (3) seats; plus one (1) for each two (2) auditoriumemployees. If no seats, one (1) for each fifty (50) square feet of floor area.
b.	Churches or Temples	One (1) space for each three (3) seats or six(6) feet of pew in the main worship area; plus spaces for any residential uses,as determined in accordance with the parking requirements established forresidential uses. Additional spaces for ancillary facilities, such as socialhalls, schools, etc. may be required by the Planning Commission.
c.	Convalescent Homes	One (1) space for each two (2) beds; plus one (1)for each staff member.

d.	Elementary and Junior High Schools	Ten (10) spaces, plus one (1) for each employee (including teachers and administrators), in addition to the requirements of the auditorium. Additional spaces for ancillary facilities and activities may be required by the Planning Commission.
e.	Hospitals	One (1) space per bed; plus one (1) space per employee and doctor on peak employment shift. Additional spaces shall be required for ancillary medical office buildings based on their individual requirements. Parking for emergency facilities shall be provided on the basis of one (1) space per one hundred (100) square feet of floor area of the emergency room, patient treatment areas and waiting areas.
f.	Libraries/Museums	One (1) space for every five hundred (500) square feet of gross floor space.
g.	Municipal Offices	One (1) space for each two hundred (200) square feet of gross floor area.
h.	Nursery Schools, Day Nurseries or Child Care Facilities	One (1) space for each employee; plus one (1) space for each four (4) children on the premise at one time. Adequate, but not fewer than five (5), stacking spaces shall be provided for pick-up and drop-off.
i.	Private Clubs and Lodges	One (1) per employee and one (1) space for each three (3) persons allowed within the maximum occupancy load, as determined by the Fire Marshal or his official designate.
j.	Senior High Schools and Colleges	One (1) space for each employee (including teachers and administrators); plus one (1) for each three (3) students; plus the requirements of the auditorium. Additional spaces for ancillary facilities and activities may be required by the Planning Commission.
(3)	<i>Recreational.</i>	
a.	Bowling Alleys	Five (5) spaces per lane, plus parking required for ancillary uses such as restaurants or lounges, as determined in accordance with the requirements of this Section.
b.	Dance Halls, Roller Rinks, Amusement Devise Centers, Billiards, Ice Arenas, Indoor Shooting Ranges, Archery Ranges and Exhibition Halls.	One (1) space per three (3) persons allowed at maximum occupancy load, as determined by the Fire Marshal or his official designate.
c.	Miniature Golf, Par 3 Courses and Driving Ranges	Three (3) spaces for each miniature golf or par 3 golf hole; one (1) space for each driving range tee; plus one (1) space per employee; plus spaces required for any ancillary uses, as determined in accordance with the requirements of this Section.
d.	Private Golf, Swimming or Tennis Clubs and similar uses	One (1) space for each three (3) member families; plus one (1) per employee. If club-houses are provided, one (1) additional space shall be provided for each three (3) persons allowed within the maximum occupancy load, as determined by the Fire Marshal or his official designate.
e.	Public Golf Courses (not including miniature golf, driving ranges or par 3 courses)	Six (6) spaces for each golf hole; plus one (1) per employee; plus spaces required for any ancillary use, such as a restaurant or bar, as determined in accordance with the requirements of this Section.

f.	Public Recreation (other)	One (1) space for every two (2) users at maximum capacity; plus one (1) space for each employee.
g.	Stadiums and Sports Arenas or similar places of assembly	One (1) space for each three (3) seats or sixty (60) inches of benches.
h.	Racquet/Tennis and Exercise Clubs	One (1) space for each two (2) persons allowed within the maximum occupancy load, as determined by the Fire Marshal or his official designate; plus spaces required for any ancillary uses, as determined in accordance with the requirements of this Section.
(4)	<i>Offices.</i>	
a.	Banks	One (1) space for each one hundred (100) square feet of gross floor area. Stacking lanes for drive-thru tellers shall be provided, as required in Section 6.04.
b.	Business Offices or free-standing administrative offices, except as indicated below.	One (1) space for each one hundred fifty (150) square feet of gross floor area.
c.	Clinics, Medical, Dental and Veterinary	One (1) space for each one hundred twenty (120) square feet of gross floor area, or one (1) space for each twenty-five (25) square feet in waiting rooms; and one (1) space for each examining room, dental chair, office or similar use, whichever is greater.
d.	Offices located in the Office Service District	One (1) space for each employee; plus one (1) space for each one hundred fifty (150) square feet of gross floor area.
(5)	<i>Auto-Related Uses.</i>	
a.	Auto Wash, hand or coin-operated	Four (4) exterior waiting spaces at entry, plus two (2) exterior drying spaces at exit shall be provided for each bay; plus one (1) space for each employee.
b.	Enclosed Self-Service two-door time charge car wash	Where all washing and drying operations are designed to take place within the building, four (4) waiting spaces shall be provided for each bay, plus one (1) space for each employee. A properly drained fifty (50) foot long drying lane shall also be provided at the exit of each washing lane or stall in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
c.	Auto Wash, high speed commercial	One (1) space for each employee, plus twenty (20) exterior waiting spaces at entry. A properly drained fifty (50) foot long drying lane shall also be provided at the exit of each washing lane or stall in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
d.	Auto Service Stations (gasoline and repair) and Auto Repair Services, excluding heavy and major repair	In addition to a service space to be provided at each pump, the following requirements shall apply: three (3) spaces for each service bay; one (1) space per employee; plus one (1) space per each one hundred (100) square feet of retail floor area.
e.	Self-Service Gasoline Stations (gasoline and convenience retail; no repair)	In addition to a service space to be provided at each pump, the following additional requirements shall apply: one (1) space for each one hundred (100) square feet of retail floor area; plus one (1) space for each employee.
f.	Heavy and Major Auto Repairs	Three (3) spaces for each service bay. No wrecked vehicles to be parked or stored outside.

g.	Quick Oil Changes	Two (2) spaces per bay; plus one (1) space per employee at the peak shift; one (1) space per two hundred (200) square feet offloor area used for retail sales.
h.	New and Used Vehicle Sales establishments	One (1) space for each three hundred (300) square feet of sales area; one (1) space for each two hundred (200) square feet of office area; and three (3) spaces for each service bay, subject to the requirements of sub-section 5.D.
(6)	<i>Commercial.*</i>	
a.	Greenhouse and Nursery Sales	One (1) space per employee, plus one (1) space per two hundred (200) square feet of actual permanent or temporary areas devoted primarily to sales.
b.	Banquet/Catering Halls	One (1) space for each two (2) persons allowed within maximum occupancy load, as determined by the Fire Marshal or his official designate.
c.	Beauty Parlors/Barber Shops	Three (3) spaces for the first two (2) chairs, plus one and one-half (1½) spaces for each additional chair; or one (1) space for each seventy-five (75) feet of floor area, whichever is less.
d.	Dry Cleaners	One (1) space per each two (2) employees, with a minimum of five (5) spaces.
e.	Funeral Homes/Mortuaries	One (1) space for each fifty (50) square feet of assembly room area and parlors.
f.	Furniture and Appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shop repair and others similar uses.	One (1) space for each five hundred (500) square feet of floor area. For that floor area used in processing or storage, one (1) additional space shall be provided for each two (2) persons employed within or each one thousand (1,000) square feet, whichever is greater.
g.	Laundromats and Coin-operated Dry Cleaners	One (1) space for each two (2) machines.
h.	Motel, Hotel or other commercial lodging establishments	One (1) space for each occupancy unit, plus one (1) space for each employee; spaces required for ancillary uses, such as lounges, restaurants or conference areas, shall be determined on the basis of the individual requirements for each use as specified herein.
i.	Open Air Businesses	One (1) space for each five hundred (500) square feet of lot area used for retail sales, services and uses.
j.	Retail Stores, except as otherwise specified herein	One (1) space for each one hundred fifty (150) square feet of floor area.
k.	Restaurants/Lounges (excluding fast-food or carry-out establishments)	One (1) space for each one hundred (100) square feet of gross floor area, or one (1) space for each two (2) persons allowed within maximum occupancy, as determined by the Fire Marshal or his official designate, whichever is greater.
l.	Restaurants—Fast-Food and Drive-Ins	One (1) space for each two (2) employees, plus one (1) space for each two (2) seats intended for patrons within the restaurant building and one (1) space for each twenty (20) square feet of building floor area available in the order-waiting area, plus six (6) standing spaces for each service window.
m.	Restaurants — Carry-out only	One (1) space per employee, plus fifty (50%) percent of the parking requirement for restaurants with permanent seating.
n.	Specialty Shops	One (1) space for each two hundred (200) square feet of floor space.

* The off-street parking requirements of part 6 of section 32-93 shall be subject to modification by the planning commission in accordance with the criteria set forth in section 32-98.		
(7)	<i>Industrial.</i>	
a.	Industrial, manufacturing, and related accessory offices	One (1) space, per five hundred fifty (550) square feet of gross floor area, with a minimum of five (5) spaces for each tenant or occupancy unit.
b.	Office-Research and Laboratories	One (1) space for each three hundred (300) square feet of gross floor area.
c.	Warehousing	One (1) space for each one thousand five hundred (1,500) square feet of net floor area, plus one (1) space for each employee on the largest typical shift.
d.	Mini-Warehouses or Self-Storage Units	Two (2) spaces for the residential caretaker's unit, plus one (1) space per fifty (50) square feet of floor area used for office purposes.

(Ord. No. 279, § 6.02, 12-12-96; Ord. No. 279-288, § 1, 2-13-20)

Sec. 32-94. Off-street parking space layout standards, construction and maintenance.

Wherever the off-street parking requirements in section 32-93 above require the construction of an off-street parking facility, such off-street parking lot shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefor is issued by the building department. Applications for a permit shall be submitted as per the requirements of site plan review (Article VII).
- (2) Plans for the layout of an off-street parking lot shall have dimensions consistent with the following standards:
 - a. *Ninety-degree pattern:* Parking spaces and maneuvering lanes shall be provided based on one of the following alternatives:

Space Width	Space Length	Maneuvering Width	Two Tiers of Parking & One Maneuvering Lane
9.0	20 feet	24 feet	64 feet
9.5 feet	20 feet	22 feet	62 feet
10 feet	20 feet	20 feet	60 feet

- b. *Sixty-degree pattern:* Fifty-eight (58) feet for two (2) tiers of spaces, and one (1) aisle/maneuvering lane, with minimum aisle width being twenty (20) feet.
 - c. *Forty-five degree pattern:* Fifty-six (56) feet with two (2) tiers of parking spaces, plus one (1) aisle/maneuvering lane of at least twenty (20) feet in width.
 - d. A drive or maneuvering lane shall not be less than twenty (20) feet wide to permit two-way traffic.
 - e. All parking lot stalls shall be striped and maintained.
- (3) Handicapped spaces shall be furnished as required by state law.

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- (4) Parallel parking shall not be permitted.
 - (5) All parking spaces shall be provided with adequate access by means of maneuvering lanes. Spaces shall not be designed to permit backing directly into a street.
 - (6) The entire parking area, including parking spaces, maneuvering lanes and drives required under this section, shall be provided with asphaltic or concrete surfacing in accordance with specifications of the city's engineering design standards chapter. Unless a waiver is granted by the board of zoning appeals for a specified period of time, the parking area shall be surfaced prior to the issuance of the certificate of occupancy for the building or buildings which it serves, or cash deposit or irrevocable letter of credit acceptable to the city in an amount equal to one hundred and ten (110) percent of the estimated cost of the improvement. Any improvements for which a letter of credit or cash deposit has been posted shall be installed by the end of the construction season following the posting.
 - (7) Off-street parking areas shall be drained to dispose of all surface water accumulated in the parking area in such a way as to prevent drainage of water onto adjacent property or toward buildings, and drainage plans shall meet the specifications of the city's engineering design standards chapter.
 - (8) In any area where front-end parking abuts a curbed landscaped area or a raised sidewalk having a minimum width of at least seven (7) feet, the minimum parking stall depth of twenty (20) feet (as otherwise specified herein) may be decreased by up to two (2) feet in depth in order to allow for a vehicle to overhang such landscaped area or such sidewalk. In no case shall the parking stall depth be decreased to allow a vehicle to overhang a required parking setback or property line.
 - (9) Ingress and egress to a parking lot for nonresidential purposes shall not be provided across land zoned for one-family or two-family residential purposes. All such entrances and exits shall also be located at least twenty-five (25) feet from any property zoned for one-family residential use, except as provided in section 32-31.
 - (10) Parking lot lighting shall meet the requirements of section 32-86.
 - (11) The surface of the parking lot area, shall be maintained and kept free from weeds, rubbish, refuse and debris.
 - (12) All parking serving other than one or two-family dwellings or multiple units with each having its own separate driveway shall be side-by-side. Tandem parking shall be prohibited. Tandem parking to a depth of three (3) cars may be permitted in vehicle storage and inventory areas provided such areas are under the control of employees and are not accessible by the general public. Any parking or vehicle circulation areas accessible to the public shall meet the size standards specified in this section.
 - (13) Except as otherwise provided in this article, required off-street parking space shall be for the use of occupants, employees, visitors, customers, clients and patrons. Off-street parking shall not be used for other than parking purposes or allowed to become unusable, except for temporary repairs. The storage of vehicles or merchandise in any off-street parking space is prohibited, except as permitted in conjunction with the principal or accessory use and sale of motor vehicles.
 - (14) The planning commission shall require an access easement to provide for vehicular access to existing or contemplated adjacent parking lots to minimize the need for driveways to each facility and thereby decreasing hazards to vehicular traffic. In such instances, a reciprocal use agreement shall be provided acceptable to the city.
 - (15) Adequate ingress and egress to the parking lot by means of clearly limited and defined paved drives shall be provided for all vehicles. All parking areas shall be provided with an entrance and exit from the abutting public thoroughfare. Such entrance and exit may be combined as one, which shall be thirty (30) feet in width. The number of driveways permitted for each site shall be determined by the planning commission as part of site plan review. In making this determination, consideration shall be

given to the following factors: the location of driveways on adjacent sites and across the street, turning movements and traffic volumes. The location of each such entrance and exit shall be submitted for approval of the Macomb County Road Commission or the Michigan Department of Transportation, as the case may be, and the city. Tapers and bypass lanes shall be required, as determined by the appropriate agency.

- (16) Curbs, meeting the construction standards of the city's engineering design standards chapter, shall be required. The use of bumper blocks is prohibited, except in unique circumstances as determined by the planning commission.
- (17) Side yards shall be maintained for a space of not less than ten (10) feet between the side lot lines adjoining residential lots and the parking area. The depth of the front yard or setback line from the street, as established for houses on any block in any given residential area, shall be continued and made applicable to parking space setback if located adjacent to such residential area; the space between such setback line and the sidewalk shall be landscaped. The barrier specified in the next succeeding section shall be located in such the setback line as herein required.
- (18) Whenever such parking area adjoins residential property and/or residential street or alley, a protective wall or greenbelt shall be erected and maintained between the required yard space and area to be used for parking. On such other locations where a protective barrier is required, the use of an ornamental masonry wall, cyclone fence, and/or dense shrubbery or berm shall provided, as determined by the planning commission (section 32-82). All required walls, fences or other barriers shall be properly maintained, kept free of debris, signs or any advertising whatsoever.
- (19) Entrance to such parking areas shall be only from the adjoining principal use or the adjoining alley or street.
- (20) It shall be unlawful for any person to leave, park or store any motor vehicle or to permit any motor vehicle to be left, parked or stored in a parking lot as permitted in this subsection for a period of longer than eighteen (18) hours, it being the purpose and intent of this provision that the requirement is to provide for keeping parked motor vehicles off the streets, but such requirement is not designed to permit the storage of wrecks or junked cars or vehicles. It shall be unlawful to park or permit to be parked any motor vehicle in such parking area between the hours of 12:00 midnight and 6:00 the following morning, unless the business maintaining such parking area remains open after midnight, in which case said lot shall be closed and all parked cars removed within thirty (30) minutes after said business has closed. Exempt from this provision is the parking of vehicles accessory to the principal use.
- (21) No charge for parking shall be made in an off-street parking area provided under this subsection.
- (22) The use of any loud noise-producing device or public address system shall be prohibited.

(Ord. No. 279, § 6.03, 12-12-96)

Sec. 32-95. Off-street waiting area for drive-thru facilities.

On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement where the automobile engine is not turned off, there shall be provided three (3) off-street waiting spaces for each service window. A waiting space is an area twenty-three (23) feet long by ten (10) feet wide.

(Ord. No. 279, § 6.04, 12-12-96)

Sec. 32-96. Parking structure development standards.

It is intended that the provision of parking within structures or buildings shall serve to increase the value and convenience of related development and to enhance, rather than detract from, the appearance of the overall development. It is further intended that the provision of such facilities shall not negatively impact the safety and security of the public. The following standards, referenced standards, or modifications of standards contained elsewhere in this section shall thus apply to parking structures or garages and developments including such facilities:

- (1) Parking structures shall be physically integrated into the overall design and functioning of the site. The exterior treatment of the parking structure element of a building complex shall be substantially the same in appearance to that of the main building element, and shall further be designed so that all architectural and vehicular lighting is shielded or screened from view from adjacent properties.
- (2) The development of parking structures shall be in accordance with safety and security requirements established by the city as part of site plan review.

(Ord. No. 279, § 6.05, 12-12-96)

Sec. 32-97. Off-street loading and unloading.

On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning and other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys.

Such loading and unloading space, unless otherwise adequately provided for, shall be an area ten (10) feet by fifty (50) feet, with fifteen (15) feet height clearance, and shall be provided according to the following schedule:

Gross Floor Area in Square Feet	Loading and Unloading Spaces Required in Terms of Square Feet of Useable Floor Area	
0 - 1,400	None.	
1,401 - 20,000	One (1) space.	
20,001 - 100,000	One (1) space, plus one (1) space for each 20,000 square feet in excess of 20,000 square feet.	
100,001 - 500,000	Five (5) spaces, plus one (1) space for each 40,000 square feet in excess of 100,000 square feet.	
Over 500,000	Fifteen (15) spaces, plus one (1) space for each 80,000 square feet in excess of 50,000 square feet.	

Such space may occupy all or any part of any required side or rear yard or court space, and no such space shall be located closer than fifty (50) feet to any lot in any residence district, unless wholly within a completely enclosed building or enclosed on all sides by a wall as specified by the planning commission.

(Ord. No. 279, § 6.06, 12-12-96)

Sec. 32-98. Modification of commercial parking requirements by planning commission.

Limited modifications to the minimum off-street parking requirements may be approved by the planning commission in accordance with the following:

- (1) The planning commission may permit an alternative off-street parking standard for a particular use based upon its type, scale, or intensity where the applicant has demonstrated that such modification is appropriate based upon an affirmative finding that one (1) of the following criteria has been satisfied (in order of importance):
 - a. Documentation of other instances of similar land uses in comparable settings within the Detroit metropolitan area and the appropriateness of those parking conditions. If the evidence and data presented under this evidence category is based upon local data that conflicts with evidence and data from a national source, the local evidence and data under this category shall take precedence.
 - b. Statistical information documenting parking demand for the site during the immediately preceding two-year period, any evidence of parking congestion or a need for parking in excess of the amount being proposed, or any projections regarding anticipated increased parking needs arising from any changes to the site arising from the pending request. If the evidence and data presented under this evidence category is based upon site specific information that conflicts with evidence and data from a national source, the site specific information under this category shall take precedence.
 - c. Additional data supporting the proposed parking requirement modification, as deemed appropriate in the discretion of the planning commission and after receiving input from the city planner.
 - d. The average parking demand for the subject use set forth in the most current version of "Parking Generation" by the Institute of Transportation Engineers or, if that document has not been updated within the preceding two (2) years, the most current version or an equivalent authoritative source on the subject of average parking demand.
- (2) If the planning commission modifies off-street parking requirements for the particular site by reducing the number of required spaces in accordance with this section and if there is sufficient land to reserve future parking in compliance with all requirements of this article, the planning commission shall require an area to be reserved on the site plan for deferred installation of additional parking. The reserve parking must be shown on the final site plan submitted for approval and set aside as landscaped open space until the time such parking is required by the city. Additional parking spaces in the reserved parking area shall be constructed by the then current property owner in accordance with the approved site plan within ninety (90) days of a written request from the city after the city has received three (3) complaints of insufficient parking within a one (1) year period of time which are documented by the city's code enforcement officers.
- (3) If the planning commission has previously modified the off-street parking standard for a particular site by reducing the minimum number of required spaces in accordance with this section, and the use for which the off-street parking reduction was granted is terminated, the following shall apply:

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- a. If a new proposed use for the property for which a parking reduction was previously approved requires more parking spaces than the previously approved minimum number, the planning commission may consider a new request to modify off-street parking requirements in accordance with the substantial evidence criteria found in subsection (1)a of this section. In the event that a future parking area was previously reserved under subparagraph (2) of this section, the planning commission may require the owner/operator of the new proposed use to install additional parking spaces sufficient for the new proposed use as a condition of obtaining site plan approval if the owner/operator's request to modify the off-street parking standard is denied by the planning commission.
 - b. If the new use of the property requires parking equal to or less than the number of parking spaces previously installed under a parking reduction approved under this section, the previously granted modification may remain in place.
- (4) In all instances where the planning commission approves a modification of the minimum parking requirements, the owner of the property and the operator of the business on the site (if different) shall execute and deliver to the city a reserve parking agreement in form and substance satisfactory to the city planner and city attorney which requires such owner and/or operator to install additional parking spaces in the future if the city requests it based upon the criteria set forth above. The owner and/or operator shall be responsible for paying for the costs of negotiation, preparation, and recording of such agreement, which shall be completed prior to the final issuance of site plan approval [or issuance of a certificate of occupancy]. The city may require that the owner and/or operator pay a deposit with the city treasurer to cover the costs of the negotiation, preparation, and recording of such agreement at the time the request is made. The city shall refund any excess deposit over the actual costs of document negotiation, preparation, and recording, and the owner and/or operator shall pay any deficiency prior to issuance of any occupancy approval if the deposit is insufficient to cover the actual costs of document negotiation, preparation, and recording.

(Ord. No. 279-288, § 2, 2-13-20)

Secs. 32-99, 32-100. Reserved.

ARTICLE VII. SITE PLAN REVIEW REQUIREMENTS AND PROCEDURES

Sec. 32-101. Intent.

Site plan review provides the city with an opportunity to review the proposed use of a site in relation to all applicable provisions of the zoning chapter and city planning. Site plan review also provides the city with an opportunity to review the relationship of the plan to surrounding uses, accessibility, pedestrian and vehicular circulation, off-street parking, public utilities, drainage, natural features, screening, and other relevant factors which may have an impact on the public health, safety and general welfare.

(Ord. No. 279, § 7.00, 12-12-96)

Sec. 32-102. Planning standards.

In reviewing all applications for site plan approval, the planning commission shall consider the plan in relation to the following standards:

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- (1) *Vehicular access and circulation.* The location and design of driveways providing vehicular access to the site shall be arranged to promote the safety and convenience of vehicles and pedestrians and to provide access in a manner that promotes proper internal circulation. The planning commission shall require public streets adjacent or through a proposed development, when it is necessary for the public health, safety and welfare, and/or provide continuity to the public road system. In those instances where the planning commission determines that there is an excessive number of curb-cuts in relation to abutting public roads, thereby diminishing the capacity of the road or creating excessive points of conflict, a reduction in the number of driveways shall be required.
 - (2) *Relationship to surrounding property.* All site development features shall be arranged to minimize the potential of any negatively impact upon surrounding property. In making this determination, the planning commission shall review the plan for negative conditions such as, but not limited to:

Channeling excessive traffic onto local residential streets.

Adequate screening of parking or service areas.

The impediments to emergency vehicle access.
 - (3) *Relationship to natural features.* All buildings, driveways, parking lots and site improvements shall be designed to be compatible with the physical characteristics of the site, including, but not limited to, woodlands, wetlands, slopes, floodplains and soil suitability. The proposed development shall not needlessly have an adverse impact on the natural environment of the site or the surrounding area.
 - (4) *Infrastructure.* The planning commission shall consider the city engineer's evaluation of the adequacy of public or private services and utilities proposed to serve the site, including water, sanitary sewers and stormwater retention.

(Ord. No. 279, § 7.01, 12-12-96)

Sec. 32-103. Submission requirements.

- (a) A site plan shall be submitted for review and approval by the planning commission whenever one or more of the following conditions apply:
 - (1) Whenever a building permit is required for the erection or structural alteration of a building (other than single-family homes, one two-family structure, farm buildings or accessory structures to these uses).
 - (2) For the construction, use or establishment of a parking or storage area.
 - (3) For all special land uses.
 - (4) For any substantial change in use or lot split class of use when referred by the building official.
 - (5) The erection of, or addition to, any major utility service facilities, including towers, substations, pump stations and similar facilities.
- (b) A required site plan shall include the entire site under the control or ownership of the applicant with all areas proposed for improvement and all unplanned areas also included. All site plans submitted for consideration shall be prepared in accordance with the following:
 - (1) *General site data.*
 - a. The site plan shall be prepared by and carry the seal of the registered architect, landscape architect, community planner, land surveyor or professional engineer who prepared it, and shall consist of one or more sheets necessary to adequately provide the required data.

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- b. The dimensions of all improvements and yards shall be labelled in a manner that clearly indicates the plan's compliance with the applicable zoning chapter standards and requirements.
 - c. Scale and northpoint should customarily be provided at 1" = 20' or 1" = 30'. For large-scale development, 1" = 50' or 1" = 100' may be acceptable, provided all important typical areas and chapter requirements are thoroughly detailed in clearly recognizable form and presented at the customary scale.
 - d. Complete legal description.
 - e. Size of the site expressed in acres.
 - f. Location map (four (4) inches = one (1) mile) showing major roads, nearby cross-streets and property lines, where necessary.
 - g. Zoning of site and all surrounding property. If the site has split zoning, show the line between the districts.
 - h. Proposed address, if available.
 - i. Location of existing structures, improvements and easements. (Indicate if any such structure or improvement is to be removed or adjusted.)
 - j. Location of proposed structures, improvements and easements.
 - k. Yards/setbacks and critical dimensions between buildings and other site improvements.
 - l. Existing improvements within two hundred (200) feet of all property lines (buildings, parking, driveways, sidewalks, signs, fences, walks, etc.).
 - m. Topography at two (2) foot contours (existing and proposed).
 - n. Benchmarks.
- (2) *Building plans.*
- a. All architectural building elevations (label front, sides and rear).
 - b. Type of surface material and design of all exterior surfaces.
 - c. Dimensioned floor plans (principal and accessory buildings).
 - d. Decks and/or patios (dimensions, location, height and materials).
- (3) *Access, parking and circulation.*
- a. Existing and proposed rights-of-way for all abutting roads.
 - b. Location and dimensions of all driveways and street approaches.
 - c. Indicate the type of surface (paving).
 - d. Parking spaces (location, number, dimensions and surface material).
 - e. Parking space (circulation, number required and prohibited).
 - f. Site circulation pattern (direction of pedestrian and vehicular traffic flow if one-way or not obvious from the arrangement).
 - g. Identification of all fire lanes.
 - h. Sidewalks, interior walks and their connection.
 - i. Carport locations and details (including architectural elevations).

(4) *Environmental features.*

- a. Complete landscaping plan, including ground cover and the location, number, type and size of all proposed plantings.
- b. Indications of trees and shrubs shall only be used on the site plan where trees and shrubs exist, or where such vegetation will be planted prior to occupancy. All such trees and shrubs shall be labeled as to size, type and whether existing or proposed.
- c. Whenever a tree or group of trees of three (3) inch caliper or greater is to be removed as part of the planned improvements, the location shall be shown on the site plan in dotted outline and noted "to be removed."
- d. Greenbelts, walls and/or berm details. (Provide at least one cross-section for each type used.)
- e. Site irrigation (sprinklers). Indicate all areas to be irrigated.
- f. Treatment and maintenance of all undeveloped areas (such as seeded, sodded, plantings, maintenance or other).
- g. Trash receptacles and method of screening.
- h. Site lighting details (location, height, type, intensity and shielding).
- i. Sign location. (Dimension setback from the centerline of the road or highway.)

(5) *Other information.*

- a. Location of all site utilities.
 - b. Site drainage characteristics and improvements.
 - c. Park or recreation areas (show boundary and size in square feet).
 - d. Fences (location and details).
 - e. Statistical data shall be furnished, including: number of dwelling units; size of dwelling units (i.e., one (1) bedroom, two (2) bedrooms and three (3) bedrooms), if any; and the total gross acreage involved.
 - f. Where large equipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimensions and other data of all such equipment and/or machinery shall be indicated.
 - g. Methods and facilities that address the impact of operational characteristics of the proposed use.
 - h. Method of screening outdoor appliances and/or mechanical equipment.
- (6) Where it is determined by the planning commission that certain requirements of this section are not necessary to the review and understanding of the site, the planning commission may waive the requirements. Any and all waivers shall be recorded in the commission's minutes, together with the unique circumstances and reasons for such waiver.

(Ord. No. 279, § 7.02, 12-12-96)

Sec. 32-104. Review procedures.

- (a) *Submission.* The proposed site plan shall be submitted concurrently to the building department, or other designated representative, who shall check the submission data and transmit it to the following departments, agencies and consultants:

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- (1) Macomb County Road Commission or MDOT, where appropriate.
 - (2) Macomb County Public Works Commissioner, where appropriate.
 - (3) Public safety department.
 - a. Building department.
 - b. Assessor's office (Check legal description).
 - c. City engineer.
 - d. City planner.
 - e. Planning commissioners (one (1) for each).
 - f. Planning commission file.

Each department, agency or professional shall acknowledge the date of its receipt of the site plan for its inspection and comments. The building official shall next submit the site plan with the available written comments from the various agencies and departments to the planning commission for review at the meeting at which the site plan is placed on the agenda.

- (b) *Planning commission review.* The site plan shall be reviewed by the planning commission with reference to the specific requirements of the chapter, including those items listed above and other factors to be considered by the city in planning and establishing zoning districts as authorized under this chapter. The commission shall also require review and comment from the city planner, city engineer and city attorney, where appropriate. Approval of the site plan (as submitted, or with additions, corrections, or alterations) by the planning commission shall satisfy the requirements of this zoning chapter for the issuance of a zoning compliance permit. It shall not, however, exempt the petitioner from compliance with other city ordinances.
- (c) *Approval period.* A site plan approval shall be valid for one (1) year from the date of approval. If physical improvement of the site is not in actual progress at the end of a year and diligently pursued to completion, the approval shall be null and void unless renewed or extended by specific planning commission action. If approval is not extended before expiration of the one-year period, then a new application and a new approval shall be required before a building permit may be issued.
- (d) *Performance bonds.* Where the planning commission finds it is appropriate, for reasons stated in writing, to the satisfactory completion of the site development in accordance with the site plan, the commission may require a cash deposit or irrevocable bank letter of credit acceptable to the city, covering the estimated cost of improvements associated with a project for which the site plan approval is sought, be deposited with the clerk of the city to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project, and any cash deposits shall be rebated in reasonable proportion to the ratio of work completed on the required improvements as work progresses.
- (e) *Appeals.* An applicant for a site plan approval may appeal the decision or absence of a decision of the planning commission to the city zoning board of appeals under Article XIV of this chapter.

(Ord. No. 279, § 7.03, 12-12-96)

Secs. 32-105—32-110. Reserved.

ARTICLE VIII. ZONING DISTRICTS AND ZONING MAP

Sec. 32-111. Zoning map.

The zoning map of the city, which together with all explanatory matters, is hereby adopted by reference and declared to be a part of this chapter.

Regardless of the existence of purported copies of the zoning map which may from time-to-time be made or published, the zoning map, which shall be located in the office of the city clerk, shall be the final authority as to the current status of zoning of land areas, buildings and other structures in the city.

In the event that the zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council may, by resolution, adopt a replacement zoning map. The replacement zoning map may correct drafting or other errors or omissions in the prior zoning map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereof.

Unless the prior zoning map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

(Ord. No. 279, § 8.00, 12-12-96)

Sec. 32-112. Zoning districts.

The city shall be and is hereby divided into the following classifications of land use districts.

- (1) *Residential and recreation districts.*
 - a. RL — Residential low density one-family district.
 - b. RM — Residential medium density one-family district.
 - c. RH — Residential high density multiple-family district.
 - d. REC — Recreation district.
- (2) *Office and commercial districts.*
 - a. OS — Office service district.
 - b. CN — Commercial neighborhood district.
 - c. CBD — Community business district.
 - d. CG — Commercial general district.
- (3) *Industrial districts.*
 - a. OR — Office research district.
 - b. IR — Industrial restricted district.
 - c. IC — Industrial controlled district.
- (4) *Planned unit development districts.*
 - a. P — PUD overlay district.

(Ord. No. 279, § 8.01, 12-12-96)

Sec. 32-113. District boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

- (1) Unless shown otherwise, the boundaries of the districts are lot lines; the centerlines of streets, alleys, roads, streams and drains or such lines extended; railroad right-of-way lines; and the city limits. Dimensions shown are to the center of the adjacent road or street.
- (2) Where a district boundary divides a site, the location of any such boundary, unless the same is indicated by dimensions shown on the said map, shall be determined by the use of the map scale shown thereon.
- (3) Sites in two (2) or more zoning districts. Where a zoning district boundary line divides a lot into two (2) or more zoning classifications, the regulation and restrictions of the least restrictive classification shall apply to the entire lot if (1) the lot was of record under single ownership used for permitted use at the time of the enactment of the chapter, and (2) the more restricted portion of the lot is entirely within twenty-five (25) feet of such dividing district boundary line.
- (4) Where there is uncertainty or contradiction as to the location of any zoning district boundary due to the scale, lack of detail or illegibility of the zoning map, the zoning board of appeals, upon written application or upon its own motion, may determine the exact location of the zoning district boundary line.
 - a. The district boundaries, as set forth in this section, shall first be considered with reference to the standards cited in section 32-113 above.
 - b. If, after the application of the foregoing standards, uncertainty, contradiction or dispute remains as to the exact location of a district boundary, the zoning board of appeals shall determine and fix the location of said boundary line as all of the facts and circumstances shall reasonably require.

(Ord. No. 279, § 8.02, 12-12-96)

Sec. 32-114. District regulations.

- (a) No structure or land shall be used, occupied, erected, constructed, move or altered, except in conformity with the regulations specified for that zoning district. Unless a use is permitted in a particular zoning district, it shall be prohibited in that zoning district.
- (b) Except as otherwise provided, regulations governing land and building use, minimum lot size, lot area per dwelling unit, building height, building placement, required yards and other pertinent factors are hereby established as stated in the detailed provisions for each of the zoning districts. In each zoning district, a "permitted use" shall be a use of land or buildings subject to the minimum requirements specified for such use in the zoning district in which such use is located, plus applicable requirements found elsewhere in this chapter. A special land use shall be a use of land or buildings which may be permitted in that district only after following special procedures designed to ensure site and use compatibility with existing or proposed surrounding land uses. In evaluating and deciding each application for such permission, the planning commission shall apply the standards contained in Article XII of this chapter and any special conditions imposed for that use.
- (c) Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or permitted activities necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and 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. Such conditions imposed shall meet all of the following requirements:

- (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 construction, 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 chapter for the land use or activity under consideration; and be necessary to ensure compliance with those standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the minutes of the approval action. The city clerk shall maintain a record of conditions and any amendments thereto.

(Ord. No. 279, § 8.03, 12-12-96)

Secs. 32-115—32-120. Reserved.

ARTICLE IX. RESIDENTIAL AND RECREATION DISTRICTS

Sec. 32-121. Provisions applicable to residential districts.

- (a) *[Accessory buildings.]* Accessory buildings in the residential districts shall be subject to the following regulations:
 - (1) Accessory buildings in the multiple-family district shall be limited and regulated as provided in section 32-32.
 - (2) Where an accessory building is structurally attached to a main building, it shall conform to all regulations of this chapter applicable to the main building.
 - (3) Accessory buildings and garages shall not exceed one (1) story of fifteen (15) feet in height, and shall not occupy more than thirty (30) percent of the area of any rear yard, and shall not be nearer than six (6) feet from the rear and three (3) feet from the side lot line; further, that in no instance shall the accessory buildings be so large as to dominate the neighborhood or principal use, nor shall it exceed two-thirds ($\frac{2}{3}$) of the total floor area of the principal building.
 - (4) A detached accessory building incidental to the dwelling shall be located only in a rear yard and shall be a minimum of ten (10) feet from the residence.
 - (5) When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot to the rear of such corner lot.
 - (6) No accessory building shall be constructed prior to the enclosure of the main building.
 - (7) An accessory building, irrespective of location, shall be incidental to the principal permitted use and shall not involve any business, profession, trade or occupation.
 - (8) One (1) private garage shall be permitted for each residential dwelling in which individual access for not more than three (3) private motor vehicles may be provided, notwithstanding the above restrictions.

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- (b) *Dwellings per lot or parcel.* In the one-family districts, no more than one (1) one-family residential dwelling shall be permitted per lot or parcel, except as provided in subsection (f) below, or as permitted under special land use.
- (c) *Dwellings without basements.* Each one-family and two-family dwelling unit without a basement shall provide at least an additional one hundred (100) square feet of floor area for utility rooms and/or storage space greater than the minimum floor area per dwelling unit.
- (d) *Fences, walls, hedges and protective barriers.* The erection, construction or alteration of any fence, wall or other type of protective barrier of any nature, type or description shall be reviewed by the building official for compliance with the requirements of the applicable zoning district and Chapter 9 (Fence Regulations) of the Fraser Code.
- (e) *Location of structures and buildings in a public easement.* No structure or building other than a fence, walk or parking lot may be erected in a public easement.
- (f) *Lot limitations.* In all one-family residential zoning districts, only one (1) principal building shall be placed on a lot of record, with the exception of parcels of record described and designated as "out lots," which may be so arranged or subdivided as to provide for one (1) or more principal buildings when the land area allocated to each building is equal to or greater than the lot area required for the district and the building and land complies with all the other requirements of the district in which it is located; provided further that no building shall be erected on land subdivided in violation of Act 288, Public Acts of the State of Michigan, 1967, as amended.
- (g) *Measuring minimum floor space requirements.* Minimum floor space requirements as established by the various provisions of this chapter for residential dwellings shall be measured from the exterior surface of enclosing walls and the centerline of common partition walls for each dwelling unit. Minimum floor area shall not include cellars or basements, attached garages or attics, unheated breezeways, porches or decks.
- (h) *Mobile homes outside of mobile home parks.*
- (1) Special requirements and conditions.
- a. A building permit issued by the city must be obtained prior to locating a mobile home upon an individual site or lot within the city.
- b. A mobile home or any addition thereto shall be permanently attached to a masonry foundation of a minimum forty-two (42) inch deep and eight (8) inch width, which shall be continuous around the perimeter with anchors placed at intervals of no greater than eight (8) feet. In no instance shall a mobile home be permitted to be located upon concrete piers or cement blocks in lieu of the foundation prescribed herein.
- c. A mobile home sought to be located in a one-family residential district shall meet the minimum structure size requirements of the district in which the unit is to be located.
- d. Any wheels, towing apparatus or exposed chassis shall be removed before a certificate of occupancy is issued for any mobile home located in a one-family residential district.
- e. A mobile home sought to be located in a one-family residential district shall be connected to a public sewer and water supply or to private facilities in accordance with the approved standards of the city and any other agency governing such facilities.
- f. A mobile home sought to be located in a one-family residential district shall contain storage areas, either within a basement, closet area, or in an attic or separate, fully enclosed structure, of a size equal to fifteen (15) percent of the interior living area of the dwelling unit. This storage requirement is in addition to any storage space designed to be used to store automobiles.

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- g. A mobile home sought to be located in a one-family residential district shall comply with all applicable sections of the zoning chapter relative to the district in which the unit is to be located, including, but not limited to, lot size, yard spaces, setbacks, and area and bulk requirements. In addition thereto, the ratio of the length of the principal structure to its width at the narrowest point shall not exceed four (4) to one (1).
 - h. All site improvement requirements pertaining to development of one-family districts, such as, but not limited to, installation of sidewalks, driveways, utilities, or lighting, lot grading and landscaping, shall be applicable to the development of sites upon which a mobile home is located.
 - i. A mobile home sought to be located in a one-family residential district shall comply with all applicable federal, state and local codes, ordinances, regulations, or standards applicable to such units, including, but not limited to, construction standards, city construction codes, and building, plumbing, electrical and mechanical codes.
 - j. A mobile home shall comply with all applicable plat conditions and deed restrictions of the property upon which the unit is to be located.
 - k. A mobile home shall be permitted to be located in a one-family residential district only upon a determination that the unit is similar to nearby housing with respect to the following features:
 - 1. Total size and square footage.
 - 2. Length-to-width proportion.
 - 3. Type of exterior materials used in construction.
 - 4. Style and design of architectural features, including its roofline and overhangs.Where there is no nearby housing of the type proposed to be developed, the applicant may choose a style and type from photos of established housing typical for each zoning district which are kept on record by the building department. A mobile home located in a one-family residential district shall be maintained against deterioration and/or damage from the elements or from any other cause by prompt and appropriate repairs, surface coating and other protective measures. In considering this use, the building official shall further base his decision upon an inspection of the proposed unit.
 - l. All additions to any mobile home shall be aesthetically compatible with and constructed with materials similar to the principal structure.
- (i) *Recreation vehicles and equipment.* Motels, tourist cabins, motor homes, trailers or tents shall not be allowed or considered a legal use in a residential district. This shall not prohibit the storage of recreation vehicles or small utility trailers in the side or rear yard, and which is the property of the occupant, provided:
- (1) The recreation vehicle parked or stored shall not have fixed connections to electricity, water, gas or sanitary sewer facilities, and at no time shall this equipment be used for living or housekeeping purposes.
 - (2) If the recreation vehicle is parked or stored outside of a garage, it shall be parked or stored in the side or rear yard only. The setback requirement from the side and rear yard shall be a minimum of three (3) feet. Corner lots shall observe the same street setbacks as the required side yard.
 - (3) Notwithstanding the provisions of subsection (2) above, a recreation vehicle may be parked in the driveway for active loading or unloading purposes.
 - (4) The city manager or his designate may issue a permit for the parking or storage of a recreational vehicle in a driveway for up to seventy-two (72) hours, upon application showing good cause and

payment of a permit fee as may be set by resolution of the council from time-to-time. The permit shall be displayed in the lower left-hand corner of the front windshield of the recreational vehicle.

- (5) All recreational equipment stored outside must be kept in good repair and carry the current year's license or registration.
- (j) *Residential entranceway.* In all residential districts, so called entranceway structures, including, but not limited to, walls, columns and gates, marking entrances to subdivisions and other residential developments may be permitted and may be located in a required yard, as provided in section 32-85, provided that such entranceway structures shall comply to all codes and ordinances of the city and be approved by the planning commission.
- (k) *Site condominium subdivision.* The intent of these requirements is to ensure that all site condominium subdivisions are developed in compliance with accepted planning and engineering standards applicable to similar forms of development, as reflected in the ordinances and requirements of the city.

One-family detached condominiums may be allowed as a permitted use in any one-family zoning district, subject to site plan review by the planning commission. Commercial and industrial condominiums that result in condominium unit(s) that exceed the building envelope(s) shall also be regulated by this section.

- (1) *Submission requirements.* All site condominium subdivision plans shall be submitted for review, as required by Article VII of this chapter (site plan review requirements and procedures) and Section 66 of the Condominium Act, and include the following additional information:
- a. A boundary survey of the site condominium subdivision-site.
 - b. A plan delineating all natural and man-made features on the site, including, but not limited to, drains, ponds, lakes, streams, floodplains, wetlands and woodland areas.
 - c. The location, size, shape, area and width of all condominium units and common areas and the location of all proposed streets.
 - d. A copy of the master deed and a copy of all restrictive covenants to be applied to the project. Such deeds shall include an acceptable means of converting the project to a platted subdivision, under the provisions of Act 228 of 1969, at some future date.
- (2) *Review procedures.* Pursuant to authority conferred by Section 141 of the Condominium Act, all condominium subdivision plans for site condominium projects shall require approval by the planning commission before units may be sold or site improvements initiated. In determining whether to approve a site condominium subdivision plan, the planning commission shall consult with the city Attorney, planner and engineer regarding the adequacy of the submission as it relates to this chapter and requirements of the Condominium Act. The review process shall consist of the following two steps:
- a. *Preliminary plan review.* In the preliminary review phase, the planning commission shall review the overall plan for the site, including basic road and unit configurations and the consistency of the plans with all applicable provisions of this chapter. Plans submitted for preliminary review shall include information specified in items a. thru c. of the submission requirements [subsections (k)(1)a. through c. of this section].
 - b. *Final plan review.* Upon receipt of preliminary plan approval, the applicant shall prepare the appropriate engineering plans and apply for final review by the planning commission. Final plans shall include information as required by the submission requirements. Such plans and information shall be reviewed by the city attorney, engineer and planner. Further, such plans shall be submitted for review and comment to all applicable local, county and state agencies. Final approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on said plans.

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- c. *District requirements.* The development of any site condominium subdivision shall observe the applicable yard setback and minimum floor area requirements of the zoning district within which the project is located. The density of the project (including the number of dwelling units per acre in residential projects) shall be no greater and spacing (yards) no less than would be permitted if the property were subdivided.
 - d. *Design standards.* All development in a site condominium subdivision shall conform to the design standards of Chapter 26 of the city Code, being Articles VII and VIII. This includes the requirement that all streets and roads be dedicated to the public. Street connections shall be required, where necessary, to provide continuity to the public road system.
 - e. *Utility easements.* The site condominium subdivision plan shall include all necessary easements granted to the city for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including the conveyance of sewage, water and stormwater run-off across, through and under the property, subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures.
 - f. *Final acceptance.* The city shall also require all the appropriate inspections. After construction of the site condominium subdivision, an as-built reproducible mylar of the completed project shall be submitted to the city for review and approval by the city engineer. A final certificate of occupancy and any building bonds will not be released to the developer/owner until said as-built mylar has been reviewed and accepted by the city.
 - g. *Conversions.* A majority of co-owners, as defined pursuant to Condominium Act, Public Act 1978 No. 59, as amended, may require that the project be platted in accordance with the Subdivision Control Act of 1967. Public Act 1967 No. 288. Platting of such condominium projects shall not terminate the project unless four-fifths ($\frac{4}{5}$) of co-owners vote for such termination.
- (l) *Cluster housing option.* The intent of the provisions in the cluster housing option is to encourage the design and development of land with significant environmental qualities or with other unusual characteristics or physical features in a creative, innovative manner which accomplishes one (1) or more of the following:
- (1) Preserves the city's natural resources, including woodlands, wetlands, topography, floodplains and similar natural assets.
 - (2) Encourages a creative approach to the development of parcels exhibiting unusual characteristics and/or land use relationships.
 - (3) Provides alternatives to conventional subdivision development.
 - (4) Provides common areas with recreation opportunities of both a passive and an active nature.

The cluster housing option shall be available at the developer's option in all single-family districts as a permitted use, subject to parcel qualification and site plan approval by the planning commission. The qualification of a parcel and plan approval are the two (2) distinct steps required to develop a parcel of land under the cluster housing option.

1. *Submission requirements for qualification of parcel.* All parcels proposed by a developer to be developed under the cluster option must meet the qualification criteria set forth in subsection 2 below. In order for the planning commission to determine whether the qualification criteria are satisfied, the developer shall submit documentation substantiating one (1) or more of the characteristics set forth in subsection 2 of this section and shall provide a recent aerial photograph depicting the entire site (not more than five (5) years old), and provide a preliminary plan (drawn to scale) showing how the developer intends to develop the parcel. The preliminary plan shall include:

-
- (a) A boundary survey of the proposed cluster development site, showing the relationship of abutting properties and/or structures.
 - (b) The placement and basic configuration of buildings and structures.
 - (c) The circulation pattern of the site, both vehicular and pedestrian.
 - (d) A plan showing all natural features of the parcel, including but not limited to drains, ponds, lakes, streams, floodplains, wetlands and woodland areas.
 - (e) An open space/conservation plan.
 - (f) A yield plan specifying the maximum number of lots or units (which shall not be less than two (2)) that the parcel could yield if developed as a conventional subdivision plat or as (or as a site condominium) meeting all of the applicable requirements of the City of Fraser Zoning Ordinance, Subdivision Regulations, and Land Division Ordinance, the Michigan Condominium Act, and the Michigan Land Division Act as applicable. The planning commission shall determine the validity of the yield plan based upon current city ordinance and other applicable regulations and determine the total number of lots or units permissible, after obtaining input from the city's planning consultant and the city attorney.
2. *Qualification criteria.* In order for a parcel of land to qualify for development under the cluster option, the planning commission must determine based upon the information presented that the parcel contains one (1) or more of the following characteristics:
- (a) The parcel contains natural assets which would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land which serves as a natural habitat for wildlife, wetlands, bodies of water (i.e., streams, rivers, etc.) or other natural assets which are worthy of preserving.
 - (b) The parcel contains substantial portions of flood plain and wetlands worthy of preserving. A flood plain and wetlands map, certifiable by the appropriate federal, state or county agency, indicating the extent of the wetlands and flood plain area, shall be submitted to the planning commission in order to support the proposal for the parcel's qualification under the cluster option.
 - (c) The parcel is either too small or unusually shaped to be reasonably platted as a conventional subdivision development, or developed as a conventional site condominium development.
 - (d) A substantial part of the parcel's perimeter is bordered by a major or secondary thoroughfare which would result in a substantial proportion of the lots in a conventional subdivision development or units in a conventional site condominium development abutting the thoroughfare, subjecting the occupants of lots or units to disturbance by vehicular traffic, noise and lights.
3. *Planning commission review for qualification of parcel.*
- (a) The planning commission shall make findings as to whether the parcel qualifies for cluster housing under the criteria set forth in subsection 2 above. The planning commission may deny qualification if the yield plan submitted does not comply with applicable city requirements, or if the parcel does not contain any of the characteristics set forth in subsection 2 above. If the planning commission determines that the parcel does not qualify for development under the cluster option, then the developer may submit a plan for development as a conventional subdivision, site condominium, or as a development pursuant to an approved land division provided such plan complies with all applicable codes and ordinances.
 - (b) If the planning commission determines that the developer's parcel qualifies for cluster housing, the developer may proceed to the site plan approval stage of the process.

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4. *Site plan review submission process.* After the developer obtains qualification of the parcel for development under the cluster housing option, the developer must proceed with site plan approval of the project. Site plan approval shall be done under article 7 (general site plan requirements, or Article 9, subsection 32-121(k) (site condominium requirements), or Article 12 of the zoning ordinance (PUD requirements), or under the subdivision regulations (conventional platting), depending on the form of the proposed development. The plan must meet all of the applicable requirements of the chapter, except as specifically modified by this subsection (l).
5. *Design requirements.*
- (a) The placement of housing units and other improvements shall be designed in such a way as to preserve wetland, floodplain, and/or wooded areas contained on the site. There shall be no development or modification of any kind within a designated wetlands or flood plain area without there first being issued a use permit by the Department of Environmental Quality (MDEQ), Army Corps of Engineers, FEMA, etc.
 - (b) Sidewalks are required along all major, secondary and collector roads.
 - (c) Except as provided herein, the height and bulk requirements of the applicable residential zoning district shall apply (all units shall be built as detached single-family residential units).
 - (d) The entrance and roadways shall be landscaped and planted with street trees, to create an attractive vista. Such trees shall be planted no more than thirty (30) foot on center. The trees shall meet the size and species requirements of article 5 of this chapter.
5. *Roads.* Roadways shall conform to the standards of the city or the Macomb County Road Commission.
6. *Open space requirements.*
- (a) Within the cluster housing development, a minimum of twenty (20) percent of the total parcel shall be in open space or preservation areas. Only those areas not individually owned or part of a limited common area which are designed and intended to preserve environmental features for the common use and enjoyment of all of the residents of the development shall be considered open space. They may include recreation, forestry, preserved open space, community gardens, and common wetland or woodland areas. Open space shall not include golf courses or other exclusionary commercial recreation areas, preserved areas or setback areas within a lot or unit, or land area dedicated as limited common element areas in a site condominium development.
 - (b) Such open space shall be preserved by a provision, satisfactory to the city, to assure that the amenities and those areas shown on the plan for use by the public or occupants of the development will be, or have been, irrevocably committed for that purpose. Preservation mechanisms such as the following may be acceptable:
 - (1) A conservation easement.
 - (2) A plat dedication.
 - (3) A restrictive covenant.
 - (4) A master deed containing satisfactory provisions.
 - (5) Distribution, gift or sale of the development rights to all property owners within the cluster housing development.
 - (6) Other mechanisms determined to be acceptable by the city attorney.Further, the instrument establishing the preserved open space area shall specify all proposed uses of the dedicated open space, which shall be shown on the approved cluster housing development plan. The instrument shall also establish a maintenance schedule,

funding mechanism, and insurance and indemnity requirements to insure that operation and maintenance of the open space area is done in a satisfactory manner to the city. A homeowner's or condominium association shall be formed by the developer, and the association shall be responsible for maintenance of all open space areas after the developer has turned over control of the association to the owners.

- (c) A minimum of fifty (50) percent of all dwelling units within the development shall abut the dedicated open space.
 - (d) Trailways shall be located throughout the open space and shall link the internal sidewalk/walking path system of the housing development with the open space areas. Such trail ways shall be a minimum of five (5) feet in width and constructed of asphalt in upland areas and wood plank decking in wetland areas (subject to obtaining approvals from the Michigan Department of Environmental Quality).
 - (e) Upland open space areas shall be planted with native prairie grass or similar types of ground cover. In addition, five (5) trees of species native to Michigan, which are indigenous to the state shall be planted for each one half (½) acre of such open space area. Deciduous trees shall be a minimum size of two and one-half (2½), caliper and evergreen trees shall be a minimum of six (6) feet in height.
7. *Setbacks.* The following building setbacks shall be required:
- (a) Exterior yard. Lots or units which abut a major or secondary thoroughfare shall maintain the required front yard setback from the road centerline of the road as required by the zoning district.
 - (b) Front yard. The minimum front yard setback within a cluster development shall be fifty (50) feet within the RL zoning district and forty-five (45) feet within the RM district as measured from the centerline of the road*.

*When a lot or unit within a cluster development abuts a lot or unit on a sideyard-to-sideyard basis which is conventionally developed using conventional setbacks, the required front yard setback within the cluster development shall be reduced by no more than five (5) feet than that required, for the lot directly abutting such conventionally platted lot. An increased front yard setback reduction may be implemented on a graduated basis so that the setback reduction for each lot or unit is no more than five (5) feet greater than the immediately adjacent lot or unit closest to the conventionally developed lot or unit until the maximum setback reduction is obtained.
 - (c) Side yard. Five (5) feet side yard setbacks. No two (2) principal structures shall be located within ten (10) feet of each other.
 - (d) Rear yard. The rear yard setback for lots or units with rear lot lines that abut the open space area may be reduced by one (1) linear foot in depth for each one (1) linear foot of open space depth which abuts the entire length of the rear lot line. The rear yard setback of any lot or unit with a rear lot line that does not abut the open space or which abuts the exterior boundary of a project shall maintain the rear yard setback of the zoning ordinance.

(Ord. No. 279, § 9.00, 12-12-96; Ord. No. 319, § 1, 1-9-03)

Sec. 32-122. One-family residential districts.

The one-family districts are established to provide principally for one-family dwellings at varying densities. The specific interest of these districts is to encourage the construction and continued use of one-family dwellings

and to prohibit the use of the land which would substantially interfere with the development of one-family dwellings and to discourage any land use which, because of its character and size, would create requirements and costs for public services substantially in excess of those at the specified densities and to discourage any land use which would generate excessive traffic on local streets.

(1) *Permitted uses:* (x designates district in which permitted).

	Districts	
	RL	RM
a. City Buildings and Uses	x	x
b. Gardening *	x	x
c. Existing Cemeteries	x	x
d. Home Occupations as defined in Section Article 16 **	x	x
e. One-Family Dwellings	x	x
f. Accessory Buildings (see Section 9.00.A.)	x	x

* For the purpose of this section, the term "gardening" shall mean the raising of vegetables, fruit, flowers, shrubs and trees, provided such use is not operated for commercial purposes.

** No person other than members of the family residing on the premises shall be engaged in a home occupation and all such occupations shall meet the following standards: (Administrative only occupations may be considered accessory to the dwelling by the building official, provided no large delivery vehicles, clients or customers come to the dwelling).

1. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and, not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used for the purposes of the home occupation and shall be carried out completely within such dwelling.
2. There shall be no change in the outside appearance of the structure or premises or other visible evidence of the conduct of such home occupation.
3. Such home occupation shall not require internal alterations or construction features, equipment, machinery, outdoor storage not customary in residential areas.
4. One (1) non-illuminated nameplate, not more than two (2) square feet in area, may be permitted, which shall contain only the name and occupation of the resident of the premises and mounted flat against the wall of the dwelling.
5. No home occupation shall be conducted, in whole or in part, in any accessory structure, attached or detached, including garages, breezeways, porches, patios and the like.
6. There shall be no sales of any goods, articles or services on the premises, except such as is produced by such approved home occupation.
7. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.
8. 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 of persons off the lot. In the case of electrical interference, no equipment or process shall be

used which creates visual or audible interference with any radio or television receivers off the premises, or cause fluctuations in line voltage off the premises.

Handicapped persons applying for home occupation permits may be excused from certain provisions of this section by the zoning board of appeals, based on necessity.

- (2) *Special land uses:* (x designates district in which use may be permitted). The following special land uses and any use similar to those uses set forth in this section may be granted approval by the planning commission if determined to be in accordance with the provisions of article XII of this chapter.

		Districts	
		RL	RM
a.	Cemeteries without crematoriums (section 32-162).	x	x
b.	Churches (section 32-163).	x	x
c.	Reserved.		
d.	Day-care centers and nursery schools (section 32-167).		x
e.	Funeral homes and mortuaries, not including crematoriums (section 32-171).	x	x
f.	General education schools (public, parochial and private) (section 32-174).	x	x
g.	Group day-care (section 32-177).	x	x
h.	Nurseries and greenhouses (section 32-180).	x	x
i.	Planned unit development (section 32-183).	x	x
j.	Private clubs, fraternal and lodge halls (section 32-184).	x	x
k.	Private noncommercial recreation (section 32-185).	x	x
l.	Public buildings and recreation (section 32-186).	x	x
m.	Public utility buildings without storage (section 32-187).	x	x
n.	Transitional uses (section 32-189).		x
o.	Twenty-four hour operations (section 32-190).		x
p.	Two-family dwellings (section 32-191).		x

- (3) *Minimum yard requirements.*

		Districts	
		RL	RM
a.	Lot area (acres and square feet) **	10,200	7,800
	Without public water and sewer	14,000	12,000
b.	Lot width (linear feet) **	85	65
	Without public water and sewer	90	80
c.	Lot depth ***	142/156	120/150
d.	Front and street side	****	****
e.	Rear yard	40	30
f.	Side yard (least side/total both)	5/15	5/13

**The minimum size or lot area and width for one-family districts may be reduced as provided in the city's subdivision regulations and section 32-36 of the zoning ordinance. In no case shall a side yard setback be reduced below five (5) feet. No one-family lot shall have a depth greater than four (4) times its width.

***With the approval of the planning commission, where the size and shape of the parcel or the proposed curvilinear road pattern requires greater flexibility in subdivision design, a platted

subdivision may be permitted to contain not more than fifteen (15) percent of all lots with less than the minimum lot depth. Where such permission is granted, the minimum lot width of such lot shall be increased by two (2) feet in all residential districts for each one (1) foot reduction in lot depth; however, in no case shall the lot depth of any one-family residential district be decreased by more than ten (10) feet from the depth standard contained herein.

****Front and street-side setbacks shall be measured (in feet) from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan as follows, provided that where a front yard of greater or less depth than the required setback exists in front of more than fifty (50) percent of the lot of record on the side of the street in the same district, the depth of the front yard for any building thereafter erected or placed on any lot in such block shall be not less than the average depth of front setbacks of such existing block, and may be less than the required setback if approved under these conditions by the building official.

There shall be a minimum side yard of at least five (5) feet to any property line and a minimum distance of ten (10) feet between any buildings. This area is required to provide adequate side yard drainage on the subject site and between adjacent parcels. An accessory structure, such as a shed, shall be located within five (5) feet of any side or rear property line. (See also section 32-38).

A storm drainage plan shall be submitted for all subdivisions, site condominiums and land divisions. No building permit for new housing, additions or garages shall be issued without a building plot plan which shows adequate storm drainage.

		Districts	
Road Classification		RL	RM
a.	Major	90	85
b.	Secondary	90	85
c.	Collector	73	68
d.	Local	60	55
e.	Cul-de-sac radius	90	85
f.	Existing private road (In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot)	30	25
g.	Rear yards that abut rear yards minimum measurement from the road right-of-way shall not be less than:	20	15

(4) *Building requirements.*

		Districts	
		RL	RM
a.	Maximum height (stories/feet)	2/30	2/30
b.	Maximum lot coverage (percent)	25	30
c.	Minimum floor area (square feet):	1-2 Bd./3-Bd.	1-2 Bd./3-Bd.
	1-story aggregate	1,200/1,380	1,080/1,200
	1½-story 1st floor	940/1,100	800/960
	1½-story aggregate	1,340/1,500	1,200/1,340
	2-story 1st floor	750/1,000	650/800
	2-story aggregate	1,500/1,800	1,300/1,500

d.	The ratio of the length of the principal structure to its width at the narrowest point shall not exceed four (4) to one (1).
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NOTE: Tri-level structures shall meet the minimum floor area requirements for story and one-half buildings and quad-levels shall meet the minimum floor area requirements for the two-story buildings.

- (5) *Environmental and off-street parking.* Environmental (landscaping, lighting, screening and signs) and off-street parking improvements shall be provided in accordance with articles V and VI of this chapter.

(Ord. No. 279, § 9.10, 12-12-96; Ord. No. 314, § 1, 11-8-01; Ord. No. 319, § 1, 1-9-03)

Sec. 32-123. Multiple-family residential district - RH.

The RH residential high density multiple-family district is designed to permit a more intensive residential use of land with various types of multiple dwellings and related uses. Various types and sizes of residential accommodations for ownership or rental are thereby provided to meet the needs of the different age and family groups in the city.

- (1) *Permitted uses.*
 - a. All principal permitted uses and special land uses permitted and as regulated in the immediate abutting one-family district.
 - b. Two-family buildings, as regulated in section 32-191 (special land use approval not required).
 - c. Apartments.
 - d. Multiplexes.
 - e. Townhouses.
 - f. Accessory buildings and signs are regulated under sections 32-121(a)(2) through (8) and 32-85, respectively.
 - g. Only those uses specifically permitted in this section shall be allowed in a RH district. In order to clarify the type of permitted uses, the following uses, among others, are specifically prohibited:
 - 1. Rental offices as an accessory building to the multiple development;
 - 2. Tourist home, lodging house, a boardinghouse;
 - 3. Motel or hotel.
- (2) *Special land uses.* The following special land uses and any use similar to those uses set forth in this article may be granted approval by the planning commission if determined to be in accordance with the provisions of article XII of this chapter:
 - a. Churches (section 32-163).
 - b. Colleges and universities (section 32-165).
 - c. Convalescent and nursing homes or hospices (section 32-166).
 - d. Day-care centers and nursery schools (section 32-167).
 - e. General hospitals (section 32-175).
 - f. Group day-care (section 32-177).

- g. Housing for the elderly or senior citizen housing (section 32-178).
- h. Planned unit development (section 32-183).
- i. Public utility buildings, without storage yards (section 32-187).
- j. Twenty-four-hour operations (section 32-190).

(3) *Minimum site and building requirements.*

- a. Minimum gross site area in square feet per dwelling unit for each two-family or multiple dwelling shall provide the following area for each dwelling unit by type:

RH District:	Multiplex	Townhouse	Apartment
1-Bedroom	4,500	3,200	3,200
2-Bedroom	5,000	4,000	3,600
3-Bedroom	5,500	4,800	4,000

Plus an added five hundred (500) square feet for each additional bedroom over three (3).

Where an acceptable recreation, open space, commons area is part of the total development, or when land is dedicated for public purpose (such as a school and/or park site) from the total development acreage, the planning commission may reduce the minimum land area per dwelling unit. The above schedule may be modified for one to three-bedroom units by providing a deduction from the gross area minimums to a net area (gross area minus recreation and open space area) that may yield a reduction not less than the following:

RH District:	Multiplex	Townhouse	Apartment
1-Bedroom	4,000	2,100	3,000
2-Bedroom	4,500	3,200	3,400
3-Bedroom	5,000	4,000	3,800

* Efficiency units shall be regulated the same as one (1) bedroom units.

- b. All lots used for multiple-family buildings or two-family buildings in these districts must be provided with an approved water and sewage system. (In no case shall any lot have less than twenty thousand (20,000) square feet and one hundred (100) foot frontage.)
- c. Plans presented which include a den, library or extra room shall have such extra room counted as a bedroom for purposes of this chapter.
- d. Each development shall be limited to a maximum of ten (10) percent efficiency units unless, because of unique design features, the planning commission shall find a higher percentage desirable.
- e. Well-defined and improved recreation areas and facilities, such as parks, playgrounds, swimming pools and community buildings, shall be provided to the extent necessary to meet the anticipated needs of the residents of the development. The minimum number of square feet of recreation area and/or facilities shall be provided, in addition to all required setbacks and spacings between buildings and be provided on a per unit basis according to the following schedule:

Bedrooms	Townhouse	Multiplex	Apartment
1	400	300	200
2	500	400	300

3	750	600	500
4	1,000	800	750

Natural open space may be included and credited for up to one-half (½) the requirement, upon planning commission approval.

Provisions of separate adult and youth recreation areas is encouraged. Recreation facilities generally shall be provided in a central location and should be convenient to all users. In larger developments, however, recreation facilities may be decentralized or part of an approved open space area plan.

- f. For the purpose of yard regulations, each multiple-family structure shall have front, side and rear yard. Minimum spacing between one and two-story buildings within the multiple-family development shall be in accordance with the following schedule:

Schedule of Building Relationships	Overall Distance Between Buildings In Feet (Parking Area Excluded *)	
Front-to-Front	60	
Front-to-Rear	70	
Rear-to-Rear	80	Add 20 feet to each if building is 2½ stories high
Front-to-Side, with no openings **	50	
Rear-to-Side, with no openings **	50	
Side-to-Side, with no openings **	20	
Corner-to-Corner	25	

Spacing of buildings that are no greater than one-story in height may be given special consideration by the planning commission in reducing the distance requirements as guided by the formula in subsection (4)b.2. following.

* Parking may be permitted in up to fifty (50) percent of either the required front or rear yard, provided that there shall be at least twenty (20) feet of landscaped yard space between said parking area and the building. Tandem parking is prohibited. Townhouse and multiplex developments with carports shall not use drives or approaches for parking. Multiple-family buildings with garages may use drives for parking, as provided in section 32-94.

** If windows are present in any wall facing any other windowed wall(s), then the minimum spacing between buildings shall be equal to twice (two (2) times) that shown on the Schedule of Building Relationships, but in no case greater than the front-to-front relationship for the applicable district.

The minimum perimeter and interior yard spacing requirements may be reduced by up to ten (10) feet upon approval of the planning commission for architectural or site planning purposes, provided the yard space on the opposite side of the building is increased by the same amount (for example, if a front yard is reduced by ten (10) feet, then the rear yard shall be increased by ten (10) feet).

- g. No multiple-family building shall exceed one hundred twenty (120) feet in length along any one face of the building. The depth of any court shall not be greater than three (3) times the court's width.
- h. The front and rear of each building shall be considered to be the faces along the longest dimensions of said building or to be the direction indicated on the drawing by the designer,

provided it is not inconsistent with the floor plan of the individual unit; and the side of the building shall be considered to be the face along the narrowest dimension of said building.

- i. Service drives for ingress and egress shall have minimum widths as follows: eighteen (18) feet for a one-way drive and twenty-four (24) feet for a two-way drive. All drives shall be hard-surfaced, as required under Article VII in this chapter.
 - j. Landscaping. Areas of the site not required to be hard-surfaced shall be sodded and, where appropriate, planted with trees and shrubs as provided in section 32-84 of this chapter. The planning commission may also approve decorative plants and art objects which must be maintained as required for greenbelts and planted strips under this chapter.
 - k. Lighting. Adequate lighting facilities shall be provided for service drives and parking areas and indicated on the site plan approved by the planning commission. Lighting shall not exceed the standards provided in section 32-86 of this chapter.
- (4) *Building requirements.*
- a. Maximum height of each building:
 - 1. *In stories:* Three (3).
 - 2. *In feet:* Thirty-five (35). (No dwelling units shall be allowed below grade.)
 - b. Minimum yard setback from the project's perimeter:
 - 1. *Front.* One hundred twenty (120) feet from centerline of the right-of-way, with no parking permitted in the first eighty-five (85) feet of required front yard space, as measured from the centerline of the right-of-way.
 - 2. *Side.* No building shall be closer than seventy (70) feet to any local public street right-of-way and no closer than $10 + (10 \times \text{number of stories})$ in feet to any other property line. Yards abutting an existing or proposed major, secondary or collector thoroughfare(s), as shown on the city's master plan, shall have a minimum setback depth of one hundred twenty (120) feet from the roadway centerline.
 - 3. *Rear.* Fifty (50) feet, or as required in subsection (4)b.2. above, whichever is greater.

The perimeter side or rear setbacks may be reduced up to fifty (50) percent by the planning commission in instances where the design of the building(s) orients the visual accessibility and living areas to a courtyard or other open space away from the side or rear lot line.
 - c. Minimum floor areas for multiple-family shall be as follows:
 - 1. *Efficiency unit.* The term "efficiency unit" shall mean a dwelling unit containing a minimum of three hundred twenty (320) square feet of floor area and consisting of not more than one (1) room in addition to kitchen, dining and necessary sanitary facilities.
 - 2. *One-bedroom unit.* The term "one-bedroom unit" shall mean a dwelling unit containing a minimum floor area of at least six hundred (600) square feet per unit, consisting of not more than two (2) rooms in addition to kitchen, dining and necessary sanitary facilities.
 - 3. *Two-bedroom unit.* The term "two-bedroom unit" shall mean a dwelling unit containing a minimum floor area of at least eight hundred (800) square feet per unit, consisting of not more than three (3) rooms in addition to kitchen, dining and necessary sanitary facilities.
 - 4. *Three or more bedroom unit.* The term "three or more bedroom unit" shall mean a dwelling unit wherein for each room, in addition to the three (3) rooms permitted in a two (2)

bedroom unit, there shall be provided an additional area of two hundred (200) square feet to the minimum floor area of eight hundred (800) square feet per additional bedroom.

In addition to the above minimum floor area per unit, thirty-two (32) square feet shall be provided in each unit for utilities space (washer, dryer and work space). Buildings with enclosed common tenant or occupant hallways, such as apartment structures, may provide central utility rooms in lieu of the individual unit spaces required above. In each building where a central utility room is permitted, internal access shall be provided from each dwelling unit; the central utility room shall contain twenty (20) square feet for each dwelling unit in the building; and there shall be one (1) washer and one (1) dryer for every four (4) dwelling units or fraction thereof.

(5) *Environmental and off-street parking.*

- a. Environmental (landscaping, lighting, screening and signs) and off-street parking improvements shall be provided in accordance with Articles V and VI of this chapter.
- b. Where any recreation vehicles are permitted in the development, adequate fenced, locked or secured and visually buffered parking and storage spaces shall be provided in addition to those required in subsection (5)a. above. Such parking shall be collective and in a central location. In no case, however, shall a recreation vehicle be parked or stored closer than thirty (30) feet to any building or site boundary line.
- c. Parking or storage of commercial vehicles or trailers on the premises is prohibited.

(Ord. No. 279, § 9.20, 12-12-96; Ord. No. 390, § 1, 10-11-18)

Sec. 32-124. Recreational district - REC.

The REC recreational district is a unique district established to provide principally for the golf course in the city, as well as other principally outdoor type recreation uses.

(1) *Permitted uses.*

- a. All permitted uses in RM districts, provided such uses comply with the regulations established for these uses in their respective zoning districts.
- b. Private parks and outdoor recreational facilities, together with their accessory uses, upon approval of the planning commission and subject to the standards of section 32-153.
- c. Signs and nameplates, as specified under section 32-85.

(2) *Minimum area, height and placement requirements.*

- a. Minimum size of lot:
 1. *Area:* One (1) acre.
 2. *Width:* One hundred (100) feet.
- b. Maximum height of any structure:
 1. *In stories:* Two and one-half (2½).
 2. *In feet:* Thirty-five (35).
- c. Minimum yard setbacks:
 1. A minimum yard of twenty-five (25) feet shall be required; provided, however, no building or structure, in conjunction with any recreational use, shall be located closer than twenty-

five (25) feet or a distance equal to the height of the building or structure, whichever is the greater, from any lot line or zoning district line.

2. No activity shall take place within twenty-five (25) feet of the perimeter of the recreation area. All such activities shall be adequately screened from abutting residentially zoned property by means of a protective wall or greenbelt, as described in section 32-82.
 3. Related accessory commercial uses may be permitted in conjunction with recreation use when it is clearly incidental to the main recreational character of the use, and such related accessory uses shall not include the sale, servicing or repair of any vehicles or equipment used on the site, except that owned by the proprietor.
- d. Off-street parking:
1. There shall be one (1) parking space for every two (2) member families or individuals in private clubs and/or one (1) parking space for every two (2) users at maximum capacity, plus one (1) space for each employee in public courses.
 2. All off-street parking shall be constructed to the standards shown in Article VI.

(Ord. No. 279, § 9.30, 12-12-96)

Secs. 32-125—32-130. Reserved.

ARTICLE X. OFFICE AND COMMERCIAL DISTRICTS

Sec. 32-131. Provisions applicable to office and commercial districts.

- (a) *Exterior facing materials.* The exterior of all buildings hereafter erected shall be constructed of aesthetically pleasing brick and/or stone building materials. Other durable, decorative building materials may be approved by the planning commission in instances where the character and style of the proposed structure warrants special consideration. The architecture and approved exterior finish of any building shall be complementary and compatible in style and be of uniform finish on all sides of its exterior when the site is adjacent to any noncommercial or non-industrial district. Within the office and commercial districts, the architecture and approved exterior finish shall be returned on the building side(s) a sufficient distance, as determined by the planning commission, to provide a continuous appearance from the street.
- (b) *Rear yard access and parking.* Required yards may be used for off-street parking, as regulated in section 32-93, provided adequate access to the rear of the building for fire fighting and emergency equipment is available. Where rear yard parking is permitted, its quantity, size and layout shall be designed mainly to encourage "employee parking," except when the building arrangement is such that reverse frontage is desirable as determined by the planning commission.
- (c) *Landscaping.* Portions of the site not used for parking, driveways and buildings shall be provided with landscaping and lawn (see section 32-84), approved by the planning commission, and so maintained in attractive condition.
- (d) *Roof-mounted fixture screening.* Roof-mounted appliances, including, but not limited to, air conditioners, heating apparatus, dust collectors, filters, transformers, and any other such appliance or apparatus, shall be enclosed on all sides by view-obscuring screening so as not to be visible from off the site. The design of the screening shall be approved by the planning commission as compatible with the architectural design of the building upon which it is located. Where such equipment is located on the ground, it shall be shown on the site plan and screened in accordance with this subsection.

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(Supp. No. 57)

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- (e) *Front building line.* Once a building line has been established by the construction of a principal building upon an approved site, no other principal building or use shall be located between the established building line and the front lot line (or side lot line abutting a side street) without first obtaining approval of the planning commission. The planning commission shall review the building and/or use proposed to be located in front of the established building to determine whether the building or use is of such location, size and character to be in harmony with the appropriate and orderly development of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards, and is aesthetically compatible with the buildings and uses located (or to be located) upon the site. Landscaping plans, site plans (including the location of signs and dumpsters), and elevations of all sides of any building to be constructed shall be submitted to enable the planning commission to determine whether the proposed additional front building and/or use conforms with the requirements of this section. All dumpsters shall be visibly screened from any area visible to the public by use of a wall of the same material as the building walls to ensure aesthetic compatibility and construction of poured concrete. In reviewing this request, the planning commission shall apply the standards contained herein and in Article XII (special land use approval), and may impose reasonable conditions as authorized by section 32-153 to ensure that the standards are satisfied.
 - (f) *Lighting limitations.* Lighting of parking areas shall be as approved by the planning commission in accordance with section 32-86, and as specified for each district, and shall not include floodlighting, building-mounted or otherwise (except for small parking lots).
 - (g) *Signs.* Signs shall be governed by section 32-85 of this chapter, unless otherwise approved as part of the project development plan for a planned unit development (PUD).
 - (h) *Screening.* Screening between the development and abutting properties shall be provided as specified in section 32-82, in addition to the requirements specified in Article VII, site plan review requirements and procedures.
 - (i) *Off-street loading.* Loading shall be provided only in rear yards. Side yard loading may be permitted by the planning commission when such space and loading facilities would not interfere with parking and circulation, either vehicular or pedestrian, and would not be detrimental to any nearby residential district or use. No part of any loading or unloading area may be located closer than forty-five (45) feet to any rear property line adjacent to a residential district.
 - (j) *Lot coverage.* Maximum lot coverage shall be governed by meeting all requirements for yard space, landscaping, screening, off-street parking and loading.

(Ord. No. 279, § 10.00, 12-12-96)

Sec. 32-132. Office service district, O-S.

The O-S office service district is designed to provide a suitable environment for various types of office uses providing professional, administrative and related service occupations. This district is also intended to provide a transition or buffer between more intense uses and/or major thoroughfares and abutting one-family residential neighborhoods.

- (1) *Permitted uses.*
 - a. Office building for any of the following occupancies: professionals, including doctors of medicine, attorneys, engineers and the like; and clerical, drafting, executive, accounting, administrative, stenographic, insurance, real estate sales, and similar occupations requiring no outside storage of vehicles or equipment on the premises.
 - b. Retail businesses normally associated with and complementary to office districts, i.e. stationary shops, office supplies and office machine repair.

- c. Banks, credit unions and similar uses, as determined by the planning commission.
- d. Accessory uses customary and incidental to a principal use shall be permitted, provided such accessory uses are within the building. Accessory buildings shall not be permitted. The accessory use within the building shall not have an outside entrance for customers (users) separate from the entrances that serve the principal use.
- e. Permitted uses as regulated under this chapter in the immediate abutting RL or RM residential district.
- f. Temporary buildings pursuant to the establishment of a permanent building and permitted use. All such temporary buildings shall be immediately removed upon expiration of the time limit established as a condition of their construction.

The outside storage of vehicles, materials or equipment on the premises is prohibited and no uses with a drive-thru shall be permitted in this district, except as provided below.

(2) *Special approval land uses.* The following uses, and others similar to those cited in this section, may be permitted by the planning commission, subject to the standards of section 32-131 and the general and specific standards for each cited in Article XII:

- a. Day-care centers and nursery schools (section 32-167).
- b. Drive-thru facilities ancillary to the permitted uses listed above (section 32-168).
- c. Funeral homes and mortuaries (section 32-171).
- d. Planned unit development (section 32-183).
- e. Private clubs, fraternal organizations, lodge halls, cultural centers and union halls (section 32-184).
- f. Private noncommercial recreation areas, nonprofit swimming pool clubs, institutional or community recreation centers (section 32-185).
- g. Public utility offices, but not including outside storage, poles or towers.
- h. Twenty-four-hour operations (section 32-190).

(3) *Site area and placement requirements.*

- a. The minimum size of each lot per building:
 - 1. *Area:* 12,000 square feet.
 - 2. *Width:* 80 feet.
- b. Minimum yard setback per lot:
 - 1. Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan, as follows:

Distance from centerline (in feet):

	Building and Parking
a. Major	100
b. Secondary	100
c. Collector	83
d. Local	70
e. Cul-de-sac	100
f. Private Roads	40 *

* In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

Parking shall not be permitted in the required front or street side setback.

2. *Side:* No side yards are required along the interior side lot lines, except as otherwise specified in the building code; where the wall of a structure faces interior side lot lines and contains windows or other openings, a side yard of not less than twenty (20) feet shall be provided. No building shall be located closer than thirty-five (35) feet to the outer perimeter (property line) of such district when the property line abuts any residential district. A suitable twenty (20) foot wide access drive shall be provided to the rear yard.
3. *Rear:* Twenty (20) feet. No building shall be located closer than thirty-five (35) feet to the outer perimeter property line of such district when the property line abuts any residential zoning district.

(4) *Building requirements.*

- a. Maximum height (stories/feet): 1/18
- b. Maximum lot coverage (percent): 30

(5) *Additional site requirements.* (Also see section 32-131.)

- a. All business, servicing, processing or storage of commodities, except for off-street parking or loading, shall be conducted within completely enclosed buildings. No business of a primarily drive-in nature shall be permitted.
- b. For accessory uses incidental to the permitted use, no interior display shall be visible from the exterior of the building, and the total area devoted to display, including both the objects displayed and the floor space set aside for persons observing the displayed objects, shall not exceed twenty-five (25) percent of the gross floor area.
- c. The outdoor storage of goods or materials shall be prohibited irrespective of whether or not they are for sale.
- d. Warehousing or indoor storage of goods or materials, beyond that normally incidental to the above permitted uses and special approval land uses, shall be prohibited.

(6) *Environmental and off-street parking.* Environmental (landscaping, lighting, screening and signs) and off-street parking improvements shall be provided in accordance with Articles V and VI of this chapter.

(Ord. No. 279, § 10.10, 12-12-96)

Sec. 32-133. Commercial neighborhood district, CN.

The CN commercial neighborhood district is designated to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. Protection of nearby residential districts is considered of importance; thus, businesses which tend to be a nuisance to immediately surrounding residential areas are excluded, even though the goods sold or services offered might fall within the convenience classification.

It is further the intent of this district to provide these goods and services in a physical setting that is compatible with surrounding residential neighborhoods and which are of a neighborhood size and character. Whenever possible, commercial neighborhood districts should be developed with consolidated site features to provide for a continuity of appearance and function and to minimize any negative impacts on nearby residential neighborhoods or the city's thoroughfare system.

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- (1) *Permitted uses.* The following uses shall be permitted, provided that all business, servicing, or processing (except for off-street parking or loading) shall be conducted within a completely enclosed building; that all businesses shall be of a retail or service nature dealing directly with consumers; and that all goods produced on the premises shall be sold at retail on the same premises. Where it is determined by the planning commission that effects of a listed use may tend to extend beyond the site, then special land use approval shall be required.
- a. Any one or more of the permitted uses in section 32-132 of the O-S district, except as otherwise provided herein.
 - b. Generally recognized retail businesses which supply commodities on the premises, such as, but not limited to: groceries (except supermarkets and freezer food plans), hardwares, varieties, meat and fish (except freezer and locker meat provisions), fruit and vegetable, candy, nut and confectionery stores (except popcorn stands), retail bakeries (except pretzel stands), pharmacies and proprietary stores, liquor, sporting goods and bicycles, bookstores (excluding adult bookstores), stationery, jewelry, hobby, toy and games, camera and photographic supplies, gift, novelty and souvenir, florist, tobacco, luggage and leather goods, sewing, needlework and piece goods.
 - c. Personal service establishments which perform services on the premises, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barber shops, photographic studios, self-service laundries and dry-cleaners (dry cleaning pick-up services only), video tape rentals, toning and tanning salons, diet workshops.
 - d. Post office and similar governmental office buildings primarily serving persons living in the city.
 - e. Accessory structures and uses customarily incidental to the above permitted uses.

Outdoor storage and display of merchandise is prohibited. Minor day-to-day, in-and-out display may be permitted by the building official when kept behind established building setback line.

- (2) *Special approval land uses.* The following uses, and others similar to those cited in this section, may be permitted by the planning commission, subject to the standards of section 32-131 and the general and specific standards for each cited in Article XII.
- a. Auto wash (section 32-156).
 - b. Carry-out restaurants (section 32-161).
 - c. Day-care centers and nursery schools (section 32-167).
 - d. Dry cleaning and laundry establishments (section 32-169).
 - e. Funeral homes and mortuaries (section 32-171).
 - f. One-family residences located on the west side of Utica Road contained in Assessor's Plat No. 2, Lots 42 thru 46; Steffen's Addition Subdivision, Lots 1 thru 3 and 17 thru 22; and Fraser School Subdivision, Lots 1 thru 15.
 - g. Planned unit development (section 32-183).
 - h. Public utility buildings without outdoor storage (section 32-187).
 - i. Twenty-four-hour operations (section 32-190).
- (3) *Site area and placement requirements.*
- a. The minimum size of each lot per building:
 - 1. *Area:* 7,200 square feet.

2. *Width:* 60 feet.
- b. Minimum yard setback per lot:
 1. Front and street-side building and parking setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan, as follows:

Distance from centerline (in feet):

	Buildings	Parking
a. Major	100 feet	70 feet
b. Secondary	100 feet	70 feet
c. Collector	83 feet	53 feet
d. Local	70 feet	40 feet
e. Cul-de-sac	100 foot radius	70 feet
f. Private Roads	* 40 feet	10 feet

* In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

2. *Side:* No side yards are required along the interior side lot lines, except as otherwise specified in the building code, provided that no side yard of less than five (5) feet in width shall be left between the lot line and the building. However, if walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than twenty (20) feet shall be provided. Where a lot line abuts a side street, that street yard setback shall be the same as the front yard required for the use fronting on the street adjacent to said property. No building shall be closer than fifty (50) feet to the outer perimeter (property line) of such district when such property line abuts any residential district.
 3. *Rear:* Twenty (20) feet. No building shall be located closer than thirty (30) feet to the outer perimeter (property line) of such district when such property line abuts any residential district.
- (4) *Building requirements.*
- a. Maximum height (stories/feet): 2/25
 - b. Maximum lot coverage (percent): 30
- (5) *Additional site requirements.* See section 32-131.
- (6) *Environmental and off-street parking.* Environmental and off-street parking improvements shall be provided in accordance with Articles V and VI of this chapter.

(Ord. No. 279, § 10.20, 12-12-96)

Sec. 32-134. Community business district, CBD.

This district is intended to provide a combination of convenience and comparison retail goods and services serving the needs of a broader market area than the CN district. The community business district is generally characterized by an integrated or planned grouping of establishments served by common parking areas and oriented to pedestrian and vehicular traffic.

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- (1) *Permitted uses.* The following uses shall be permitted, provided that all business, servicing, or processing (except for off-street parking or loading) shall be conducted within a completely enclosed building; that all businesses shall be of a retail and service nature dealing directly with consumers; and that all goods produced on the premises shall be sold at retail on the same premises. Where it is determined by the planning commission that effects of a listed use may tend to extend beyond the site, then special land use approval shall be required.
- a. Any one or more of the permitted uses in section 32-133 of the CN district, except as otherwise provided herein. Permitted uses in the O-S district shall also be permitted, as regulated in section 32-132.
 - b. All retail business, service or processing, such as: paint, glass and wallpaper stores, lawn and garden supply stores (except sod and topsoil), department stores, general merchandise, supermarkets and groceries, pet shops (retail), apparel and accessories, home furniture and furnishings and equipment, eating and drinking places (excluding fast-food restaurants).
 - c. Personal services, including: photographic studios, barber and beauty shops, clothing rental (except linen supply), costume rental, tanning salons, tuxedo rentals.
 - d. Theaters, assembly halls, concert halls or similar places of assembly, when conducted completely within enclosed buildings.
 - e. Museums and art galleries.
 - f. Membership organizations.
 - g. Accessory structures and uses customarily incidental to the above permitted uses. Also, coin-operated service machine operations (scales, shoe-shine, lockers and blood pressure) shall be considered accessory uses.
 - h. Temporary buildings pursuant to the establishment of a permanent building and permitted use. All such temporary buildings shall be immediately removed upon expiration of the time limit established as a condition of their construction.
 - i. Prohibited uses include businesses dealing in pornography; businesses of a primarily drive-thru or drive-in nature; and outdoor businesses or uses.

Outdoor display of merchandise and storage is prohibited, except as may be permitted by the planning commission as part of an approved special approval land use or as a temporary use permitted in section 32-250.

- (2) *Special approval land uses.* The following uses and others similar to those cited in this article may be permitted by the planning commission, subject to the standards of section 32-131 and the general and specific standards for each cited in Article XII.
- a. Amusement device centers (section 32-155).
 - b. CG district permitted uses developed in harmony with the city's CBD plan. No more than twenty (20) percent of all uses may be from the CG category. (The percentage shall be measured of gross floor area of the district area.)
 - c. Carry-out restaurants, when designed as an incidental part of a restaurant business (section 32-161).
 - d. Gasoline self-service stations (only on sites where a gasoline service station has existed as a lawful nonconforming use) (section 32-173).

- e. Outdoor retail sales of plant material not grown on the site, lawn furniture, playground equipment and garden supplies, when the outdoor sales operation is clearly secondary to retail sales taking place within a building.
 - f. Planned unit development (section 32-183).
 - g. Public utility buildings without storage (section 32-187).
- (3) *Site area and placement requirements.*
- a. The minimum size of each lot per building:
 - 1. At least equal to the first floor area of the building, plus the space required for pedestrian circulation, parking, rights-of-way, access and easements.
 - b. Minimum yard setback per lot:
 - 1. Front and street-side building and parking setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan, as follows:
Distance from centerline (in feet):

	Buildings & Parking
a. Major	60 feet
b. Secondary	60 feet
c. Collector	43 feet
d. Local	30 feet
e. Cul-de-sac	60 feet

- 2. *Side:* None, except as provided in the building code, and that adequate access to the rear of the building shall be irrevocably provided.
 - 3. *Rear:* Sufficient to provide for parking and loading and unloading.
- (4) *Building requirements.*
- a. Maximum height (stories/feet): 2/30
 - b. Maximum lot coverage is equal to the remainder of the site after all right-of-way, parking and yard space requirements are deducted from the gross site area.
- (5) *Environmental and off-street parking.* Environmental (landscaping, lighting, screening and signs) and off-street parking improvements shall be provided in accordance with Articles V and VI of this chapter.

(Ord. No. 279, § 10.30, 12-12-96)

Sec. 32-135. General business district, CG.

The CG general business district is designed to provide for a wide diversity of business activities which are predominantly, but not necessarily, totally retail in character. In addition to retail uses, a number of other activities, usually requiring considerable land area and access to major or secondary thoroughfares, are permitted. Uses in this district normally must have good automobile accessibility, but should not cause congestion on adjacent thoroughfares.

- (1) *Permitted uses.* The following uses shall be permitted, provided that all business, servicing, or processing (except for off-street parking or loading) shall be conducted within a completely enclosed building; that all businesses shall be of a retail and service nature dealing directly with consumers; and

that all goods produced on the premises shall be sold at retail on the same premises. Where it is determined by the planning commission that effects of a listed use may tend to extend beyond the site, then special land use approval shall be required.

- a. Any one or more of the permitted uses in section 32-134 of the CBD district, except as otherwise provided herein.
- b. Accessory uses, including five (5) or fewer amusement devices shall be considered an accessory use only to eating and drinking places, billiard and pool establishments, bowling alleys, membership clubs.
- c. Auto laundries (car wash) when completely enclosed in a building.
- d. Building materials, hardware and garden supplies (except mobile home dealers).
- e. Dance studios, schools and halls.
- f. Eating and drinking places, excluding fast-food restaurants.
- g. General merchandise stores.
- h. Hotels and motels (except bed and breakfast, casino hotels, tourist cabins and recreational vehicle campgrounds).
- i. Personal service establishments including only the following uses:
 - 1. Garment pressing and outlets for laundries and dry cleaners.
 - 2. Other laundry and garment services.
 - 3. Miscellaneous personal services.
- j. Physical fitness facilities.
- k. Rental of tools and household goods.
- l. Temporary buildings pursuant to the establishment of a permanent building and permitted use. All such temporary buildings shall be immediately removed upon expiration of their time limit established as a condition of their construction.
- m. Theatrical producers (except motion picture), bands, orchestras and entertainers.
- n. Veterinary offices and clinics, pet shops, dog grooming and kennels, provided all activities for any and all of the above uses are conducted within a totally enclosed main building, with no outside facilities.
- o. Accessory buildings and uses customarily incidental to any of the above permitted uses.

Outdoor display of merchandise, saleable within not more than one week, shall be permitted when it is kept back at least one hundred (100) feet from the centerline of all roads. Outdoor storage shall be limited to the side or rear yard and totally enclosed with view-obscuring screening, as specified by the planning commission based on section 32-52, when adjacent to any residential district or within public view.

- (2) *Special approval land uses.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the standards of section 32-131 and the general and specific standards for each cited in Article XII.
- a. Amusement and recreation services (section 32-154).
 - b. Amusement device centers (section 32-155).

- c. Automobile repair and service centers (section 32-158).
- d. Businesses of a drive-in nature, but not including outdoor theaters (section 32-160).
- e. Fast-food restaurants (section 32-170).
- f. Gasoline service stations (section 32-172).
- g. Open air business uses, including the retail sales of plant materials not grown on the site and sale of lawn furniture, playground equipment, garden or building supplies.
- h. Outdoor sales lots for the sale of new or secondhand automobiles, new or secondhand recreational vehicles, boats, or mobile homes (section 32-181).
- i. Planned unit development (section 32-183).
- j. Public utility buildings (section 32-187).
- k. Twenty-four-hour operations (section 32-190).

(3) *Site area and placement requirements.*

- a. The minimum size of each lot per building:
 - 1. *Area:* 12,000 square feet.
 - 2. *Width:* 80 feet.
- b. Minimum yard setback per lot.
 - 1. Front and street-side building and parking setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan, as follows:

Distance from centerline (in feet):

	Buildings	Parking
a. Major	110 feet	70 feet
b. Secondary	110 feet	70 feet
c. Collector	93 feet	53 feet
d. Local	80 feet	40 feet
e. Cul-de-sac	110 foot radius	70 feet
f. Private Roads	* 50 feet	10 feet

* In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

The planning commission may modify the setback upon-site plan review where it is found that the change in setback serves to promote more uniform access, interconnection of adjacent parking facilities or the aesthetic quality of the block front.

- 2. *Side Yard:* No side yard is required along an interior side lot line, except as otherwise specified in the building code. If the exterior side yard borders a residential district, there shall be provided a side yard setback of not less than twenty (20) feet. The openings (windows and doors) side or other side of the lot shall have a side yard of not less than twenty (20) feet. Corner lots' side yards must equal the setback required for the front yards on the street to which they side or twenty (20) feet, whichever is greater.

(4) *Building requirements.*

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- a. Maximum height (stories/feet): 2/30.
 - b. Maximum lot coverage is equal to the remainder of the site after all right-of-way, parking and yard space requirements are deducted from the gross site area.
- (5) *Additional site requirements.* See section 32-131.
- (6) *Environmental and off-street parking.* Environmental (landscaping, lighting, screening and signs) and off-street parking improvements shall be provided in accordance with articles V and VI of this chapter.

(Ord. No. 279, § 10.40, 12-12-96)

Secs. 32-136—32-140. Reserved.

ARTICLE XI. INDUSTRIAL DISTRICTS²

Sec. 32-141. Provisions applicable to industrial districts.

- (a) *Exterior facing materials.* The exterior of all buildings hereafter erected shall be constructed of aesthetically pleasing brick and/or stone building materials. The architecture and approved exterior finish of any building shall be of uniform finish on all sides of its exterior when the site is adjacent to any non-industrial district. Within the industrial districts, the architecture and approved street side(s) exterior finish shall be returned on the building side(s) equal to the office depth or fifty (50) feet, whichever is greater.
- (b) *Rear and side yard access and parking.* Required rear and side yards may be used for off-street parking, provided there is adequate access to the rear of the building for fire-fighting and emergency equipment, as approved by the fire marshall.
- (c) *Landscaping.* Portions of the site not used for parking, driveways and buildings shall be provided with landscaping and lawn (see section 5.03 [section 32-84]), approved by the planning commission, and so maintained in an attractive condition.
- (d) *Roof-mounted fixture screening.* Roof-mounted appliances, including, but not limited to, air conditioners, heating apparatus, dust collectors, filters, transformers, and any other such appliance or apparatus, shall be enclosed on all sides by view-obscuring screening equal to the height of the rooftop unit so as not to be visible from off the site. The design of the screening shall be approved by the planning commission as being compatible with the architectural design of the building upon which it is located. Where such equipment is located on the ground, it shall be shown on the site plan and screened in accordance with this subsection.
- (e) *Off-street loading space.* Loading and unloading uses, spaces and docks shall be provided in such a manner that no backing in from a major, secondary or collector street will occur and, further, no loading or unloading space shall be provided within the required front or street side yard space. Such space shall consist of an area as required in section 6.06 [section 32-97] with the loading space and any drive or maneuvering area thereto paved with a durable hard-surface. For the purposes of this article, overhead doors shall be considered loading and unloading areas.
- (f) *Lighting limitations.* Lighting of parking areas shall be as approved by the planning commission in accordance with section 5.05 [section 32-86] and as specified for each district. Such plans shall not include floodlighting.

²Editor's note(s)—Ord. No. 302, § 1, adopted Oct. 1, 2000, deleted and replaced Art. XI, §§ 32-141—32-144, to read as herein set out. Formerly, Art. XI, §§ 32-141—144, pertained to similar subject matter and was derived from Ord. No. 279, § 11.20, adopted Dec. 12, 1996.

Floodlighting, whether building mounted or otherwise, shall not be permitted (except for small parking lots of twenty (20) spaces or less).

- (g) *Signs.* Signs shall be governed by section 5.04 [section 32-85] of this chapter.
- (h) *Screening.* Screening between the proposed development and any abutting properties shall be provided as specified in section 5.01 [section 32-82], in addition to the requirements specified in article VII, site plan review requirements and procedures.
- (i) *Lot coverage.* Maximum lot coverage shall be governed by compliance with all requirements for yard space, landscaping, screening, off-street parking and loading.
- (j) *Fences.* Barbed wire and electric fences shall not be permitted without special land use approval and as deemed necessary in the interests of public safety by the planning commission.

(Ord. No. 302, § 1, 10-1-2000)

Sec. 32-142. Office research district, OR.

The OR office research district is designed to primarily accommodate scientific, business and industrial research operations, related testing and production operations, and operations where technology and production activities are mutually dependent or developmental in nature, and the result shall be development planned in a coordinated manner, according to an approved plan.

- (1) *Permitted uses.* All permitted uses in this district shall be constructed and conducted wholly in accordance with the standards of this section and limited to those listed on the approved site plan.
 - a. Research, development and testing facilities for industrial, scientific and business establishments.
 - b. Corporate headquarter offices, administrative, professional and/or business offices of principal permitted uses.
 - c. Production facilities and operations with a high degree of technological input, and determined to be an integral part of or essential to a permitted operation.
 - d. Manufacture of light products, such as industrial controls; electronic components and accessories; measuring, analyzing and controlling instruments; photographic (except chemicals and sensitized materials); medical, optical goods; and other similar forms of light products assembly, as determined by the planning commission.
- (2) *Special land uses.* Any use similar to those set forth in this article as a permitted uses may be permitted in this district only as a special land use and if determined by the planning commission to be in compliance with the special land use section, and being of no more objectionable character than the listed permitted uses.
- (3) Minimum yard requirements.
 - a. *Minimum size each lot:*
 - 1. Lot area (square feet): 20,000.
 - 2. Lot width (linear feet): 50.
 - b. *Minimum yard setbacks per lot:*
 - 1. Front and street-side building setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan, as follows:
Distance from centerline (in feet):

	Buildings
(a) Major	135
(b) Secondary	135
(c) Collector	118
(d) Local	105
(e) Cul-de-sac	135
(f) Private roads	75

Parking shall not be permitted in the required front and street side setback(s).

2. *Side:* Twenty (20) feet. Side yards abutting any residential district shall provide a setback of fifty (50) feet, plus the height of the building.
 3. *Rear:* Thirty (30) feet, plus the height of the building. Rear yards abutting any residential district shall provide a setback of fifty (50) feet, plus the height of the building.
- (4) Building requirements.
- a. *Distances between buildings.* The location of buildings and uses and distances between buildings and uses shall not be less than thirty (30) feet. Distances between buildings shall be sufficient to meet fire regulations and to provide for natural light, air circulation and solar access.
 - b. *Height limits.* The proposed height of each building shall be shown on the site plan. No building shall exceed two and a half (2½) stories or thirty (30) feet in height above the established grade.
- (5) *Additional site requirements.* In addition to those requirements cited in section 11.00 [section 32-141], the following additional site requirements also apply to this district:
- a. No part of any building, parking access and/or service area may be located closer to any property line adjacent to a residential district than specified in subsection C.2.b and c. [subsection (3)b.2 and 3.] above.
 - b. Outdoor storage of vehicles, equipment, supplies or products; outdoor processing, assembly, repair or other operations; or outdoor display of goods, materials, products, equipment or processes shall be prohibited. Trash and other waste materials shall be stored within a principal or accessory building or shall be screened from view from a street and adjacent lots, and shall not be located in a required yard. Utility meters and control devices shall also be so located and screened.
 - c. General regulations and limitations on uses.
 1. *Noise.* Noise shall not exceed sixty (60) decibels [db(A)] equivalent daytime and fifty-five (55) decibels [db(A)] equivalent nighttime, as measured at any property line which is adjacent to any residential, office or commercial district or use. In no case shall the maximum noise level exceed sixty (60) db(A) and shall comply with chapter 14.5 of the Fraser City Code.
 2. *Odors.* Odors from any use shall not be discernible at the property line to a greater degree than odors from plants for the manufacture of electronic equipment. The values given in Table III (Odor Thresholds) in the latest revision of Chapter 5, "Physiological Effects," in the "Air Pollution Abatement Manual," by the Manufacturing Chemists' Association, Inc., Washington, D.C., copyright 1951, shall be used as standard in case of doubt concerning the character of odors emitted. In such case the smallest value given in Table III shall be the maximum odor permitted. Detailed plans for the prevention of odors crossing property lines may be required before approval of a final site plan by the planning commission.

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3. *Glare.* Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.
 4. *Exterior lighting.* Any lights used for exterior illumination shall comply with the requirements of section 5.05 [section 32-86] of this chapter.
 5. *Vibration.* Vibration shall not be discernible at any property line to the human sense of feeling for three (3) minutes or more duration in any one (1) hour. No discernible vibration should be detectable at all at any residential district boundary. Vibration at any time shall not produce an acceleration of more than one tenths (.1) gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7 United States Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting," on any structure. The methods and equations of said Bulletin No. 442 shall be used to compute all values for the enforcement of this provision.
 6. *Smoke.* Emission of smoke on the site shall be controlled so that a nuisance will not result. Emission of smoke shall not exceed the number 1 standard as established by the Ringlemann Chart.
 7. *Dust, dirt and fly ash.* No person, firm or corporation shall operate or cause to be operated, maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating while using said process or furnace or combustion device, recognized and approved equipment, means, methods, device or contrivance to reduce the quantity of gas-borne or air-borne solids or fumes emitted into the open air, which is operated in conjunction with said process, furnace, or combustion device so that the quantity of gas-borne or air-borne solids shall not exceed two-tenths (0.20) grains per cubic foot of the carrying medium at the temperature of five hundred (500) degrees Fahrenheit. For the purpose of determining the adequacy of such device, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed fifty (50) percent at full load. The foregoing requirement shall be measured at the A.S.M.E. Test Code for dust-separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The planning commission and/or building official may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.
 8. *Gases.* Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive. The values given in Table I (Industrial Hygiene Standards - Maximum Allowable Concentration for eight-hour day, five (5) days per week), Table III (Odor Thresholds), Table IV (Concentrations of Substance Causing Pain in the Eyes), and Table V (Exposures to Substances Causing Injury to Vegetation) in the latest revision of Chapter 5, "Physiological Effects," that contains such tables, in the "Air Pollution Abatement Manual," by the Manufacturing Chemists' Association, Inc., Washington, D.C., are hereby established as guides for the determination of permissible concentration or amounts. Detailed plans for the elimination of fumes or gases may be required before approval of a final site plan by the planning commission.
 9. *Hazard.* Operations shall be carried on with reasonable precautions against fire and explosion hazards.
 10. *Radiation and radioactivity.* All activities involving radioactive materials shall be conducted according to state and federal rules and regulations adopted for human safety. Operations

shall cause no dangerous radiation, as specified by the regulations of the United States Nuclear Regulatory Commission, at any property line.

11. *Electrical radiation.* Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
12. *Waste.* All sewage and industrial wastes shall be handled, stored, treated, and/or disposed of in compliance with all federal and State of Michigan and city laws and regulations.
13. *Heat.* Operations generating heat shall be contained within a building. In no case shall the generated heat raise the ambient temperature at a property line higher than the prevailing normal temperature at the time of occurrence.
14. *Storage.* Above ground outside storage shall not be permitted. The storage of explosives shall not be permitted. Underground storage of flammable materials shall not be permitted unless it is accessory to the principal use and specifically approved by the planning commission, fire department and the state as established by Act No. 207 of the Public Acts of Michigan of 1941 (MCL 29.1 et seq., MSA 4.559(1) et seq.), as amended. In no case shall the underground storage of flammable materials be closer than fifty (50) feet to residential property.

- (6) *Environmental and off-street parking.* Environmental (landscaping, lighting, screening and signs) and off-street parking improvements shall be provided in accordance with articles V and VI of this chapter. Notwithstanding requirements of article VI, herein, the number of parking spaces required for office and technological uses shall be based on the rate of one (1) space for each three hundred (300) square feet of floor area. Loading areas shall be screened from view from any street or property line.

The site plan shall contain a signed certified statement by the owner of the property indicating compliance with all performance standards.

(Ord. No. 302, § 1, 10-1-2000)

Sec. 32-143. Industrial restricted district, IR.

The IR industrial restricted district is established so as to primarily accommodate wholesale activities, warehouses and industrial operations whose external, physical effects are restricted to the lot or parcel and in no manner affect in a detrimental way any of the surrounding lots or parcels. The IR district is so structured as to permit, along with specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material.

- (1) *Permitted uses.* All uses in this district shall be conducted wholly within a building with a landscaped front yard and with the side or rear yard used for loading and customer and employee parking.
 - a. Any one or more permitted uses in the OR district and uses permitted in the CG district, as regulated in section 32-135, except those listed in subsections 10.40.A.1, 2, 5, 6, 7 and 9 [subsections 32-135(1)a., b., e., f., g., and i.].
 - b. Warehousing and wholesale establishments, storage (other than accessory to a permitted retail use) and mini warehouses.
 - c. The compounding, processing, packaging, or treatment of such products as: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery.

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- d. The manufacture, compounding, assembling, or improvement of articles or merchandise from the following previously prepared materials: canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, shells, textiles, tobacco, wax, wire, wood and yarns or such other similar materials as approved by the planning commission.
 - e. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
 - f. Manufacture of musical instruments, toys, novelties, and metal, plastic or rubber stamps, or other small molded products.
 - g. Manufacture or assembly of electrical appliances, electronic instruments and devices, telecommunications equipment and products (excluding large stampings).
 - h. Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
 - i. Utility service buildings, water supply and water and gas tanks.
 - j. Wireless communication towers meeting the requirements of section 32-193.
 - k. Contractors offices with garages for maintenance and storage of equipment.
 - l. Accessory uses and accessory outside storage customarily incidental to any of the above uses. Outside storage shall be limited to currently licensed and operable cars, trucks, and recreation vehicles, finished and semi-finished manufactured materials produced on the premises and equipment necessary as an accessory to the principal use, provided the following conditions are complied with:
 - 1. All storage will be located not less than one hundred (100) feet from any street line or adjacent residential district.
 - 2. A chainlink fence or masonry wall, not less than four (4) feet high nor more than eight (8) feet high, shall enclose the storage area. The height and choice of fence or wall and the requirements of decorative slats to be used with the fence to most appropriately screen the stored materials from view shall be determined by the planning commission.
 - 3. The area located between the street property line and the fence or wall shall be sodded and landscaped and maintained in a neat and orderly manner.
 - 4. It is mutually understood by the property owner and the planning commission that whenever a different material is to be stored than that agreed upon in the original request, a new approval shall be required from the planning commission.
 - 5. The planning commission shall also find, before granting this approval, it will not tend to further:
 - (a) Impair the adequate supply of light and air to adjacent property.
 - (b) Increase the hazard from fire, flood and other dangers.
 - (c) Diminish the market value of adjacent land and buildings.
 - (d) Increase the congestion on the public streets.
 - (e) Otherwise impair the public health, safety, comfort, and general welfare.
 - m. Uses expressly prohibited under this article include the following:
 - 1. Junkyards, including the storage of wrecked motor vehicles or mobile equipment.

2. Used auto parts and used building materials.
3. Storage of loose minerals, including soil, stone, sand, gravel, coal, cinders and similar materials.
4. Incubation, raising, killing or storage of poultry.
5. Residential uses, including dwelling.

No use in this district shall be permitted whose operation may violate the performance standards set forth in this section of the ordinance.

No outdoor storage shall be permitted, unless it is part of an approved site plan. If no outdoor storage will be created, then the site plan shall contain a signed certified statement to that effect by the owner of the property.

(2) *Special land uses.* The special land uses and any use similar to those set forth in this article as permitted uses shall be permitted in this district only after proper notice has been given as required by state law and when determined by the planning commission to be in compliance with the provisions of this section, the articles of this ordinance, of no more objectionable character than permitted uses, and which, in the opinion of the planning commission, meet the standards of article XII of this chapter.

- a. Automobile heavy repair garage (section 12.06 [section 32-158]).
- b. Outdoor storage (section 12.31 [section 32-181]).
- c. Planned unit development (section 12.32 [section 32-183]).
- d. Public utility buildings (section 12.36 [section 32-187]).
- e. Various retail uses (section 12.41 [section 32-192]).

(3) Site, area and placement requirements.

a. *Minimum size each lot:*

1. Lot area (square feet): 20,000.
2. Lot width (linear feet): 80.

b. *Minimum yard setbacks per lot:*

1. Front and street-side building setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan, as follows:

Distance from centerline (in feet):

	Buildings
(a) Major	100
(b) Secondary	100
(c) Collector	83
(d) Local	70-80
(e) Cul-de-sac	100
(f) Private roads	40

*Where the front yard of two (2) or more permitted principal structures in any block in existence on the effective date of this article, within this district and on the same side of the street, are less than the minimum front yard, then the front yard setback of any

building subsequently erected within the block on this side of the street shall not be greater than the average depth of the front of all structures on that side of the street.

**In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

Parking shall not be permitted in the required front and street side setback(s).

2. *Side yard:* No side yard is required along one interior side lot line, except as otherwise specified in the Building Code and provided, further, that no side yard of less than five (5) feet in width shall be left between the lot line and building. The openings (windows and doors) side or other side of the lot shall have a side yard of not less than twenty (20) feet. Corner lot side yards must equal the setback required for the front yards on the street to which they side. If an exterior side yard borders any residential district there shall be provided a yard setback of not less than fifty (50) feet.
3. *Rear yard:* Twenty (20). No building shall be closer than one hundred (100) feet to the outer perimeter (property lines) of this district where said rear property lines abut any residential district. Such space shall only be used for the parking of individual passenger vehicles and/or small trucks, provided that a twenty (20) foot greenbelt be provided along said property line.

(4) *Building requirements.*

- a. Building height. No building shall exceed thirty-five (35) feet in height except as otherwise provided in article IV of this chapter.
- b. Number of stories. No building shall contain more than two (2) stories above the ground level except as otherwise provided in article IV of this chapter.

(5) *Additional site requirements.* In addition to those requirements cited in section 11.00 [section 32-141], the following additional site requirements also apply to this district:

- a. General regulations and limitations on uses.
 1. *Sound levels.* Sound pressure levels resulting from any use of a site which exceed the maximum sound pressure levels established by this section for the designated land use districts shall be prohibited.
 - (a) The maximum slow response steady sound pressure levels for the following octave band center frequencies, as measured in accordance with this subsection, of any site in industrial restricted district (IR) shall be as follows:

Maximum Sound Pressure Level (dB)

Octave Band Center Frequency (Cycles per Second)	At the Residential, Commercial or Industrial Research Boundary	IR District
31.5	72	79
63	71	78
125	65	72
250	57	64
500	51	58
1000	45	52
2000	39	46

4000	34	41
8000	32	39

- (b) The maximum A scale (slow response) steady sound pressure levels as measured in accordance with this subsection, of any site shall be as follows:

Maximum Sound Pressure

Abutting Zoning District	Level [dB(A)]
Residential, Commercial & Office Research	55 (At District Boundary)
IR Industrial Restricted	62 (Along District Boundary)
IC Industrial Controlled	66 (Along Property Line)

- (c) The octave band center frequency levels shall be applied in order to determine compliance with this subsection whenever the measured A scale (slow response) steady sound pressure levels do not exceed the applicable fifty-five (55) [dB(A)] and sixty-two (62) [dB(A)] levels.
- (d) Sound pressure levels shall be measured along both the zoning district boundary and along the property line of the site where the site is located within one hundred twenty-five (125) feet of a zoning district other than restricted or controlled industrial. The sound pressure levels shall be measured along the property line of the site where the site is not located within one hundred twenty-five (125) feet of a zoning district other than restricted or controlled industrial.

Maximum steady sound pressure levels for all land use districts between the hours of 10:00 p.m. and 7:00 a.m. shall be seven (7) dB(A) lower than the levels set forth above. Maximum repetitive impulse sound pressure levels shall be ten (10) dB(A) lower than the values established for steady sound pressure levels in all land use districts. Sound pressure level measurements shall be made with a sound level meter and an octave band analyzer conforming to the specifications of the American National Standards Institute.

2. *Odors and gases.* No obnoxious odors or gases shall be emitted which may be harmful or irritating to the public health and/or safety.
3. *Glare and heat.* Glare and heat from arc welding, acetylene torch cutting or similar processes shall be shielded in such a manner as to prevent any danger or discomfort to persons outside of any building where such operation is being conducted.
- d. *Exterior lighting.* Any lights used for exterior illumination shall comply with the requirements of section 32-86 of this chapter.
- e. *Vibration.* Shall not cause a ground displacement exceeding .003 inch as measured at any site line of the premises and not detectable at any residential district boundary.
- f. *Smoke.* Emission of smoke shall not exceed the number two (2) standard as established by the Ringlemann Chart for periods aggregating four (4) minutes in any thirty (30) minutes.
- g. *Dirt, dust and fly ash.* The emission of dirt, dust and fly ash shall not exceed three tenths (.3) grains per cubic foot of flue gas as measured at stack temperature of five hundred (500) degrees Fahrenheit with not to exceed fifty (50) percent excess air. No haze shall be caused by such emission which would impair visibility.

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- h. *Radioactive materials.* No radioactive materials shall be emitted in excess of standards established by the U.S. Bureau of Standards for human safety.
 - i. *Power.* Power utilized in any industrial activity shall be derived only from electrical energy or smokeless fuels containing less than twenty (20) percent volatile content on a dry basis. Bituminous coal shall be fired only by mechanical equipment.
 - j. *Electrical radiation.* Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
 - k. *Waste.* All sewage and industrial wastes shall be handled, stored, treated, and/or disposed of in compliance with all federal, State of Michigan and city laws and regulations.
 - l. Bulk storage of flammable liquids, liquefied petroleum gases and the like.
 - (a) *Above ground.* Not permitted.
 - (2) *Underground.* Bulk storage accessory to the principal use may be permitted underground provided that storage tanks shall be located not less than thirty (30) feet from any site line of the premises and fifty (50) feet from any residential use or district line.

(6) Environmental and off-street parking.

Environmental (landscaping, lighting, screening and signs) and off-street parking improvements shall be provided in accordance with articles V and VI of this chapter.

The site plan shall contain a signed certified statement by the owner of the property indicating compliance with all performance standards.

(Ord. No. 302, § 1, 10-1-00; Ord. No. 327, § 1, 2-10-05; Ord. No. 345, § 1, 1-8-09)

Sec. 32-144. Industrial controlled district, IC.

The IC industrial controlled district is established primarily for manufacturing, assembling and fabrication activities including large scale or specialized industrial operations whose external physical effects will be felt to some degree by surrounding districts. The district is so structured as to permit, in addition to IR industrial restricted uses, the manufacturing, processing and compounding of semi-finished or finished products from raw materials.

- (1) *Uses permitted.* In all IC industrial controlled districts, no building shall be erected or land used, except for one (1) or more of the following uses:
 - a. Any principal and special land use permitted in an IR district, (with the exception of any commercial uses allowable in the IR district) such uses shall be regulated by the provisions of sections 11.20.C and D [sections 32-143(3) and (4)].
 - b. Industrial uses to be conducted wholly within a building or within a building and/or an area enclosed within a chainlink fence; the fence shall be not less than six (6) feet high, located not less than fifty (50) feet from the front property line or side street property line; outside of the fence shall be planted a twenty (20) foot greenbelt planting strip, which shall be not less than eight (8) feet or more in height, to screen view of storage materials from the street and adjacent properties. On a side and/or rear property line abutting residential, the fence shall be located on the property line and a ten (10) foot greenbelt planting strip, not less than eight (8) feet in height,

shall be planted and maintained along the fence inside of the property to screen view of storage materials from adjacent properties.

1. Building materials storage yards.
 2. Equipment rental or storage yards.
 3. Feed and fuel yards.
 4. Trucking terminals and transfer warehouses with outside storage for trucks, trailers, etc., when direct access is available to county or state highways.
 5. Any use permitted under subsection c. below requiring outside storage areas.
- c. Industrial uses conducted wholly within a building, with a landscaped front yard and with the side or rear yard used for loading and unloading and parking.
 - d. No use in this district shall be permitted whose operation may violate the performance standards set forth in this section of this chapter.

No outdoor storage shall be permitted unless it is part of an approved site plan. If no outdoor storage will be created, then the site plan shall contain a signed certified statement to that effect by the owner of the property.

- (2) *Special land uses.* The special land uses and any use similar to those set forth in this article as permitted uses shall be permitted in this district only after proper notice has been given as required by state law and when determined by the planning commission to be in accord with the provisions of this section, the articles of this chapter, of no more objectionable character than permitted uses, and which, in the opinion of the planning commission, meet the standards of article XII of this chapter.

- a. Accessory uses, including heliports unlimited use (see definition).
- b. Bulk storage of flammables (section 12.08).*
- c. Junk yards (section 12.28).*
- d. Planned unit development (section 12.32 [section 32-183]).
- e. Public utility buildings (section 12.36 [section 32-187]).
- f. Refuse disposal incinerators and transfer stations (section 12.37).*
- g. Any lawful use of land or buildings not expressly prohibited or provided for (as a permitted or special approval use) shall be a lawful use in all IC districts when such uses comply with this chapter and the following sections of this article.

Storage of used rags, waste paper or similar combustible materials, as a business, shall be permitted when enclosed within a masonry building of four (4) hour fire construction and no part of which shall be located closer than one hundred (100) feet from any adjoining property line. The storage of lumber, coal or other combustible materials shall not be less than twenty (20) feet from any interior lot line. A roadway shall be provided, graded and maintained from the street to the rear of the property to permit free access of fire trucks at all times.

***Note**—It should be noted that sections 12.08, 12.32 and 12.37 [sections 32-159, 32-179 and 32-188 of this chapter] were apparently deleted with the 1996 amendment of the zoning ordinance. See the editor's footnote to Ch. 32.

- (3) Site, area and placement requirements.
 - a. Minimum size each lot:

1. Lot area (square feet): 20,000.
2. Lot width (linear feet): 100.
- b. Minimum yard setbacks per lot:
 1. Front and street-side building setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan, as follows:

Distance from centerline (in feet):

	Buildings and Parking
a. Major	110
b. Secondary	110
c. Collector	93
d. Local	80
e. Cul-de-sac	120
f. Private road	** 75

* Where the front yard of two (2) or more permitted principal structures in any block in existence on the effective date of this chapter, within this district and on the same side of the street, are less than the minimum front yard, then any building subsequently erected in the block on this side of the street shall not be less and need not be greater than the average depth of the front of all structures on that side of the street in the block.

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot. Parking shall not be permitted in the required front and street side setback(s).

- b. *Side yard (linear feet):* Twenty (20). Corner lot side yards must equal the setback required for the front yards on the street to which they side. If an exterior yard borders a residential district there shall be provided a yard setback of not less than one hundred (100) feet.
3. *Rear yard (linear feet):* Twenty (20).

No building shall be closer than one hundred (100) feet to the outer perimeter (property lines) of this district where said property lines abut any residential district and such space shall only be used for the parking of individual passenger vehicles and/or small trucks.

(4). Building requirements.

- a. Building height. No building shall exceed thirty-five (35) feet in height except as otherwise provided in article IV of this chapter.
- b. Number of stories. No building shall contain more than three (3) stories above the ground level except as otherwise provided in article IV of this chapter.
- c. Maximum lot coverage is equal to the remainder of the site after all right-of-way, parking, and yard space requirements are deducted from the gross site area.
- d. The distance, at the closest point, between any two (2) buildings on the same site shall not be less than forty (40) feet.

(5) *Additional site requirements.* In addition to those requirements cited in article XII, the following additional site requirements also apply to this district:

- a. No part of any building, parking access and/or service area may be located closer to any property line adjacent to a residential district than specified above.
- b. General regulations and limitations on uses.
 - 1. *Sound levels.* Sound pressure levels resulting from any use of a site which exceed the maximum sound pressure levels established by this article for the designated land use districts shall be prohibited.
 - (a) The maximum slow response steady sound pressure levels for the following octave band center frequencies, as measured in accordance with this subsection, of any site in industrial controlled districts (IC) shall be as follows:

Maximum Sound Pressure Level (dB)

Octave Band Center Frequency (Cycles per Second)	At the Residential, Commercial or Industrial Research Boundary	IR District	IC District
31.5	72	79	80
63	71	78	79
125	65	72	74
250	57	64	69
500	51	58	63
1000	45	52	57
2000	39	46	52
4000	34	41	48
8000	32	39	45

- (b) The maximum A scale (slow response) steady sound pressure levels as measured in accordance with this subsection, of any site shall be as follows:

Maximum Sound Pressure

Abutting Zoning District	Level [dB(A)]
Residential, Commercial & Office Research	55 (At District Boundary)
IR Industrial Restricted	62 (Along District Boundary)
IC Industrial Controlled	66 (Along Property Line)

- (c) The octave band center frequency levels shall be applied in order to determine compliance with this subsection whenever the measured A scale (slow response) steady sound pressure levels do not exceed the applicable fifty-five (55) [dB(A)], sixty-two (62) [dB(A)] and sixty-six (66) [dB(A)] levels.
- (d) Sound pressure levels shall be measured along both the zoning district boundary and along the property line of the site where the site is located within one hundred twenty-five (125) feet of a zoning district other than industrial controlled. The sound pressure levels shall be measured along the property line of the site where the site is not located within one hundred twenty-five (125) feet of a zoning district other than industrial controlled.

Maximum steady sound pressure levels for all land use districts between the hours of 10:00 p.m. and 7:00 a.m. shall be seven (7) dB(A) lower than the levels set forth above. Maximum repetitive impulse sound pressure levels shall be ten (10) dB(A) lower than the values established for steady sound pressure levels in all land use districts. Sound pressure level measurements shall be made with a sound level meter and an octave band analyzer conforming to the specifications of the American National Standards Institute.

2. *Odors and gases.* No obnoxious odors or gases shall be emitted which may be harmful to public health and/or safety.
3. *Glare and heat.* Glare and heat from arc welding, acetylene torch cutting or similar processes shall be deflected in such a manner as to prevent any danger to persons outside of any building where such operation is being conducted.
4. *Exterior lighting.* Any lights used for exterior illumination shall comply with the requirements of section 5.05 [section 32-86] of this chapter.
5. *Vibration.* Shall not cause a ground displacement exceeding .003 inch as measured at any property line of the premises.
6. *Smoke.* Emission of smoke shall not exceed the number 2 standard as established by the Ringlemann Chart for periods aggregating three (3) minutes in any fifteen (15) minutes when starting a new fire.
7. *Dirt, dust and fly ash.* The emission of dirt, dust and fly ash shall not exceed three tenths (.3) grains per cubic foot of flue gas as measured at stack temperature of five hundred (500) degrees Fahrenheit with not to exceed fifty (50) percent excess air. No haze shall be caused by such emission which would impair visibility.
8. *Radioactive materials.* No radioactive materials shall be emitted in excess of standards established by the U.S. Bureau of Standards for human safety.
9. *Power.* Power utilized in any industrial activity shall be derived only from electrical energy or smokeless fuels containing less than twenty (20) percent volatile content on a dry basis. Bituminous coal shall be fired only by mechanical equipment.
10. *Electrical radiation.* Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.
11. *Waste.* All sewage and industrial wastes shall be handled, stored, treated, and/or disposed of in compliance with all federal, State of Michigan and city laws and regulations.
12. Bulk storage of flammable liquids, liquefied petroleum gases and explosives.
 - (a) Above ground. Not permitted unless special permit obtained under section 12.08 [section 12.08] of this chapter.
 - (b) Underground storage is permitted provided that storage tanks for explosives shall be located not less than one hundred fifty (150) feet from any site line of the premises and liquefied petroleum gas and flammable liquid storage tanks shall be located not less than thirty (30) feet from any site line of the premises.
13. *Storage.*

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- (a) Inside and underground storage, other than junk, is permitted provided compliance is made with all applicable fire and safety and health regulations.
 - (b) Outside storage, other than junk, is permitted in connection with or part of any industrial use. Such use shall be stored, located or deposited in a manner so as not to obstruct or interfere with any roadway on the premises which could be used as a means of access for fire-fighting equipment (see this section A.2. [section 1.b.], above).
 - (c) Outside storage of junk and/or industrial waste incident to an industrial use shall not exceed ten (10) days and shall be completely enclosed within a tight, unpierced masonry, wood or metal fence and shall comply with the requirements of sections 11.30.C. and E.2.(m)(2) [sections 32-144(3) and (5)b.13.(b)] above.
- (6) *Environmental and off-street parking.* Environmental (landscaping, lighting, screening and signs) and off-street parking improvements shall be provided in accordance with articles V and VI of this chapter.
- The site plan shall contain a signed certified statement by the owner of the property indicating compliance with all performance standards.

(Ord. No. 302, § 1, 10-1-00; Ord. No. 327, § 2, 2-10-05)

Sec. 32-145. Uses with locational restrictions to avoid secondary effects.

It is recognized that certain uses as a result of their nature have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to assure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. In connection with the adoption of this section, council has received information, including information associating blight and increased crime with sexually-oriented businesses, including studies in the City of Detroit, Michigan, in the early 1970s, the City of St. Paul, Minnesota in 1978, the City of Phoenix, Arizona in 1979, the City of Minneapolis, Minnesota in 1980, the City of Austin, Texas in the early 1980s, the City of Indianapolis, Indiana in 1987, Oklahoma City, 1986, 1992, the City of Los Angeles, California in 1984, Adams County, Colorado in 1988, the report of the Minnesota Attorney General issued in 1989, Times Square, New York 1974, Dallas, Texas 1994, 1997, and Newport News, Virginia 1996. In connection with the adoption of this section, council has received further information that certain types of skid-row businesses, including tattoo parlors, pawnbrokers, and used goods businesses have through studies in the City of Detroit been found to have deleterious effect upon the use and enjoyment of adjacent areas, including information associating blight.

- (1) *Sexually-oriented business.* It has been demonstrated that the establishment of sexually-oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both businesses and residential segments of the neighborhood, causing blight, down-grading property values, and in some instances crime increasing in the vicinity. Such prohibition fails to avoid the deleterious effects of blight and devaluation of both business and residential property values resulting from the establishment of sexually-oriented businesses in a business district which is adjacent to and which serves residential neighborhoods and uses. The orderly planning, development and preservation of neighborhoods residential uses should be encouraged and fostered by properties and persons which comprise the business and residential segments of each neighborhood.

Sexually-oriented businesses defined herein shall only be permitted in the IC zoning district, subject to the following requirements and conditions:

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- a. Such uses shall be permitted only in the IC district provided no portion of the property upon which such business is situated is within one thousand one hundred (1,100) feet of any of the following:
 1. A residentially-zoned district;
 2. Property upon which a residential use exists;
 3. A church;
 4. A school;
 5. Pool or billiard hall;
 6. Coin-operated amusement centers;
 7. Roller skating rinks or ice rinks;
 8. Night clubs or dance halls permitting the congregation of persons under twenty-one (21); or
 9. Any public park.

The method of measurement shall utilize the two (2) property edges closest to each other, measured with a direct line.

- b. This distance prohibition is subject to waiver upon presentation to the Fraser Planning Commission of a valid petition requesting waiver signed by fifty-one (51) percent, or more, of each of the following categories:
 1. Persons owning property within one thousand one hundred (1,100) feet of the proposed location;
 2. Persons residing with or occupying any dwelling unit within one thousand one hundred (1,100) feet of the proposed location;
 3. Persons or entities operating any of the uses described in subsection 32-145(1)a 1—9 within one thousand one hundred (1,100) feet of the proposed location
- (2) *Pawnbroker and tattoo.* It has been demonstrated that the establishment of tattoo, and pawnbroker uses in business districts which are immediately adjacent to and serve residential neighborhoods have a deleterious effect on both business and residential segments of the neighborhood causing blight. Such prohibition fails to avoid the deleterious effects of blight and devaluation to both business and residential property values resulting from the establishment of these businesses in a business district which is immediately adjacent to and serves residential neighborhoods. The orderly planning, development and preservation of neighborhoods should be encouraged and fostered by properties and persons which comprise the business and residential segments of each neighborhood.

Pawnbroker and tattoo defined herein shall only be permitted in the IC zoning district, subject to the following requirements and conditions:

- a. Such uses shall be permitted only in the IC district provided no portion of the property upon which such business is situated is within one thousand one hundred (1,100) feet of any of the following:
 1. A residentially-zoned district;
 2. Property upon which a residential use exists;
 3. A church;

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4. A school;
 5. Pool or billiard hall;
 6. Coin-operated amusement centers;
 7. Roller skating rinks or ice rinks;
 8. Night clubs or dance halls permitting the congregation of persons under twenty-one (21);
or
 9. Any public park.

The method of measurement shall utilize the two (2) property edges closest to each other, measured with a direct line.

- b. This distance prohibition is subject to waiver upon presentation to the Fraser Planning Commission of a valid petition requesting waiver signed by fifty-one (51) percent, or more, of each of the following categories:
 1. Persons owning property within one thousand one hundred (1,100) feet of the proposed location;
 2. Persons residing with or occupying any dwelling unit within one thousand one hundred (1,100) feet of the proposed location; and
 3. Persons or entities operating any of the uses described in subsection 32-145(1)a 1—9 within one thousand one hundred (1,100) feet of the proposed location.

(Ord. No. 328, § 3, 2-10-05)

Secs. 32-146—32-150. Reserved.

ARTICLE XII. PLANNED UNIT DEVELOPMENT AND SPECIAL LAND USE APPROVAL

Sec. 32-151. Statement of intent and purpose.

The intent is to establish planned unit development provisions which permit flexibility in the regulation of land development to allow planned unit developments (PUDs) in all zoning districts which may be affected, subject to the requirements and standards for special land use now existing in each affected district, as well as the uses not otherwise included within a particular zoning district, provided the proposed PUD meets the requirements of this chapter.

It is also deemed necessary to the preservation of health, safety and welfare that the certain uses hereinafter set forth be specially controlled because they serve an area, market and/or purpose considerably beyond the borders of the city and/or create particular problems of control in relation to adjoining uses, districts, public health, safety and welfare. These uses, because of their unique characteristics and/or effects upon public health, safety and welfare, are deemed to be impractical to be permitted without planned unit development (PUD) or special land use approval, and then only as specifically allowed.

(Ord. No. 279, § 12.00, 12-12-96)

Sec. 32-152. Planned unit development requirements.

The following planned unit development requirements are designed to accomplish the objectives of the zoning 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 a project area.

- (1) Purpose.
 - a. To encourage innovation in land use and variety in design, layout and type of structure constructed.
 - b. To achieve economic and efficient use of land, natural resources, energy and the provision of public services and utilities.
 - c. To encourage the provision of useful open space, where appropriate.
 - d. To provide better housing, employment and commercial opportunities particularly suited to the needs of the city.
- (2) Planned unit developments (PUDs) shall be submitted in a two-step process. The initial step shall include a preliminary application and plan in accordance with the following outline. The plan for final approval shall include a public hearing and follow the standards and requirements listed in subsequent subsections. The filing of a preliminary plan will provide an opportunity for the applicant and the planning commission to become generally acquainted with the proposed project and conduct discussions about the features of the proposed PUD. An application for preliminary plan consideration shall comply with and include the following requirements and standards:
 - a. The applicant shall submit an understandable plan showing the entire PUD area in a preliminary form and at a clearly understandable scale, indicating proposed land use area(s), their relationship to each other, circulation patterns, and existing site characteristics.
 - b. The existing topography shall be depicted at two (2) foot contour intervals for the PUD area and all nearby areas; if the land is generally flat, grade shots shall be provided at intervals necessary to any grade differential.
 - c. A map of the city indicating the PUD area and its relationship to existing roads, streets and use districts within, and immediately adjacent to, the city.
 - d. Existing utilities, including storm drain facilities, shall be located and noted.
 - e. Preliminary architectural plans for all buildings, including basic building planning and number of units per building, shall be clearly set forth.
 - f. Intensity of office, commercial or industrial uses and number of units by type shall be clearly set forth.
 - g. Adequacy of public and private services/infrastructure shall be described.
 - h. Existing and proposed land use and development features as they impact neighboring properties.

If the planning commission agrees that the proposal has merit and has potential to meet the requirements of this chapter and the applicable PUD requirements (see subsection (3) below), an application may be filed for final PUD review in conformance with the requirements of the following subsections. If the planning commission does not agree with the proposed plan or approach, it shall deny the request at this point and provide the reasons for denial in the commission minutes.
- (3) An Application for final PUD review may be made after the planning commission has agreed by motion that the preliminary plan has potential to meet the requirements of this chapter. Upon receipt of an

application for final approval, the planning commission shall hold a public hearing. The applicant's presentation at said hearing shall include drawings, exhibits, narratives and draft covenants and agreements identified for reference by letter or number. If the application for final approval application complies with the applicable special land use section(s) as set forward in the zoning district(s) being affected, as well as the special land use approval requirements and uses not otherwise included within a particular zoning district are found acceptable, and the planning commission further finds the following standards to have been met, the application shall be approved.

- a. All applicable provisions of this section shall have been met. If any provision of this section is in direct conflict with the provisions or authority of any other section of this chapter, the provisions included within this section shall apply to land included within the PUD area.
 - b. All minimum requirements pertaining to residential, commercial, institutional, industrial or other uses shall be subject to the requirements of each individual classification hereinafter referenced, except as may be specifically varied by the planning commission and city council, where applicable, in granting and establishing a PUD.
 - c. Adequate, well-designed and properly planned areas shall be provided for all walkways, recreation, parking, access, screening and isolation, and other open areas to be used by the public and/or residents of the city.
 - d. Adequate sanitary sewer disposal, water supply, and road and other stormwater drain systems. Water, sewer and storm drains shall be subject to applicable city standards and ordinances.
 - e. Efficient and desirable use of open areas in keeping with the physical character of the city and surrounding areas.
 - f. Assurances that areas shown on the plan for use by the public and occupants shall be, or have been, irrevocably committed for that purpose. The city reserves the right to require conveyances or other documents to be placed in escrow.
 - g. Assurance of financial support for and maintenance of all improvements indicated on the plan for open space areas and common use areas. Assurances may require posting of bonds as determined by the city planning commission and approved by the city council.
 - h. The planning commission, upon recommendation of the city engineer, may waive or modify requirements for underground installation of all utilities with respect to all or part of a particular PUD plan when strict application would result in practical difficulties.
- (4) Final review application shall include, in addition to compliance with the applicable requirements for site plan review contained in Article VII, the following:
- a. A boundary survey of exact acreage requested and performed by a registered land surveyor or civil engineer (Scale: 1" equals 100').
 - b. A physical features map of the area and its vicinity, including topography drawn as contours with an interval of at least two (2) feet (or grade shots, where applicable). Map shall indicate all trees, bodies of water and unbuildable areas due to soil conditions, wetlands, topography or similar conditions (Scale: 1" equals 200').
 - c. A legal description of the property.
 - d. An aerial photograph of the area not more than five (5) years old (Minimum scale: 1" equals 100').
 - e. Existing and proposed streets and other developments within and surrounding the proposed PUD area shall be shown.

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- f. A plan for the entire PUD area indicating the functional use areas and dwelling unit types being requested; densities proposed; thoroughfare, road, traffic and pedestrian circulation plan; public utilities plan; building locations, driveways, walkways, parking areas, natural areas (streams, drains, woodlands); sites reserved for public facilities and service activities; playgrounds, recreation areas and other open spaces; areas used for public and/or residents of the PUD. Such plan shall designate each land use category in contrasting colors or other means.
 - g. A preliminary estimate of contemplated total stormwater flow and sanitary sewage volume. Each utility shall be shown as a one-line diagram with flow direction indicated on the proposed street layout and shown on the topographic map as indicated in subsection (4)b. above.
 - h. A schedule indicating the proposed timing of the development, including phasing and parcelization, if appropriate.
 - i. A written impact statement, detailing the intent of the developer and types of dwelling units contemplated, resultant population, and expected number of elementary school children. The impact statement shall also include support documentation, such as soil surveys; supporting land use requests; changes in traffic volume on adjacent streets; impact of proposed development on wetlands, soil erosion, shoreline protection, wildlife habitat, air and water quality (ground and surface); noise; and scale of development and surrounding environment.
 - j. Statement of covenants, grants of easements and other restrictions to be imposed upon the uses of land and structures.
 - k. Any other data, plans or drawings considered by the planning commission to be necessary for the consideration of the proposal.

All materials required to be submitted as part of the application shall be submitted in required number of copies for distribution to the planning commission and appropriate reviewing agencies.

- (5) The planning commission shall review the application materials and reviewing agencies' comments. In the process of review, the planning commission shall consider:
 - a. Specific development requirements set forth in this chapter.
 - b. The location and design of service roads or drives and driveways providing vehicular ingress to and egress from each building site, in relation to streets giving access to the site and in relation to pedestrian traffic.
 - c. The traffic circulation features within the site and location of automobile parking areas; and may make such requirements with respect to any matters as will assure:
 - 1. Safety and convenience of both vehicular and pedestrian traffic, both within the site and in relation to access streets.
 - 2. Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent parcels and districts.
 - 3. Accessibility afforded to emergency vehicles.
 - d. The arrangement of use areas on the site in relation to functional, efficient and compatible arrangements within the site and also to adjacent uses.
 - 1. The treatment of public space.
 - 2. The availability of sewer and water capacity and the capacity of other utilities.
 - 3. The impact on air quality.

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4. The potential noise from development and traffic sources.
 - e. The proposal's conformity with, and compatibility to, the character of the surrounding property and that it will not substantially interfere with the safety, light, air and convenience of the surrounding private and public property.
 - f. Any other matters that are within the city departments' or the commission's jurisdiction.

Only applications properly prepared and submitted with all required fees, deposits and/or bonds paid in full will be processed. Review and processing of the application shall be subject to the requirements and procedures contained within this chapter and as administered and finally approved by the planning commission. Initial approval shall be valid for a period of two (2) years, with one (1) year extensions possible with the approval of the planning commission upon proper application. If development of the site has lapsed for a period exceeding one (1) year, the owner/applicant or his successors, shall be required to return to the city for reconsideration of the plan, following the procedure outlined for original approval in this section.

- (6) Wherever the applicant proposes to provide and set out by plat, deed, dedication, restriction or covenant, land or space to be used as commons, greenways, or open areas, the planning commission may consider and vary the applicable minimum requirements of these as well as the zoning district regulations. Such exceptions may include, but not necessarily be limited to, use, arrangement, height, setback, lot and building area.
- (7) In the course of instituting the plan, minor plan adjustments, including the minor shifting of buildings, service areas and other features requested by the developers may be authorized by the planning commission and processed as site plan applications. The city planner shall make the determination as to whether a change is minor or if an amendment is required. Amendments that significantly impact factors considered by the planning commission in approving the PUD plan, such as changes to circulation systems, densities and major building rearrangements, shall require the applicant, or the applicants' successors, to return to the planning commission for approval of an amended plan. The procedure outlined for original approval shall be followed when submitting an amended plan.
- (8) Rezoning and plan amendments may be further processed by the planning commission. All PUDs shall then be properly zoned to the applicable basic zoning district with a "P" planned designation before final PUD approval. The "P" planned overlay district shall, in each instance, be limited to uses, arrangements and improvements contained in the companion PUD plan. The planning commission shall hold required hearing for such rezoning upon proper filing by the owner/applicant. After approval of the rezoning and PUD, the zoning shall limit development use of the "P" planned district. In the course of instituting the plan, minor plan adjustments and/or amendments may be authorized by the planning commission as outlined in subsection (6) above.
- (9) Once a PUD is approved by the planning commission, no zoning board of appeals requests shall be permitted. Any requested changes in the development plans shall conform to the revision procedures contained within this section.
- (9) It is expressly understood that a PUD project will not be allowed to proceed until approval of the final PUD plan or subsequent amended plan shall have received official approval of the planning commission and city council, where applicable, at one of its regular meetings.

(Ord. No. 279, § 12.01, 12-12-96)

Sec. 32-153. Special land use review requirements.

In all cases, the power to grant special land use approval is vested in the planning commission. All applications for special land use approval shall first be forwarded by the building department to the planning commission for review and processing. The application shall be submitted in the number of copies required and accompanied by the same number of site plans, all prepared and filed to meet the requirements of Article VII.

The planning commission shall review the application after proper notice has been given as required by state law and approve or deny the application. Approval may require conditions the Commission may find necessary; disapproval of the application will be accompanied by reasons in writing. If a public hearing is to be held as provided by state law, then the planning commission, after proper notice, shall hear any person wishing to express an opinion on the application.

At its next regular meeting after the public hearing, the planning commission shall consider the application for special land use approval or disapproval in accordance with the provisions of this section.

The planning commission shall review each case individually as to its applicability and must find affirmatively to each of the following standards of the proposed land use if it is to be approved.

- (1) *Standards.*
 - a. The proposed use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and applicable regulations of the zoning district in which it is to be located.
 - b. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian-vehicle interfaces in residential districts.
 - c. The proposed use shall be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating therefrom which might be offensive to the occupants of any other nearby uses permitted, whether by reason of dust, noise, fumes, vibration, smoke or lights.
 - d. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
 - e. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the city.
 - f. The proposed use is necessary for the public convenience at the proposed location.
 - g. The proposed use is so designated, located, planned and to be operated that the public health, safety and welfare will be protected.
 - h. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

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- (2) *Approval.* If the planning commission determines that the particular special land use(s) should be allowed, it shall endorse its approval thereof on the written application and clearly set forth in writing thereon the particular use(s) which shall be allowed. Thereafter, the building department may issue a building permit in conformity with the particular special land use so approved. In all cases where a particular special land use has been granted as provided herein, application for a building permit in pursuance thereof must be made and received by the city not later than two hundred seventy (270) days thereafter, or such approval shall automatically be revoked, provided, however, the planning commission may grant an extension thereof for good cause shown under such terms and conditions and for such period of time not exceeding another two hundred seventy (270) days as it shall determine to be necessary and appropriate.
 - (3) *Denial.* If the planning commission shall determine that the particular special land use(s) requested does not meet the standards of this chapter or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the city, it shall deny the application by a written endorsement thereon which clearly sets forth the reason for such denial.
 - (4) *Record.* The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed.
 - (5) *Hearings.* The planning commission shall investigate the circumstances of each such case and give notice of the time and place of any hearing, meeting or review which may be held relative thereto as required by state law and/or its rules or procedure.
 - (6) *Conditions.* The planning commission may impose such conditions or limitations in granting approval as may be permitted by state law and this chapter which it deems necessary to fulfill the spirit and purpose of this chapter. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:
 - a. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - c. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this chapter for the land use or activity under consideration; and be necessary to insure compliance with those standards.

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

Once a special land use has been approved, no zoning board of appeals requests shall be permitted. Any changes in the development plans must be made in accordance with revision procedures contained herein.

Notwithstanding the other provisions of this section, the city council (and not the planning commission) shall have the authority to consider, approve, or deny special land uses which are proposed to be developed under a conditional rezoning as part of city council's review and approval of a conditional rezoning agreement under section 32-261.

(Ord. No. 279, § 12.02, 12-12-96; Ord. No. 391, § 2, 10-11-18)

Sec. 32-154. Amusement and recreation.

- (a) May be allowed in the CG commercial general district.
- (b) Specific requirements and conditions.
 - (1) Bowling alleys, hockey arenas, tennis houses, racquetball and soccer facilities, and similar forms of indoor commercial recreation, provided that no such use within the building or on the site shall be located within one hundred (100) feet of any residential district.
 - (2) The site shall be so located as to abut a major thoroughfare right-of-way and all ingress and egress to the site shall be directly from said major thoroughfare.
 - (3) The building, or part thereof, devoted to such use shall be designed and constructed in such a manner that no audible sound may be heard by adjoining uses or at the lot line.
 - (4) The area devoted to food service shall not exceed the area devoted to amusement or recreation uses.
 - (5) The use shall be located at least five hundred (500) feet from any school, playground or public park.
 - (6) All patron entrances shall be at least two hundred (200) feet from any residential district, measured by the shortest walking distance between the patron door and the property line.
 - (7) Such uses shall be conducted in accordance with all applicable regulatory ordinances of the city.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.03, 12-12-96)

Sec. 32-155. Amusement device centers.

- (a) May be allowed in the CBD community business and CG commercial general districts.
- (b) Specific requirements and conditions.
 - (1) The site shall not be contiguous to a one-family residential district and shall not be located within five hundred (500) feet of the property line of any church, public or parochial school, or playground.
 - (2) The site shall be so located as to abut a major thoroughfare right-of-way and all ingress and egress to the site shall be directly from said major thoroughfare.
 - (3) The building, or part thereof, devoted to such use shall be designed and constructed in such a manner that no audible sound may be heard by adjoining tenants or at the lot line.
 - (4) Such uses shall be conducted in accordance with all applicable regulatory ordinances of the city.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.04, 12-12-96)

Sec. 32-156. Auto wash.

- (a) Auto wash or motor vehicle laundry may be allowed in the CN commercial neighborhood district.

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- (b) Specific requirements and conditions.
 - (1) Vehicular ingress and egress from the site shall be directly onto a major thoroughfare.
 - (2) All vehicles waiting or standing to enter the facility shall be provided off-street waiting space, and no vehicle shall be permitted to wait on the public right-of-way as part of the traffic approach.
 - (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
- (Ord. No. 279, § 12.05, 12-12-96)

Sec. 32-157. Reserved.

Sec. 32-158. Automobile repair and service centers.

- (a) May be allowed in the CG commercial general district.
 - (b) Specific requirements and conditions.
 - (1) All repair activities shall be confined to the interior of the building.
 - (2) No outdoor storage is permitted.
 - (3) An adequate means of waste disposal shall be provided.
 - (4) Adequate measures shall be taken to ensure that any noise, dust, smoke, odor, fumes or other negative environmental impacts are confined to the site.
 - (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
- (Ord. No. 279, § 12.07, 12-12-96)

Sec. 32-159. Reserved.

Sec. 32-160. Businesses of a drive-in nature, but not including outdoor theaters.

- (a) May be allowed in the CG commercial general district.
- (b) Specific requirements and conditions.
 - (1) All buildings shall observe the front or street-side setbacks, as specified in section 32-135(3)b., area, height and placement requirements, plus twenty-five (25) feet.
 - (2) Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two (2) streets.
 - (3) Devices for the transmission or broadcasting of voices shall be so directed or muffled as to prevent said sounds or music from being audible beyond the boundaries of the site.
 - (4) All driveway approaches, road drainage, curbs and curb-cuts shall meet the requirements of the city and of other agencies having jurisdiction thereof.
 - (5) All adjacent properties shall be zoned for non-residential use.

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- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.09, 12-12-96)

Sec. 32-161. Carry-out restaurants (excluding drive-thru facilities).

- (a) May be allowed in the CN commercial neighborhood and in the CBD community business districts when part of a sit-down restaurant business.
- (b) Specific requirements and conditions.
 - (1) Adequate ventilation shall be provided to ensure that any odors associated with any food preparation will be confined to the site so as not to create a nuisance for any residential parcels.
 - (2) All ventilation systems shall be maintained in good working order at all times. Evidence of the type and adequacy of any such system shall be provided and approved by the city building department and the Macomb County Health Department.
 - (3) Side and rear yard setbacks for restaurants may be increased by the planning commission when adjacent to residential zoning districts on a finding that the use may tend to produce effects uncharacteristic impacts for this type of use.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.10, 12-12-96)

Sec. 32-162. Cemeteries.

- (a) May be allowed in both one-family residential zoning districts.
- (b) Specific requirements and conditions.
 - (1) A greenbelt and a masonry wall (as both of these are described under section 32-82 of this zoning chapter) shall be installed along the perimeter of the site, but not closer to the front site line than established as the front setback line for buildings in the zoning district in which the use is proposed.
 - (2) Suitable gates for ingress and egress shall be provided, and the principal entrance shall not be closer than two hundred (200) feet to an adjoining residential site.
 - (3) If the applicant desires to install a cyclone wire fence (or other type of fencing) instead of a masonry wall, this shall be described on the application, and it may be approved in the discretion of the planning commission if the fence will be substantially compatible and harmonious with existing, adjacent types of installations.
 - (4) No building shall be erected closer than one hundred (100) feet to an adjacent site line, nor such building cover more than ten (10) percent of the site on which it is to be constructed.
 - (5) Any such use shall not be permitted in a floodplain.
 - (6) The applicant shall show with reasonable certainty that the elevations of the site when finished will provide adequate drainage.
 - (7) The proposed roads and parking areas shall be adequate for the use, and shall be paved.

- (8) The greenbelt and wall (fence included) shall be maintained as required under section 32-82 of this chapter, and the city may require a bond for the installation as set forth under section 32-104(d).
- (9) Minimum cemetery site shall be ten (10) acres. Where a state law specifically permits a smaller size, or sets a maximum size less than ten (10) acres, this regulation shall not apply to an addition to the site of a use existing at the time of adoption of this chapter.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.11, 12-12-96)

Sec. 32-163. Churches.

- (a) May be allowed in all residential districts.
- (b) Site requirements.
 - (1) Minimum site shall be two (2) acres on a continuous parcel.
 - (2) The site shall abut a public road having a right-of-way of not less than that of a collector thoroughfare (86 feet) or the proposed right-of-way of a secondary or major thoroughfare on the city's master plan.
- (c) Yard and placement requirements.
 - (1) *Minimum yard setback per lot:* Front and street-side setbacks shall be measured from the centerline of each road right-of-way (R.O.W.) in accordance with the city's master plan, as follows:

Distance from centerline (in feet):

	Building and Parking
a. Major	110
b. Secondary	110
c. Collector	93
d. Local	80
e. Cul-de-sac	110
f. Private Roads	50 *

** In the case of private roads, the front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

Parking shall not be permitted in the required front or street side setback.

- (2) *Side yard:* Equal to the building height, not less than twenty (20) feet.
- (3) *Rear yard:* Fifty (50) feet minimum.
- (4) *Maximum lot coverage:* Same as for the district in which the use is requested.
- (d) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Article V and VI, respectively.

(Ord. No. 279, § 12.12, 12-12-96)

Sec. 32-164. Reserved.

Editor's note(s)—Ord. No. 319, § 3, adopted Jan. 9, 2003, deleted § 32-164 which pertained to cluster housing and derived from Ord. No. 279, § 12.13, adopted Dec. 12, 1996.

Cross reference(s)—Provisions applicable to residential districts., § 32-121(l).

Sec. 32-165. Colleges, universities and similar institutions.

- (a) May be allowed in the RH residential high density district.
- (b) Specific requirements and conditions.
 - (1) Any use permitted herein shall be developed on sites of at least fifteen (15) acres in area.
 - (2) All ingress to and egress from the site shall be directly or by means of a boulevard onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least one hundred twenty (120) feet, as indicated on the master plan.
 - (3) No building shall be closer than fifty (50) feet to any property line when said property line abuts or is adjacent to land zoned for residential purposes.
 - (4) The site shall consist of a minimum area of two hundred (200) square feet per pupil.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.14, 12-12-96)

Sec. 32-166. Convalescent and nursing homes or hospices.

- (a) May be allowed in the RH residential high density district.
- (b) Specific requirements and conditions.
 - (1) All such facilities shall have ingress and egress from a site directly onto a major, secondary or collector thoroughfare having an existing or planned right-of-way of at least eighty-six (86) feet, as indicated in the master plan.
 - (2) All such facilities shall be developed only on-sites consisting of at least five (5) acres in area.
 - (3) There shall be provided at least one thousand (1,000) square feet of lot area per bed.
 - (4) No building on the site shall exceed thirty (30) feet in height, or two (2) stories.
 - (5) Licensing shall be in accordance with the State of Michigan and/or appropriate authority or jurisdiction.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.15, 12-12-96)

Sec. 32-167. Day care centers, nursery schools and similar uses.

- (a) May be allowed in both one-family residential and the OS office service districts.
- (b) Site requirements.

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- (1) The site shall contain a minimum of one hundred fifty (150) square feet of outdoor play area for each child and shall not be less than five thousand (5,000) square feet in total.
 - (2) Any such use shall not be permitted in the interior of any residential block and shall be located adjacent to a multiple or non-residential district.
 - (3) Licensing shall be in accordance with the State of Michigan and/or appropriate authority or jurisdiction.
- (c) Yard and placement requirements. Front, side and rear yards shall comply with yard restrictions of the residential or OS district on which they are located.
- (d) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
- (1) The use shall be screened from existing or zoned adjacent residential properties by five (5) foot poured concrete decorative wall.

(Ord. No. 279, § 12.16, 12-12-96)

Sec. 32-168. Drive-thru facilities.

- (a) May be allowed in the OS office service district.
- (b) Specific requirements and conditions.
 - (1) The site shall not be contiguous to a one-family residential district and shall not be located within two hundred (200) feet of the property line.
 - (2) The site and use shall be located on a major or secondary thoroughfare having a right-of-way equal to, or greater than, one hundred twenty (120) feet, as specified by the master plan.
 - (3) All vehicles waiting or standing to enter the facility shall be provided off-street waiting space, and no vehicle shall be permitted to wait on the public right-of-way as part of the traffic approach.
 - (4) Drive-thru services shall be located in a manner that a satisfactory traffic pattern for the drive-thru lane can be established to prevent traffic congestion and the impairment of vehicular circulation for the remainder of the development. Vehicle stacking lanes shall not cross any maneuvering lanes, drives or sidewalks.
 - (5) The building, or part thereof, devoted to such use shall be designed and constructed in such a manner that no audible sound may be heard by adjoining tenants or at the lot line.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.17, 12-12-96)

Sec. 32-169. Dry cleaning and laundry establishments.

- (a) May be allowed in the CN commercial neighborhood district.
- (b) Specific requirements and conditions.
 - (1) Such use shall be limited to serving customers of the specific establishment only, and shall not be used to service other pick-up stations.
 - (2) The total useable floor area of the use shall not exceed one thousand eight hundred (1,800) square feet.

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- (3) The operation and all materials and processes used in the dry cleaning business shall be conducted in accordance with all applicable statutes, rules, regulations and standards established by any federal, state or local government or authority.
 - (4) Adequate ingress and egress shall be provided from a major or secondary thoroughfare of at least one hundred twenty (120) feet of right-of-way, as indicated in the master plan.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.18, 12-12-96)

Sec. 32-170. Fast-food restaurants.

- (a) May be allowed in the CG commercial general district.
- (b) Specific requirements and conditions.
 - (1) The site and use shall be located on a major or secondary thoroughfare having a right-of-way equal to, or greater than, one hundred twenty (120) feet, as specified by the master plan.
 - (2) Adequate ingress and egress to handle the traffic anticipated to be generated by the use shall be provided.
 - (3) Any fast-food restaurant located in a shopping center shall be aesthetically compatible in design and appearance with the other buildings, tenant spaces, and uses located in the shopping center. In making this determination, the planning commission shall consider the architectural design of the building, the signage and the landscaping to ensure that the design and appearance of the developed fast-food restaurant use is compatible with the design and appearance of the remainder of the shopping center.
 - (4) Drive-thru service shall be permitted only if a satisfactory traffic pattern for the drive-thru lane can be established to prevent traffic congestion and the impairment of vehicular circulation for the remainder of the development. Vehicle stacking lanes shall not cross any maneuvering lanes, drives or sidewalks.
 - (5) Devices and controls adequate to ensure that no smoke, odor or gases are emitted so as to constitute a nuisance to adjoining tenants or to the public shall be provided.
 - (6) Devices for electronically amplified voices or music shall be directed or muffled to prevent any such noises from being audible at any lot line.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.19, 12-12-96; Ord. No. 387, § 1, 1-14-21)

Sec. 32-171. Funeral homes and mortuaries.

- (a) May be allowed in the one-family residential, the OS office service, and the CN commercial neighborhood districts.
- (b) Specific requirements and conditions.
 - (1) Sufficient off-street automobile parking and assembly area is provided for vehicles to be used in a funeral procession. The assembly area shall be provided in addition to any required off-street parking area.

(Supp. No. 57)

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- (2) The site shall be located so as to have one property line abutting a major or secondary or collector thoroughfare of at least eighty-six (86) feet of right-of-way, existing or proposed.
 - (3) Adequate ingress and egress shall be provided to said major, secondary or collector thoroughfare.
 - (4) No building shall be located closer than fifty (50) feet to the outer perimeter (property line) of the district when said property line abuts any single-family residential district.
 - (5) Loading and unloading area used by ambulances, hearses or other such service vehicles shall be obscured from all residential view by a wall six (6) feet in height.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.20, 12-12-96)

Sec. 32-172. Gasoline self-service stations.

- (a) May be allowed in the CG commercial general district.
- (b) Specific requirements and conditions.
 - (1) The site for the gasoline self-service station shall have one hundred fifty (150) feet of frontage on the principal street serving the station.
 - (2) The site shall contain an area of not less than twenty-one thousand (21,000) square feet.
 - (3) All buildings shall observe front or street-side setbacks, as specified in section 14.40.C. [32-133(3)], area and placement requirements, plus fifteen (15) feet. For purposes of this section, canopies, gasoline pumps and pump islands shall not be considered buildings, but shall observe the setbacks of the CG district.
 - (4) Curbs, curb-cuts, driveway widths (and) acceleration or deceleration lanes shall meet the requirements of the city or other agencies having jurisdiction thereof.
 - (5) In order to facilitate safe pedestrian circulation and safety, no parking or standing of customer vehicles shall be permitted in the area immediately adjacent to any customer entrance or payment window.
 - (6) Canopies used to shelter pump islands and adjacent service lanes shall be required, provided such canopies do not encroach into the required front yard, and provided, further, that such canopies shall have a minimum height of fourteen (14) feet and be located to ensure clearance for and access to the site by fire-fighting equipment.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.21, 12-12-96)

Sec. 32-173. Gasoline self-service stations (only on sites where a gasoline service station has existed as a lawful nonconforming use).

- (a) May be allowed in the CN commercial neighborhood and CBD community business districts.
- (b) Specific requirements and conditions:
 - (1) The site for the gasoline self-service station shall have one hundred fifty (150) feet of frontage on the principal street serving the station.

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- (2) The site shall contain an area of not less than twenty-one thousand (21,000) square feet.
 - (3) All buildings shall observe front or street-side setbacks, as specified in section 32-133(3), site area and placement requirements, plus fifteen (15) feet.
 - (4) In order to facilitate safe pedestrian circulation and safety, no parking or standing of customer vehicles shall be permitted in the area immediately adjacent to any customer entrance or payment window.
 - (5) Curbs, curb-cuts, driveway widths and acceleration or deceleration lanes shall meet the requirements of the city or other agencies having jurisdiction thereof.
 - (6) Pump islands used for the sale or distribution of petroleum products and service lanes shall observe the front or street-side setback requirements, as specified in section 32-133(3), site area and placement requirements. Service lanes in which automobiles are temporarily parked shall be no less than twelve (12) feet in width.
 - (7) Canopies used to shelter pump islands and adjacent service lanes shall be required, provided such canopies do not encroach into the required front yard, and provided further that such canopies shall have a minimum height of fourteen (14) feet and be located to ensure clearance for and access to the site by fire-fighting equipment.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
- (Ord. No. 279, § 12.22, 12-12-96)

Sec. 32-174. General education schools (public and private).

- (a) May be allowed in both one-family districts.
 - (b) Specific requirements and conditions.
 - (1) Any use permitted herein shall be developed on-sites of at least one (1) acre in area and contain a minimum of five hundred (500) square feet of land area for each student.
 - (2) No building shall be located, nor activity take place, within fifty (50) feet of the perimeter of the site.
 - (3) All activities shall be adequately screened from abutting residential or residentially zoned property by means of a protective wall or greenbelt as described in section 32-82 of this chapter.
 - (4) Licensing shall be in accordance with the State of Michigan and/or appropriate authority or jurisdiction.
 - (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Article V and VI, respectively.
- (Ord. No. 279, § 12.23, 12-12-96)

Sec. 32-175. General hospitals.

- (a) May be allowed in the RH residential high density district.
- (b) Specific requirements and conditions.
 - (1) All such hospitals shall be developed only on sites consisting of at least ten (10) acres in area and providing a minimum of one thousand five hundred (1,500) square feet of lot area per bed.

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- (2) All ingress and egress from the site shall be directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least one hundred twenty (120) feet, as indicated on the master plan.
 - (3) Ambulance delivery and service areas, when visible from adjacent land zoned for residential purposes, shall be obscured from view by a wall at least six (6) feet in height and a greenbelt.
 - (4) The minimum distance between any structure and a property line shall be seventy-five (75) feet.
 - (5) Maximum lot coverage shall not exceed thirty (30) percent.
 - (6) Site requirements. If a use is proposed under this section in any residential district, the structure must be located either on a major thoroughfare or on the boundary line of the residential district and some other zoning district.
 - a. *Size.* No hospital shall be permitted unless its size is at least fifty (50) in-patient beds.
 - b. *Licensing.* All applicants for a use under this section shall show evidence of procurement of a license to operate a hospital under the statutes of the State of Michigan and the regulations of any administrative agency required thereby.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
- (Ord. No. 279, § 12.24, 12-12-96)

Sec. 32-176. Reserved.

Sec. 32-177. Group day-care (7—12 children).

- (a) May be allowed in all residential districts, subject only to the standards contained in this section.
- (b) Location. The proposed use shall not be located closer than one thousand five hundred (1,500) feet to any of the following facilities, as measured along a street, road or other thoroughfare, excluding an alley:
 - (1) Another licensed group day-care home.
 - (2) Another adult foster care small group home or large group home, licensed by the State of Michigan.
 - (3) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people, whether or not it is licensed by the State of Michigan.
 - (4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population, under the jurisdiction of the department of corrections or a similar governmental authority.
- (c) Yard and placement requirements.
 - (1) Front, rear and side yard minimums shall be the same as the residential district in which it is requested.
 - (2) Maximum lot coverage. Same as for the district in which the use is requested.
- (d) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
 - (1) On-site parking shall be provided for all employees, in addition to the required off-street parking for the residence. No required off-street parking shall be permitted in the required front yard space.

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- (2) Fencing shall be required next to residential uses or districts in accordance with section 32-82 and enclose all outdoor play areas.
 - (e) Character of development. The requested site and building shall be consistent with the visible characteristics of the neighborhood. The group day-care home shall not require the modification of the exterior of the dwelling nor permit the location of any equipment in the front yard.
 - (f) Signage. The proposed use, if approved, may have one (1) non-illuminated sign that complies with section 32-85 and shall display only the name and address of the family day-care home.
 - (g) Hours of operation. Operating hours shall be limited from 7:00 a.m. to 11:00 p.m. daily.
 - (h) Inspection. The proposed use, if approved, shall be inspected for compliance with these standards prior to occupancy and at least once each year thereafter within ten (10) days of the anniversary of the certificate of occupancy.

(Ord. No. 279, § 12.26, 12-12-96)

Sec. 32-178. Housing for the elderly and senior citizen housing.

- (a) May be allowed in the RH residential high density district.
- (b) Specific requirements and conditions.
 - (1) Parking. One (1) off-street space for each dwelling unit.
 - (2) Density. The number of units shall not exceed twice those permitted for standard development for the RH district.
 - (3) All housing for the elderly shall be constructed on parcels of at least five (5) acres and may provide for the following:
 - a. Cottage-type dwellings and/or apartment-type dwelling units.
 - b. Common services containing, but not limited to, central dining rooms, recreational rooms, central lounge and workshops.
 - (4) All dwellings shall consist of at least three hundred fifty (350) square feet per unit (not including kitchen and sanitary facilities).
 - (5) Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed twenty-five (25) percent of the total site, exclusive of any dedicated public right-of-way.
 - (6) Accessory buildings. Those customarily incidental to the above uses permitted.
- (c) Business uses shall be permitted on the site when developed as retail or service uses clearly accessory to the principal use, within the walls of the main structure, and totally obscured from any exterior view. No identifying sign for any such business or service use shall be visible from any exterior view. Such businesses or services shall not exceed twenty-five (25) percent of the floor area at grade level.
- (d) All proposals for housing for the elderly shall be reviewed against the standards for such housing as published by the Michigan State Housing Development Authority. The MSHDA standards shall be used only as a general guide for the review to assure minimum adequacy and shall not limit the requirements placed on the use by the city.
- (e) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.27, 12-12-96)

Sec. 32-179. Music or amplified noise venues.

- (a) Commercial or noncommercial establishments which allow or permit either the playing of live music or the playing of amplified music where a cover charge, admission charge or other special charge or price increase on either goods or services is imposed are subject to the provisions of this section.
- (b) No speakers and no live performances shall be permitted in any area other than completely within the fully-enclosed and permanent main structure.
- (c) No speakers or other devices for amplifying music shall be permitted upon the exterior of any building or otherwise situated so as to project out of any opening from within any building.
- (d) Both sound and vibration shall be controlled and limited so that it is of a character and nature no more noticeable than ordinary conversational tones between two (2) persons speaking to each other within a distance of three (3) feet from each other. This sound and vibration standard shall be enforceable at the property edge for all residentially-zoned districts or districts occupied with residential uses and for all other zoning districts during periods of time when such nonresidential zoning districts are either occupied or used.

(Ord. No. 326, § 2, 10-14-04)

Sec. 32-180. Nurseries and greenhouses.

- (a) May be allowed in all zoning districts (except office district) based on compatibility with the district and any abutting district.
- (b) Specific criteria.
 - (1) Where the nursery and/or greenhouse operation grows stock for sale on the premises or elsewhere and does not engage in selling items not produced on the site the use may be considered generally compatible in all zoning districts as cited in subsection (a) above.
 - (2) Where the nursery and/or greenhouse operation engages in the sale of small item merchandise clearly accessory to the sale of products raised on the site, the use may be considered generally compatible in sparsely developed residential districts and in all other districts.
 - (3) Where the nursery and/or greenhouse operation engages in the sale of medium to large trees and items not produced on the site, including the selling of patio block, loose yard and building materials as a principal part of its business, such use may be considered generally compatible with the CG and IC districts.
- (c) Requirements and conditions.
 - (1) All such uses shall be located on a paved major or secondary road as designated on the city master plan.
 - (2) Site and yard requirements shall be as provided for the districts in which the use is located. The planning commission may establish such conditions as it deems necessary to insure the compatibility of the development with surrounding uses or districts.
- (d) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in articles V and VI, respectively.

(Ord. No. 279, § 12.29, 12-12-96)

Sec. 32-181. Location, installation, drilling and operation of any well for the commercial extraction of oil, gas or other hydrocarbons.

- (a) The following requirements shall apply to the location, installation, drilling and operation of any well for the commercial extraction of oil, gas or other hydrocarbons in the city:
- (1) May be allowed only in the industrial controlled district IC.
 - (2) It shall be situated on a minimum lot size of three acres.
 - (3) *Spacing and well setbacks.* In addition to the spacing and setback requirements of the State of Michigan and regulations of its supervisor of wells, the drilling completion or operation of oil or gas wells, or well sites shall not be located within three hundred (300) feet from any road right-of-way, five hundred (500) feet of a residentially zoned or used property, or any property used for religious facility, public or private school, hospital, hospital clinic or healthcare facility and one hundred (100) feet from any other property line. The proponent seeking to engage in activity shall also demonstrate to the city, a legal entitlement to drill on adjacent properties through mineral right acquisition or other means. Measurement of setback shall be made from the edge of the well site (in a straight line, without regard to intervening structures or objects), to the closest exterior point of the adjacent parcel.
 - (4) *Height.* The completed well head structure shall not exceed twenty-two (22) feet in height. Any temporary drilling derrick or other facility shall not exceed one hundred ten (110) feet in height. Temporary drilling derricks and rigs shall not be in place for longer than sixty (60) days. A permit for an additional thirty (30) days may be secured upon presentation to the city manager of sufficient documentation demonstrating that reasonable progress has occurred throughout the initial sixty-day period and that operations can be completed within an additional thirty (30) days.
 - (5) *Fencing, landscaping and lighting.* An oil or gas well site shall be completely enclosed with a six-foot high fence with materials compliant with ordinances. Staggered six feet tall evergreen trees shall be placed around the perimeter of the fence with a minimum landscape greenbelt buffer of twenty-five (25) feet in depth. This landscaping buffer shall be in place within thirty (30) days of the removal of the temporary drilling deck/rig. Exterior lighting shall comply with the provisions of the city's ordinances and shall be shielded so as not to be disruptive to adjoining parcels.
 - (6) *Nuisance mitigation.* The drilling, completion, or operation of oil or gas wells or other wells drilled for oil and gas exploration purposes shall comply with the additional site requirements of the ordinance section 32-144(5) and any other applicable ordinance provisions. Such standards address potential nuisances such as noise, smoke, dust, and the like. To the extent this chapter is more restrictive the provisions of this chapter shall control.
 - (7) *Dust, noise, vibration, and odors.* All operations shall be conducted in a manner so as to minimize, as far as practicable dust, noise, vibration or noxious odors and shall be in accordance with the best accepted practices defined by the Michigan Department of Environmental Quality for the production of oil, gas, or other hydrocarbon substances in urban areas. All equipment used shall be constructed and operated so that vibration, dust, odor or other harmful or annoying substances or effects will be minimized by the operations carried on at any time, or from anything incidental thereto, and to minimize the annoyance of persons living or working in the vicinity. Additionally, the site or structures on the property shall not be permitted to become dilapidated, unsightly, or unsafe. The city may impose additional reasonable restrictions upon such operations as to reduce adverse impacts upon adjacent properties.
 - (8) *Oil and gas processing facilities.* Associated processing facilities that separate oil, gas and brine and hold said products for transport off-site for further refinement and processing are not permitted.

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- (9) *Compliance with laws and permit issuance.* The drilling, completion, or operation of oil and gas wells or other wells drilled for the purpose of oil or gas exploration shall be done in conformity with all state and federal laws, statutes, rules, and regulations pertaining thereto and particularly with the State of Michigan and regulations of its supervisor of wells. This shall include obtaining the required permit from the supervisor of wells which permit shall be provided to the city prior to the city issuing special use approval under this section. This requirement applies to, but is not limited to the plugging of wells, the exploring for, producing, marketing and transportation of petroleum products and the disposition and removal of any byproducts utilized and associated with said activities.
- (10) *Associated permits and approvals.* Special use approval for the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes is in addition to and not in lieu of any permit or plan which may be required by any other provision of the City of Fraser Zoning Ordinance, Building and Fire Codes, or by any other governmental agency, unless expressly outlined.
- (11) *Operations.*
- a. Permitted construction activity hours. Site preparation and construction of well sites are limited to the hours of 8:00 a.m. to 8:00 p.m. Construction activities associated with establishing of well sites may be eligible for an exception by the building department if such activities are in compliance with applicable laws and permits and is demonstrated that noise and disturbance from such activities will not be annoying or disturbing to surrounding uses.
 - b. The movement of drilling rigs, tanker trucks or heavy equipment used in connection with drilling or operation of oil or gas wells over city roads and streets, shall require the approval of the city manager in conjunction with a review by the city engineer. A proposed traffic route and the axle weight, vehicle weight and description shall be submitted in advance to the city by the applicant.
 - c. All brine, mud, slush, saltwater, chemicals, wastewater, chemical fluids or waste produced or used in the drilling or production of oil or gas shall be safely, lawfully and properly disposed of to prevent infiltration of or damage to any fresh water well, groundwater, watercourse, pond, lake or wetland. Such materials shall be promptly removed from the site and shall not be continuously stored upon the site.
 - d. The oil or gas well site shall be kept in a clean and orderly condition, free of trash and debris, with vegetation cut. Machinery which is not expected to be used on the site within a two-week period, shall not be kept or stored at the well site.
 - e. An oil or gas well shall include measures or controls satisfactory to the city engineer to prevent migration, run-off or discharge of any hazardous materials, including but not limited to chemicals, oil or gas produced or used in the drilling or production of oil or gas, to adjoining property, or to the sanitary sewer system, storm water system or any natural or artificial watercourse, pond, lake, or wetland. There shall be no off-site discharge of storm water except to an approved drainage system in accordance with the City's engineering requirements.
- (12) *Inspection.* The building official and any other designee of the city manager shall have the right and privilege at any time during the construction phase and any drilling operation to enter upon the premises subject to special land use approval for the purpose of making inspections to determine if the requirements of this section and other applicable ordinances are complied with.
- (13) *Injection wells.* Injection wells used for brine disposal or other chemicals from production of wells or from other sources are prohibited within the city.
- (14) *Pipelines.* No operator shall excavate or construct any lines for the conveyance of fuel, water, oil, gas or petroleum liquids under or through the streets, alleys or other properties owned by the city without an easement or right-of-way issued by the city.

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- (15) *Submittal requirements.* In addition to the requirements for a site plan and other submittal requirements under the general provisions of special land use, the following information shall be submitted as part of the application:
- a. Environmental impact study. Applicant shall submit an environmental impact statement filed with the Michigan Department of Environmental Quality in connection with a well permit under the applicable provisions of the Natural Resources and Environmental Protection Act, MCL 524.61501 et seq. or as otherwise amended and administrative rules promulgated thereunder.
 - b. Hydrogeological analysis.
 - c. Emergency response plan. Pursuant to state and federal law, the operator shall provide any information necessary to assist the city emergency services department with an emergency response plan and hazardous materials survey establishing written procedures to minimize any hazard resulting from the operation. The emergency response plan shall include emergency contact information.
 - d. Reclamation plan. A written statement describing how the land will be returned to a stable and productive condition post drilling operations shall be furnished. Time for completion of reclamation shall be provided. The city may require a bond calculated at the estimated cost of reclamation procedures which shall be returned following reclamation or may be drawn upon in the event reclamation is not completed if provided in a timely fashion.
 - e. The operations plan shall include identification of site ingress and egress, a haul route map, hours of operation, soil erosion, mud and dust control plan, noise control plan, identification of operational noise impacts including documentation of establishing noise levels and mitigating noise levels, shall provide topography, shall provide an odor and fume control plan, pollution prevention plan, impact mitigation plan, monitoring and control plan.

(Ord. No. 378, § 3, 4-14-16)

Sec. 32-181.1. Outdoor sales lots for the sale of second-hand automobiles, new or second-hand recreational vehicles, boats, or mobile homes.

- (a) May be allowed in the CG commercial general district.
- (b) Specific requirements and conditions.
 - (1) The lot or area shall be provided and maintained with a permanent, durable and dustless surface paved with either asphalt or concrete and shall be so graded and drained as to dispose within the site of all surface water accumulated within the area.
 - (2) The location of the site shall be upon a street with a right-of-way of at least one hundred twenty (120) feet (existing or proposed) and shall contain no fewer than forty thousand (40,000) square feet.
 - (3) Such use shall be located no closer than five hundred (500) feet from any single-family zoning district.
 - (4) Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two (2) streets.
 - (5) No vehicle repair, bumping, painting or refinishing shall be done on the site. Cleaning and refurbishing of vehicles or units shall be permitted if done completely within an enclosed building.
 - (6) Devices for the transmission or broadcasting of voices and/or music shall be prohibited.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in articles V and VI, respectively.

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- (1) If such a use abuts a street of less than one hundred twenty (120) feet of right-of-way located abutting a residential district, a berm and landscaping in the front yard on such street shall be provided to screen all outdoor facilities, including storage and display areas, from adjacent residential property. In addition, all other areas of the site shall be fully landscaped.
 - (2) Display areas, storage areas and all other vehicle parking contained on the site shall comply with the parking design and layout requirements of section 32-52 of this chapter. All required customer parking shall be reserved for that purpose only and not occupied by vehicles on display or for sale.

(Ord. No. 279, § 12.30, 12-12-96; Ord. No. 378, § 3, 4-14-16)

Editor's note(s)—Ord. No. 378, § 3, adopted April 14, 2016, set out provisions intended for renumbering § 32-181 as § 32-182. For purposes of classification, and at the editor's discretion, § 32-181 has been renumbered as § 32-181.1.

Sec. 32-182. Outdoor beverage or food service.

- (a) No patio, deck, tent, or other outdoor service area may be added to any facility furnishing beverage or food service and no outdoor beverage or food service may be furnished unless special land use has been issued pursuant to these provisions.
- (b) In addition to other special land use provisions, the following provisions shall apply:
 - (1) Determination of whether the proposed area for such service is compliant with all applicable fire codes, building codes or other laws and ordinances.
 - (2) Review of the amount and nature of recorded police calls, liquor enforcement activity and other complaints within the preceding twelve-month period during ownership by the current liquor licensee, see the nature of the anticipated use of the outdoor service area, including anticipated crowd size and anticipated noise levels associated.
 - (3) Whether the configuration of the outdoor service area, driveways and parking areas result in any greater interference with the safety and convenience of vehicular and pedestrian traffic and otherwise would exist.
 - (4) Whether a satisfactory and harmonious relationship is likely to be maintained between the proposed site and the existing and prospective development of contiguous land and adjacent neighborhoods.
 - (5) Whether noise, light, odors, or visual appearance from the proposed outdoor service area is likely to detrimentally impact upon the quiet, peaceful enjoyment of surrounding properties, their values or the likelihood of their development.
- (c) All permits issues shall be subject to periodic review and potential modification based on activities occurring with the first such a review to occur no later than six (6) months after issuance.
- (d) No outdoor service area shall be permitted which exceeds twenty-five (25) percent of the gross floor area of the fully enclosed permanent structure in which the facility offering outdoor beverage or food service is situated.
- (e) No outdoor service area shall include any attachment or appurtenance exceeding the height of one (1) story and no such area shall be located other than in an elevation equal to or less than the elevation of the lowest floor elevation of the facility, excluding the basement.
- (f) No flags, balloons, banners, or other similar attachments shall be affixed to any outdoor service area and advertising upon such outdoor service area is prohibited.

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- (g) Adequate parking for rated occupancy providing one (1) space for each thirty-five (35) square feet of gross floor area for the outdoor service area shall be provided.
 - (h) No outdoor service area shall be permitted where there is no building or other structure between the outdoor service area and a residentially-zoned or residentially-used area unless such outdoor service area is at least five hundred (500) feet from the closest boundary of the outdoor service area to the closest boundary of the residential zoning district or residential use.
 - (i) A minimum of twenty (20) feet shall exist between any outdoor service area and any maneuvering lane or service drive.
 - (j) A site plan properly scaled with dimensions of lot lines and property lines and locating all existing and proposed structures and surrounding property lot lines and surrounding property structure shall be provided which shall show all existing drives and parking areas, as well as all proposed parking areas.

(Ord. No. 326, § 3, 10-14-04)

Sec. 32-183. Planned unit developments (PUDs).

- (a) May be permitted in all zoning districts.
- (b) Qualification requirements and application(s) for approval. A PUD application shall follow the qualifications and requirements of section 32-152 and shall comply with the requirements and standards of this section.
- (c) Site plan/specific zoning district requirements. The site plan, subdivision and use of land in a PUD must contain a minimum land area that, in the opinion of the planning commission, meets the purposes of a PUD listed in section 32-152(1) and the standards of this chapter, and must be planned as an integral unit combining one or more primary land uses listed below, with ancillary open space, recreation, park and common use areas. Each major use classification shall be governed by the following standards:
 - (1) *Residential.*
 - a. All RM residential medium density district standards shall apply to an area of approximately one (1) row of lots or units surrounding the outer boundaries of the area proposed for a residential PUD area abutting a one-family district. The row of units shall be developed as one-family detached residential structures, provided the strip may be penetrated by park, golf course or other related open space, subject to approval of the planning commission. All other uses permitted in a one-family district are prohibited, except as provided above or by modification of the planning commission, when practically necessary.
 - b. Maximum density permitted within a residential PUD shall not exceed 4.5 dwelling units per acre. Overall density of the PUD shall be averaged for the entire PUD area within the proposed plan. Street rights-of-way, non-residential use areas, and subaqueous or submerged bottom land of lakes or streams shall be excluded in parcel density area computation. In residential PUD areas, the applicable common areas, open space and recreation facilities may be included in average density. Land area used in computing density for one project or use area shall not be used to compute another. Except as set forth above, all yards for one-family in the buffer strip of the development may be reduced from the requirements set forth in this chapter as follows:
 - 1. Front yards may be reduced five (5) feet, but shall not be less than twenty-five (25) feet.
 - 2. Side yards may be reduced up to five (5) feet, provided at least ten (10) feet of combined side yards shall be provided between buildings. No reduction will be allowed in side setbacks on corner lots.
 - 3. Minimum lot areas may be reduced up to ten (10) percent.

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- c. Areas designed multiple-family residential shall meet the requirements of the RH residential high density district with common areas, open space and recreation facilities included in the density computation.
 - d. Carports may be located on side or rear lot line, with appropriate screening.
 - e. Ancillary areas designed as commercial or office development shall meet requirements of the CN district (commercial neighborhood) in commercial developments, or OS (office service) in office developments. Non-residential uses shall not exceed ten (10) percent of the total residential PUD area and shall meet all other requirements of the codes and ordinances of the city. CG district (commercial general and IR and IC (industrial) districts or uses shall not be allowed in a residential PUD.
 - f. The percentage of one-family lots or units in relation to the number of multiple-family dwelling units shall be at least in proportion to the ratio between total number of one-family units and total number of multiple-family units planned for the entire PUD site. Site condominium subdivisions and open space plan regulated by this chapter may be used in conjunction with a PUD project. Approved non-residential uses may not be constructed prior to initiation of residential development.

(2) *Office.*

- a. All OS office service district standards shall apply to proposed PUD areas with landscaped or buffers where the area abuts any residential district. Development shall conform with the OS zoning requirements and the requirements of this section, except as may be modified by the planning commission.
- b. Office uses shall be as prescribed by the planning commission. Uses not compatible with the overall intent of this district and which detract from the design or function of this district are prohibited. Building coverage is limited to thirty (30) percent of gross lot area.
- c. Building setbacks shall be measured from the centerline of each road right-of-way in accord with the city's master plan as follows:

Distance from centerline:

- 1. Major 110 feet
- 2. Secondary 110 feet
- 3. Collector 93 feet
- 4. Local 85 feet
- 5. Cul-de-sac 110 feet
- 6. Private roads 50 feet*

* Front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

The following minimum yard requirements shall be provided for each lot which is not subject to the preceding requirements.

- 1. Rear yard setback from rear property line for buildings and other uses as provided in this paragraph shall be thirty-five (35) linear feet or greater.
- 2. Side yard width shall be ten (10) feet. Every lot with a structure shall be provided with a side yard on each side of the lot. Each side yard shall be increased by one (1) foot for each

ten (10) feet, or part thereof, by which the width of the structure exceeds fifty (50) feet in overall dimension facing the street lot line.

- d. Minimum yard requirements shall apply to all buildings and structures, drives and loading areas. Drives may cross required yards. Larger minimum yards may be required by the planning commission at time of PUD plan approval for a building exceeding two (2) stories or thirty (30) feet in height. Requirements shall be based on consideration of natural light, air circulation, solar access and other effects on adjacent buildings or properties.
 - e. All front or street-side yards shall be landscaped and permanently maintained. Yards between this district and neighboring residential districts shall be as provided in paragraph c. above and be increased by forty (40) feet and landscaped to function as a buffer. Environmentally sensitive areas, such as woodlands, wetlands, enclosed drainage areas and island portions of landscaped boulevards, may be included in the calculation for yards and buffers. All landscaped areas shall be continuously maintained in a livable condition.
 - f. All Office PUD properties shall abut a major or secondary thoroughfare as shown on the city's master plan or have direct access to such thoroughfares by means of a street that serves the PUD adequately.
 - g. All buildings shall be constructed of aesthetically pleasing brick and/or stone building materials or other similar durable decorative building materials as may be approved by the planning commission.
 - h. Lighting shall be appropriate to the building(s) and surroundings in terms of style, scale and illumination intensity (see section 32-86).
 - i. Signs shall be governed by a signage scheme approved as part of the PUD plan.
 - j. Trash and other waste materials shall be stored within a principal or accessory building or shall be screened from view from the street and adjacent properties. They shall not be located in front, street facing or on a side yard. Utility meters and control devices shall also be so located and screened.
- (3) *Commercial.*
- a. All standards of the CG general commercial district shall be applied to the proposed PUD area, with landscaped or constructed buffers where PUD area abuts a residential district. Development shall conform with CG zoning requirements and requirements of this section, except as modified by the planning commission.
 - b. Commercial uses shall be as prescribed by the planning commission. Uses which are not compatible with overall intent of this district, which may include activities that would detract from design or function, are prohibited. Outdoor storage and display of merchandise or equipment is prohibited. Lot coverage shall not exceed eighty (80) percent of gross lot area, including all buildings and paved areas. Building coverage is limited to thirty (30) percent of gross lot area.
 - c. Minimum distance of any accessory building from boundary lot lines shall be at least fifty (50) feet for front and rear yards, and twenty-five (25) for side yards (see below). Accessory buildings shall not be less than one hundred (100) feet from any property line abutting residentially zoned lands. Building setbacks shall be measured from centerline of each road right-of-way in accordance with the city's master plan as specified below:
Distance from centerline:
 - 1. Major 135 feet

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2. Secondary 135 feet
 3. Collector 118 feet
 4. Local 105 feet
 5. Cul-de-sac 135 feet
 6. Private roads 75 feet*

* Front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

- d. The PUD project area land shall not provide less than ten (10) percent of common open space. Computation shall exclude right-of-way area devoted to streets. Open space shall be planned as a contiguous area, located in accordance with the approved PUD plan for maximum benefit of the area. Environmentally sensitive areas, such as woodlands, wetlands, enclosed drainage areas, and fifty (50) percent of the island portions of landscaped boulevards, may be included in the calculation of common open space.
 - e. Portions of the PUD area not used for parking, driveway, buildings or plazas shall have landscaping and lawn approved by the planning commission as required in section 32-84, landscaping requirements.
 - f. Buildings shall be constructed of aesthetically pleasing brick and/or stone materials or other similar durable decorative building materials as approved by the planning commission. Evaluation of project appearance shall be based on quality of design, relationship to surroundings, sensitive integration of form, texture and colors with the landscape and setting.
 - g. Parking area lighting shall not allow rays and illumination to be cast upon neighboring residents and shall not glare into nearby buildings or streets. Illumination shall not exceed one (1) foot-candle measured four (4) feet from the parking surface and one-half (½) foot-candle at the property line. Lighting shall be appropriate to building and surroundings in terms of style, scale and illumination intensity. Site floodlights, building mounted or otherwise, and "freeway type" fixtures are prohibited. Low wattage systems are recommended and all lighting shall be shielded. Lighting of pedestrian walkways and plazas may include either shielded or exposed sources, but heights shall be restricted and intensity of light shall be subdued.
 - h. Signs shall be governed by the signage scheme approved as part of the PUD plan.
 - i. Screening between development features, parking, truck maneuvering and loading areas and abutting districts shall be either a landscaped berm (maximum slope of 1:4), poured decorative concrete wall, or massed plantings of sufficient height to obscure view.
 - j. Outdoor storage of materials and/or equipment shall not be allowed. Solid waste, rubbish and trash storage areas shall be screened by decorative poured concrete wall of six (6) feet in height enclosing three (3) sides.
- (4) *Industrial.*
- a. All standards of the IR industrial restricted district shall be applied to the proposed PUD area with landscaped or constructed buffers where said area abuts a residential district. Development shall conform with IR zoning requirements and requirements of this section, except as may be modified by the planning commission.
 - b. Industrial uses shall be as prescribed by the planning commission. Uses not compatible with overall intent of this district and which detract from the design or function of this district are prohibited. Outdoor storage of merchandise or equipment is prohibited. Lot coverage, including

all buildings and paved areas, shall not exceed eighty (80) percent of the gross lot area. Building coverage is limited to forty (40) percent of gross lot area.

- c. Building setbacks shall be measured from the centerline of each road right-of-way in accord with the city's master plan as follows:

Distance from centerline:

1. Major 110 feet
2. Secondary 110 feet
3. Collector 93 feet
4. Local 85 feet
5. Cul-de-sac 110 feet
6. Private roads 50 feet*

* Front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

The following minimum yards shall be provided for each lot which is not subject to preceding requirements:

1. Side, interior: Twenty (20) feet one side; zero (0) feet other side if fire rated.
 2. Side, corner: Fifty (50) feet.
 3. Rear: Twenty (20) feet.
- d. Minimum yard requirements shall apply to all buildings, structures, drives, parking and loading areas. Drives may cross required yards.
- e. All yards shall be landscaped and permanently maintained. Yards between this district and neighboring residential districts shall be increased by fifty (50) feet and landscaped to function as a buffer. Environmentally sensitive areas, such as woodlands, wetlands, enclosed drainage areas and island portions of landscaped boulevards, may be included in the calculation for yards and buffers. All landscaped areas shall be continuously maintained in a livable condition.
- f. All industrial PUD properties shall abut a major thoroughfare as shown on the city's master plan or have direct access to such thoroughfare by means of a street that exclusively serves the industrial PUD.
- g. Buildings shall be constructed of aesthetically pleasing brick and/or stone materials or other similar durable decorative building materials as approved by the planning commission. Evaluation of project appearance shall be based on quality of design, relationship to surroundings, sensitive integration of form, texture and colors with the landscape and setting.
- h. Parking area lighting shall not allow rays and illumination to be cast upon neighboring residents and shall prevent glare into nearby buildings or onto nearby streets. Lighting shall be appropriate to building and surroundings in terms of style, scale and illumination intensity (see section 32-86).
- i. Signs shall be governed by a signage scheme approved as part of the PUD plan.
- j. Screening between development features, parking, truck maneuvering and loading areas and abutting districts shall be a landscaped berm (maximum slope of 1:4), poured decorative concrete wall or massed plantings of sufficient height to obscure view.

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- k. Outdoor storage of vehicles, equipment, supplies or products; outdoor processing, assembly, repair or other operations; and outdoor display of goods, materials, products, equipment or processes is prohibited. No display is permitted in a window or in any other location visible from a street or an adjacent lot. Trash and other waste materials shall be stored within a principal or accessory building or shall be screened from street view and adjacent lots. It shall not be located in a front or side yard. Utility meters and control devices shall also be so located and screened.
 - (d) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
- (Ord. No. 279, § 12.32, 12-12-96)

Sec. 32-184. Private clubs, fraternal organizations, lodge halls, cultural centers and union halls.

- (a) May be allowed in both one-family residential districts and the OS office service district.
 - (b) Specific requirements and conditions.
 - (1) All such uses shall have ingress and egress directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least one hundred and twenty (120) feet, as indicated on the master plan.
 - (2) All activities, other than parking of motor vehicles and loading and unloading, shall be conducted within a completely enclosed building, except for outdoor activity specifically approved and/or licensed by the city.
 - (3) No building shall be closer than fifty (50) feet to any property line.
 - (4) Maximum lot coverage shall not exceed thirty (30) percent.
 - (5) No such uses shall abut an existing residential district on more than one side.
 - (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
- (Ord. No. 279, § 12.33, 12-12-96)

Sec. 32-185. Private noncommercial recreation.

- (a) The following noncommercial recreation uses may be permitted in both one-family residential districts and the OS office service district. Private noncommercial recreation areas, institutional or community recreation centers, nonprofit swimming pools are all included under this section.
- (b) Site requirements. The proposed site for any of the community-servicing uses permitted herein (i.e., those which would attract persons from beyond the immediate neighborhood) shall have one property line abutting a major or secondary thoroughfare, and the site shall be so planned as to provide vehicular ingress and egress directly onto said major or secondary thoroughfare.
- (c) Yard and placement requirements. No building shall be located, nor activity take place, within fifty (50) feet of the perimeter of the recreation area. All such activities shall be adequately screened from abutting residentially zoned property by means of a protective wall or greenbelt as described in section 32-82 of this chapter.
- (d) Other requirements. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six (6) feet in height and entry shall be by means of a controlled gate or turn-style.

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- (e) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.34, 12-12-96)

Sec. 32-186. Public buildings and recreation.

- (a) May be allowed in both of the one-family residential districts and the CBD district.
- (b) Specific requirements and conditions.
 - (1) Adequate ingress and egress to handle the traffic anticipated to be generated by the use shall be provided.
 - (2) No building shall be located, nor activity take place, within fifty (50) feet of the perimeter of the site.
 - (3) All activities shall be adequately screened from abutting residential or residentially zoned property by means of a protective wall or greenbelt, as described in section 32-82 of this chapter.
 - (4) The requested site and building shall be consistent with the visible characteristics of the neighborhood.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Article V and VI, respectively.

(Ord. No. 279, § 12.35, 12-12-96)

Sec. 32-187. Public utility buildings without storage.

- (a) Public utility buildings, including telephone exchange buildings and repeater stations, electric transformer sub-stations and stations, gas regulator stations (all without storage yards) and cable television, may be permitted in any district when operating requirements necessitate their locating within the district in order to serve the immediate area.
- (b) Site requirements.
 - (1) Minimum site size: Two (2) acres.
 - (2) The site shall abut a public road having a right-of-way of not less than that of a collector thoroughfare (eighty-six (86) feet) or a proposed right-of-way of major or secondary thoroughfare.
- (c) Yard and placement requirements.
 - (1) All development features shall be enclosed within a building or enclosure.
 - (2) Maximum height of any structure: Twenty-five (25) feet.
 - (3) Minimum yard requirements:
 - a. *Front*: Fifty (50) feet.
 - b. *Side*: Thirty (30) feet each side with one (1) additional foot for each five (5) feet the nonresidential structure exceeds forty (40) feet in length along the adjoining property line.
 - c. *Rear*: Fifty (50) feet.
 - (4) Maximum lot coverage of all buildings: Ten (10) percent.
- (d) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

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- (1) No off-street parking shall be permitted in the required front yard space.

(Ord. No. 279, § 12.36, 12-12-96)

Sec. 32-188. Smoking lounges.

- (a) *[Defined.]* Smoking lounges are hereby defined as establishments where patrons share a lawful product, including tobacco product, smoked from a communal device.
- (b) *Specific requirements and conditions.*
 - (1) All such uses shall ingress and egress directly onto a major or secondary thoroughfare, having an existing or planned right-of-way of at least one hundred twenty (120) feet as indicated on the master plan.
 - (2) All activities other than the parking of motor vehicles and loading or unloading shall be conducted within a completely enclosed building except for an outdoor activity specifically approved and/or licensed by the city.
 - (3) No buildings shall be closer than fifty (50) feet to any property line.
 - (4) Maximum lot coverage will not exceed thirty (30) percent.
 - (5) No uses shall abut an existing residential district on more than one (1) side.
 - (6) No such business shall operate earlier than 11:00 a.m. nor later than 12:00 midnight. No persons shall be present on the premises earlier than one (1) hour before permitted morning hours of operation and later than one (1) hour following permitted evening hours of operation.
 - (7) No person under eighteen (18) years shall be permitted to be present, including, but not limited to as a patron or employee upon the premises.
 - (8) Such facilities shall comply with all other county health laws and other applicable federal, state or local laws.
 - (9) Such uses shall be permitted only in the General Business (CG) District by special land use.
 - (10) No building allowing such use shall be located within one thousand two hundred fifty (1,250) feet of any public or private school property.

(Ord. No. 338, § 1, 9-13-07)

Sec. 32-189. Transitional uses.

- (a) Transitional uses may be permitted in the RL residential low density and RM residential medium density districts when proposed on property either across the street from or immediately beside any non-residential district, provided the provisions of this chapter and the following special conditions and requirements are met.
- (b) *Specific requirements and conditions.*
 - (1) *Site requirements.* The transitional use shall not extend unreasonably into the residential district in which it may be permitted. This shall mean that the use shall not extend deeper than half a block deep when fronting nonresidential district, or more than one typical lot width when beside a nonresidential district, unless it is proven that the typical lot width is not adequate to provide space for a unified and attractive development.

(Supp. No. 57)

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(2) *Transitional uses.*

- a. RL residential low density district. Across the street from a nonresidential district:
 - 1. Two-family;
 - 2. Multiple-family;
 - 3. Professional office.
- b. RM residential medium density district. Across the street from or beside a nonresidential district:
 - 1. Two-family;
 - 2. Multiple-family;
 - 3. Professional office;
 - 4. Noncommercial club or lodge.

(3) *Area, height, yard and placement requirements.* Same as for use in its own use district.

- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.38, 12-12-96)

Sec. 32-190. Twenty-four-hour operations.

- (a) May be allowed in all zoning districts except residential. Twenty-four-hour operation is defined as any business or service dealing directly with the public operating anytime between the hours of midnight and 6:00 A.M.
- (b) Specific requirements and conditions.
 - (1) The site shall not be contiguous to any residence or residential district and shall not be located within three hundred (300) feet of the property line of any public or private school, or playground.
 - (2) The site shall be so located as to abut a major or secondary thoroughfare right-of-way and all ingress and egress to the site shall be directly from said thoroughfare.
 - (3) The building, or part thereof, devoted to such use or activity shall be designed and constructed in such a manner that no audible sound may be heard by adjoining tenants or at the lot line.
 - (4) Such uses shall be conducted in accordance with all applicable regulatory ordinances of the city.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.

(Ord. No. 279, § 12.39, 12-12-96)

Sec. 32-191. Two-family residential dwellings.

- (a) May be allowed in the RM residential medium density one-family district.
- (b) Site and building requirements.
 - (1) *Building requirements.* The two-family side-by-side attached or semi-detached dwellings shall be new and shall not tend to adversely affect the normal development of the adjacent properties or the

neighborhood, and the buildings shall be in harmony with the character of the district in which they will be located (brick, facing material and the like).

(2) *Site requirements.*

- a. The property shall abut a public road designated as a major thoroughfare on the city's thoroughfare plan.
- b. The construction or placing of a two-family structure in this district shall be on a single or a series of single platted or officially recorded lots, or on a larger tract where each structure shall face upon a public street. In the latter instance, each structure shall be considered as occupying one (1) lot for yard and placement requirements.
- c. All structures shall be connected to a public sewer and water supply.

(3) *Yard and placement requirements.*

- a. Minimum size of lot for each two (2) dwelling units:
 1. *Area:* Nine thousand six hundred (9,600) feet.
 2. *Width:* Eighty (80) feet.
 - b. Maximum height of any structure, minimum yard setback per lot, maximum lot coverage of all buildings, rules regarding accessory building and signs shall be the same as those for the RM residential medium density residential district.
 - c. Minimum floor area.
 1. *One bedroom unit:* Six hundred (600) square feet.
 2. *Two (2) or more bedroom units:* An additional two hundred (200) square feet for each bedroom over one added to the minimum floor area requirement of six hundred (600) feet.
- (c) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in Articles V and VI, respectively.
- (1) Off-street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof, for each dwelling unit. Such parking spaces shall be equally accessible for all residents and shall be located on the premises they are intended to serve, subject to the provisions of subsection c.2. above.
 - (2) Off-street parking shall not be provided in any required front or corner side yard.

(Ord. No. 279, § 12.40, 12-12-96)

Sec. 32-192. Various retail uses.

- (a) May be allowed in the IR industrial restricted district.
- (b) Uses permitted. Retail uses which have a warehouse, or which have an industrial character by reason of outdoor storage requirements or activities such as, but not limited to: lumber yards, building materials, upholsterer, cabinet maker, outdoor boat, house trailer, automobile or agricultural implement sales, or uses serve the convenience needs of such IR industrial district, such as but not limited to: churches, eating and drinking establishments, banks, savings and loan associations, credit unions, automobile service stations, motels, bowling alleys, trade or industrial schools, medical or other offices serving such district, including an industrial medical clinic.
- (c) Site and yard requirements. The site and yard requirements shall be as provided for the district in which the use is located.

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- (d) Environmental provisions and parking requirements. Environmental provisions and parking requirements shall be as required in articles V and VI, respectively.

(Ord. No. 279, § 12.41, 12-12-96)

Sec. 32-193. Regulation wireless communication towers.

- (a) Wireless communication towers, including their respective transmission towers, relay and/or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication, and similar communication services and facilities, shall be permitted as a special land use in the IR (Industrial Restricted) district and in the IC (Industrial Controlled) district, when found to be essential or desirable to the public convenience or welfare or upon city-owned property. Such use shall be designed and located in such areas so as to have a limited visibility and impact on neighboring residential areas and shall be in conformance with the following requirements:
- (1) The applicant shall submit verification of FCC and FAA compliance.
 - (2) A written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards shall be submitted. This information shall also address the potential for the tower or other mounting structure and/or antennae to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided. Monopole (stealth or equivalent type) antenna structures shall be required where such are technologically feasible. Such towers shall be designed to accommodate at least three (3) additional co-locators antennae structures. In all cases, communication towers shall be designed to blend into the surrounding environment to the maximum extent feasible.
 - (3) In order to maximize the efficiency of providing such services, while minimizing the negative impact of such facilities on the city, co-location of such facilities on an existing tower or other existing structure is required, when feasible. An applicant shall furnish written documentation as to why a co-location at another site is not feasible and whether they have, in fact, contacted the owners of existing facilities to determine if co-location is possible. Applicants shall provide the name, address and telephone number of contact persons for potential co-locations for verification purposes. Applicants shall also provide signal propagation maps which clearly convey the need for such tower at the proposed location and clearly shows that existing towers and preferred locations do not work. If the application represents a new tower/antenna facility, the applicant shall provide a letter of intent to lease any excess space on a tower facility and shall commit itself to:
 - a. Promptly responding to any requests for information from a potential co-user of their tower/antenna;
 - b. Negotiate in good faith and allow for leased, shared use of the facility, when it is technically practical; and
 - c. Make no more than a reasonable charge for a shared use lease.
 - (4) If the application involves co-location on an existing tower or structure, the public hearing requirements shall be waived and approval shall only include a site plan and documentation by the co-user as to their compliance with all of the terms and conditions required of the host applicant. Co-location may be permitted by the planning commission, after site plan review, on all existing towers and existing similar structures, regardless of the zoning district in which it is located.
- (b) Approval of a communication tower facility shall not be granted until such time that the applicant has demonstrated all of the following:

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- (1) The proposed facility is needed because the telecommunications provider is unable to co-locate its facility with another provider or other structure; and
 - (2) The proposed facility is needed to correct a significant gap in coverage.

The applicant shall also demonstrate that there are no suitable tower sites within the preferred industrial zoning districts or on city-owned properties.

- (c) The development of any such facility, together with accessory uses, shall be in such a location, size and character as to be compatible with the orderly development of the zoning districts in which it is situated and shall not be detrimental to the orderly and reasonable development or use of properties in the adjacent areas or the community at large. Furthermore, the location and improvement of facilities, as provided for herein, shall also be subject to the following additional requirements:

- (1) Towers shall be permitted in the IR and IC zoning districts upon site approval, and provided the location of such facilities do not represent a hazard to the use and/or development of other uses on the site and in the area. The development of new towers is specifically prohibited in all other zoning districts in the city, unless the applicant can demonstrate that no suitable site exists for a tower within the IR and IC districts. Upon such a finding, tower locations shall be sought based on the hierarchy listed below.

The applicant shall demonstrate that no suitable site exists in each zoning district listed, prior to requesting the next district on the list.

District Hierarchy:

1. OR Zoning District
 2. CG Zoning District
 3. CN Zoning District1
 4. O-S Zoning District
 5. REC Zoning District
 6. RH Zoning District
 7. Other Remaining Districts
- (2) The site shall be of such size and shape that the proposed tower facility may be developed in compliance with all requirements of the city, and any such tower/antenna shall not exceed one hundred twenty (120) feet in height above the average grade around the structure it is mounted upon.
 - (3) The tower site shall meet all city standards relating to drainage, lighting, landscaping, general safety and other applicable standards. All landscaping shall be placed in an aesthetically pleasing and functional manner. Such landscaping shall be incorporated along access drives servicing the tower site and around fencing and all associated cabinets.

Maintenance of all landscaped areas associated with the construction of a tower or the co-location of an antenna shall be the sole responsibility of the tower owner. All landscaped areas shall be continuously maintained in a sound, weed-free, healthy and vigorous growing condition. All unhealthy and dead material shall be replaced within one (1) year.

- (4) All communication towers and facilities shall be surrounded by a six (6) foot high fence to prevent unauthorized access and vandalism. Two (2) staggered rows of six (6) foot high evergreen screening trees, as approved by the city, shall be placed outside of said fence to screen the tower base and ancillary facilities, unless the topography and elevation of the site permit another form of landscaping obscurement as determined by the planning commission. Each row of trees shall be planted at

intervals of ten (10) foot on center. The fence surrounding the tower shall be a decorative vinyl coated chain-link material (earthen color) or other similar decorative fence determined appropriate by the commission.

- (d) Lighting associated with communication towers and facilities shall comply with all applicable FAA regulations. Such lighting shall not exceed FAA minimum standards. Where ground level lighting is required, it shall be shielded or directed to the maximum extent possible to minimize the amount of light that falls onto nearby properties. Ground level lighting shall operate on motion detectors to minimize any negative impacts.
- (e) A twelve (12) foot wide paved access road shall be provided and maintained in a good condition to provide access for service and emergency vehicles. Such access road shall meet all city engineering design requirements.
- (f) Setback requirements will be determined in relation to the tower/antenna design and collapse data previously required in this section. Minimum setback requirements, unless otherwise provided for, are as follows:
 - (1) When adjacent to nonresidential zoning districts, the setback shall not be less than the overall height of the tower/antennas. This setback requirement shall also apply to any accessory buildings. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirements to any side or rear yard property line abutting a non-residential zoning district may be reduced to one-half ($\frac{1}{2}$) the overall height of the tower. In no instance shall any tower facility be located within a front yard. Accessory buildings shall be screened from view by an obscuring Greenbelt.
 - (2) When adjacent to any residential zoning district, the tower setback shall not be less than the overall height of the tower/antennas, plus fifty (50) feet. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirement to any side or rear yard property line abutting any residential district may be reduced to the overall height of the tower/antenna. In no instance shall any tower be located within a required front yard. Accessory buildings and uses shall be screened in the same manner as communication towers and facilities. Accessory buildings shall be constructed of a brick material, the color selection as approved by the planning commission to provide for harmonization with the surrounding area. Roof design, i.e., gable or flat roof, shingled and color shall be determined and approved by the planning commission so as to provide harmony and obscurement in relation to the existing area and surrounding uses.
 - (3) Further modifications to the side and rear yard setbacks may be considered when it is documented that the adjacent property is unbuildable due to wetlands, floodplains or other significant limitations. It shall also be found that no adverse effects on reasonable development patterns in the area would be created by developing the tower.
- (g) Cellular antennae and supporting structures shall be permitted to be attached to buildings and structures in all zoning districts whether or not they are accessory to the building use, subject to the following conditions.
 - (1) The principal use is a conforming use and the building is a conforming structure.
 - (2) If connected directly to the main building, antennae may be attached to any portion of the building. Such antennae or antennae with supporting structure may not exceed twenty (20) feet in height.
 - (3) The structure that supports antennae may not exceed ten (10) feet in height.
 - (4) Such antennae with supporting structure shall not be credited to the overall height of the building.
 - (5) Any structure that supports antennae shall be setback from the outermost vertical wall or parapet of the building, a distance equal to at least two (2) times the height of such supporting structure.

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- (h) In addition to site plan review, the planning commission, with a majority vote, may require an independent third party review of an application. Such review shall be conducted by a professional engineer specializing in this type of communication technology and will be paid for by the applicant. The requirement for such a review shall be based on one (1) or more of the following findings:
- (1) The applicant has not substantiated a need for a proposed tower to the satisfaction of the commission.
 - (2) The applicant has been unable to disprove the ability to co-locate on an existing tower or structure to the satisfaction of the commission.
 - (3) The applicant has not substantiated the structural safety of a structure to be commensurate with the requested setback.
 - (4) The data supplied by the applicant is determined to be disorganized, confusing or misleading by the commission.
- (i) All structures, buildings and required improvements shall comply with all other applicable codes and ordinances and shall be continuously maintained in a safe, healthful and complying condition. Every telecommunication provider with sites located in Fraser shall provide the city with an annual report disclosing the radio frequency emissions of each tower or antenna it has within the city. The city may by resolution require annual inspections of radio frequency emissions of each tower or antenna by the city to insure that they are being operated within the requirements of the Telecommunications Act of 1996. The permit may include a requirement for periodic structural and safety inspections and reports, as deemed necessary by the city council. The city shall charge a fee for the annual inspection to cover its costs.
- (j) A condition of every approval of a wireless communication facility shall be adequate provision for the removal of the facility by users and owners when the facility has not been used for one hundred eighty (180) days or more. Removal of the tower/antenna and its accessory use facilities shall also include removing the top three (3) feet of the caisson upon which the tower is located and covering the remaining portion with top soil. For purposes of this section, the removal of towers, antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
- (k) The applicant shall deposit with the city, in a form which is satisfactory to the city, a performance guarantee in an amount established by the city council as security for the removal of tower if abandoned for three hundred sixty-five (365) days or more.

(Ord. No. 346, § 1, 1-8-09)

Secs. 32-194—32-200. Reserved.

ARTICLE XIII. NONCONFORMING LOTS, USES AND STRUCTURES

Sec. 32-201. Intent.

- (a) It is the intent of this chapter to permit legal nonconforming lots, structures or uses to continue until they are removed, but not to encourage their survival. It is recognized that there exist within the districts established by this chapter and subsequent amendments, lots, structures and uses of land and structures which were lawful before this chapter was passed or amended, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.

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- (b) Such uses are declared by this chapter to be incompatible with permitted uses in the district involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
 - (c) After December 26, 1996, a nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
 - (d) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to December 26, 1996, or at the time of amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent manner; except that, where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until the completion of the building involved. In addition, while nonconforming uses are generally declared by this chapter to be incompatible with permitted uses in the district involved, increasing awareness that some nonconforming uses will not disappear make it necessary and desirable in pursuit of the public interest to distinguish between nonconforming uses which should be eliminated as rapidly as possible and nonconforming uses which ought to be given separate treatment. To this end, there are established two classes of nonconforming uses: (1) Class A, those that could be restored, reconstructed or have substituted nonconforming uses; and (2) Class B, those that are not desirable and useful and will only be allowed to be continued until they are removed or voluntarily discontinued.

(Ord. No. 279, § 13.00, 12-12-96)

Sec. 32-202. Classification of nonconforming uses.

All nonconforming uses shall be classified as Class B nonconforming uses at adoption of this chapter. The planning commission, city council, building department, or any person with a property interest may submit an application for designation as a Class A nonconforming use. The planning commission, shall have the sole authority to designate a nonconforming use as a Class A nonconforming use upon finding that: (1) continuance thereof would not be contrary to the public health, safety or welfare, or the spirit and intent of this chapter; (2) the use does not, and is not likely to, significantly depress the value of nearby properties; (3) the use was lawful at the time of its inception; and (4) no useful purpose would be served by strict application of the provisions or requirements of this chapter with which the use does not conform.

(Ord. No. 279, § 13.01, 12-12-96)

Sec. 32-203. Procedure for obtaining Class A designation.

A written application shall be filed with the building department, setting forth the name and address of the applicant, giving a legal description of the property to which the application pertains, and including such other information as may be necessary to enable the planning commission to make a determination concerning the matter. The planning commission may require the furnishing of such additional information as it considers necessary. Upon receipt of an application for Class A nonconforming status, the city shall: (1) Publish a notice of public hearing in the local newspaper; (2) Submit a notice of same to owners of the property in question; (3) Send notices to persons with assessed property within three hundred (300) feet; and (4) Send notices to occupants within three hundred (300) feet. The notice shall be published not less than five (5) nor more than fifteen (15) days prior to the planning commission meeting at which the application will be considered.

The planning commission may attach conditions, including any time limit where necessary, to assure that the use and its buildings or structures do not become contrary to the public health, safety or welfare, or the spirit and purpose of its classification. If the nonconforming use is reclassified as a Class A nonconforming use, the applicant shall file the nature and conditions with the Macomb County Register of Deeds.

(Ord. No. 279, § 13.02, 12-12-96)

Sec. 32-204. Revocation of Class A designation.

Any Class A designation shall be revoked, following the same procedure required for designation, upon a finding that, as a result of any change of conditions or circumstances, the use or structure no longer qualifies for Class A designation.

(Ord. No. 279, § 13.03, 12-12-96)

Sec. 32-205. Regulations pertaining to Class A nonconforming use.

- (a) No use which was unlawful under a prior zoning chapter or this chapter prior to amendment shall be considered a Class A nonconforming use.
- (b) No Class A nonconforming use of land shall be resumed if it has been for any reason discontinued for a continuous period of at least twelve (12) months, or if it has been changed to another lesser nonconforming or a conforming use for any period.
- (c) A Class A use may be used, altered or enlarged, provided that it does not violate any condition imposed by the planning commission established at the time of its designation.
- (d) Nothing in this section shall prevent the restoration of a Class A nonconforming use eliminated by fire, explosion, act of God, or act of the public enemy subsequent to the effective date of its Class designation, or shall prevent the continuance of the use as such use existed at the time of its impairment, provided that said use restoration is completed within eighteen (18) months from the time of destruction and that the same use is made of the premises. The building official may, for reasonable cause, grant one (1) extension of time for an additional period not exceeding ninety (90) days.
- (e) Where a Class A nonconforming use occupies a building and/or structure and land in combination, removal of such building and/or structure shall eliminate the nonconforming status of the land.
- (f) Any Class A nonconforming use may be changed to another nonconforming use upon written findings of the zoning board of appeals that:
 - (1) The proposed use is similar in operational characteristics as the former nonconforming use;
 - (2) There is no increase in the intensity of the use of the land, building or structure involved;
 - (3) Such change in use will have a less detrimental effect or negative impact on neighboring property than the existing nonconforming use it is replacing; and
 - (4) The proposed use, although inappropriate to a uniform zoning pattern, is desirable and useful in pursuit of the public interest or is more appropriate to the zoning district than the existing nonconforming use.
- (g) In permitting such a change in use, the zoning board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter, inclusive of upgrading the premises to comply as nearly as is practicable with requirements of this chapter.

(Ord. No. 279, § 13.04, 12-12-96)

Sec. 32-206. Regulations pertaining to Class B nonconforming uses.

The purpose of this section is to establish restructuring designed to eliminate Class B nonconforming uses as rapidly as is permitted by law without payment of compensation.

- (1) No Class B nonconforming use of a structure, or structure and premises in combination, that is discontinued or ceases to exist for one (1) year or for twelve (12) months during any three-year period or be otherwise sooner abandoned, shall thereafter be used in conformance with the regulations of the district in which it is located. Structures and/or land established for seasonal uses shall be excepted from this provision.
- (2) No Class B nonconforming use shall be resumed if it has been changed to a conforming use for any period.
- (3) No Class B nonconforming use shall be enlarged or extended, nor shall the structure it occupies be repaired or reconstructed if damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds fifty (50) percent of the replacement cost of such structure.
- (4) No Class B nonconforming use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than used at the time of becoming nonconforming.
- (5) No use which was unlawful under a prior zoning chapter or this chapter prior to amendment shall be considered a Class B nonconforming use.
- (6) No Class B nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use after the effective date of adoption or subsequent amendment to this chapter.

(Ord. No. 279, § 13.05, 12-12-96)

Sec. 32-207. Nonconforming structures and buildings.

The following applies to all nonconforming structures and buildings, except as may be modified in sections 32-205 and 32-206. Where a lawful structure or building exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, type of structure, or other restrictions of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.
- (2) Should such structure or nonconforming portion of the structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at a time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (4) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition any nonconforming building or structure, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Nothing in this chapter shall be deemed to prevent routine repairs and maintenance of a nonconforming building or structure so long as such repairs and maintenance do not add to its nonconformity.

(Ord. No. 279, § 13.06, 12-12-96)

Sec. 32-208. Nonconforming uses of structures and land.

The following applies to all nonconforming uses of structures and land, except as may be modified in sections 32-205 and 32-206. If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure and/or use of land devoted to a Class B use not permitted by this chapter in the district in which it is located shall be intensified, enlarged, extended, constructed, reconstructed, moved or altered, except in changing the use of the structure and/or land to a use permitted in the district in which it is located.
- (2) Any nonconforming Class A use may be extended throughout any parts of building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
- (3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded, in whole or in part, by a permitted use shall thereafter conform to all regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(Ord. No. 279, § 13.07, 12-12-96)

Sec. 32-209. Records of nonconforming uses.

After the adoption of this chapter or any amendments thereto, the building official shall prepare a record of all known nonconforming uses, including uses of buildings and of land, existing at the time of such chapter or amendment.

Such record shall contain the names and addresses of the owners of record of such non-conforming uses and of any occupant, other than the owner, the legal description of the land, and the nature and extent of use. Each owner and occupant shall be notified by certified mail, return receipt requested, of the nonconforming character of the structures and uses thereof. Such list shall be available during regular business hours in the office of the building official for examination and shall constitute permanent records of the city.

(Ord. No. 279, § 13.08, 12-12-96)

Sec. 32-210. Change of tenancy or ownership.

There may be a change in tenancy, ownership or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use.

(Ord. No. 279, § 13.09, 12-12-96)

Sec. 32-211. Uses subject to special land use approval not nonconforming uses.

Any specific use in existence for which a special land use approval is required in a specific zoning district as provided in this chapter shall not be deemed a nonconforming use as of the date of this chapter, but shall without further action be deemed a conforming use in such district. Any change or modification of such use shall require processing as required for a new special land use.

(Ord. No. 279, § 13.10, 12-12-96)

Sec. 32-212. Nonconforming lots.

- (a) Any lot which was of record on December 26, 1996, that does not meet the requirements of this chapter for lot width and depth and available space for yards, may be utilized for single residence purpose, provided the width and depth and available open space for yards is not less than sixty-six and two-thirds (66⅔) percent of that required by the terms of this chapter. Yard requirement variances may be obtained through approval of the zoning board of appeals.
- (b) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record on December 26, 1996, or at the time of amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of the parcel shall be used or occupied which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirement stated in this chapter. The purpose of the provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided.

(Ord. No. 279, § 13.11, 12-12-96)

Sec. 32-213. Acquisition.

The city may acquire, by purchase, condemnation or otherwise, private property or an interest in private property for the removal of nonconforming uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in the city. The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The city council may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws or other applicable statute.

(Ord. No. 279, § 13.12, 12-12-96)

Sec. 32-214. Appeals.

Appeals from decisions made under this section of the chapter may be taken by the zoning board of appeals, as provided by P.A. 207 of 1921, as amended.

(Ord. No. 279, § 13.13, 12-12-96)

Secs. 32-215—32-220. Reserved.

ARTICLE XIV. BOARD OF APPEALS

Sec. 32-221. Establishment of board.

- (a) The zoning board of appeals shall consist of five (5) members, each to be appointed for a term of three (3) years. Appointments of the first members shall be for terms of one (1), two (2), and three (3) years,

respectively, so as nearly as possible to provide for the appointment of an equal number of members each year. After the initial appointments, each member shall hold office for the full three-year term.

- (b) The zoning board of appeals shall perform its duties and exercise its powers as provided by law so that the objectives of this chapter shall be observed, public safety secured and substantial justice is done.

(Ord. No. 279, § 14.00, 12-12-96)

Sec. 32-222. Officers: duties, compensation.

- (a) The zoning board of appeals shall annually elect:
 - (1) A chairperson who shall preside at all meetings of the board; and
 - (2) A vice-chairperson who shall preside in the absence of the chairperson; and
 - (3) A secretary who shall keep minutes of all meetings and submit a copy of them to the city clerk.
- (b) The city council may authorize the remuneration of the members of the zoning board of appeals for attendance at each meeting.

(Ord. No. 279, § 14.01, 12-12-96)

Sec. 32-223. Meetings and records.

Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the board may determine. Meetings may be called at the request of four (4) members of the board. The board shall keep minutes of its proceedings showing the vote of each member upon every question decided by it, or if any member is absent or fails to vote, indication of such fact. A statement of the facts found by the board shall be included in the minutes in each case heard or considered by it. The reasons for approval or denial for any request shall appear in the minutes. In every instance, a statement of the fact upon which such recommendations are based shall appear in the minutes. The minutes of the board shall be open to public examination at reasonable hours.

(Ord. No. 279, § 14.02, 12-12-96)

Sec. 32-224. Rules of procedures.

The zoning board of appeals shall adopt general rules of procedures for meetings and hearings and shall make such rules available to all interested parties.

(Ord. No. 279, § 14.03, 12-12-96)

Sec. 32-225. Appeals and review.

- (a) An appeal shall be taken within ten (10) days of the decision appealed from by the filing with the officer or body from whom the appeal is taken and with the board of appeals of a notice of appeal specifying the grounds thereof. The officer or body from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- (b) Appeals may be taken by any person aggrieved by the decision of any officer, body, department, board or bureau of the city charged with the enforcement of this chapter.

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- (c) The zoning board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the applicant or appellant and to any person to whom real property within three hundred (300) feet of the premises in question shall be assessed, and to the occupants of single- and two-family dwellings within three hundred (300) feet, the notice to be delivered personally or by mail addressed to the respective owners and tenants at the reasonable time. If the tenant's name is not known, the term occupant may be used. Upon the hearing, a party may appear in person or by agent or by attorney.

(Ord. No. 279, § 14.04, 12-12-96)

Sec. 32-226. Decisions of the board.

- (a) 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 on a matter upon which the board is required to pass under an chapter or to effect any variation in an chapter except a use variance. The concurring vote of two-thirds ($\frac{2}{3}$) of the members of the board shall be necessary to approve any use variance.
- (b) The board of appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as, in its judgement, should be made, and, to that end, shall have all power of the officer or body from whom the appeal is taken.
- (c) The board of appeals shall decide all applications and appeals within thirty (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 official and observed by him, and he shall incorporate the terms and condition of the same in the permit to the applicant or appellant whenever a permit is authorized by the board. The decision of the board shall not become final until the expiration of five (5) days from the date of entry of the order, unless the board shall find the immediate effect of the order is necessary for the prevention of property or personal rights and shall certify on the record.
- (d) The board of appeals may impose condition upon an affirmative decision, pursuant to section 32-228.

(Ord. No. 279, § 14.05, 12-12-96)

Sec. 32-227. Stay of proceedings.

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

(Ord. No. 279, § 14.06, 12-12-96)

Sec. 32-228. Variances.

- (a) *Generally.* The zoning board of appeals, as herein created, is a body of limited powers. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the board shall have powers in passing upon appeals to vary or modify any of the provisions of this chapter relating to the construction, structural changes in equipment, or alteration of building or structures so that the spirit of this chapter shall be observed, public safety secured, and substantial justice done.

(Supp. No. 57)

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- (1) *Variations in yards, lot area and percentage of lot coverage.* To permit variation or modification of yard, lot area, percentage of lot coverage, and floor area requirement of this chapter, as may be necessary to secure an appropriate improvement of a parcel of land which is such size, shape or dimension, or which has such peculiar or exceptional geographical or topographical conditions, that it cannot be appropriately improved without such variation or modification, provided that the purpose and spirit of this chapter shall be observed, public safety secured, and substantial justice done.
- (2) *Restrictions of board action.* No variance in the provisions or requirements of this chapter shall be authorized by the board, unless the board finds evidence that all the following facts and conditions of a. thru d. exists or e. or f. exists independently.
- a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or 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 vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 - c. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.
 - d. That the conditions or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to create a general rule for such condition or situation.
 - e. That the modification to setback, location, site or building requirements is sponsored by the planning commission for a specific proposal that benefits the city by providing better design or efficient use of the site or results in a more creative development (all fees to be paid by the applicant).
 - f. That phasing of required site plan improvements may be warranted because the cost of such improvements are relatively high in relation to the total cost of the applicant's development or addition. planning commission recommendations shall be required, together with a financial security in the amount of the deferred improvements.
- (b) *Interpretation.* The zoning board of appeals shall interpret the provisions of this chapter in such way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several zoning districts accompanying and made a part of this chapter in those cases where the street layout actually on the ground varies from the street layout as shown on the aforesaid map.
- The decision of the board shall be final insofar as they involve discretion or the finding of facts.
- (c) *Conditions of approval.* In authorizing a variance, the zoning board of appeals may, in addition to the specific conditions of approval called for in this chapter, attach thereto such other conditions regarding the location, character landscaping or treatment as are reasonably necessary to the furtherance of the intent and spirit of this chapter and the protection of the public interest.
- (d) *Expiration of variance.* A variance approved by the zoning board of appeals shall expire one (1) year from the date of approval by the zoning board of appeals based upon the date written notice of the board's decision is sent to or delivered to the applicant (or the date of approval of the minutes for the meeting at which such action was taken if no notice is given or delivered to the applicant), unless the variance is used by the applicant or its successor within such time period as evidenced by applying for a building permit, site plan approval, zoning or other required permits, or a special land use approval required for the applicant's intended use. If the applicant or its successor has not begun using the variance by the date the variance

expires, the variance shall be null and void, and that applicant must reapply for a new variance and obtain a new approval from the zoning board of appeals in order to have the benefit of the variance.

- (e) Notwithstanding the other provisions of this section, the city council (and not the zoning board of appeals) shall have the authority to consider, approve, or deny variances and temporary uses which are proposed to be developed under a conditional rezoning as part of city council's review and approval of a conditional rezoning agreement under section 32-261.

(Ord. No. 279, § 14.07, 12-12-96; Ord. No. 388, § 2, 10-11-18; Ord. No. 391, § 3, 10-11-18)

Editor's note(s)—Ord. No. 391, § 3, adopted Oct. 11, 2018 set out provisions intended to be added as § 32-228(d), but said subsection was added by Ord. No. 388, § 2, adopted Oct. 11, 2018. For clarity, and at the editor's discretion, these provisions have been included as 32-288(e).

Sec. 32-229. Referred to planning commission.

Any matters acted upon by the zoning board of appeals which require the recommendation of the planning commission shall be referred to the planning commission by the zoning board of appeals for the planning commission's information.

(Ord. No. 279, § 14.08, 12-12-96)

Sec. 32-230. Temporary structures, signs and uses.

- (a) The zoning board of appeals may, upon application, permit the erection of structures or signs and uses of land for which temporary use approval has been denied by the city manager under section 32-250 for a period not to exceed six (6) months, provided the following conditions are satisfied:
- (1) Substantially all of the applicable requirements for temporary use approval set forth in section 32-250 will be satisfied by the applicant so that the use is consistent with the spirit and intent of the section.
 - (2) The waiver of any of the applicable requirements for the temporary use approval set forth in section 32-250 will not adversely impact adjacent properties or impair the rights of others intended to be protected by the requirements for the temporary use approval or endanger public safety.
 - (3) The temporary use will not change the basic character of uses permitted in the district.
 - (4) Setbacks, parking, lighting, structure size, signage, and the operation of the use are in substantial compliance with chapter regulations.
 - (5) The temporary structure, sign, or use is related to a permanent conforming use.
- (b) Extensions of a temporary use may be approved by the zoning board of appeals upon good cause shown for additional six-month periods.
- (c) Applications for approval of temporary uses by the zoning board of appeals shall be noticed and considered in conformity with the requirements for hearing of appeals under this article.

(Ord. No. 279, § 14.09, 12-12-96)

Sec. 32-231. Fees for appeals.

Generally. A fee shall be paid to the building official at the time of notice of appeal is filed, which the Building Director or administrative official shall forthwith pay over to the city treasurer to the credit of the general fund of the city. The fee shall be established by resolution of the city council.

(Ord. No. 279, § 14.10, 12-12-96)

Secs. 32-232—32-240. Reserved.

ARTICLE XV. ADMINISTRATION

Sec. 32-241. Administration officer.

The provisions of this chapter shall be administered by the building official or by such deputies of his department as the building official may delegate for such work. He shall make such general rules and prescribe the use of such forms and methods consistent with the intent of this chapter as may facilitate the work. With the approval of the city manager, the building official may employ expert service to aid in the administration of this chapter.

(Ord. No. 279, § 15.00, 12-12-96)

Sec. 32-242. Zoning permits.

It shall be unlawful to use any land, or part thereof; or to build or use or permit the building or the use of any building or structure, or part thereof, which is hereafter created, erected or altered; or to change or enlarge the use of any building or land, or part thereof, until a zoning permit, in accordance with the provisions of this chapter, shall have been obtained from the building official. The zoning permit shall state clearly the purpose for which the land or building shall be used and the specific district in which the land or building is located.

(Ord. No. 279, § 15.01, 12-12-96)

Sec. 32-243. Application for permits.

An application for a zoning permit shall be made to the building official. Such application shall be accompanied by a plot plan in duplicate, drawn to scale, showing the exact dimensions of the land and structure to which the permit is to apply, the lines of all the lots or parcels under separate ownership contained therein, the width of and alignment of all abutting streets, alleys, easements of access and public open space, the area, size, position and height, of all buildings or structures with plans drawn to scale, of the proposed structure or alteration and such other information as may be deemed necessary for the proper enforcement of this chapter. An accessory building when erected at the same time as the principal building on a lot as shown on the application thereof shall not require a separate zoning permit. Whenever the buildings, land and uses thereof as set forth on the application are in conformity with the provisions of this chapter, the permit shall be conspicuously posted upon the premises. In all cases when the building official shall refuse to issue a zoning permit, he shall state such a refusal, in writing, with the cause and reasons for the refusal.

(Ord. No. 279, § 15.02, 12-12-96)

Sec. 32-244. Schedule of fees for zoning permit.

Before any permit shall be issued under this chapter, an inspection fee shall be paid in amount fixed by a schedule established by resolution of the city council.

(Ord. No. 279, § 15.03, 12-12-96)

(Supp. No. 57)

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Sec. 32-245. Zoning inspection for building and land use.

It shall be the duty of the holder of every permit to notify the building official, in writing, of the time when such building or land use will be ready for inspection. Two (2) such inspections shall be requested: first, when excavation for foundations has been completed; and the second inspection shall be requested when the building is completed. In case of sheds and garages having an area of less than eight hundred (800) square feet, only one inspection by the building official shall be required, which inspection shall be requested as soon as wall studs are in place. Failure to notify the building official of the time for such inspection shall automatically cancel the permit. Before reissuing a second permit, the building official may require the payment of a second fee. A notice to call the attention of the holders of permits to the requirements of this section shall be printed on all permits issued.

(Ord. No. 279, § 15.04, 12-12-96)

Sec. 32-246. Certificate of occupancy.

No land or building hereafter erected or altered shall be occupied, used, or changed in use until a certificate of occupancy shall have been issued by the building official stating that the land or building or proposed use of a building or land complies with all the building and health laws and ordinances and the provisions of this chapter. The building official may impose reasonable conditions upon the issuance of a certificate of occupancy in order to ensure that the building, use, or approved activity complies with the applicable provisions of the zoning ordinance, or other applicable provisions of the City Code, Michigan statutes, and other applicable laws or regulations.

(Ord. No. 279, § 15.05, 12-12-96; Ord. No. 388, § 3, 10-11-18)

Sec. 32-247. Application for certificates of occupancy.

- (a) Certificates of occupancy shall be applied for coincident with the application for a permit and shall be issued within ten (10) days after the erection or alternation of such building or the use of land shall have been completed in conformity with the provisions of this chapter.
- (b) A record of all such certificates shall be kept on file in the office of the building official and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. No fee shall be charged for an original certificate applied for coincident with the application for a permit; for all other certificates, or for copies of any original certificates, there shall be a charge of one dollar (\$1.00) each. No permit for the excavation for, or the alteration of any building or for any use of land, shall be issued before application has been made for a certificate of occupancy.

(Ord. No. 279, § 15.06, 12-12-96)

Sec. 32-248. Temporary certificate of occupancy.

The building official may issue a temporary certificate of occupancy for a part of a building prior to the occupation of the entire building, provided such temporary certificate shall not remain in force for a period in excess of six (6) months nor more than five (5) days after the building is fully completed and ready for occupancy; and provided, further, that the owners provide a performance guarantee at the time of occupancy and shall execute and sign a statement of willingness to comply with all conditions set forth in the certificate under penalty of revocation thereof. The building official may impose reasonable conditions upon the issuance of a temporary certificate of occupancy in order to ensure that the building, use, or approved activity complies with the applicable provisions of the zoning ordinance, or other applicable provisions of the City Code, Michigan statutes, and other applicable laws or regulations.

(Ord. No. 279, § 15.07, 12-12-96; Ord. No. 388, § 4, 10-11-18)

Sec. 32-249. Existing uses.

Certificates of occupancy shall be issued for existing structures or premises and uses on December 26, 1996, when requested.

(Ord. No. 279, § 15.08, 12-12-96)

Sec. 32-250. Temporary uses approvable by the city manager.

The city manager may approve temporary uses (including circuses, fairs and carnivals), subject to the following requirements:

- (1) The period of operation of the proposed use shall not exceed six (6) months and shall not exceed the time period included in the application reasonably considering the nature of the use.
- (2) An application shall be filed on a form specified by the city, accompanied by a plot plan drawn to scale showing the proposed layout of the site, along with a fee to be established by city council resolution.
- (3) Written verification of ownership of the subject site shall be provided. Written permission of the property owner shall also be furnished to the city.
- (4) The proposed use shall be compatible with, and shall not conflict with, principal activities conducted on the site or upon any adjacent site. No activity shall be conducted within the public right-of-way. The use must be related to a permanent conforming use at a fixed location.
- (5) There shall be adequate parking provided (hard-surface if deemed appropriate) on the site consistent with the scope of the proposed use. Parking provided for any permanent use shall not be used for a temporary use, unless the remaining parking is sufficient to accommodate the parking requirements for both permanent and the temporary uses.
- (6) The proposed site shall be laid out so as to ensure safe vehicular and pedestrian circulation.
- (7) The hours of operation shall be limited to specified hours which are consistent with the nature of the use and compatible with other activities on the site and adjacent parcels.
- (8) All sanitary service, electrical lines, and all other operations shall comply with all applicable city codes, ordinances, and regulations and any other applicable statutes, rules, or regulations of any governmental body having jurisdiction over the activity; and any permits required shall be obtained by the applicant. The proposed use shall comply with any other applicable written standards established and promulgated by the city. The city manager shall forward the application to various city departments, as deemed necessary to determine compliance with the applicable city codes, regulations, and standards.
- (9) Any temporary structures shall be erected in a safe manner in accordance with any applicable city codes, ordinances, or standards. A cash deposit or irrevocable letter of credit shall be filed in an amount and by a company satisfactory to the city manager to ensure the prompt removal of any temporary use.
- (10) The property shall be maintained in a neat and orderly condition, and cleaned immediately after the close of each business day.

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- (11) Final clean-up shall be the responsibility of the applicant, and shall be assured by the posting of a cash deposit or irrevocable letter of credit in an amount determined by the city manager to ensure performance of the clean-up within forty-eight (48) hours of termination of the temporary use.
 - (12) Circuses, fairs and carnivals shall be further limited:
 - a. Such uses shall be permitted only when sponsored or operated by schools, churches, fraternal societies, service organizations, civic organizations, and/or similar non-profit organizations.
 - b. Approval shall be obtained from the city's public safety department prior to consideration of any application under this section.
 - c. Such uses shall operate only between the hours of 10:00 a.m. and 12:00 Midnight.
 - d. Handling and dispensing of food and sewage disposal shall be in accordance with regulations of the Macomb County Health Department.
 - e. Any permit shall be limited in time to periods of not more than eight (8) continuous days; provided, however, such permit may be renewed for periods greater than eight (8) continuous days.
 - (13) Garage sales are an accessory use to single-family residential use, and shall not require temporary use approval by the city manager (see section 32-45).
 - (14) Signage for the temporary use shall be permitted only as part of the temporary use; shall be limited to sixteen (16) square feet; and shall be set back not less than ten (10) feet from the right-of-way. This section shall not be construed to prohibit temporary signs in conformance with section 32-230.
 - (15) The city manager may impose reasonable conditions upon the approval of a temporary use under this section in order to ensure that the temporary use complies with the applicable provisions of this section, the zoning ordinance, and other applicable provisions of the City Code, Michigan statutes, or other applicable laws or regulations. If the proposed temporary use or any part does not meet all of the conditions determined to be applicable by the city manager, the use shall not receive administrative approval and may be reviewed and considered for approval only by the zoning board of appeals under the temporary use powers set forth in section 32-230.

(Ord. No. 279, § 15.09, 12-12-96; Ord. No. 388, § 5, 10-11-18)

Sec. 32-251. Planning commission.

- (a) The planning commission, as established under Act 285 of the Michigan Public Acts of 1931 [MCL 123.31 et seq., MSA 5.2991 et seq.], as amended, shall perform all of the duties of such commission in accordance with the law in such case made and provided, relating to amendments of this chapter, and such other duties as are established in this chapter.
- (b) In cases where the planning commission is required to recommend or approve certain use or premises under the provisions of this chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by the commission for the proper consideration of the matter.
- (c) The planning commission shall investigate the circumstances of each such case and may notify such parties who may be affected thereby of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.
- (d) The planning commission may impose such conditions or limitations in granting approval as may, in its judgement, be necessary to fulfill the spirit and purpose of this chapter.

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- (e) Where site plan review is required by the planning commission under the terms of this chapter, a site plan fee may be required to cover the cost of such reviews, including planners, engineers, and other such professional services in accordance with a schedule of fees as determined by the city council.
 - (f) Any approval given by the planning commission, under which premises are not used or work is not started within six (6) months, or when such use or work has been abandoned for a period of six (6) months, shall lapse and cease to be in effect.

(Ord. No. 279, § 15.10, 12-12-96)

Secs. 32-252—32-260. Reserved.

ARTICLE XVI. CHANGES AND AMENDMENTS

[Sec. 32-261. Changes and amendments.]

- (a) When a proposed amendment, supplement, modification or change is initiated by a petition of any party with a legal interest in the property to be affected, it must be accompanied by a fee. The amount of the fee shall be established by resolution of the city council, and it is to be used to defray the expense of publishing the required notices and other related expenditures.
- (b) All amendments, supplements, modifications and changes not arising in the planning commission must be referred thereto for a public hearing and a written recommendation prior to any action thereon by the city council.
- (c) The planning commission shall at one or more of its meetings study and evaluate the proposed amendment, supplement, modification or change. The planning commission shall make a tentative report and hold at least one public hearing with proper notice as required by state law before submitting its final report to the city council. A summary of the comments submitted at the public hearing shall be transmitted with the report of the planning commission to the city council.
- (d) Once the city council has received and accepted the planning commission's report on the proposed amendment, supplement, modification or change, it may hold additional public hearings if it considers it necessary, or act upon the request without further hearings.
- (e) Whenever the city council shall receive a protest against a proposed amendment, fully signed by the owners of twenty (20) percent or more of the frontage proposed to be altered, or by the owners of twenty (20) percent or more of the frontage immediately in the rear thereof, or by the owners of twenty (20) percent of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by two-thirds vote of the city council.
- (f) The planning commission and city council have recognized that, in certain instances, it would be advantageous to both the city and property owners seeking rezoning if a plan, along with conditions and limitations that may be relied upon by the city, could be proposed as part of a petition for rezoning. Therefore, it is the intent of this subsection to provide an election to property owners in connection with the submission of petitions seeking the amendment of this zoning ordinance for approval of a rezoning with conditions pursuant to the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.
 - (1) A property owner shall have the option of making an election under this subsection in conjunction with the submission of a petition seeking a rezoning. Such election may be made at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning. The election shall be made by filing an application conforming with this subsection for approval of a

conditional rezoning that would establish site specific use authorization if the petition for conditional rezoning is granted. such election shall be to seek a conditional rezoning under the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, which would represent a legislative amendment of the zoning ordinance.

- (2) In order to be eligible for the proposal and review of a conditional rezoning, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (i.e., rezoning conditions that may be incorporated into a conditional rezoning agreement and which will be graphically set forth in a conditional rezoning plan) which are, in material respects, equally or more strict or limiting than the regulations that would apply to the property under the proposed new zoning district, such as, but not limited to, the items set forth below:
- a. The location, size, height, or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features shown on the conditional rezoning plan.
 - b. Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and without limitation, units per acre, maximum usable floor area, hours of operation, and the like.
 - c. Preservation of natural resources and/or features.
 - d. Facilities to address drainage/water quality.
 - e. Facilities to address traffic issues.
 - f. Preservation of open space.
 - g. A written agreement for permanent maintenance of natural resources, features, and/or facilities to address drainage/water quality, traffic, open space, and/or other features or improvements, including authorization of, and reimbursement for, maintenance performed by or on behalf of the city in the event the property owner(s) fail(s) to timely perform after notice.
 - h. Signage, lighting, landscaping, and/or building materials for the exterior of some or all structures.
 - i. Permissible uses of the property.
 - j. Preservation of historic structures or sites to preserve the history of the City of Fraser.
 - k. Donation of land for open space, using a land conservancy or other means, to protect the open space for future generations.
 - l. Paving, making substantial improvements to, or funding of improvements to major city roads where the entire community benefits.
 - m. Construction and/or donation of community buildings where the need has been identified and defined by the city.
 - n. Provide usable and contiguous open space amounting to a defined percentage of the site, ideally forty (40) percent or more, using the concept of clustering.
 - o. Provide additional landscaping beyond ordinance requirements.
 - p. Reclaim, re-use, or redevelop land, particularly where previous use of land caused significant development difficulties or blight.
 - q. Install streetscape on an arterial road, beyond ordinance requirements, compatible with city guidelines concerning trees, streetlights, and landscaping.

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- r. Install drainage improvements beyond ordinance requirements, using best management practices.
 - s. Provide public art, sculpture, or monuments or other landmarks to enhance the city or identify city boundaries.
 - t. Offer other conditions deemed important to the development by the applicant.

Rezoning conditions shall not authorize uses or developments of greater intensity or density that are not permitted in the district proposed by the rezoning, or permit uses or development expressly or implicitly prohibited in the conditional rezoning agreement.

- (3) An application for conditional rezoning shall not be presented to the planning commission for consideration unless it contains all of the following information:
 - a. A completed application signed by the applicant and the owner of the property which is the subject of the request (if different), accompanied by the application fee.
 - b. Proof that the applicant has a legal interest in the property sufficient to submit the application (deed, land contract, option agreement, purchase agreement, etc.)
 - c. The rezoning conditions proposed by the applicant.
 - d. A proposed conditional rezoning plan, which will serve as a preliminary plan submitted in connection with the conditional rezoning request, and which shall not replace the site plan review, special land use approval review, plat review and approval, condominium plan review, or other development procedures applicable to the proposed development under the zoning ordinance or other applicable ordinances or regulations.
 - e. A list of any special land use approvals required for the proposed development or use of the property, as city council has the authority to consider, approve, or deny any special land uses proposed under the conditional rezoning as part of its review and approval of the conditional rezoning agreement.
 - f. A list of any variances or temporary uses needed for the proposed development or use of the property, as city council has the authority to consider, approve, or deny any variances or temporary uses needed for the development or use proposed under the conditional rezoning as part of its review and approval of the conditional rezoning agreement.
 - g. A legal review fee deposit in an amount estimated by the city attorney to be sufficient to cover the cost of legal review of the conditional rezoning agreement by the city attorney. The applicant will be required to reimburse the city for the actual amount of attorney fees expended. If the deposit exceeds the actual legal fees expended, the surplus will be returned to the applicant. If the actual legal fees expended exceed the deposit, the applicant will be required to pay the deficiency to the city treasurer prior to the conditional rezoning being placed on a city council agenda for consideration.
- (4) The conditional rezoning process shall include the following:
 - a. Prior to the time of making application for a conditional rezoning, the applicant shall schedule a pre-application submission meeting with the city manager, the city planner, the city engineer, the city building official, and the city attorney, or their designees, for a preliminary review of the application for conditional rezoning and so that the applicant has a thorough understanding of the process. The applicant shall pay a non-refundable fee, established in the city's approved fee schedule, for the city's costs and expenses incurred for this meeting at the time the applicant submits its request for the pre-application submission meeting.

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- b. A property owner may submit an application for approval of a conditional rezoning at the time of making application for amendment of this zoning ordinance seeking a rezoning of property, or at a later time during the process of the city considering such rezoning, after first participating in the preapplication submission meeting required in the preceding subsection.
 - c. The application, which may be amended during the process, shall include a conditional rezoning plan proposed by the applicant and shall specify the rezoning conditions proposed by the applicant, recognizing that rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.
 - d. The proposed conditional rezoning shall be noticed for public hearing before the planning commission as a map amendment to the zoning ordinance in accordance with this section and applicable provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.
 - e. The planning commission shall conduct a public hearing, and then deliberate and make a recommendation to the city council on the proposed conditional rezoning.
 - f. Upon receipt of the recommendation of the planning commission, the applicant or its counsel shall prepare a draft of a conditional rezoning agreement in recordable form for review and approval by the city attorney. The conditional rezoning agreement shall include the rezoning conditions, the conditional rezoning plan, and other terms and conditions mutually acceptable to the applicant and the city.
 - g. After the city attorney approves the draft of the conditional rezoning agreement, the conditional rezoning application, the conditional rezoning plan, the draft of the conditional rezoning agreement, and the planning commission's recommendation shall be submitted to the city council for consideration of the conditional rezoning and the conditional rezoning agreement and conditional rezoning plan.
 - h. At the city council meeting to consider the conditional rezoning agreement and the related map amendment to the zoning ordinance, the city council shall have authority to take public comment and review, approve, or deny any special land use and any variance(s) or temporary uses needed for the proposed development or use of the property, and the city council's determination(s) may not be overridden or amended by any board, commission, or personnel of the city unless otherwise provided in this section.
 - i. The applicant shall have the burden of demonstrating that the following requirements and standards are met by the conditional rezoning, conditional rezoning agreement, and conditional rezoning plan:
 1. The conditional rezoning, conditional rezoning agreement, and conditional rezoning plan will result in development of the property or establishment of a land use that (a) is beneficial to the applicant, the city, and the public, (b) will not be detrimental to neighboring properties or the public, (c) will enhance the area in a way that would be unlikely to be achieved or would not be assured in the absence of the use of conditional rezoning, and (d) is in the public interest, considering the benefits reasonably expected to accrue from the proposal as compared with foreseeable detriments associated with it.
 2. The discretionary standards set forth in this zoning ordinance for approval of a special land use have been met.
 3. The standards for any variance or temporary use set forth in this zoning ordinance have been met.

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4. The applicant may voluntarily propose and/or agree to additional conditions in order to ensure that the standards are met; however, the city may not unilaterally require or impose additional conditions as a condition of approval.
- j. If the city council approves the conditional rezoning, conditional rezoning agreement, and conditional rezoning plan, the zoning district classification of the rezoned property shall be changed to the zoning district to which the property has been rezoned, accompanied by a reference to "CR Conditional Rezoning." The zoning map shall specify the new zoning district plus a reference to "CR" (for example, the district classification for the property might be CN— Commercial Neighborhood with CR, Conditional Zoning, with a zoning map designation of CN/CR) and use of the property so classified and approved shall be restricted to the permission granted in the conditional rezoning agreement, and no other development or use shall be permitted.
 - k. After the conditional rezoning has been approved, the use of the subject property shall comply with all regulations governing the development and use within the zoning district to which the property has been rezoned, including, without limitation, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density, together with the more restrictive requirements set forth in the conditional rezoning agreement and the conditional rezoning plan. In the event of inconsistency between these requirements, the stricter requirements of the conditional rezoning agreement and conditional rezoning plan shall control.
- (5) The conditional rezoning agreement shall contain, at a minimum, the following terms:
- a. The conditional rezoning was proposed by the applicant to induce the city to grant the rezoning.
 - b. The rezoning conditions and conditional rezoning agreement are authorized by, and in compliance with, all applicable state and federal laws and constitutions.
 - c. The conditional rezoning agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the city.
 - d. The property in question shall not be developed or used in a manner inconsistent with the conditional rezoning plan and conditional rezoning agreement, unless modified by mutual agreement of the property owner and the city, except that the property may still be developed or used in strict conformance with the zoning of the property as it existed immediately preceding the conditional rezoning approval.
 - e. The property owner agrees to continuously operate and maintain the development or use in compliance with all of the terms and conditions of the conditional rezoning agreement and conditional rezoning plan, and failure to satisfy such terms and conditions shall constitute a separate violation of the zoning ordinance and a breach of the conditional rezoning agreement.
 - f. The property owner agrees to comply with any terms and conditions imposed with respect to approval of any special land use, variance(s), or temporary use.
 - g. The rezoning conditions and other terms and conditions of the conditional rezoning agreement and conditional rezoning plan shall not be altered or added to except in an amendment executed by the parties and recorded with the Macomb County Register of Deeds.
 1. Substantial amendments to the conditional rezoning agreement and conditional rezoning plan shall be proposed, reviewed, and approved as a new case in the same manner as the original conditional rezoning proposal.
 2. Minor changes within the scope authorized by the conditional rezoning agreement may be approved by the city planner.

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- h. Unless extended by the city council for good cause, the conditional rezoning shall expire following a period of two (2) years from the effective date of the conditional rezoning, unless construction on the development of the property pursuant to the required permits or establishment of the approved use has commenced as evidenced by approvals issued by the city within such two-year period and proceeds diligently and in good faith as required by ordinance to completion, which time period may be extended by the city for good cause upon request of the applicant received prior to the expiration of the time period.
 - i. If the property owner or applicant fails to commence construction on the development of the property or establish the approved use within the required time period (including any extensions granted by the city), then the zoning of the property shall revert to its former zoning classification. Rezoning of the property back to the former zoning classification of the property (i.e. reversion) shall be done by the city in accordance with the rezoning amendment procedures set forth in the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and the provisions of the zoning ordinance. Until such time that the reverted zoning classification of the property becomes effective and is recorded with the Macomb County Register of Deeds, no development shall be undertaken or permits for development issued.
 - j. Where deemed appropriate by the city council in order to guarantee performance and to ensure that the city does not incur any costs associated with non-performance, the city may require that the applicant or property owner undertaking the development or establishing the use under the conditional rezoning provide a letter of credit or cash deposit in an amount specified in the city's approved fee schedule at the time development or establishment of the use begins.
 - k. The conditional rezoning approval and conditional rezoning agreement shall be binding upon and inure to the benefit of the property owner and city, and their respective heirs, successors, assigns, and transferees.
 - l. The map amendment to the zoning ordinance implementing the conditional rezoning shall be completed in compliance with the requirements of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended. If the conditional rezoning is declared invalid by a court of competent jurisdiction, or becomes void for any reason, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established, except for development that is in strict conformance with the zoning of the property prior to the conditional rezoning.
 - m. Each of the requirements and conditions in the conditional rezoning agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific development or land use authorized by the conditional rezoning.
 - n. If the development is undertaken or the use established on the property subject to the conditional rezoning which does not comply with the terms and conditions of the conditional rezoning agreement and conditional rezoning plan, such development or use shall constitute a nuisance per se. In such instances, the city may issue a stop work order or cease and desist order relative to such development or use, and pursue any available lawful remedy. Until curative action is taken to bring the property into compliance with the conditional rezoning agreement, the city may withhold, or following notice, revoke permits and certificates, in addition to or in lieu of other lawful action to achieve compliance.
 - o. The property owner or person operating the development or use established under the conditional rezoning shall be responsible for reimbursing the city for attorney fees incurred by the city in preparing or negotiating the conditional rezoning agreement, which sums may be

directly retained from the deposit(s) paid by the owner or applicant in accordance with the requirements of the zoning ordinance, and for enforcing the terms of it in the event that the property owner or person operating the development or use fails to comply with its terms and conditions.

- p. The conditional rezoning shall be effective within seven (7) days after publication of a notice of adoption of the zoning map amendment to the zoning ordinance and recording of the conditional rezoning agreement with conditional rezoning plan attached with the Macomb County Register of Deeds, unless a different effective date is set forth in the conditional rezoning agreement. Any amendments shall be in writing, and shall be completed in the same manner as the original conditional rezoning and zoning map amendment.

(Ord. No. 279, art. 17, 12-12-96; Ord. No. 391, § 4, 10-11-18)

Editor's note(s)—Conditional rezoning, MCL 125.3405

Secs. 32-262—32-270. Reserved.

ARTICLE XVII. VIOLATIONS AND PENALTIES

[Sec. 32-271. Violations and penalties.]

Any structure upon which construction is started, or any structure which is altered, enlarged or repaired, or any use of land which is begun or changed after adoption of this chapter and in violation of any of its provisions, is hereby declared a nuisance per se. Any court of competent jurisdiction shall order such nuisance abated, and the owner or agent in charge of such building or premises shall be adjudged guilty of maintaining a nuisance per se. Any person who violates any provision of this chapter, the owner of any structure or land or part thereof, and any person, architect, builder, contractor, plumber or agent employed in connection therewith and who has assisted knowingly in the commission of any such violation shall be guilty of a separate offense and, upon conviction thereof, shall be liable to the penalties herein provided.

(Ord. No. 279, art. 18, 12-12-96)