

APPENDIX A ZONING¹

ZONING ORDINANCE CITY OF UTICA, MACOMB COUNTY, MICHIGAN

TITLE

An ordinance to regulate the use of land, natural resources and structures; to regulate structures designed for trade, industry, residence or other specified uses; to regulate and limit the height, the area, the size and location of structures hereinafter to be erected or altered; to regulate and determine the area of yards, court, or other open spaces; to control congestion in the streets, to secure safety in case of fire, to prevent the overcrowding of land, to bring about the gradual conformity of the uses of land and buildings and for such purposes to divide the city into districts and zones; to establish appeal procedures; to provide for the administration and enforcement of the provisions of this ordinance and to prescribe penalties for the violation thereof.

PREAMBLE

Pursuant to the authority conferred by Public Act 207, PA 1921 as amended (MCL 125.581 et seq), of the State of Michigan and for the purpose of promoting and protecting the public health, safety, peace, comforts, convenience and general welfare of the inhabitants of the City of Utica by protecting and conserving the character and social and economic stability of the residential, commercial, industrial, and other use areas, by securing the most appropriate use of land; preventing over-crowding; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements; and by other means, all in accordance with a comprehensive plan.

ENACTING CLAUSE

NOW THEREFORE THE CITY OF UTICA ORDAINS:

¹Editor's note(s)—Printed herein is the city's zoning ordinance being Ord. No. 129. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Cross reference(s)—Any ordinance rezoning property or amending the zoning map or otherwise relating to zoning saved from repeal, § 1-11Cross reference(s)—(a)(16); buildings and building regulations, ch. 10Cross reference(s)—; massage parlors, § 14-101Cross reference(s)— et seq.; distance of mechanical amusement devices from schools, § 14-277Cross reference(s)—; community development, ch. 18Cross reference(s)—; environment, ch. 26Cross reference(s)—; floods, ch. 34Cross reference(s)—; historic preservation, ch. 38Cross reference(s)—; streets, sidewalks and other public places, ch. 62Cross reference(s)—; subdivisions and other divisions of land, ch. 66Cross reference(s)—; telecommunications, ch. 74Cross reference(s)—; vegetation, ch. 86Cross reference(s)—.

State law reference(s)—Zoning, MCL 125.581 et seq.

ARTICLE I TITLE

Section 100. Title.

This ordinance shall be known and may be cited as the "City of Utica Zoning Ordinance," and will be referred to herein as "this ordinance."

ARTICLE II CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Section 200. Construction of language.

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

1. The particular shall control the general.
2. In case of any difference of meaning or implication between the text of this ordinance 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 and the singular, unless the context clearly indicates the contrary.
5. A "building" or "structure" includes any part thereof.
6. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
7. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either ...or," the conjunction shall be interpreted as follows:
 - 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 singly but not in combination.
9. Terms not herein defined shall have the meaning customarily assigned to them.

Section 201. Definitions.

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

Accessory building. A building or portion of a building subordinate to a main building on the same lot occupied by, or denoted exclusively to, an accessory use.

Accessory use, or accessory. A structure or use that: a) is clearly incidental to and customarily found in connection with a principal building or use; b) is subordinate to and serves a principal building or a principal use; c) is subordinate in area, extent or purpose to the principal building or principal use served; d) contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building or principal use served; and, e) is located on the same lot as the principal building or use served.

Addition. An extension or increase in floor area or height of a building or structure.

Administrative approval. A form of site plan approval that is conducted by the building official, the city planner and the city clerk, or their designee, for the purpose of approving an addition to an existing development for any public or private project that does not necessarily need a formal review before the city's planning commission based on and subject to the criteria found in section 1800.1.c. of this ordinance.

Administrative review. A form of site plan review that is conducted by the building official, the city planner and the city clerk, or their designee, for the purpose of reviewing an addition to an existing development for any public or private project that does not necessarily need a formal review before the city's planning commission based on and subject to the criteria found in section 1800.1.c. of this ordinance.

Adult entertainment uses. Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting specified sexual activities or specified anatomical areas.

1. Adult entertainment use shall include, but not be limited to the following:
 - a. An adult motion picture theater is an enclosed building with a capacity of 50 or more persons used for presenting material which has a significant portion of any motion picture or other display depicting or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
 - b. An adult mini-motion picture theater is an enclosed building with a capacity for less than 50 persons used for presenting material which has as a significant portion of any motion picture or other display depicting, describing or presenting "specified sexual activities" or "specified anatomical areas."
 - c. An adult motion picture arcade is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled stall or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe or relate to "specified sexual activities" or "specified anatomical areas."
 - d. An adult bookstore is a use which has a display containing books, magazines, periodicals, slides, pictures, cassettes, or other printed or recorded material which has as a significant portion of its content or exhibit matter or actions depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" or an establishment with a (substantial) segment or section devoted to the sale or display of such material.
 - e. An adult cabaret is a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe "specified sexual activities" or "specified anatomical areas."

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- f. An adult motel is a motel wherein matter, actions or other displays are presented which contain a significant portion depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."
 - g. An adult massage parlor is any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatment or any other treatment or manipulation of the human body occurs as part of or in connection with "specified sexual activities" or where any person providing such treatment, manipulation or service related thereto exposes "specified anatomical areas."
 - h. An adult model studio is any place where, for any form of consideration or gratuity, figure models who display "specified anatomical areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar education institution.
 - i. An adult sexual encounter center is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in "specified sexual activities" or exposing "specified anatomical areas."
2. *Significant portion.* As used in the above definitions, the phrase "significant portion" shall mean and include:
- a. Any one or more portions of the display having continuous duration in excess of five minutes; and/or,
 - b. The aggregate of portions of the display having a duration equal to ten percent or more of the display.
 - c. The aggregate of portions of the collection of any materials or exhibits composing the display equal to ten percent or more of the display.
3. *Display.* As used in the above definitions, the word display shall mean any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, video cassettes or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.
4. "Specified sexual activities."
- a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts of human masturbation, sexual intercourse or sodomy;
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
5. "Specified anatomical areas."
- a. Less than completely and opaquely covered: 1) human genitals, pubic region; 2) buttock; and, 3) female breast below a point immediately above the top of the areola; and,
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Adult foster care facility. A governmental or nongovernmental establishment subject to state licensing procedures as may be required having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include a nursing home, a home for the aged, an alcohol or a substance abuse rehabilitation center, a hospital for the mentally ill, or similar facilities.

Adult foster care family home. A private residence with the approved capacity to receive not more than six adults who shall be provided foster care for five or more days per week, and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

Adult foster care large group home. An adult foster care facility with the approved capacity to receive at least 13, but not more than 20 adults who shall be provided foster care.

Adult foster care small group home. An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care.

Aged. An adult whose chronological age is 60 years of age or older, or whose biological age, as determined by a physician, is 60 years of age or older.

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 or 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."

Apartments. A suite of rooms or a room in a multiple-family building arranged and intended for a place or residence of a single-family or a group of individuals living together as a single housekeeping unit.

Arcade. Arcade shall mean any place of business or establishment whose principal use shall be the housing of mechanical amusement devices. Mechanical amusement devices include any machine, which, upon the insertion of any coin, slug, token, plate or disc, or which, for a fee paid to the operator or owner, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, skillball, mechanical grab machines, television display devices or machines and all games, operations or transactions similar thereto whether operated principally by mechanical means or electrical means or a combination thereof, under whatever name they may be indicated or called.

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

Automobile repair. The 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.

Basement. That portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Bed and breakfast inn. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and board in return for payment.

Block. The property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

Boarding house. A dwelling where meals, or lodging and meals, are provided for compensation and where one or more rooms are occupied by persons by prearrangement for definite periods of not less than one month. A boarding house is to be distinguished from a hotel, motel, bed and breakfast establishment, or a convalescent, nursing, or group home.

Buffer area. An area, usually landscaped, intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Building. A structure erected on site, a mobile home or mobile structure, a premanufactured or precut structure, above or below ground, having a roof or walls and built for, or capable of, the shelter or enclosure of persons, animals, chattels, or property of any kind.

Building height. The vertical distance from grade to the top of parapet wall in the case of a flat roof, to the deck line for mansard roofs, to the mean height level between eaves and ridge for gable, hip, and gambrel roofs. The height of detached accessory structures shall be the distance from grade to the top of a parapet wall in the case of a flat roof, and to the peak of the roof for mansard, gable, hip, and gambrel roofs.

Building line. A line formed by the face of the building, and for the purposes of this ordinance, a minimum building line is the same as a front setback line. (See diagram.)

Building official (inspector). The administrative official designated by the city manager with the responsibilities of administering and enforcing this ordinance.

Carwash. An area of land and/or structure with machine or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

Clinic. An establishment where human or animal patients who are not lodged overnight are admitted for examinations and treatment by a group of physicians, dentists, veterinarians, or similar professionals.

Club, private facilities. Any nonprofit facility established to provide recreational or social activities for the sale and exclusive use of its members, their families, and guests.

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

Commercial vehicle. A vehicle in excess of three-quarter ton capacity with a commercial registration used for commercial purposes. For purposes of this ordinance, commercial vehicles shall include trucks, buses, truck-tractors with or without semi-trailers, and similar vehicles.

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

Day care center. A school, kindergarten, or adult care facility wherein day care, or day care and education is provided.

Development. The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

District. A portion of the incorporated area of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

Dwelling unit. A building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking and sanitary facilities.

Dwelling unit, manufactured. Is a dwelling unit which is substantially built, constructed, assembled, or finished off the premises upon which it is intended to be located.

Dwelling, mobile home. A detached residential dwelling unit with a body width greater than eight feet, of not less than 40 feet in length, and designed for transportation, after fabrication, on streets or highways, on its own wheels, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks, or other temporary or permanent foundations, connections to utilities, and the like. A mobile home shall not be considered a travel trailer, motor home, or any other type of recreational vehicle. In addition, mobile homes which do not conform to the standards for one-family dwellings, of this ordinance, shall not be used for dwelling purposes within the city unless located

within a mobile home park or a mobile home plat zoned for such uses, or unless used for temporary residence purposes as hereinafter provided.

Dwelling, multiple-family. A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth for one-family dwellings.

Dwelling, one-family. A building designed exclusively for one family for residential use.

Dwelling unit, site built. Is a dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site built dwelling units shall include dwelling units constructed of precut materials and panelized wall, roof and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.

Dwelling, two-family. A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth for one-family dwellings.

Easement. A grant of one or more property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

Earth berm. A mound of earth planted with ground cover, grass, trees, or other landscaping material intended to minimize the view of parking areas and reduce noise and dust from adjacent uses and passersby.

Elderly housing. A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older, or couples where either spouse is 60 years of age or older. This does not include a foster care, home for the aged, or nursing home.

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

Essential services. A public utility or municipal department utilizing underground, surface, or overhead gas, electrical, steam, fuel, or water transmission or distribution systems, collection, communication, supply or disposal system, but not including buildings.

Excavation. Any breaking of ground, except common household gardening and ground care.

Family. A single individual doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking, and living together upon the premises or a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bonds distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

Fence. Any permanent partition, structure, or gate erected upon or near, but not limited to, the dividing line between adjoining property owners, for the purpose of separating, screening, enclosing or protecting property. Hedges, ornamental shrubs, trees and bushes shall be considered fences when placed in a manner or position to serve as such.

Floodplain (flood prone area). Any land area susceptible to being inundated by water from any source.

Floor area, gross. 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 not include the basement floor area except when more than one-half of the basement height is above grade. "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 feet, ten 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, 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 dwellings. The floor area measurement is

exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

Foster care. The provision of supervision, personal care, and protection in addition to room and board, for 24 hours per day, five or more days per week, and for two or more consecutive weeks of compensation.

Frontage. The minimum width required in a use district which abuts a public right-of-way or private road.

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.

Garage, service. Any premises used for the storage or maintenance of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

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.

Governmental agency. Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, authority, district, or governmental unit.

Grade. The ground elevation established for the purpose of regulating the number of stories and the 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, measured at a distance four feet out from the edge of the building.

Greenbelt. A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this ordinance.

Health care facility (hospital). A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis and treatment of human disease, pain, injury, deformity or physical condition allowing overnight stay, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, tuberculosis hospital, chronic disease hospital, maternity hospital.

Historic district. An area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance to warrant conservation and preservation.

Home for the aged. A supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board, and supervised personal care to 21 or more unrelated, nontransient, individuals 60 years of age or older. Home for the aged includes a supervised personal care facility for 20 or fewer individuals 60 years of age or older when the facility is operated in conjunction with and as a distinct part of a licensed nursing home.

Home occupation. An accessory use of a dwelling that constitutes either entirely or partly, the livelihood of a person living in the dwelling, said use shall be conducted entirely within the dwelling and carried on by the inhabitants therein and having no external effects.

Hotel. A building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial, or desk service, and bellboy service. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

Junk yard. An 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 "junk yard" includes automobile wrecking yards and includes any open area of more than 200 square feet for storage, keeping, or abandonment of junk.

Kennel. Any lot or premises on which three or more dogs, cats, or other household pets are either permanently or temporarily boarded for remuneration.

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 measured portion of a parcel or tract of land, which is legally described and fixed in a recorded plat.

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

Lot, corner. A lot abutting on and at the intersection of two or more streets.

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

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

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

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

1. *Front lot line.* In the case of an interior lot, is that line separating said lot from the streets.
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 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 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 lot which actually exists in a subdivision plat as shown on the records of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded. Whenever an owner has combined two or more lots as contained on any recorded plat into a single building site, or combined two or more lots contained on any recorded plat in the records of the township assessor or treasurer, said combination of lots shall be deemed to be a single lot of record for the purposes of this ordinance.

Lot, through. Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot.

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 or in the case of a corner lot, the side lot line and opposite lot line.

Lot, zoning. A single tract of land, which may include one or more lots of record, which conforms with this ordinance with respect to area, size, dimensions and frontage in the district.

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

Major thoroughfare. An arterial street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term on the major thoroughfare plan to identify those streets comprising the basic structure of the major thoroughfare plan.

Master plan. The comprehensive community plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

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

Mini-warehouse (self-storage facility). A facility consisting of a building or a group of buildings in a controlled-access compound, where individual stalls or lockers are rented out to different tenants for the dead storage of customers' goods and wares.

Mobile home park. A parcel of land which has been planned and improved for the placement of mobile homes for residential use.

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

Motorized home. A self-propelled motor vehicle which provides the amenities of day-to-day living while used as a means of transportation for recreational or travel purposes.

Municipality. The City of Utica, Michigan.

Nonconforming building. A building or portion thereof lawfully existing at the effective date of this ordinance, or amendments thereto and that does not conform to the provisions of the ordinance in the district in which it is located.

Nonconforming lot. Any lot, outlet, or other parcel of land which does not meet the land area or dimension requirements of this ordinance.

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

Normal grade level. Normal grade shall be construed to be the lower of 1) the existing grade prior to construction; or 2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the fence. In cases in which the normal grade cannot reasonably be determined, the fence height shall be computed on the assumption that the elevation of the normal grade at the base of the fence is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoning lot, whichever is lower.

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: 1) sound, 2) dust, 3) smoke, 4) odor, 5) glare, 6) fumes, 7) light, 8) vibration, 9) shock waves, 10) heat, 11) electronic or atomic radiation, 12) effluent.

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.

Nursing home. A nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1985, as amended, (MCL 36.1 et seq.), which provides organized nursing care and medical treatment to seven or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

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

Off-street parking facility. A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

Open air business use. An open air business use, as used herein, shall be deemed to include any business when said business is not conducted from a wholly enclosed building.

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 or gasoline service stations.

Overnight lodging facility (hotel/motel/motor inn). An establishment or building(s) providing a number of bedrooms, baths, etc., and usually food, for the accommodation of travelers or other transient guests.

Parking space. An area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Planned commercial or shopping center. A group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Porch. A projection on a building or structure containing a floor, which may be either totally enclosed or open.

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

Public building. Buildings that are financed largely by public funding and are available for public use, as distinguished from buildings that are government financed, but are intended for private use; i.e., public housing.

Public utility. A 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, transportation or water.

Recreational vehicle. A vehicle which moves one or more persons over the ground, air, water, ice, or snow, and which is either self-propelled or connects to a vehicle which is self-propelled.

Restaurant:

1. *Standard restaurant.* A standard restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes the consumption of food on the premises.
2. *Carry-out restaurant.* A carry-out restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or method of operation encourages the consumption of food off site or it may permit incidental consumption on the premises.
3. *Drive-in/drive-through restaurant.* Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design, method of operation, includes one or both of the following characteristics:
 - a. Foods, frozen desserts, or beverages are served directly to the customer in a motor vehicle, either by a carhop, or by other means which eliminate the need for the customer to exit the motor vehicle.
 - b. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, within the restaurant building, or at other facilities on the premises outside the restaurant building, is permitted.

Right-of-way. A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer and other similar uses.

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 80 square feet in area. A room shall not include the area

in kitchen, sanitary facilities, utility provisions, corridors, stairways, 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.

Setback. The distance required to obtain minimum front, side, or rear yard open space provisions of this ordinance.

Sign. Is a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot and which directs attention to an object, product, place, activity, person, institution, organization, or business. Signs include, but are not limited to, figures, devices, pennants, emblems and pictures. Any of the above which is not placed out of doors, when placed near inside the surface of a window in such a way as to be in view of the general public and used or intended to be used to attract attention or convey information to motorists and pedestrians, shall also be considered as a sign. Signs shall include the following types:

1. *Abandoned sign.* A sign which advertises a bona fide business, lessor, owner, product or activity no longer conducted or available upon the premises where such sign is displayed.
2. *Accessory sign.* A sign which is accessory to the main or principal use of the premises.
3. *Animated sign.* Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
4. *Banner.* Any sign printed or displayed upon cloth or other flexible material, with or without frames. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
5. *Beacon.* Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
6. *Building marker.* Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
7. *Bulletin board/announcement sign.* A sign related to a public school, parochial school, private school, public park or recreation facility, church or other religious institution, which identifies activities or events to take place involving the patrons of such specific use.
8. *Canopy sign.* Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
9. *Changeable copy sign.* A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.
10. *Flashing sign.* An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.
11. *Freestanding sign/ground sign.* A sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure whether portable or stationary.

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12. *Identification sign.* A sign stating the name or description of the use of the premises on which the sign is located.
 13. *Incidental sign.* A sign, generally informational, that has a purpose secondary to the use of the zoning lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives.
 14. *Illuminated sign.* Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
 15. *Marquee.* Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
 16. *Marquee sign.* Any sign attached to, in any manner, or made a part of a marquee.
 17. *Monument sign.* A sign attached to a permanent foundation and not attached or dependent for support from any building, pole, posts, or similar uprights.
 18. *Nonaccessory sign.* A sign which is not accessory to the main or principal use of the premises.
 19. *Nonconforming sign.* Any sign that does not conform to the requirements of this ordinance.
 20. *Pennant.* Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
 21. *Portable sign.* Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; sign converted to a- or t-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
 22. *Projecting sign.* A sign other than a wall sign suspended from or supported by a building or structure and projecting therefrom, including marquee signs.
 23. *Real estate sign.* A sign placed upon a property advertising that particular property for sale, rent, or lease.
 24. *Residential sign.* Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.
 25. *Residential development sign.* A sign placed on the premises of a subdivision, or other real estate development site, to identify a proposed start of development, the participants of such development (such as owner, contractor, architect, leasing agent, etc.), and relative date of availability.
 26. *Roof sign.* Any sign erected and constructed wholly on and over the roof of a building supported by the roof structure.
 27. *Swinging sign.* Signs which are designed or constructed to move or pivot as a result of wind pressure for the purpose of attracting attention.
 28. *Suspended sign.* A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
 29. *Temporary sign.* Any sign that is used only temporarily and is not permanently mounted.

30. *Wall sign.* A sign erected or fastened against the wall of a building with the exposed face of the sign in a plane approximately parallel to the plane of such wall and not extending more than 14 inches beyond the surface of the portion of the building wall on which erected or fastened.

Special condition use. Any use of land listed as a principal use permitted subject to special conditions which, due to its potential effect on adjacent lands, in particular, and the overall city in general, requires approval by the city council according to the standards as provided in this ordinance.

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 basement shall not be counted as a story.

Story, half. An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet. For the purposes of this ordinance, the usable floor area is only that area having at least five feet clear height between floor and ceiling.

Street. A public dedicated right-of-way, other than an alley, which affords the principal means of vehicular access to abutting property including emergency response vehicles.

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

Swimming pool. Any constructed or portable pool, used for swimming or bathing over 24 inches in depth, or with a surface area exceeding 160 square feet.

Temporary use or minor building. A use or building permitted by the zoning board of appeals to exist during a specified period of time. Tents or similar enclosures used for short term events not to exceed five days shall not be defined as a temporary building or use.

Tent. Tents used in this ordinance shall mean a shelter or 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 traditionally for children's recreational purposes.

Use. Any purpose for which a lot, building, or other structure or a tract of land may be designated, arranged, intended, maintained, or occupied; or activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land, and to also include the conduct of an activity or the performance of a function or operation, on a site or in a building or facility; and any functional, social, or technological activity that is imposed or applied to land or to structures on the land; and the employment or occupation of a building, structure, or land for a person's service, benefit, or enjoyment.

Variance. Permission to depart from the literal requirements of the zoning ordinance.

Variance, nonuse. A departure from the provisions of the zoning ordinance relating to setbacks, side yards, frontage requirements, lot size, parking, signage, and other requirements of the applicable zoning district.

Variance, use. A variance granted for a use or structure that is not permitted in the applicable zoning district.

Wall, obscuring. A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.

Wireless communication antenna (WCA). Any antenna used for the transmission or reception of wireless communication signals excluding those used exclusively for dispatch communications by public emergency agencies, ham radio antennas, satellite antennas, those which receive video programming services via multipoint distribution services which are one meter (39 inches) or less in diameter and those which receive television broadcast signals.

Wireless communication facilities (WCF). All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals and may include, but is not limited to

radio towers, television towers, telephone devices and exchanges, micro-wave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Citizen band radio facilities, short wave facilities, ham, amateur radio facilities, and satellite dishes, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority are not included in this definition.

Wireless communication support facilities (WCSF). A monopole, guyed, or lattice type tower designed for the attachment of or as support for wireless communication antennas or other antennas.

Yards. The open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance, and as defined herein:

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 line and the nearest point of the main building. In the case of corner lots, front yard shall be deemed to exist along each street frontage.
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 point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
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 on the side lot line to the nearest point of the main building.

Zoning district. A zoning district is a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which contain yard, open spaces, lot area, and other requirements are established by this ordinance.

(Ord. No. 129-3, 10-8-1996; Ord. No. 129-18, 4-11-2006; Ord. of 11-27-2006; Ord. of 4-10-2018)

ARTICLE III ZONING DISTRICTS AND MAPS²

Section 300. Districts established.

For the purpose of this ordinance, the City of Utica is hereby divided into the following districts:

R-1A through R-1B, one-family residential district

R-2, two-family residential district

R-3, multiple-family residential

O-1, office district

C-1, central business district

C-2, general business district

MXD, mixed use district

²Cross reference(s)—Buildings and building regulations, ch. 10Cross reference(s)—; distance of mechanical amusement devices from schools, § 14-277Cross reference(s)—; environment, ch. 26Cross reference(s)—; floods, ch. 34Cross reference(s)—; subdivisions and other divisions of land, ch. 66Cross reference(s)—.

State law reference(s)—Zoning districts authorized, MCL 125.581.

I, industrial district

P-1, vehicular parking district

Section 301. District boundaries.

The boundaries of these districts are hereby established as shown on the Zoning Districts Map, City of Utica Zoning Ordinance, which accompanies this ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of this ordinance as if fully described herein.

Section 302. District boundaries interpreted.

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

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.
4. Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
7. Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 6 above, the city council, acting as the board of appeals shall interpret the district boundaries.
8. Insofar as some or all of the various districts may be indicated on the zoning map by patterns which, for the sake of map clarity, do not cover public rights-of-way it is intended that such district boundaries do extend to the center of any public right-of-way.

Section 303. Zoning of vacated areas.

Whenever any street, alley or other public way, within the City of Utica shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

Section 304. Zoning of annexed areas.

Wherever any area is annexed to the City of Utica, one of the following conditions will apply:

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1. Land that is zoned previous to annexation shall be classified as being in whichever district of this ordinance most clearly conforms with the zoning that existed prior to annexation, such classification to be recommended by the planning commission to the city council and the council shall approve same by resolution.
 2. Land not zoned prior to annexation shall be automatically classified as an R-1A through R-1B district until a zoning map for said area has been adopted by the city council. The planning commission shall recommend the appropriate zoning districts for such area within three months after the matter is referred to it by the city council.
 3. Whenever any city is incorporated, or whenever territory is annexed to any city incorporated pursuant to the provisions of the Home Rule Cities Act, the then existing zoning regulations for the territory within the newly incorporated city or for the annexed territory shall remain in full force and effect for a period of two years after incorporation or annexation, unless the legislative body of the city shall lawfully adopt other zoning regulations or ordinances.

ARTICLE IV R-1A THROUGH R-1B, ONE-FAMILY RESIDENTIAL DISTRICT

Section 400. Intent.

The one-family residential districts are established as districts in which the principal use of land is for one-family dwellings. For the one-family residential districts, in promoting the general purpose of this ordinance, the specific intent is:

1. To encourage the construction of, and the continued use of the land for one-family dwellings.
2. To prohibit business, commercial or industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of one-family dwellings in the district.
3. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this ordinance.
4. To discourage any land use which would generate traffic on minor or local streets other than normal traffic to serve the residences on those streets.
5. To discourage any use which, because of its character or size, would create requirements and costs for public services, such as fire and police protection, water supply and sewerage, substantially in excess of such requirements and costs if the district were developed solely for one-family dwellings.

Section 401. Principal uses permitted.

In a one-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. One-family detached dwellings in accordance with section 1300.
2. Publicly owned and operated parks, parkways and recreational facilities.
3. Cemeteries which lawfully occupied land at the time of adoption of this ordinance.
4. Public, parochial and other private schools offering courses in general education and not operated for profit.
5. Home occupation in accordance with section 1415.
6. [Reserved.]

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7. Accessory buildings and uses, customarily incident to any of the above permitted uses.

(Ord. No. 129-2, 9-10-1996)

Section 402. Principal uses permitted subject to special conditions.

The following special condition uses shall be permitted, subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with section 4c.(2) of the city-village zoning act, as may be amended, and further subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses," and section 1800, "site plan review," of this zoning ordinance.

1. Churches and other facilities normally incidental thereto subject to the following conditions:
 - a. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than 15 feet.
 - b. Buildings of greater than the maximum height allowed in article XI, schedule of regulations may be allowed provided front, side, and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
 - c. All access to the site shall be in accordance with section 1417, access to a major thoroughfare.
2. Public utility buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity. Further, no building and/or structure shall be located in any required yard.
3. Day care centers including adult day care use (not including dormitories) provided that for each person so cared for, there shall be provided and maintained a minimum of 150 square feet of open space. Such space shall have a total minimum area of not less than 5,000 square feet and shall be fenced and screened from any adjoining lot in any residential district.
4. Home for the aged (congregate care facility) or adult foster care facility for more than six adults when the following conditions are met:
 - a. Minimum lot size shall be three acres.
 - b. All access to the site shall be in accordance with section 1417, access to a major thoroughfare.
 - c. No structure shall be located closer than 40 feet to any property line.
 - d. The site shall be so developed as to create a land to building ratio on the lot or parcel whereby for each one bed in the facility there shall be provided not less than 1,500 square feet of open space. The 1,500 square feet of land area per bed shall provide for landscaped setbacks, off-street parking, service drives, loading space, yard requirements, and space required for accessory uses. The 1,500 square feet requirement is over and above the building coverage area.
5. Accessory buildings and uses customarily incident to any of the above permitted uses.
6. Bed and breakfast establishments in accordance with section 1416.

(Ord. No. 129-2, 9-10-1996)

Section 403. Required conditions.

For all nonresidential uses allowed in the residential districts, the setbacks shall equal the height of the main building, or the setbacks required in section 1300, whichever is greater.

(Supp. No. 4)

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Section 404. Area and bulk requirements.

See article XIII, schedule of regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and providing minimum yard setback requirements.

ARTICLE V R-2, TWO-FAMILY RESIDENTIAL DISTRICTS

Section 500. Intent.

The R-2, two-family residential districts are designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential and commercial, office, thoroughfares or other uses which would affect residential character. This district also recognizes the existence of older residential areas of the city where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization.

Section 501. Principal uses permitted.

In a two-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance.

1. All uses in the one-family residential districts, permitted and as regulated under section 401. The standards of the schedule of regulations applicable to the R-1A through R-1B one-family residential district, shall apply as minimum standards when one-family detached dwellings are erected.
2. Two-family dwellings.
3. Accessory buildings and uses customarily incident to any of the above permitted uses.

Section 502. Principal uses permitted subject to special conditions.

The following special conditions uses shall be permitted, subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with section 4c.(2) of the city-village zoning act, as may be amended, and further subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses," and section 1800, "site plan review," of this zoning ordinance.

1. All special condition uses for the one-family residential districts, permitted and as regulated under section 402.

Section 503. Area and bulk requirements.

See article XIII, schedule of regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted and providing minimum yard setback requirements.

ARTICLE VI R-3, MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

Section 600. Intent.

The R-3, multiple-family residential district is designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as a transitional land use between nonresidential districts and lower density one-family districts. The multiple-family district is further provided to serve the limited needs for the apartment type of unit in an otherwise medium density, one-family community.

Section 601. Principal uses permitted.

In a multiple-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. All uses in the R-2, two-family residential district, permitted and as regulated under section 501.
2. Multiple-family dwellings.
3. Boarding houses.
4. Accessory buildings and uses customarily incident to any of the above permitted uses.

Section 602. Principal uses permitted subject to special conditions.

The following special condition uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with section 4c.(2) of the city-village zoning act, as may be amended (MCL 125.584c(2)), and further subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses," and section 1800, "site plan review," of this zoning ordinance.

1. All special condition uses in the one-family residential district, permitted and as regulated under section 402.
2. General hospitals, with no maximum height restrictions, when the following conditions are met:
 - a. All such hospitals shall be developed only on sites consisting of at [least] three acres in area.
 - b. All access to the site shall be in accordance with section 1217.
 - c. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 50 feet for front, rear, and side yards for all two story structures. For each story above two, the minimum yard distance shall be increased by at least 20 feet.
 - d. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height.
3. Convalescent or nursing homes when the following conditions are met:
 - a. The building shall not exceed a building height of two stories.
 - b. The minimum lot size shall be three acres.
 - c. No building shall be closer than 40 feet to any property line.
 - d. All access to the site shall be in accordance with section 1217.
 - e. There shall be provided on the site, not less than 1,500 square feet of open space for each bed in the home. The 1,500 square feet of land area shall provide for landscape setting, off-street parking, service drives, loading space, yard requirement and accessory uses, but shall not include the area covered by main or accessory buildings.

4. Housing for the elderly when the following conditions are met:
 - a. All housing for senior citizens shall be constructed on parcels of at least three acres and may provide for the following:
 - (1) Cottage type one-story dwellings and/or apartment type dwelling units.
 - (2) Common service containing, but not limited to, central dining rooms, recreational rooms, central lounge, and workshops.
 - b. Minimum dwelling unit size shall be 350 square feet per unit (not including kitchen and sanitary facilities).
 - c. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed 25 percent of the total site not including any dedicated public right-of-way.
 - d. Buildings of greater height than the maximum height allowed in article XIII, schedule of regulations may be allowed provided front, side, and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
5. Accessory buildings and uses customarily incident to any of the above permitted uses.

Section 603. Required conditions.

1. The maximum horizontal length of any one building shall be 180 feet measured along any front, side, rear, or other exterior elevation.
2. The minimum land area required for each multiple-family dwelling unit in the district shall be in accordance with the following schedule:

Dwelling Unit Type	Land Area Required (Square Feet)
1 and 2 bedroom unit	4,800
3 bedroom unit	6,000
4 or more bedroom unit	7,200

3. Within any yard setback or area between buildings, an area equivalent to 70 percent of any required yard or any required minimum area between buildings must be landscaped and developed as usable open space or recreation area available to the residents of the development, and further, said areas shall be kept free of all vehicular uses.
4. On sites which are four acres or larger in size, the open land area shall include a landscaped greenbelt of a minimum ten foot width, located and continually maintained, along any property boundary adjoining a residential district or fronting on a public road right-of-way.
5. The minimum livable floor area per multiple-family unit shall be in accordance with the following schedule:

Unit Type	Minimum Floor Area Required (Square Feet)
Efficiency	350
One bedroom	600
Two bedroom	800
Three or more bedrooms	1,000

Section 604. Area and bulk requirements.

See article XIII, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and providing minimum yard setback requirements.

ARTICLE VII O-1, OFFICE DISTRICTS³

Section 700. Intent.

The office district is intended to provide locations of the low-intensity, office-type professional and administrative services necessary for the normal conduct of a community's activities. The district has the following characteristics: allowable activities take place in attractive buildings in landscaped settings; they generally operate during normal daytime business hours; they produce a minimum amount of traffic; and their use characteristics make them compatible with adjacent residential uses.

The office district is specifically designed to prohibit retail establishments and other business activities that generate heavy traffic or constant visits of the general public. However, a limited range of convenience retail and service businesses is permitted within larger office developments for the benefit of office personnel and visitors, provided that offices remain the predominant use within the district and provided further that the commercial uses are compatible with nearby residential development.

The office district is intended to serve as transitions between nonresidential districts and single-family residential districts.

Section 701. Principal uses permitted.

In an office district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Office-type business related to executive, administrative, or professional occupations including, but not limited to, offices of a lawyer, accountant, insurance/real estate agent, architect, engineer, and similar occupation.
2. Clinics, except veterinary clinics having outdoor runs.
3. Medical, dental, and optical laboratories that provide testing services or provide medical or dental devices such as artificial limbs, teeth, eyeglasses, etc.
4. Banks, credit unions, savings and loan associations, and similar uses, not offering drive-through facilities.
5. Business service establishments such as typing services, photocopying services; quick-printing establishments, office supply stores, and similar establishments.
6. Other uses similar to the above uses.
7. Accessory structures and uses customarily incident to the above permitted uses.

³Cross reference(s)—Businesses, ch. 14Cross reference(s)—.

Section 702. Principal uses permitted subject to special conditions.

The following special condition uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with section 4c.(2) of the city-village zoning act, as may be amended, and further subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses," and section 1800, "site plan review," of this zoning ordinance.

1. Mortuary establishments when adequate assembly areas are provided off-street for vehicles used in funeral processions. A caretakers residence may be provided within the main building or mortuary establishments. All access shall be in accordance with section 1417.
2. Accessory buildings and uses customarily incident to any of the above permitted uses.

Section 703. Required conditions.

1. No interior display shall be visible from the exterior of an office or business establishment.
2. The outdoor storage of goods or material shall be prohibited.
3. Warehouse or indoor storage of goods or material, beyond that normally incident to the above permitted uses, shall be prohibited.

Section 704. Area and bulk requirements.

See article XIII, schedule of regulations limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE VIII C-1, CENTRAL BUSINESS DISTRICT⁴

Section 800. Intent.

The C-1, central business district, is designed to cater to the needs of a larger consumer population than is served by the general business district. It is generally characterized by an integrated cluster of establishments serviced by a common parking area, and generating large volumes of pedestrian traffic and ancillary vehicular trips.

Section 801. Principal uses permitted.

In the central business district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. All uses in the O-1, office districts, permitted and as regulated under section 701.
2. Any retail business whose principal activity is the sale of merchandise in an enclosed building, such as but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.

⁴Cross reference(s)—Businesses, ch. 14Cross reference(s)—.

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3. Personal service establishments which perform services on the premises, such as but not limited to: repair shops (watches, radio, television, shoe and etc.), tailor shops, beauty parlors or barber shops, photographic studios, and self-service laundries and dry-cleaners.
 4. Dry cleaning establishments, or pick-up stations, dealing directly with the consumer. Central dry cleaning plants serving more than one retail outlet shall be prohibited.
 5. Standard or carry-out restaurants.
 6. Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
 7. Post office buildings.
 8. New and used car salerooms, showrooms, or offices which do not provide outdoor sales space and/or service and repair activities.
 9. Health and athletic clubs.
 10. Discount, department, or variety stores.
 11. Any service establishment of an office, showroom or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer or an establishment doing radio or home appliance repair, photographic reproduction, and similar service establishments that require a retail adjunct.
 12. Local municipal administration buildings, museums, and libraries.
 13. Other uses similar to the above uses.
 14. Accessory structures and uses customarily incident to the above permitted uses.

Section 802. Principal uses permitted subject to special conditions.

The following special condition uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with section 4c.(2) of the city-village zoning act, as may be amended (MCL 125.584c(2)), and further subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses," and section 1800, "site plan review," of this zoning ordinance.

1. Residential units when the following conditions are met:
 - a. The dwelling unit(s) shall be provided on any floor other than a floor where grade level access is provided.
 - b. The minimum floor area per unit shall equal 500 square feet for a one bedroom unit, 700 square feet for a two bedroom unit, 900 square feet for a three bedroom unit, and 1,100 square feet for units containing four bedrooms.
 - c. Of street parking shall be provided in the ratio of two parking spaces for each residential unit provided.

Section 803. Required conditions.

1. Outdoor storage of commodities shall be expressly prohibited.

Section 804. Area and bulk requirements.

See article XIII, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE IX C-2, GENERAL BUSINESS DISTRICT⁵

Section 900. Intent.

The C-2, general business district is designed to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the central business district and which are oriented to serving the needs of "passer-by" traffic and locations for planned shopping centers. Many of the business types permitted also generate greater volumes of traffic and activities which must be specially considered to minimize adverse effects on adjacent properties.

Section 901. Principal uses permitted.

In a general business district, no building or land shall be used and no building shall be erected except for one or more of the following uses unless otherwise provided in this ordinance:

1. All uses in the C-1, central business district, permitted and as regulated under section 801.
2. Private clubs, fraternal organizations, and lodge halls.
3. Overnight lodging facility, subject to the following:
 - a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
 - b. Each unit shall contain not less than 250 square feet of floor area.
 - c. No guest shall establish permanent residence at a motel for more than 30 consecutive days within any calendar year.
4. Bowling alley, billiard hall, indoor archery range, indoor tennis courts, indoor skating rink, or similar forms of indoor commercial recreation when located at least 100 feet from any front, rear or side yard of any residential lot in an adjacent residential district.

Arcades as defined and permitted by all municipal regulations shall only be permitted in this district as accessory use to any of the above permitted in this item 4. Any such use shall only be accessible and directly supervised from within the building and shall not in any manner constitute a principal use of the premises.
5. Plant material nursery and other open air business uses.
6. Automotive service facilities providing: tire (but not recapping), battery, muffler, rustproofing/undercoating, auto glass, reupholstering, wheel balancing, shock absorbers, wheel alignments, and minor motor tune-ups only, when developed in accordance with the following:
 - a. There shall be no outside display of any parts and/or products.

⁵Cross reference(s)—Businesses, ch. 14Cross reference(s)—.

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- b. Any repair and/or replacement activity shall be conducted within a totally enclosed building.
 - c. All new, used, and/or discarded parts shall be stored within a completely enclosed building approved by the building department.
 - d. Any such activity shall be located not less than 25 feet from a property line.
 - e. There shall be no outside parking and/or storage or any partially dismantled or inoperative vehicles.
 - f. In operations such as automobile reconditioning, but not necessarily limited to, such activities there shall be no releasing of toxic gases, liquids, or materials in any form into the atmosphere, the water or sewer systems of the City of Utica, or on, or into the earth and further, no adverse affects shall be created by any activity on adjacent property or development.
7. Bank, credit unions, savings and loan associations, and similar uses including those offering drive-through facilities.
 8. Veterinary hospitals and clinics having boarding facilities.
 9. Other uses similar to the above uses.
 10. Accessory structures and uses customarily incident to the above permitted uses.

Section 902. Principal uses permitted subject to special conditions.

The following special condition uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with section 4c.(2) of the city-village zoning act, as may be amended (MCL 125.584c(2)), and further subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses," and section 1800, "site plan review," of this zoning ordinance.

1. Vehicle dealers with outdoor sales space and/or repair facilities for the sale of new or secondhand automobiles, house trailers, recreational vehicles, or rental trailers and/or automobiles, all subject to the following:
 - a. The lot or area shall be provided with a permanent, durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
 - b. Access to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
 - c. Any servicing of vehicles including major motor repair and refinishing shall be subject to the following requirements:
 - (1) Any such activities shall be clearly incidental to the sale of said vehicles and shall occur within a completely enclosed building.
 - (2) Partially dismantled and/or damaged vehicles shall be stored within an enclosed building.
 - (3) New, used and/or discarded parts and supplies shall be stored within a completely enclosed building.
 - (4) Any such activity shall be located not less than 50 feet from any property line.
 - (5) There shall be no external evidence, beyond the building, by way of dust, odor, or noise of such activities.
 - d. All lighting shall be shielded from adjacent residential districts.

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2. Business in the character of an open front store or, a fast food or drive-in restaurant subject to following conditions:
 - a. A setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
 - b. Access points shall be located at least 60 feet from the intersection of any two streets.
 - c. All lighting shall be shielded from adjacent residential districts.
 - d. A six-foot high completely obscuring wall shall be provided when abutting or adjacent districts are zoned for R, O-1 or C-1 districts. The height of the wall shall be measured from the surface of the ground. Said wall shall further meet the requirements of article XIV, general provisions.
 3. Gasoline service station for the sale of gasoline, oil and minor accessories only, and where no repair work is done, other than incidental service as provided for elsewhere in this article, but not including vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, and such other activities whose external effects could adversely extend beyond the property line, subject to the following conditions:
 - a. The curb cuts for access to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from adjacent residential districts.
 - b. The minimum lot area shall be 15,000 square feet, and so arranged that ample space is available for motor vehicles which are required to wait. Gasoline service stations which are intended solely for the sale of gasoline, oil and minor accessories and have no facilities for repair or servicing or automobiles (including lubricating facilities) may be permitted on lots of 10,000 square feet, subject to all other provisions herein required.
 - c. The view of all rest room doors shall be shielded from adjacent streets and residential districts.
 - d. Tow trucks (wreckers) and vehicles under repair shall not be permitted in the front yard.
 - e. The parking of vehicles on site shall be limited to those which may be serviced within a 24-hour period.
 - f. A ten-foot landscaped greenbelt shall be provided along all street frontages.
 4. Adult entertainment use subject to the following conditions:
 - a. No adult entertainment use shall be located within 1,000 feet of any other adult entertainment use nor within 600 feet of any of the following uses:
 - (1) All class "C" establishments licensed by the Michigan Liquor Control Commission.
 - (2) Pool or billiard halls.
 - (3) Coin-operated amusement centers.
 - (4) Teenage discos or dance halls.
 - (5) Ice or roller skating rinks.
 - (6) Pawn shops.
 - (7) Indoor or drive-in movie theaters.
 - (8) Any public park.
 - (9) Any church.

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- (10) Any public or private school having a curriculum including kindergarten or any one or more of the grades, one through 12.

Such distance shall be measured along the centerline of the street or streets or address between two fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed uses nearest to the contemplated location of the structure containing the adult entertainment use, and from the contemplated location of the structure containing the adult entertainment use nearest to a use listed above.

- b. No adult entertainment use shall be located within 500 feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use to a point on the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.
 - c. All adult entertainment uses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.
 - d. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window or other opening.
 - e. The provisions of city ordinance no. 120 shall also apply.
5. Auto engine and body repair, and undercoating shops subject to the following conditions:
- a. Work on vehicles shall be done in a completely enclosed building.
 - b. Outdoor storage of disabled vehicles or automotive parts shall be prohibited unless fully enclosed and secured by a six foot high obscuring wall or fence.
 - c. Tow truck (wreckers) and vehicles under repair shall not be permitted in the required front yard.
 - d. A ten-foot landscaped greenbelt shall be provided along all street frontages. The planning commission may waive this requirement if it is found to be impractical to provide such an area in existing developed areas.
 - e. The parking of vehicles on site shall be limited to those, which may be serviced within a 24-hour period, unless said vehicles are parked in a fully enclosed and secured area as stipulated in item b. above.
6. Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 129-9, 12-12-2000)

Section 903. Area and bulk requirements.

See article XIII, schedule of regulations limiting the height and bulk of buildings, the minimum size of the lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE X MXD, MIXED-USE DISTRICT⁶

Section 1000. Intent.

The mixed-use district is established to provide an aesthetically attractive working environment exclusively for, and conducive to, the development and protection of offices, research and development institutions, manufacturing establishment of a non-nuisance type, and specialized retail uses.

The provisions of this article have been developed to coordinate these developments with the intent to:

1. Establish and maintain high aesthetic standards;
2. Preserve the district's visual character by assuring improvements are properly related to their sites and to surrounding developments;
3. Encourage originality, flexibility, and innovation in site planning and development, including architecture, landscaping, and graphic design; and,
4. Encourage development that is compatible with and complementary to nearby residential and commercial areas.

Section 1001. Principal uses permitted.

In the mixed-use district, no building or land shall be used and no building shall be hereafter erected, reconstructed, altered, or enlarged, except for one or more of the following uses:

1. Corporate headquarters, regional headquarters, and general administrative offices used primarily for conducting the affairs of a business, profession, service, industry, or government.
2. Laboratories and adjunct facilities used for basic and/or applied research, in all sciences, and including product development and testing, engineering development, and marketing development.
3. Light industrial uses including manufacturing, fabricating, processing, converting, altering, assembly, and testing of products, when conducted within a completely enclosed building.
4. Retail and commercial uses allowed as permitted uses in the C-2, general commercial district of this ordinance, except as prohibited by section 1003 provided such use constitutes no more than 20 percent of the developed gross floor area of the entire development.
5. General hospitals, medical clinics, and/or optical facilities that provide testing services or provide medical or dental devices such as artificial limbs, teeth, eyeglasses, etc.
6. Theaters, auditoriums, concert halls, and similar places of assembly when conducted within a completely enclosed building.
7. Business and technical schools.

⁶Cross reference(s)—Businesses, ch. 14Cross reference(s)—.

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8. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations (but not including service or storage yards) when operating requirements necessitate the location of such facilities within the district.
 9. Health and athletic clubs.
 10. Common open space, including pedestrian plazas and courts.
 11. Any other use which is determined by the planning commission to be of the same general character as, and compatible with, the above permitted uses.

Section 1002. Accessory uses.

The following shall be allowed as accessory uses in the mixed-use district:

1. Uses and structures customarily accessory and incidental to a permitted use.
2. Temporary buildings for uses incidental to construction work which buildings shall be removed upon completion or abandonment of the construction work.
3. Day-care facilities.
4. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, tennis courts, and exercise studios, which are provided in association with a permitted use.
5. Parking and loading structures and areas provided in conjunction with a permitted use.
6. *Veterinary clinics and pet hotel facilities* as an ancillary use in a retail store containing no less than 20,000 square feet of non-veterinary and pet hotel retail space, subject to the following conditions:
 - (a) The veterinary clinic shall be located interior to the principal structure and shall be provided with a separate door to allow immediate access by customers.
 - (b) There will be no exterior kennel space provided. Kennel space for the pets hotel shall be interior to the building and not create any nuisances to neighboring properties or businesses with regard to odors, noise and pet droppings outside of the business.
 - (c) The veterinary clinic and pets hotel shall exclude exotic and/or domestic farm animals. It is the intent to limit such animals to household-type pets such as dogs, cats, etc.
 - (d) The overnight stay of animals treated by a veterinarian may be allowed, provided such stay is required by reason of health emergency and, provided further, that animals so housed shall be attended during their stay by a veterinarian.
 - (e) The length of stay of animals housed in the pets hotel shall be limited to 30 consecutive days for any one stay.

(Ord. No. 129-4, 11-17-1996; Ord. No. 129-17, 5-10-2005)

Section 1003. Prohibited uses.

The permitted uses enumerated above shall not be construed to include either as a main or accessory use, any of the following uses:

1. Motor freight terminals.
2. Machine shops.
3. Veterinary clinics and kennels.

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4. Drive-in theaters.
 5. Outdoor material storage facilities including, but not limited to, plant material and garden supply stores, lumber yards, contractor storage yards, and similar uses.
 6. Self-storage (mini-warehouse) facility.
 7. Heliports.
 8. Residential dwelling, with the exception that cluster housing and townhouse, multiple-family developments may be allowed subject to the criteria found in sections 1300 and 1302 and further subject to the following, whichever is more restrictive than the requirements or standards in sections 1300 and 1302, the more restrictive requirements shall prevail.
 - a. Cluster housing and/or multiple-family townhouse developments shall be only developed in areas of the MXD District that border existing single-family residential zoning districts and developments that border Shelby Township - the northern boundary of the MXD District, with the exception that not more than one senior citizen, multiple-family development may be permitted at any acceptable location (site) within the MXD, District.
 - b. The maximum density allowed for any cluster or townhouse developments shall not exceed five units per buildable acre of land. For the purpose of this ordinance, buildable land shall mean the area of any lot or parcel of land that is actually buildable, which of the purpose of developing land or computing densities, shall not include existing or proposed rights-of-way for and roads (public or private), streams, drains, or wetlands. However, the planning commission may modify the density, lot coverage regulations, lot area and frontage requirements, number of attached units and setback requirements when a proposed project presents and offers unique design features and amenities for a mixed-use district residential development such as, but not necessarily limited to: a) increased open space; b) active or passive use parks; c) community buildings; d) recreational facilities; e) additional landscaping including unique streetscapes, street furniture, sign treatments, etc. and unique building and/or structure architecture. In no case shall the density exceed ten units per acre for developments that are contiguous to existing single-family zoning districts and single-family developments in Shelby Township that border onto the city's MXD, District. For a development that does not border onto Shelby Township, a density not to exceed 35 units per acre may be permitted in a multiple-story, senior residence building, with a senior residence being defined as a residence occupied by persons who have reached the age of 50 years old or older. In addition, a senior residence development shall not include an assisted living facility, such as, but not necessarily limited to a convalescent or nursing home.
 - c. In calculating density for parcels with wetlands, 20 percent of the wetland area may be used for the purpose of determining density.
 - d. No building shall be located closer than 50 feet from an outer property line, except that a senior residence building shall be allowed to develop with the minimum required setbacks permitted in the MXD, District (50-foot front and rear yards and 25-foot side yards).
 - e. A landscape berm, at least four feet in height shall be provided along the entire property line of any cluster housing and/or townhouse development abutting any MXD District interior roadway; i.e., Northpointe Boulevard, Utica Park Boulevard, etc., or commercially developed site.
 - f. The minimum floor area for any cluster housing dwelling unit or townhouse development shall not be less than 1,200 square feet. The minimum floor area for any senior residence shall not be less than 425 square feet.

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- g. Notwithstanding the requirements of sections 1300 and 1302 and Article X concerning cluster housing dwelling units or townhouse developments, except for a senior residence development: all other applicable provisions of this ordinance shall be met.
- 9. Radio, telephone, and television towers, antennae, and similar structures.
 - 10. Vehicle wash establishments.
 - 11. Mortuary establishments.
 - 12. Gasoline stations, with the exception that facilities designed to only dispense fuels to motor vehicles may be allowed providing they do not include the sale of minor accessories, convenience goods or other services such as but not necessarily limited to automobile repair; and further said facilities shall be accessory to a principal use that meets the following standards:
 - a. The principal use shall be a retail commercial facility which has not less than a total gross floor area of 150,000 square feet.
 - b. The principal use and the accessory use (ancillary gas pumps) shall be located on site with not less than ten acres in area.
 - c. The minimum site area for ancillary gas pumps on the principal use site shall not be less than 20,000 square feet.
 - d. Access to the ancillary gas pumps shall not be permitted at such locations that will tend to create traffic hazards on-site or to adjacent streets and/or access drives.
 - e. The parking of vehicles on the ancillary gas pump site shall be limited to the time it takes to dispense fuel to vehicles using the facility with all other parking or storing of vehicles being expressly prohibited.
 - f. The principal use site, including the accessory use site, shall provide adequate off-street parking, loading and unloading space and access (ingress and egress).
 - 13. Adult entertainment uses and business establishments by which said property is devoted to displaying or exhibiting obscene material, and/or providing representations or descriptions of any of the types of sexual conduct, or ultimate sexual acts, as defined by Act No. 343 of the Public Acts of 1984, of the State of Michigan (MCL 752.361 et seq.).
 - 14. Animal slaughter, meat processing, or meat packing establishments.
 - 15. Racetrack, rifle range, golf driving range, and similar outdoor recreation facilities, except that tennis courts and swimming pools may be provided in connection with a health or athletic club, or hotel/motel establishment.
 - 16. Disposal sites for hazardous or toxic wastes, trash, rubbish, or garbage.
- (Ord. No. 129-6, 9-8-1998; Ord. No. 129-8, 5-9-2000; Ord. No. 129-13, 7-11-2003; Ord. No. 129-14, 7-6-2004)

Section 1004. Required conditions.

- 1. *Area of application.* This district is to be applied to those areas particularly suited for mixed-use development. Property may be designated mixed-use district when the following criteria are satisfied.
 - a. The site has been designated for mixed use development in the city's future land use plan.
 - b. The property and the affected area are presently provided with adequate public facilities, services, and transportation networks to support this use; or such facilities, services, and transportation networks are planned to be provided concurrently with the development of the property; and,

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- c. The development will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of smoke, fumes, glare, noise, vibration, or odors.

2. *Area and bulk requirements.*

- a. The minimum land area required for mixed-use district development shall be 40 contiguous acres under single ownership and control. For purpose of this requirement, streets shall not be deemed to divide acreages.
- b. Lot coverage, including all buildings and paved areas, shall not exceed 60 percent of the gross lot area. Building coverage is limited to 30 percent of the gross lot area.
- c. The minimum lot area and lot dimensions shall be:
 - (1) Area: One acre.
 - (2) Width: One hundred-foot road frontage.
 - (3) Depth: Two hundred feet.
- d. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 50 feet for front and rear yards and 25 feet for side yards. Principal or accessory buildings shall not be less than 100 feet from any property line abutting residentially zoned lands.

The following improvements are expressly excluded from this setback restriction:

- (1) Structures below and covered by the ground.
 - (2) Steps, walks, driveways, and curbing.
 - (3) Planters, walls, fences, or hedges not exceeding four feet in height.
 - (4) Landscaping.
 - (5) Pedestrian plazas.
- e. The maximum building height permitted is 36 feet. Buildings greater than the maximum height may be allowed provided front, side, and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed. In no instance shall a building exceed six stories (72 feet in height).

An additional ten feet in building height shall be allowed to permit the placement and installation of mechanical equipment, provided said equipment is suitably screened from public view.

3. *Site design requirements.*

- a. Access to each parcel or lot must be from an internal street and not from abutting major thoroughfares or arterials. The internal street system shall be of a rolled curb and gutter design built to city specifications.
- b. There shall be set aside for common open space not less than one acre of land for every ten acres of land devoted to office, research, industrial and/or business, and commercial uses. Such computation shall exclude the area devoted to the internal street system.

The location of common open space shall be consistent with the declared function of the common usable open space, and where possible, the common open space shall be planned as a contiguous area, centrally located to the site for the maximum benefit of the area. Protected environmentally sensitive areas, such as woodlands, wetlands, and drainage areas, and that portion of landscaped boulevards, may be included in the calculation of required common open space.

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- c. Open spaces for public congregation are required and must be equipped or designed to allow pedestrian seating and to be easily observed and accessible from the pedestrian circulation system. These provisions apply only to new office uses with a gross floor area of 25,000 square feet or more. When computing this urban open space requirement, only the gross floor area of the office uses will be considered.

As a minimum, there must be one square foot of open space for every 100 square feet of gross floor area. The plaza area must be located behind the required setback and easily accessible to, and visible from, the street but in no instance more than three feet above or below the level of the adjoining grade. All plazas must be accessible to the handicapped. There must be at least one linear foot of seating for each 30 square feet of plaza area. Step space shall not be counted as meeting this requirement.

Within the plaza area, one tree must be planted for each 500 square feet or portion thereof up to 2,000 square feet. One additional tree is required for each additional 1,000 square feet of plaza space. Ornamental trees shall account for 20 percent of this planting requirement. Urban design features are encouraged as part of pedestrian plazas. The following amenities such as, but not limited to, ornamental fountains, stairways, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, and similar structures, are permitted.

- d. The internal circulation system shall include pedestrian paths which provide continuous circulation from the boundary streets to each lot or parcel within the development, common open space area, and all other important interior site destinations.
- e. A minimum of 20 percent of the lot or parcel area of all development shall be open land with vegetative ground cover and other plant materials, not covered by buildings, paving, or other impervious surfaces. Pedestrian plazas may be included in the calculation of this landscaping requirement.
- f. All utility lines serving internal development shall be underground except that subtransmission and transmission lines may be overhead. Entry fixtures must be located away from high use areas and main entrances or screened in an approved manner.

4. *Building design requirements.*

- a. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design, relationship to surroundings, sensitive integration of form, textures, and colors with the particular landscape.
- b. Buildings shall have good scale and be in harmonious conformance with permanent development in the general vicinity.
- c. Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
- d. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
- e. All exterior building walls and structures shall be constructed with attractive, durable materials such as concrete, masonry, stone, brick, finishing wood, or glass. No temporary or flammable material will be approved.
- f. In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.

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- g. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
 - h. Colors shall be harmonious and shall use only compatible accents.
 - i. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent a monotonous appearance.
 - j. Over street connections are expressly prohibited.
 - k. To minimize the impact of mechanical equipment on the appearance of the building and the community, window air-conditioning units or condenser elements should not be located on the front facades. Antennas should be located where they are not visible on the front facade. Mechanical equipment on the ground should be screened with a fence or plant materials or housed in a structure that is in harmony with the surroundings. Mechanical equipment attached to the side or roof of a building, including heating vents, should be kept as low as possible and covered or screened to blend with the building to which it is affixed.

Section 1005. Processing requirements.

The process for obtaining review and approval of a mixed-use development is as follows:

1. Mixed-use developments shall be subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses," and section 1800, "site plan review" of this zoning ordinance.
2. Prior to committing to any lot or site design, the developer and its professional consultants shall meet with the city administration to review the local regulations governing the proposed design, including design and processing requirements.

At this meeting, the applicant is expected to outline to the city, the project in terms of land use, anticipated building arrangement and site design, and proposed construction timetable.

3. A development plan for the total acreage embraced by the proposal shall be submitted to the city planning commission for its review, and to the city council, for its approval before any development may be undertaken or any building permit is issued for a site within the mixed-use district.
4. An application shall be submitted by the applicant and be accompanied by a nonrefundable processing fee in an amount established by council resolution. The application shall also be accompanied by statements, plans, evidence, material, and documentation necessary to enable the planning commission and city council to make the findings required by this Article. The required documentation shall consist of any or all of the following:
 - a. A narrative which provides the evidence that the project satisfies section 1004 requirements, and describes existing site characteristics, the proposed character of the development, and a discussion of the means of serving the development with sewer and water.
 - b. Statement of covenants, grants of easements, and other restrictions to be imposed upon the uses of land and structures.
 - c. A site plan prepared in accordance with section 1800.
 - d. A schedule indicating the proposed timing of the development, including staging, if appropriate.
 - e. Any other data, plans, or drawings considered by the planning commission or city council to be necessary for the consideration of the proposal.

ARTICLE X(a) DMXD, DOWNTOWN MIXED-USE DISTRICT

Section 1000(a). Intent.

The downtown mixed-use development district (DMXD) is established to provide an aesthetically attractive working environment exclusively for, and conducive to, the development and redevelopment of the downtown area of the city as herein defined in this article.

The regulations set forth in this section have been developed to coordinate these developments and/or redevelopments with the intent to:

1. Encourage and direct a form of development and/or redevelopment, within the boundaries of the DMXD, which will achieve the physical qualities necessary to maintain and enhance the economic vitality of the downtown and maintain the desired character of the City of Utica's Historic Preservation Overlay District.
2. Encourage mixed uses of a high density (retail on the first floor with office and residential uses on upper floors) and the renovation of existing buildings; ensure that new buildings are compatible with their context and the desired character of the city's central business district (CBD); ensure that all uses relate to the pedestrian; and promote uses that enhance the viability of the downtown.
3. Encourage the DMXD to be developed, utilized, and maintained as a prominent and unique community symbol and as an attractive center for cultural activities, special events and festivals.
4. Maintain the uniqueness and identity of the downtown, toward which end emphasis shall be placed upon maintaining the historic character of the city's CBD.
5. Encourage the development of environmentally sensitive lands in a safe and economically sound manner.

(Ord. No. 129-10, § 1000(a), 1-31-2002)

Section 1001(a). District boundaries.

The downtown mixed-use development district (DMXD) is described as follows:

-Add Legal Description and Map-

(Ord. No. 129-10, § 1001(a), 1-31-2002)

Section 1002(a). Principal uses permitted.

In the downtown mixed-use district (DMXD), no building or land shall be used and no building shall be hereafter erected, reconstructed, altered, or enlarged, except for one or more of the following uses:

1. All uses in the O-1, office districts, permitted and as regulated under section 701.
2. All uses in the C-1, central business district, permitted and regulated under section 801, principal uses permitted and section 802, principal uses permitted subject to special conditions.
3. Overnight lodging facility, subject to the following:

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- a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
 - b. Each unit shall contain not less than 250 square feet of floor area.
 - c. No guest shall establish permanent residence at an overnight lodging facility for more than 30 consecutive days within any calendar year.
4. Attached single-family dwellings, subject to the following:
 - a. No single-family attached dwelling unit shall have ground level frontage on a major thoroughfare unless the planning commission finds it advantageous to the development to waive this requirement.
 - b. Single-family attached dwelling units shall include two enclosed (garage) off-street parking spaces.
 - c. The minimum gross floor area for any single-family dwelling shall be 900 square feet.

(Ord. No. 129-10, § 1003(a), 1-31-2002; Ord. No. 129-16, 5-10-2005)

Section 1003(a). Accessory uses.

The following shall be allowed as accessory uses in the downtown mixed-use district:

1. Uses and structures customarily incidental to a permitted use.
2. Temporary buildings for use incidental to construction work which buildings shall be removed upon completion or abandonment of the construction work.
3. Day care facilities.
4. Indoor and outdoor recreation facilities, such as swimming pools, saunas, game and craft rooms, tennis courts, exercise rooms/studios and outside venue facilities, which are provided in association with a permitted use.
5. Parking and loading structures and areas provided they are in conjunction with a permitted use.

(Ord. No. 129-10, § 1004(a), 1-31-2002)

Section 1004(a). Prohibited uses.

The permitted uses enumerated above shall not be construed to include either as a main or accessory use, any of the following uses:

1. Adult entertainment uses and business establishments by which said property is devoted to displaying or exhibiting obscene material, and/or providing representations or descriptions of any the types sexual conduct, or ultimate sexual acts, as defined by Public Acts No. 343 of 1984 (MCL 752.361 et seq.).
2. Businesses with a drive-up, drive-through or drive-in character.
3. Outdoor advertising or billboards (non-accessory signs).
4. Detached single-family ground floor residences.
5. Veterinary clinics and kennels.
6. Heliports.

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7. Mortuary establishments.

(Ord. No. 129-10, § 1004(a), 1-31-2002)

Section 1005(a). Required conditions.

Building placement: Buildings and their elements shall be placed on lots and/or parcels of land as follows:

1. The minimum land area required for a downtown mixed-use development shall be two contiguous acres under single-ownership and control. For the purpose of this requirement, streets or the Clinton River shall not be deemed to divide acreages.
2. Lot coverage, including all buildings and paved areas, may be up to 100 percent of the property.
3. Front, side and rear setbacks shall not be required, except that no building or structure shall be located closer than 40 feet to the banks of the Clinton River and 25 feet from any development boundary line, excluding the Auburn Road frontage. The area along the Clinton River shall be maintained as open space and provide pedestrian access with public walkways and seating plazas.
4. The minimum distance between buildings shall be subject to the requirements found in section 1301(c) of this ordinance.
5. Minimum lot or parcel dimensions shall be:
 - a. Area: Two acres.
 - b. Width: 100 feet of road frontage.
 - c. Depth: 200 feet.
6. All buildings fronting onto Auburn Road shall have their primary pedestrian entrances from the front or road frontage side of the building with secondary pedestrian access being provided at the rear of the buildings.
7. All buildings fronting onto Auburn Road shall have, at a minimum, office and/or commercial uses on their ground floors unless the planning commission finds that such uses are not necessarily beneficial to the proposed project or to the downtown mixed use district; then the planning commission may waive such uses from being required.

Building height: The maximum building height permitted in DMXD, downtown mixed use-district shall be as follows:

1. Residential buildings in the DMXD shall not exceed five stories or 60 feet in height.
2. Office and commercial buildings in the DMXD shall not exceed six stories or 72 feet in height.
3. Mixed use buildings containing office and/or commercial uses, along with over night lodging facilities or residential uses, shall not exceed six stories or 72 feet in height.

Parking requirements and loading/unloading:

1. For all residential uses located within the DMXD zone, including upper floor dwellings, off-street parking shall be required pursuant to sections 1405 and 1406 of this ordinance.
2. For all non-residential uses located within the DMXD zone, off-street parking shall be required pursuant to sections 1405 and 1406 of this ordinance.
3. Loading/Unloading. There are no loading/unloading space requirements. However, loading docks and service areas shall be permitted only at the rear of the building being serviced. Loading and unloading shall be expressly prohibited from any public thoroughfare (Auburn Road). On a case by case basis, site

plan review shall define loading/unloading needs for each use requiring such space, and the planning commission shall specify how those needs will be met. In meeting said needs, the planning commission shall utilize private access drives at the rear of the building being serviced. Loading/unloading areas shall minimize disruption to customer traffic and emergency vehicle access; and, where appropriate, may include public open space areas for loading/unloading.

Residential density:

1. For attached residential dwellings, the maximum allowed density shall not exceed 30 units per acre. However, the density may be increased to 40 units per acre providing the dwellings have their entire required off-street vehicle parking requirements being contained in an enclosed structure, i.e., parking garage either above or below grade.
2. For a mixed use building(s), the maximum allowed density shall not exceed 45 units per acre.

Signage requirements:

1. Free standing signs shall be prohibited in the DMXD zone.
2. Wall signs shall conform to the requirements found in section 1505.4. of this ordinance. In no case, however, in a mixed use building, shall any portion of a building facade used for a residential use be used in the calculation of the wall sign area.

Architectural and design standards: Architectural style of buildings in the DMXD zone shall be harmonious with the architectural styles found in the city's central business district historic preservation overlay zone. Compliance with these standards shall be verified through the site plan review process. Any variation from these standards shall be specifically reviewed by the planning commission who shall make recommendations to the city council for final approval. The city council, by the means of section 1802, "review and approval of conditional uses", may approve, modify, or deny the planning commission's recommendation to make any variations with the following architectural and design standards.

1. *Exterior building finish:* The exterior finish material on all facades shall be the same and limited to glass, brick, cut stone or coarsely textured stucco. Exterior insulation finish systems, commonly known as Dryvit, aluminum, vinyl and wood are not allowed. Wood, however, may be used for trim and doors.
2. *Blank walls:* Blank walls shall not face a public street. Walls facing a public street shall include windows and architectural features customarily found on the front of a building, such as awnings, cornice work, edge detailing, or decorative finish materials.
3. *Storefronts:* Storefronts shall be directly accessible from public sidewalks (front and rear of said storefronts), and retail storefronts must have transparent areas equal to 70 percent of its portion of the facade, between two and eight feet from the ground. Other commercial uses and office uses must have transparent areas at least 25 percent of its portion of the ground floor facade. Special architectural features may be considered for adjustments to the ground floor facade window provisions, which shall be reviewed and approved by the city council. Storefronts shall have window mullions systems, doorways, and signage which are integrally designed into the facade.
4. *Glass:* Glass shall be clear or lightly tinted only. Mirrored glass shall be prohibited.
5. *Sliding doors and sliding windows:* Sliding doors and windows shall be prohibited on any facade that faces a public thoroughfare.
6. *Flat roofs:* Flat roofs shall be encouraged on mixed used and non-residential buildings, and roof mounted equipment shall be fully screened with parapet walls providing said parapet walls do not exceed six feet in height.
7. *Pitched roofs:* Pitched roofs shall not shed snow or water onto any public right-of-way, pedestrian walkway or onto any adjacent property without the approval of the city council.

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8. *Mansard roofs*: Mansard roofs shall be prohibited in the DMXD zone.
 9. *Balconies, railings, and porches*: Balconies, railings and porch structures shall be constructed of metal, wood, cast concrete, or stone.
 10. *Awnings*: Facades may be supplemented by awnings, which add color and visual interest to an entry or display window, and give shade and shelter. They can also provide a location for store logos or signs. Awnings shall be made of quality materials, such as heavy canvas that will not fade or tear easily. When awnings are used on both upper and lower facades, they should be of compatible color, material and design. Prohibited awning types include rigid plastic formed awnings (typically cubed or curved, with or without internal lighting); stock unpainted metal awnings; and mansard style canopy awnings. Storefront awnings shall be a minimum of eight feet above sidewalk grade and shall not extend above the second floor window sill or extended any closer than four feet to a curb of a public road.
 11. *New buildings*: Any new building shall provide distinct and prominent architectural features of enhanced character and visibility, which reflect the importance of the building's location and which creates a positive visual landmark.
 12. *Planter boxes*: Planter and/or flower boxes shall be allowed, on a public sidewalk, without permit, provided that the planter containers be placed at the storefront entry and/or under storefront display windows and encroach upon the sidewalk no more than two feet from the building. Planter boxes are also encouraged to be used throughout the mixed-use development.
 13. *Outdoor displays*: Appropriate temporary outdoor displays for retail shops are allowed on a storefront's private property abutting the sidewalk. Permits are not required for appropriate store merchandise displays on a storefront's private property, provided that the display coverage allows customers easy storefront entry.
 14. *Colors*: Colors of any building component, including accents, shall be harmonious.
 15. *Over street connections*: Over street connections may be allowed between mixed-use buildings and/or non-residential buildings, but they are expressly prohibited between buildings used solely for residential purposes.

(Ord. No. 129-10, § 1005(a), 1-31-2002; Ord. No. 129-16, 5-10-2005)

Section 1006(a). Processing requirements.

The process for obtaining review and approval of a downtown mixed-use development is as follows:

1. Downtown mixed-use developments shall be subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses", and section 1800, "site plan review" of this zoning ordinance.
2. Prior to committing to any lot and/or parcel or site design, the developer and its professional consultants shall meet the city administration and planner (planning consultant) to review the local regulations governing the proposed development, including design and processing requirements.

At this meeting, the applicant is expected to outline to the city, the project in terms of land use, anticipated building arrangement and site design, and proposed construction timetable.
3. A development plan (master plan) for the total acreage embraced by the proposal shall be submitted to the city planning commission for its review, and to the city council, for its approval before any development may be undertaken or any building permit is issued for a site within the downtown mixed-use development district.

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4. An application shall be submitted by the applicant and be accompanied by a nonrefundable processing fee in an amount established by council resolution. The application shall also be accompanied by statements, plans, evidence, material, and documentation necessary to enable the planning commission and city council to make the findings required by this article. The required documentation shall consist of any or all of the following:
 - a. A narrative which provides the evidence that the project satisfies section 1005(a) requirements, and describes existing site characteristics, the proposed character of the development, and a discussion of the means serving the development with sewer and water.
 - b. Statement of covenants, grants of easements, and other restrictions to be imposed upon the uses of land and structures.
 - c. A site plan prepared in accordance with section 1800.
 - d. A schedule indicating the proposed timing of the development, including staging, if appropriate.
 - e. Any other data, plans, or drawings considered by the planning commission or city council to be necessary for the consideration of the proposal.

(Ord. No. 129-10, § 1006(a), 1-31-2002)

ARTICLE XI I, INDUSTRIAL DISTRICT⁷

Section 1100. Intent.

The I, industrial district is designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts.

The general goals of this use district include, among others, the following specific purposes:

1. To provide sufficient space, in appropriate locations, to meet the needs of the municipality's expected future economy for additional manufacturing and related uses.
2. To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development.
3. To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences.
4. To protect the most desirable use of land in accordance with a well considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the Municipality's tax revenue.

Section 1101. Principal uses permitted.

In a industrial district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

⁷Cross reference(s)—Businesses, ch. 14Cross reference(s)—.

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1. Any use charged with the principal function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building.
 2. Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building.
 - a. Warehousing and wholesale establishments and trucking facilities.
 - b. The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.
 - c. The manufacture, compounding, assembling or treatment of articles of merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, sheet metal, shell textiles, tobacco, wax, wire, wood, and yarns.
 - d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
 - e. Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other molded rubber products.
 - f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radio and phonographs.
 - g. Laboratories; experimental, film, or testing.
 - h. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.
 - i. Central dry cleaning plants or laundries provided that such plants shall not deal directly with consumer at retail.
 - j. All public utilities, including buildings, necessary structures, storage yards, and other related uses.
 3. Warehouse, storage, and transfer and electric and gas service buildings and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations.
 4. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies.
 5. Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other similar municipal buildings and uses, including outdoor storage.
 6. Kennels.
 7. Greenhouses.
 8. Trade or industrial schools.
 9. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to, lumber yard, building materials outlet, upholsterer, cabinet maker).
 10. Recycling centers.
 11. Auto engine and body repair, and undercoating shops when located in a completely enclosed building.
 12. Other uses similar to the above uses.

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13. Accessory buildings and uses customarily incident to any of the above permitted uses.

Section 1102. Principal uses permitted subject to special conditions.

The following special condition uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with section 4c.(2) of the city-village zoning act, as may be amended (MCL 125.584c(2)), and further subject to the review and approval by the planning commission and city council as specified in section 1802, "review and approval of conditional uses," and section 1800, "site plan review," of this zoning ordinance.

1. Mini-warehouses (self-storage facilities) subject to the following conditions:
 - a. The minimum size of the site devoted to such use shall not be less than three acres.
 - b. Building setbacks shall be as follows: Front yard not less than 20 feet; side and rear yard not less than ten feet.
 - c. Building separation between self-storage buildings on the same site shall be 15 feet, as measured from side-to-side or front to rear, or equal to the building height, whichever is greater.
 - d. The total lot coverage of all structures shall be limited to 50 percent of the total lot area.
 - e. A sight-proof barrier shall be provided around the perimeter of the development. Said barrier shall be located at the setback line and may consist of either the solid facades of the storage structures or a fence. If a fence is provided, it shall be a minimum of six feet in height and shall be constructed of brick, stone, masonry units, or wood products which are determined by the building inspector to be durable and weather resistant.
 - f. A ten feet landscaped greenbelt shall be provided between the property line and required barrier along all street frontages. A five foot landscaped greenbelt shall be provided between the property line and barrier where the site abuts any residential district. All materials shall be planted in conformance with section 1222.
 - g. Parking shall be provided in the ratio of one space for each 2,000 square feet of gross building area. At a minimum, two parking spaces must be assigned to, and located conveniently to, each individual storage building. In addition, two spaces for the resident manager, and one additional space for each additional employee shall be provided adjacent to the rental office.
 - h. Internal driveway aisles shall be a minimum of 24 feet in width.
 - i. All off-street parking areas and driveways shall be hard surfaced and drained in accordance with section 1207.
 - j. All ingress and egress from this site shall be directly onto a collector or major thoroughfare as identified on the city future land use plan.
 - k. Building height shall not exceed one story 15 feet except that a caretaker or resident manager's unit may be allowed a building height of two stories 25 feet.
 - l. No single storage building shall exceed 5,000 square feet.
 - m. All storage on the property shall be kept within an enclosed building.
 - n. The use of the premises shall be limited to storage only, and shall not be used for any auction, or sales, or storage and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except, that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc., shall be

permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers or explosive materials, is defined in the fire protection code, or toxic materials are expressly prohibited.

2. Wireless communication facilities.

a. Purpose and intent. The general purpose and intent of these regulations is to regulate the establishment of wireless communication support facilities (WCSF) in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within the City of Utica. It is the further purpose and intent of these regulations to:

- (1) Provide for the appropriate location and development criteria for wireless communication support facilities and wireless communication antenna within the city; and
- (2) Allow and encourage the location of wireless communication support facilities in industrial zoning districts; and
- (3) Minimize the adverse effects of such facilities through careful design, siting and screening criteria; and
- (4) Maximize the use of existing and future wireless communication support facilities and encouraging multiple uses on such facilities; and
- (5) Protect the character of residential areas throughout the city from the effects of wireless communication facilities; and
- (6) Promote the public health, safety, and welfare.

b. Wireless communication antenna (WCA).

- (1) To encourage co-location and to minimize the number of WCSFs within the city, WCAs shall be considered a permitted accessory use when placed on or attached to any structure which constitutes a principle use, including existing WCSFs, provided that any WCA shall not extend more than ten feet above the tallest portion of the structure on or to which it is attached. Provided further that the location of any WCA shall not exceed 100 feet unless:
 - (a) Located on a lawfully existing or approved WCSF; or
 - (b) Located on a structure existing prior to the adoption of this regulation; or
 - (c) Located on a structure, which has received a height variance.
- (2) WCAs shall require no personnel on the premises except as necessary for maintenance and repair.
- (3) If a WCA requires an accessory equipment storage structure located elsewhere other than at grade, it shall not be greater than ten feet in height and obscured from view, i.e., a roof top location; and if such a structure is located at grade, it shall not exceed the height of 15 feet and shall meet all zoning requirements.
- (4) WCAs shall be allowed on any site zoned in a non-residential classification.
- (5) All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.
- (6) No accessory equipment structure or area shall be allowed in any rights-of-way.

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- (7) The installation of a WCA in any zoning district must be reviewed by the planning commission. The planning commission shall review all such requests and shall approve such requests that meet the requirements of this section. Such review by the planning commission shall be without notice.
 - (8) A WCA proposed to be located on a historic landmark or in a designated historic district may be denied if the WCA would create an adverse impact on the historic character of the historic landmark or district.
 - (9) This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).
- c. Wireless communication support (tower) facilities (WCSF).
- (1) General criteria.
 - (a) All WCSF shall be constructed in compliance with all applicable construction codes, which include the Electronic Industries Association/Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures.
 - (b) The WCSF shall comply with all applicable Federal Aviation Administration (FAA) requirements.
 - (c) The WCSF shall not be used for advertising purposes and shall not contain any signage except signage, which shall show the identity of the service provider and emergency telephone numbers.
 - (d) The WCSF may be located on an industrial or mixed use zoning lot containing other principal uses. The WCSF may be located within an area smaller than the minimum lot size of the applicable zoning district provided the zoning lot complies with the applicable minimum lot size for the existing principal use or is a legal nonconforming or grandfathered lot. The area within which the WCSF is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein.
 - (e) The WCSF shall meet all requirements of the zoning district in which it is located which are not inconsistent with this section. Minimum yard requirements shall be measured from the boundary of the zoning lot to the closest portion of the WCSF of the accessory equipment structure or storage area, whichever is closer.
 - (f) The WCSF shall have a landscaped buffer so that the base of the WCSF and accessory equipment structure or storage area shall be screened from any right-of-way, residential use or residential zoning district. Such landscaped buffer may be placed on the site in a manner, which will maximize the aesthetic and environmental benefits while at the same time providing the visual buffer required hereby. Such landscaped buffer shall consist of hedges planted leaf to leaf which shall reach a height of not less than six feet at maturity and conifer trees planted on 15-foot centers along the approved buffer of a species approved by the planning commission unless safety requirements of the principal use requires otherwise (i.e., utility substations).
 - (g) The construction of the WCSF shall be of monopole design unless it can be demonstrated that such design is not feasible to accommodate the user or co-location.

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- (h) The application shall contain information showing the geographic search area within which the proposed WCSF must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.
 - (i) If co-location is not part of the application then the applicant must demonstrate in the application as to why co-location is not possible.
 - (j) This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).
 - (k) WCSFs shall not have a shiny or metallic finish.
- (2) Replacement of existing WCSF. An existing WCSF which was lawful at the time of its construction may be replaced for purposes of accommodating co-location of additional WCAs or otherwise provided that:
- (a) The replacement WCSF shall not exceed a total height of 150 feet or, if the existing WCSF has an approved height greater than 150 feet, the replacement WCSF shall not exceed the approved height.
 - (b) The replacement WCSF shall be located within the same zoning lot as the existing WCSF and shall be located so as to maximize compliance with existing minimum yard requirements.
 - (c) The applicant shall cause the existing WCSF to be removed within ninety days of completion of the replacement WCSF and the relocation or installation of the WAC. In any event, the existing WCSF shall be removed within 180 days of the city's final construction inspection of the replacement WCSF.
 - (d) If the location of the replacement WCSF is such that the existing WCSF must be moved before the replacement WCSF is constructed, temporary portable antennae support facilities may be used, but must be removed within 30 days of the completion of the replacement WCSF and the relocation or installation of the WCA. In any event, the temporary portable antennae facilities must be removed within 60 days of the city's final construction inspection of the replacement WCSF.
 - (e) The replacement WCSF shall meet all criteria and requirements in subsection c(1) hereof.
 - (f) The installation of a replacement WCSF in any zoning district must be reviewed by the planning commission. The planning commission shall review all such requests and shall approve such requests that meet the requirements of this section. Such review by the planning commission shall be without notice.
- (3) Review criteria for all new WCSFs, except replacement WCSFs.
- (a) A new WCSF shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSF which cannot be met by placing WCA on an existing WCSF or on other structures or replacement of an existing WCSF. Information concerning the following factors shall be considered in determining that such need exists:
 - i. Insufficient structural capacity of existing WCSFs or other suitable structures and infeasibility of reinforcing or replacing an existing WCSF;

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- ii. Unavailability of suitable locations to accommodate system design or engineering on existing WCSF or other structures;
 - iii. Radio frequency interference or other signal interference problems at existing WCSF or others structures;
 - iv. The cost of using an existing WCSF or other structure exceeds the costs of permitting and constructing a new WCSF;
 - v. Other factors, which demonstrate the reasonable, need for the new WCSF.
 - vi. The name, address and phone number of the persons to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the WCF is on the premises.
- (b) The applicant must include a statement in the application of its good faith intent to allow the co-location of the WCA of other entities, provided that the cost of modifying the WCSF to accommodate the co-location WCA is borne by the co-locating entity.
- (c) The applicant shall send a written notice to all potential users of the new WCSF offering an opportunity for co-location. The list of potential users shall be provided by the city based on those entities that have requested approval of WCSF in the past,current FCC license holders and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the city at the time the application is filed. If, during a period of thirty days after the notice letters are sent to potential users, a user or users request, in writing, to co-locate on the new WCSF, the applicant shall accommodate the request(s), unless co-location is not reasonably possible based on the criteria of this subsection.
- (d) New WCSFs shall meet the following additional criteria:
- i. The WCSF shall not exceed 150 feet in height.
 - ii. All WCSF's over 100 feet in height shall be designed for co-location.
 - iii. All WCSFs which are located within 250 feet of a lot used for a residential use or a residential zoning district as measured from the base of the WCSF shall require Conditional Use Permit.
 - iv. The WCSF shall meet all criteria and requirements of subsection c(1).
 - v. The installation of a WCSF must be reviewed by the planning commission. The planning commission shall review all such WCSFs and shall approve such WCSFs that meet the requirements of this section. Such review by the planning commission shall be without notice.
- (e) Application requirements for new WCSFs:
- i. A site plan prepared in accordance with section 1800 (Review and approval of site plans) shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.

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- ii. The site plan shall also include a detailed landscaping plan (in accordance with section 1800 and paragraph c.(1)(f) above) where the support structure is being placed at a location which is not otherwise developed. The purpose of landscaping is to provide screening for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities, which may be unsafe.
 - iii. The application shall include a certification by a State of Michigan licensed and registered professional engineer of the applicant with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulation for the district in question, in determining the appropriate setback to be required for the structure (WCSF) and other facilities.
 - iv. The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in paragraph c(5) below. In this regard, the security shall be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the city's attorney establishing the land in question as security for removal.
 - v. The application shall include a map showing existing and known proposed WCSFs within the City of Utica, and further showing existing and known WCSFs within areas surrounding the borders of the city in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility.
 - vi. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the WCF is on the premises.
- (4) Additional criteria for special condition use approval and review. The installation of a WCSF in any zoning district other than a non-residential district shall be subject to the following:
- (a) WCSFs shall also meet all criteria and requirements of subsections c(1) and (3) of this section.
 - (b) WCSFs shall be located on lots or parcels of not less than two acres.
 - (c) WCSFs shall be accessory uses and shall be located on property owned and used by:
 - i. Federal, state or local government entities.
 - ii. Schools, colleges and universities.
 - iii. Utility companies.
 - (d) If the WCSF is not entirely surrounded by commercial or industrial uses, a written justification of the need for this site showing why other sites are not reasonable.

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- (e) WCSFs proposed to be located on a historic landmark or in a designated historic district may be denied if the WCSF would create an adverse impact on the historic character of the historic landmark or district.
 - (f) The planning commission may require a visual/line of site analysis to enable to city to assess impacts. Such analysis may require the applicant to provide visualization of the WCSF on-site which may include graphic representations or other acceptable methods to demonstrate the visualization.
- (5) Removal of abandoned WCSFs. Any WCSF which is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSF for 180 days or more. Where a WCSF is abandoned but not removed or demolished as required hereby, the city may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the WCF or the city may place a lien on the property to cover costs for the removal of the WCF. A lien on the property shall be superior to all other liens except taxes.
- (6) Variances and appeals. Variances from this section may be requested from the zoning board of appeals. Requests for additional height to any permitted or previously approved WCSF may be granted by the planning commission to provide for co-location of additional WCSF so long as such additional height does not exceed 30 feet. Appeals of a planning commission decision shall be taken to the zoning board of appeals.
3. Adult entertainment use subject to the following conditions:
- a. No adult entertainment use shall be located within 1,000 feet of any other adult entertainment use nor within 500 feet of any of the following uses:
 - (1) All class "C" establishments licensed by the Michigan Liquor Control Commission.
 - (2) Pool or billiard halls.
 - (3) Coin-operated amusement centers.
 - (4) Teenage discos or dance halls.
 - (5) Ice or roller skating rinks.
 - (6) Pawn shops.
 - (7) Indoor or drive-in movie theaters.
 - (8) Any public park.
 - (9) Any church.
 - (10) Any public or private school having a curriculum including kindergarten or any one or more of the grades, one through 12.

Such distance shall be measured along the centerline of the street or streets or address between two fixed points on the centerlines determined by projecting straight lines at right angles from the part of the above listed uses nearest to the contemplated location of the structure containing the adult entertainment use, and from the contemplated location of the structure containing the adult entertainment use nearest to a use listed above.

- b. No adult entertainment use shall be located within 500 feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a

zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the adult entertainment use to a point on the contemplated structure or contemplated location of the structure containing the adult entertainment use nearest to the boundary lines of a zoned residential area.

- c. All adult entertainment uses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.
 - d. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any property not regulated as an adult entertainment use. This provision shall apply to any display, decoration, sign, show window or other opening.
 - e. The provisions of city ordinance no. 120 shall also apply.
4. Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 129-18, 4-11-2006)

Section 1103. Required conditions.

1. Open storage facilities for materials or equipment used in manufacturing, compounding or processing shall be totally obscured by a wall on those sides abutting R-1A, R-1B, R-2, R-3, O-1, C-1, C-2, and MXD districts, and on any front yard abutting a public thoroughfare except as otherwise provided in section 1423. In I districts, the extent of such a wall may be determined by the planning commission on the basis of usage. Such a wall shall not be less than four feet six inches in height and may, depending upon land usage, be required to be eight feet in height, and shall be subject further to the requirements of article XIV, general provisions. The height shall be determined in the same manner as the wall height is above set forth.
2. All activities and uses within the district shall conform to the following performance standards.
 - a. *Smoke.* A person or industry shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period or periods aggregating more than three minutes in any one hour which is:
 - (1) As dark or darker in shade as that designated as No. 112 on the Ringelmann chart, as published by the United States Bureau of Mines, or
 - (2) Of such density as to obscure an observer's view to a degree equal to or greater than the level of smoke described in subsection (a) of this section.
 - (3) At no time may smoke emissions be darker than Ringelmann No. 1.
 - b. *Open fires.* A person or industry shall not burn any combustible refuse in any open outdoor fire within the district.
 - c. *Noxious gases.* No noxious or malodorous gases shall be allowed to escape into the atmosphere in concentrations which are offensive, which produces a public nuisance or hazard on any adjoining lot or property, or which could be detrimental to human, plant, or animal life.
 - d. *Air contaminants.* A person or industry shall not discharge from any source whatsoever such quantities of air contaminants or other material, including fly-ash, dust, vapor, or other air pollutants, which could cause injury or harm to health, animals, vegetation, or other property, or which can cause excessive soiling. Dust, dirt, smoke, or fly-ash shall not be in excess of 0.3 grams per cubic foot of flue gas at stack temperature of 500 degrees Fahrenheit and not to exceed 50 percent excess air.

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- e. *Glare and heat.* Any operation or activity producing glare shall be so conducted that direct and indirect illumination from the source of light shall not cause illumination in excess of one-half of one foot candle when measured at any adjoining residence or business district boundary line. Flickering or intense source of light shall be so controlled as not to cause a nuisance across any lot lines.
- If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.
- f. *Noise.* No activity shall emit noise in excess of the standards specified in section 1427.
- g. *Vibration.* Vibrations from industrial operations and vehicular traffic in this district must be controlled to the extent that they cannot be felt past any property line.
- h. *Radio transmission.* For electronic equipment required in an industrial operation, the equipment shall be so shielded that its operation will not interfere with radio, television, or other electronic equipment.
- i. *Storage of flammable materials.* Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.
- j. *Radioactive materials.* No activity shall emit dangerous radioactivity at any point, or unreasonable electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
- k. *Water pollution.* Pollution of water shall be subject to such requirements and regulations as are established by the Michigan State Department of Health, the Michigan Water Resources Commission, the Macomb County Health Department, and the U.S. Environmental Protection Agency. Such requirements and regulations shall apply in all cases except when they are less stringent than the following standards in which case the following standards shall apply:
- (1) No wastes shall be discharged in the public sewer system which is dangerous to the public health and safety.
 - (2) Acidity or alkalinity shall be neutralized to a pH of 7.0 as a daily average on a volumetric basis, with a maximum temporary variation of pH 5.0 to 10.0.
 - (3) Wastes shall contain no cyanides and no halogens and shall contain not more than 10 ppm of the following gases: hydrogen sulfite, sulfur dioxide, and nitrous oxide.
 - (4) Wastes shall not contain any insoluble substance in excess of 10,000 ppm or exceeding a daily average of 500 ppm or fail to pass a No. 8 Standard Sieve, or have a dimension greater than one-half inch.
 - (5) Wastes shall not have chlorine demand greater than 15 ppm.
 - (6) Wastes shall not contain phenols in excess of .005 ppm.
 - (7) Wastes shall not contain any grease or oil or any oil substance in excess of 100 ppm or exceed a daily average of 25 ppm.

Section 1104. Area and bulk requirements.

See article XIII, schedule of regulations limiting the height and bulk of buildings, the minimum size of lot by permitted land use and providing minimum yard setback requirements.

ARTICLE XII P-1, VEHICULAR PARKING DISTRICT⁸

Section 1200. Intent.

The P-1 vehicular parking districts are intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities.

Section 1201. Uses permitted.

Premises in such districts shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to such regulations as are hereinafter provided.

Section 1202. Required conditions.

1. The parking area shall be accessory to, and for use in connection with one or more businesses, or industrial establishments, located in adjoining business or industrial districts, or in connection with one or more existing professional or institutional office buildings or institutions.
2. Such parking lots shall be contiguous to an R-3, O-1, C-1, C-2, or I district. Parking areas may be approved when adjacent to said districts, or on the end of a block where such areas front on a street which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P-1 district and above listed districts.
3. Parking areas shall be used solely for parking of private passenger vehicles, for periods of less than one day and shall not be used as an off-street loading area.
4. No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area.
5. No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area.
6. No building other than those for shelter of attendants shall be erected upon premises and they shall not exceed 15 feet in height.

Section 1203. Distances and setbacks.

1. Where the P-1 district is contiguous to the side and/or rear lot lines of premises within a residentially zoned district, the wall, berm, or greenbelt shall be located along said lot line.
2. Where the P-1 district is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, there

⁸Cross reference(s)—Businesses, ch. 14Cross reference(s)—; stopping, standing and parking, § 78-111Cross reference(s)— et seq.

shall be a setback equal to the required residential setback for said residential district. A required wall, berm, or greenbelt shall be located on this minimum setback line.

Section 1204. Parking space layout, standards, construction, and maintenance.

P-1 vehicular parking districts shall be developed and maintained in accordance with the requirements of section 1409.

Section 1205. Processing requirements.

1. Applications for P-1 district rezoning shall be made to the planning commission by submitting a dimension layout of the area requested showing the intended parking plan.

PART II - CODE OF ORDINANCES
APPENDIX A - ZONING
ARTICLE XIII SCHEDULE OF REGULATIONS

ARTICLE XIII SCHEDULE OF REGULATIONS

Section 1300. Schedule, limiting height, bulk, density, and area by zoning district.

Scope. The following regulations regarding lot sizes, yards, setbacks, building heights, and densities apply within the zoning districts as indicated, including the regulations contained in section 1301, footnotes. No building shall be erected, nor shall an existing building be altered, enlarged or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in conformity with the regulations hereby established for the district in which such building is located. No portion of a lot used in complying with the provisions of this ordinance for yards, courts, lot area occupancy, in connection with an existing or projected building or structure, shall again be used to qualify or justify any other building or structure existing or intended to exist at the same time.

Zoning District	Minimum Size Per Zoning Lot (a)		Maximum Building Height		Maximum Building Lot Coverage In Percent	Minimum Yard Setback Requirements Per Zoning Lot In Feet (b)			Minimum Livable Floor Area Per Unit In (Square Feet)	Gross Density In Units Per Acre
	Area In Square Feet	Width In Feet	In Stories	In Feet		Front	Each Side	Rear		
R-1A, one-family residential	7,500	75	2.5	30	35	25	8	50	1,200	5.8
R-1B, one-family residential	5,000	50	2.5	30	35	25	8	40	1,200	8.7
R-2, two-family residential	8,800	75	2.5	30	35	35	10	30	800	10.0
R-3, multiple-family residential	10,000	100	2.5	30	40	25(c)	25(c)	25(c)	—	(d)(e)
O-1, Office	(f)	(f)	2.0	30	(f)	20(g)	15(h)(i)	20	—	—
C-1, central business district	(f)	(f)	3.0	40	(f)	(g)	(h)(i)	30(i)	—	—
C-2, general	(f)	(f)	2.0(l)	25(l)	(f)	25(g)	15(j)	30	—	—

business district										
P-1, vehicular parking	Refer to Article XII, section 1203, 1 and 2 for design requirements.									
MXD	Refer to article X, section 1004, 2 for area and bulk requirements.									
I, industrial district	87,120	150	—	45	—	25(k)	25(j)	30	—	—

(Ord. of 11-14-2006)

Section 1301. Notes to schedule of regulations.

- (a) See section 1302, single-family cluster option, and section 1303, zero lot line developments regarding flexibility allowances.
- (b) 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. In the R-1A and R-1B districts, "when buildings having the same setback have been constructed on the majority of parcels on the same block frontage at the time of the adoption of this ordinance, the required setback line shall be that line established by existing buildings. In the instance where variable setbacks are present for existing buildings, a setback of 25 feet shall be required."
- (c) In the district, front, side, or rear yards need not refer to spacing between buildings for the planned development of two or more buildings on the same parcel. In such cases, the minimum distance between any two buildings shall be regulated according to the length and height of such buildings and in no instance be less than 30 feet.

The formula for regulating the required minimum distance between two buildings is as follows:

where;

S	equals required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.
LA	equals total length of building A.
	The total length of building A is the length of that portion or portions of a wall or walls of building A from which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.
LB	equals total length of building B.
	The total length of building B is the length of that portion or portions of a wall or walls of building B from which, when viewed directly from above, the lines drawn perpendicular to building B will intersect any wall of building A.
HA	equals height of building A.
	The height of building A at any given level is the height above natural grade level of any portion of portions of a wall or walls along the length of building A. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.
HB	equals height of building B.
	The height of building B at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building B. Natural grade level shall be the mean level of the

	ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.
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- (d) In the district, the total number of rooms (not including kitchen, dining, and sanitary facilities) shall not be more than the net area of the parcel, in square feet, (excluding public rights-of-way), divided by 1,200.
- (e) For the purpose of computing the permitted number of dwelling units per acre, the following room assignments shall control:
 - Efficiency equals two rooms
 - One bedroom equals three rooms
 - Two bedroom equals four rooms
 - Three bedroom equals five rooms
 - Four bedroom equals six roomsPlans presented showing a den, library, or other extra room shall count such extra room as a bedroom for the purpose of computing density.
- (f) The minimum lot area and width, and the maximum percentage of coverage shall be determined on the basis of yard setbacks, screening, and off-street parking and loading areas as provided for the various use districts.
- (g) Off-street parking shall be permitted to occupy a portion of the required front yard provided that there shall be maintained a minimum unobstructed landscaped greenbelt buffer in accordance with section 1222 of ten feet between the nearest point of the off-street parking area, exclusive of access driveways, and the front lot line.
- (h) No side yards are required along the interior side lot lines of the district, except as otherwise specified in the building code provided that if walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than ten feet shall be provided.
- (i) Where a lot zoned C-1, central business district, abuts a residential district not separated by a street, the following minimum yard setbacks shall be provided along the property line(s) abutting a residential district: side yard ten feet, rear yard 20 feet.
- (j) Off-street parking shall be permitted in a required side yard setback, however, in no instance shall less than a five-foot setback be provided between the nearest point of the parking area or drive, and the side lot line.
- (k) Off-street parking for visitors, over and above the number of spaces required by section 1206 may be permitted within the required front yard provided that such off-street parking is not located within 20 feet of the front lot line and provided further that there shall be maintained a minimum unobstructed greenbelt buffer of ten feet between the nearest point of the visitor parking area, exclusive of access driveways, and the front lot line.
- (l) The planning commission may recommend to waive the number of stories from 2.0 to not exceed 4.0 and building height in feet from 20 to not exceed 45 subject to the review and approval of a conditional use approval pursuant to the requirements found in section 1802 of this ordinance.

(Ord. of 11-14-2006)

Section 1302. Single-family cluster housing option.

- 1. The intent of this section is to permit the development of single-family residential patterns which, through design innovation, will introduce flexibility so as to provide for a more appropriate development in situations

where the normal subdivision approach would otherwise be restrictive owing to the presence of environmentally sensitive lands on the site, or the configuration of the site.

2. The planning commission may approve the clustering and/or attaching of single-family dwelling units on parcels of land three acres or more in size, under single ownership and control. In approving an area for the cluster housing option, the planning commission shall find at least one of the following to exist:
 - a. The parcel to be developed has frontage on a major or secondary thoroughfare and is generally parallel to said thoroughfare and is of shallow depth as measured from the thoroughfare.
 - b. The parcel has frontage on a major or secondary thoroughfare and is of a narrow width as measured along the thoroughfare which makes platting difficult.
 - c. The parcel is shaped in such a way that it contains acute angles which would make a normal subdivision difficult to achieve and has frontage on a major or secondary thoroughfare.
 - d. A substantial part of the parcel's perimeter is bordered by a major thoroughfare which would result in a substantial proportion of the lots of the development abutting the major thoroughfare.
 - e. The parcel contains a floodplain or poor soil conditions which result in a substantial portion of the total area of the parcel being unbuildable. Soil test borings, floodplain maps or other documented evidence must be submitted to the planning commission in order to substantiate the parcel's qualification for cluster development under this subsection.
 - f. The parcel contains natural assets which could 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, unusual topographic features, or other natural assets which, in the opinion of the planning commission, should be preserved. Requests for qualification under these conditions must be supported by documented evidence which indicates that the natural assets would qualify the parcel under this option.

The planning commission may, at its discretion, convene a public hearing held in accordance with Section 4a of Public Act 207 of 1921, as amended (MCL 125.584a), as part of its review, study, and approval of an area for the cluster housing option.

3. In areas meeting the above criteria, the minimum yard setbacks, heights, and minimum lot sizes per unit as required by the section 1300, may be waived and the attaching of dwelling units may be accomplished subject to the following:
 - a. The minimum floor area for all units constructed under this option shall be at least equal to the minimum floor area requirements for the single-family residential district in which the cluster is to be constructed.
 - b. The attaching of single-family dwelling units, one to another, may be permitted when said homes are attached by means of one or more of the following:
 - (1) Through a common party wall which does not have over 50 percent of its area in common with an abutting dwelling wall.
 - (2) By means of an architectural wall detail which does not form interior room space.
 - (3) Through a common party wall in only the garage portion of an abutting structure.
 - c. The maximum number of units attached in the above described manner shall not exceed four.
 - d. In a single-family cluster housing development, the dwelling unit density shall be no greater than if the total land area (inclusive of buildable and unbuildable areas) were to be developed in the minimum square foot lot areas as required for each single-family district under the section 1300.

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4. Yard requirements shall be provided as follows:
 - a. Spacing between any grouping of four or less one-family units and another grouping of such structures shall be equal to at least 16 feet, measured between the nearest point of the two groupings. A grouping may include a single, freestanding unit.
 - b. All such groupings shall be so situated as to have one side of the building abutting onto a common open space.
 - c. Any side of a building adjacent to a private service drive or private lane shall not be nearer to said drive or lane than 20 feet.
 - d. This nature of development, when abutting a front yard of an existing recorded subdivision which is not a part of the site plan submitted under this section, shall cause all dwelling units facing such subdivision to relate through its front or entrance facade and shall treat said side of the grouping as a front yard.
 - e. No building shall be located closer than 30 feet to the outer perimeter (property line) of the site.
 5. The maximum height of buildings shall be 30 feet.
 6. In reviewing the plans and approving the application of this section to a particular site, the planning commission shall require the following:
 - a. A landscaped berm, at least three feet high, shall be provided along the entire property line abutting the major thoroughfare. This berm may be included within a required side or rear yard. The planning commission shall find that the slopes on said berms are gentle enough so as not to erode when planted in grass; and they shall review the design of the berm as it relates to street intersections, finding that the horizontal view of oncoming traffic is not obscured.
 7. In submitting a proposed layout under this section, the sponsor of the development shall include, along with the site plan, typical building elevations and floor plans, topography drawn at two foot contour intervals, main floor grade elevations relative to the existing topography, all computation relative to acreage and density, details relative to the proposed berm, and any other details which will assist in reviewing the proposed plan.
 8. Site plans submitted under this option shall be accompanied by information regarding the following:
 - a. The proposed manner of holding title to open land.
 - b. The proposed method of regulating the use of open land.
 - c. The proposed method of maintenance of property and financing thereof.
 9. All land not intended to be conveyed to individual dwelling unit owners shall be set aside for the use of all occupants of the development. All such lands shall be protected by restrictions or covenants running with the land and must be approved by the city attorney to ensure the following:
 - a. That title to the open space is held in common by the owners of all dwelling units in the detached single-family cluster development.
 - b. A permanent organization for maintenance and management of all such areas shall be ensured by legal documents prior to the issuance of the building permit.
 10. The construction of a cluster housing development shall be subject to the engineering design standards of the City of Utica, as may be amended, except as may otherwise be provided by this ordinance.

Section 1303. Zero lot line developments.

1. The intent of the zero lot line concept is to:
 - a. Promote the more efficient use of land, as compared to traditional single-family development, thereby making housing more affordable to a segment of the community.
 - b. Design dwellings that integrate and relate internal and external living areas resulting in more pleasant and enjoyable living facilities.
 - c. Permitting the outdoor space to be grouped and utilized to its maximum benefit by placing the dwelling unit against one of the property lines.
2. A zero lot line development is restricted for one-family developments only in the R-1A and R-1B districts, if approved after a public hearing held before the planning commission in accordance with Section 4a of Public Act 207 of 1921, as amended (MCL 125.584a).
3. The planning commission may approve an application for a zero lot line development which complies with the following development parameters:
 - a. Uses permitted are restricted to detached one-family dwellings on individually platted lots, including every accessory use customarily incidental therewith.
 - b. The minimum lot area shall be 4,000 square feet. The minimum lot width required shall be 40 feet.
 - c. Each dwelling unit shall only be placed on one interior side property line with a zero setback as to abut the adjoining unit, and the dwelling unit setback on the other interior side property line shall be a minimum of 12 feet. Patios, fences, walks, trellis, garden features, and similar elements shall be permitted within the setback area provided, however, no structure, with the exception of fences and walks, shall be placed within required easements.

A minimum 25 foot front yard and 25 foot rear yard setback shall be provided. The minimum side yard setback on the street side of a corner lot, or adjacent to any nonresidential district, shall be 20 feet.
 - d. The total lot coverage permitted for all buildings on the site shall not exceed 30 percent of the lot area.
 - e. Every part of a required setback shall be maintained as an open space, with no principal or accessory structure occupying any portion, except that overhead projections from the building face (such as soffits) and projection of architectural features (such as bay windows or awnings) may project not more than three feet into such space.
 - f. The maximum building height shall not exceed two stories and 25 feet in height.
 - g. The wall of the dwellings located on the zero lot line shall have no windows, doors, air conditioning units, or any other type of openings, provided, however, that atriums or courts shall be permitted on the zero lot line side when the court or atrium is enclosed by three walls of the dwelling unit and a solid wall of at least eight feet in height is provided on the zero lot line. Said wall shall be constructed of the same material as exterior walls of the unit.
 - h. A minimum of two off-street parking spaces, excluding the private garage or carport, shall be required for each dwelling unit.
 - i. All dwellings constructed on a zero lot line must be provided with a firewall as set forth by local ordinance.

ARTICLE XIV GENERAL PROVISIONS

Section 1400. Conflicting regulations.

Whenever any provision of this ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this ordinance, then the provisions of such law or ordinance shall govern.

State law reference(s)—Conflicts, MCL 125.586.

Section 1401. Building regulations.

1. *Scope.* No building or structure, or part thereof, shall hereafter be erected, constructed, used, reconstructed, altered or maintained, and no lot or land, or part thereof, shall hereafter be used or maintained and no new use made of any building, structure or land, or part thereof, except in conformity with the provisions of this ordinance.
2. *Unlawful building.* In case any building, or part thereof, is used, erected, occupied or altered contrary to law or the provisions of this ordinance, such building shall be deemed an unlawful structure and a nuisance and may be required to be vacated, torn down or abated by any legal means, and shall not be used or occupied until it has been made to conform to the provisions of this ordinance. Public expenditures toward abating such nuisance shall become a lien upon the land.
3. *Temporary building.* No temporary building shall be erected unless a valid building permit exists for a permanent building or a new use of land on the same site. Any temporary building shall be removed from the site within 30 days of issuance of a certificate of occupancy. The approval of a temporary building may not exceed one year; however, the city council, acting as the zoning board of appeals, may grant multiple extensions up to three months each for good cause shown, when the approval is due to expire.
4. *Building occupancy.* No basement shall be used or occupied as a dwelling unit at any time, nor shall a dwelling be erected in a nonresidential district, except for the living quarters of a watchman, caretaker, or resident manager.
5. *Frontage on a public street.* No building shall be erected on a lot unless said lot fronts no less than 80 percent its full width, as required by section 1300, upon a street or road that has been dedicated to the public. Multi-family developments, or commercial, office, or industrial centers need not front each such structure within the development upon publicly dedicated streets or roads, provided that adequate interior vehicular circulation and access can be ensured in a site plan submitted for approval to the city.
6. *One lot, one building.* In all districts, only one principal building shall be placed on a single lot of record, except as provided by section 1401.5 above.

Cross reference(s)—Buildings and building regulations, ch. 10Cross reference(s)—.

Section 1402. Building appearance, structure completion, and personal construction authority.

1. *Residential zones.* In residential zones, after 25 percent of the lots and frontage on the side of the street on any block where the proposed improvement is contemplated have been improved by the erection on the residences thereon, if one-half or more of the residences built in any such block are of a certain type and style, the remainder of the residences built in any such block and to be constructed, altered, relocated, or repaired in such block shall be of a substantially similar type and style so that new or altered buildings will be in harmony with the character of the neighborhood. Nothing herein shall prevent the upgrading of any

residential block by installing an exterior finish having fire or weather resistance, which is greater than the minimum herein required, or by constructing in such block a residence having floor area greater than the average area of residences in such block; provided, however, such type and style shall be such as not to impair or destroy property values in the block. (See also section 1414.)

2. *Nonresidential zones.* In any case where a building or accessory building in a nonresidential district is erected or placed within 200 feet of the front lot line of any parcel of land fronting upon any public street, the front walls of said building or accessory building within said distance of 200 feet shall be constructed of stone, face brick or other ornamental materials approved by the planning commission consistent with neighboring property, and no building so situated shall be constructed of tarred paper, tin, corrugated iron, or any form of pressed board or felt or similar material within the limits herein specified, nor shall any occupant of such premises be permitted to place open stock, scrap, or junk piles within said 200 feet unless the same shall be obscured from view from the street by the existence of a building, solid wall, earth berm, or evergreen screen sufficient to properly obscure the same from view from the street.
3. *Building completion period.* All structures shall be completed within one year of the issue date of the building permit for such structure, unless an extension for not more than one additional year is granted for good cause by the building official. When a part of the building is ready for occupancy, a temporary occupancy permit may be issued, provided that the premises complies with health and fire standards required under this ordinance, or any other ordinance, regulation, or statute.
4. *Personal construction authority.* Nothing in this ordinance shall be construed as prohibiting an owner, tenant, occupant, or land contract vendee from doing his or her own building, altering, plumbing, electrical installations, etc., provided the minimum requirements of the Electrical and Plumbing Codes of the State of Michigan, and the applicable county health department regulations are complied with.

Cross reference(s)—Buildings and building regulations, ch. 10Cross reference(s)—.

Section 1403. Nonconforming lots, nonconforming uses of land, nonconforming structures, and nonconforming uses of structures and premises.

1. *Intent.* It is the intent of this ordinance to permit existing, legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.

It is recognized that there exists within the districts established by this ordinance and subsequent amendments, lots, structures, and use of land and structures which were lawful before this ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments.

Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance 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.

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 after passage of this ordinance 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.

To avoid undue hardship, nothing in this ordinance 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 the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a 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 completion of the building involved.

2. *Nonconforming lots.* In any single-family district, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record which is under separate and distinct ownership from adjacent lots at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the board of appeals.
3. *Nonconforming uses of land.* Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
 - a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
 - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
 - c. If such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for this district in which such land is located.
4. *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a. No such structure may be enlarged or altered in a way which increases its nonconformity. For example, existing residences on lots of a width less than required herein may add a rear porch provided that other requirements relative to yard space and land coverage are met.
 - b. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
 - c. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for this district in which it is located after it is removed.
5. *Nonconforming uses of structures and land.* 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 ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

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- c. If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or more restricted classification provided that the board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require conditions and safeguards in accord with the purpose and intent of this ordinance. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
 - d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
 - e. When a nonconforming use of structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months or 18 months during any three year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses (one season out of each year) shall be excepted from this provision.
 - f. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
6. *Repairs and maintenance.* On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the assessed value of the building provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased.
- Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
7. *Conditional use interpretation.* Any conditional use as provided for in this ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.
 8. *Change of tenancy or ownership.* There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses.
 9. *Acquisition.* The city council 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 cities. 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 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws (MCL 213.21 et seq) or other applicable statute.

Cross reference(s)—Buildings and building regulations, ch. 10Cross reference(s)—.

State law reference(s)—Nonconformities, MCL 125.583a.

Section 1404. Adaptive reuse projects.

1. *Intent.* Typically, various land use activities are provided for in one or more zoning districts. The criteria for such allocations is based upon similarities in the nature of uses and their relationship to other such uses and adjoining development. Zoning districts are also established to coordinate with and provide for the effectuation of the city's long range development plan.

The city does, however, possess various existing specialized structures which have become functionally obsolete for their original purpose and whose redevelopment or conversion in conformance with the city comprehensive development plan would be unnecessarily burdensome. It is therefore, the intent of this section to set forth the basic qualifying criteria, project classification, development standards, and submittal requirements necessary to provide for the adaptive reuse of eligible properties within the city to support the local economic and employment base without adversely affecting the public health, safety, and welfare of the city as a whole.

2. *Qualifying criteria.*
 - a. The city council shall approve the adaptive reuse of nonresidential buildings and uses. In qualifying a site for adaptive reuse, the city council shall find the following conditions to exist:
 - (1) The subject site is zoned in compliance with the city's comprehensive development plan;
 - (2) The use can no longer be reasonably continued for its existing purpose by reason of market conditions or operational constraints (i.e., limited site size, floor area deficiencies, parking or loading area, etc.)
 - (3) Site redevelopment in accordance with local development codes would be unnecessarily burdensome by reason of ordinance compliance (restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot) or cost; and,
 - (4) The subject site has frontage on, or direct access to, an improved major or secondary thoroughfare.
 - b. The city council may not grant adaptive reuse status to any property whose principal structures are found to be destroyed by any means to the extent of more than 50 percent of its replacement cost. Any subsequent use of such land shall conform to the regulations of the zoning district in which it is located.
3. *Data required.*
 - a. Application for adaptive reuse project as provided under the provisions of this ordinance shall be made to the city clerk by filing an application form; submitting required data, exhibits, and information; and depositing the required fee as established by resolution of the city council, and as may be amended from time-to-time. No portion of such fee shall be reimbursable to the applicant.
 - b. An application shall contain the following:
 - (1) Applicant's name, address, and telephone number.
 - (2) Address and tax description number of the subject parcel.
 - (3) A signed statement that the applicant is the owner of the subject parcel, or is acting as the owner's representative.
 - (4) A certified survey drawing of the subject parcel.
 - (5) Supporting statements, evidence, data, information and exhibits which address those qualifying criteria four assessing special condition use permit applications outlined in section 2 above.

4. *Public hearing requirements.*

- a. Upon receipt of an application for an adaptive reuse project, the planning commission shall hold a public hearing, one notice of which shall be published not less than five nor more than 15 days prior to the public hearing date in a newspaper of general circulation in the city and sent by first class mail to the owners of the property for which an adaptive reuse project is being considered, to the owners of record of all real property and to the occupants of all structures located within 300 feet of the boundaries of the property in question. The notice shall:
- (1) Describe the nature of the adaptive reuse request.
 - (2) Adequately describe the property in question.
 - (3) State the date, time, and place of the public hearing.
 - (4) Indicate when and where written comments concerning the request will be received.

5. *Project classification.*

- a. Upon holding a public hearing, the planning commission shall determine whether the qualifying criteria have been met as set forth in paragraph 2 above.
- The planning commission shall within 30 days of making such determination forward to the city council its finding and recommendation.
- b. The city council, upon receipt of the finding, may table action for purposes of further study or gaining additional information; deny the application for adaptive reuse upon finding that the criteria have not been met, or approve the application for adaptive reuse upon finding that the qualifying criteria have been met.
- c. If the applicant for adaptive reuse is approved, the city council shall designate the applicant's property as either a class I or class II site.
- (1) Class I sites permit the conversion of institutional or business uses in residential zones. Properties may be redeveloped/converted to offices, multi-family developments, care facilities and similar uses deemed no more objectionable than the forementioned uses.
 - (2) Class II sites permit the conversion of industrial uses in residential or commercial zones. Properties may be redeveloped/converted to any class I purpose, business uses, as well as less intensive industrial development in areas zoned for business.

6. *Development standards.*

- a. In areas meeting the above criteria, development standards may be modified by the planning commission upon finding adequate evidence that the proposed use:
- (1) Will be compatibly designed, constructed, and maintained with the existing and intended character of the vicinity;
 - (2) Will not be hazardous or disturbing to existing or future neighboring uses;
 - (3) Will be served adequately by essential public services and facilities or the agencies responsible for the establishment of the proposed use shall be able to adequately provide for such services; and,
 - (4) Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration, or odor.

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- b. The planning commission may require such additional safeguards as deemed necessary for the protection of the general welfare and for insuring individual property rights and for insuring that the intent and objectives of this ordinance will be observed.

7. *Site plan requirements.*

- a. Site plan approval shall be required in accordance with section 1800 of this ordinance and all applicable ordinances.
 - (1) The planning commission may, at its discretion, concurrently review the site plan at the time of its review of qualifying criteria.

Section 1405. Accessory buildings and structures.

Accessory buildings or structures, except as otherwise permitted in this ordinance, shall be subject to the following regulations:

1. Where the accessory building is structurally attached to a main building it shall be subject to, and must conform to, all regulations of this ordinance applicable to the main building.
2. Accessory buildings and structures shall not be erected in any side yard nor in any front yard.
3. An accessory building shall not occupy more than 25 percent of a required rear yard.
4. No detached accessory building shall be located closer than ten feet to any main building nor shall any accessory building or structure it [sic] be located closer than three feet to any side or rear lot line.
5. Height of accessory buildings:
 - a. Detached accessory buildings and structures in residential districts.
 - (1) A detached accessory building or structure shall not exceed one story or 15 feet in height.
 - (2) The vertical exterior surface of a building, not forming part of the roof, shall not exceed a height of nine feet, measured from grade to the top plate of the wall.
 - b. Detached accessory buildings and structures in nonresidential districts.
 - (1) Detached accessory buildings or structures in all nonresidential districts may be constructed to equal the permitted maximum building height in said districts, subject to board of zoning appeals review and approval, if the building or structure exceeds one story or 15 feet in height.
6. When an accessory building is located on a corner lot, the 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 setback required on the lot to the rear of such corner lot.
7. When an accessory building in excess of 150 square feet in any residence, business, or office district is intended for other than the storage of private motor vehicles, the accessory use shall be subject to the approval of the board of zoning appeals.
8. Household animal enclosures, dog runs, central air conditioning units, heat pumps, and other mechanical system components that could or are likely to produce noise, odors, and other nuisances, shall not be located adjacent to an adjoining property owner's sleeping area where windows and/or doors on the adjacent property would be exposed to the nuisance.

Section 1406. Off-street parking requirements.

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as hereinafter prescribed.

1. Off-street parking spaces may be located within a rear yard or within a nonrequired side yard unless otherwise provided in this ordinance. Off-street parking shall not be permitted within a front yard nor with a required side yard setback unless otherwise provided in this ordinance.
2. Off-street parking shall be on the same lot of the building it is intended to serve, except as may be otherwise provided for by this ordinance.
3. Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveways, garage, or combination thereof and shall be located on the premises they are intended to serve, and also subject to the provisions of section 1405, accessory buildings and structures for garages.
4. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.
5. Off-street parking existing at the effective date of this ordinance, in connection 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.
6. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
7. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the board of zoning appeals may grant an exception.
8. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.
9. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which the planning commission considers is similar in type.
10. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
11. For the purpose of computing the number of parking spaces required, the definition of usable floor area shall govern, and be defined as that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.
12. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

a.	<i>Residential</i>	
(1)	Single- or two-family unit	Two per dwelling unit.
(2)	Multiple-family dwelling	Two per dwelling unit plus 0.25 parking spaces per unit for visitor parking.

(3)	Housing for the elderly	One space per efficiency dwelling unit (no separate bedroom), 1.25 spaces per each one bedroom unit, and 1.5 spaces per two or more bedroom units.
(4)	Mobile home park	Two for each mobile home site and one for each employee of the mobile home park.
b.	<i>Institutional</i>	
(1)	Churches or temples	One for each three seats or six feet of pews in the main unit of worship.
(2)	Hospitals	One for each one bed.
(3)	Convalescent or nursing homes	One for each four beds.
(4)	Elementary and junior or high school	One for each teacher, employee, or administrator, in addition to the requirements of auditorium.
(5)	Senior high schools	One for each one teacher, employee, or administrator and one for each ten students, in addition to the requirements of the auditorium.
(6)	Private clubs or lodge halls	One for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
(7)	Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses	One for each two member families or individuals and one for each employee in addition to the requirements for each accessory use such as a restaurant or bar.
(8)	Golf courses open to general public, except miniature or "Par 3" courses	Six for each one golf hole and one for each employee, in addition to the requirements for each accessory use, such as a restaurant or bar.
(9)	Fraternity or sorority	One for each five permitted active members or one for each two beds, whichever is greater.
(10)	Stadium, sports arena, or similar place of outdoor assembly	One for each three seats or six feet of benches.
(11)	Theaters and auditoriums	One for each three seats plus one for each two employees.
(12)	Nursery school, day nurseries or child care centers	One for each employee and one for each seven students in attendance at any particular time.
(13)	Library	One for each 2.5 persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes, and one for each employee in the largest working shift.
c.	<i>Business and commercial</i>	
(1)	Planned commercial or shopping center	Four per 1,000 square feet of gross floor area for planned commercial or shopping centers having between 10,000 and 50,000 square feet of gross floor area. Planned commercial or shopping centers containing more than 50,000 square feet of gross floor area shall provide five per 1,000 square feet of gross floor area. When a restaurant, lounge, or other establishment whose primary business offers prepared food for sale or consumption on the premises, or carry-out, and is part of a planned commercial or shopping center,

		the parking for such use shall be computed separately, based on the need for a free standing use of this nature, and the resulting increase shall be added to the other uses in the center.
(2)	Auto wash (automatic)	One for each one employee. In addition, reservoir parking spaces equal in number to five times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by 20.
(3)	Auto wash (self-service or coin operated.	Five reservoir parking spaces for each washing stall.
(4)	Beauty parlor or barber shop	Three spaces for each of the first two beauty or barber chairs, and 1½ spaces for each additional chair.
(5)	Bowling alleys	Five for each one bowling lane in addition to the requirements for each accessory use, such as a restaurant or bar.
(6)	Dance halls, roller skating rinks, exhibition halls, and assembly halls without fixed seats	One for each two persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
(7)	Standard restaurant	One for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes, plus one for each two employees.
(8)	Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator electrician, or similar trade, shoe repair, and other similar uses	One for each 800 square feet of usable floor area. (For that floor area used in processing, one additional space shall be provided for each two persons employed therein.)
(9)	Gasoline service stations	Two for each lubrication stall, rack, or pit; one for each gasoline pump; and one for each 150 square feet of usable floor space devoted to retail sales.
(10)	Laundromats and coin operated dry cleaners	One for each two washing and dry-cleaning machines.
(11)	Miniature or "Par-3" golf courses.	Three for each one hole plus one for each one employee.
(12)	Mortuary establishments	One for each 50 square feet of usable floor space.
(13)	Motel, hotel, or other commercial lodging establishments	One for each one occupancy unit plus one for each employee.
(14)	Motor vehicle sales and service establishments	One for each 200 square feet of usable floor space of sales room and one for each one auto service stall in the service room.
(15)	Retail stores except as otherwise specified herein	One for each 150 square feet of usable floor space.
(16)	Establishments offering carry-out service, being establishments primarily serving customers over a counter or through a window, i.e., food carry-out,	One parking space for each employee in the largest working shift and one parking space for each 30 square feet of usable floor area devoted to a customer assembly and/or waiting area. Parking

	dry cleaner pick-up, meat markets, bakeries, shoe repair	needs for areas devoted to the consumption of food on the premises shall be computed separately for such seating areas.
(17)	Pool or billiard parlors, card rooms arcades or other similar establishments	One for each three persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes.
(18)	Drive-in/through restaurant	One parking space for each employee in the largest working shift; one for each two seats provided; and one for each 30 square feet of usable floor area devoted to customer waiting area.
(19)	Mini-warehouse facility	One parking space for each 2,000 square feet of gross building area. At a minimum, two parking spaces must be assigned to, and located conveniently to, each individual storage building. In addition, two spaces for the resident manager, and one additional space for each additional employee shall be provided adjacent to the rental office.
d.	<i>Offices</i>	
(1)	Banks	One for each 100 square feet of usable floor space.
(2)	Business offices or professional offices except as indicated in the following item (3)	One for each 200 square feet of usable floor space.
(3)	Professional offices of doctors, dentists or similar professions	One for each 50 square feet of usable floor area in waiting rooms, and one for each examining room, dental chair or similar use area.
e.	<i>Industrial</i>	
(1)	Industrial or research establishments, and related accessory offices	Three plus one for every one employee in the largest working shift or three plus one for every 550 square feet of usable floor area whichever is greater.
(2)	Warehouses and wholesale establishments and related accessory offices	Three plus one for every one employee in the largest working shift, or three plus one for every 1,700 square feet of usable floor space, whichever is greater. Space on site shall also be provided for all construction workers during periods of plant construction.

13. Each parking lot that services a building entrance, except single two-family residential or temporary structures, shall have a number of level parking spaces for the physically handicapped as set forth in the following table, and identified by above grade signs as reserved for physically handicapped persons.

Total spaces in parking lot	Required number of accessible spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8

401 to 500	9
501 to 1,000	2% of total
over 1,000	20 plus 1 for each 100 over 1,000

Parking spaces for the physically handicapped shall be a minimum of 12 feet wide and must meet all other applicable requirements as to size as set forth in the building code.

Cross reference(s)—Stopping, standing and parking, § 78-111Cross reference(s)— et seq.

Section 1407. Off-street parking space layout, standards, construction, and maintenance.

Whenever the off-street parking requirements in section 1406, above require the building of an off-street parking facility, such off-street parking lots 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 therefore is issued by the building official. Applications for a permit shall be submitted to the building department in such form as may be determined by the building official and shall be accompanied with two sets of site plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the municipal engineer. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.

2. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Off-street Parking Layout Requirements

Parking Pattern	Maneuvering Lane Width		Parking Stall Width	Parking Stall Depth (90° Measure)	Total Depth of One Tier of Spaces Plus Maneuvering Lane	Total Depth of Two Tiers of Spaces Plus Maneuvering Lane
	(2-Way Movement)	(1-Way Movement)				
0° (parallel) parking	24'	12'	8.0'	22'	20'	40'
45°	23'	12'	9.5'	13'	25'	40'
60°	24'	16'	9.5'	16'	32'	56'
90°	25'	N/A	9.5'	18'	43'	61'

3. All maneuvering lane widths shall permit one-way traffic movement, except that the 90 degree pattern shall permit two-way movement.
4. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
5. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

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6. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet distant from adjacent property located in any single-family residential district.
 7. A wall shall be provided on all sides of the off-street parking area abutting or adjacent to a residential district. The obscuring wall shall not be less than four feet six inches in height measured from the surface of the parking area.

All land between the required obscuring wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

The planning commission, upon application by the property owner of the off-street parking area, may waive or modify the wall requirement by approving either an earth berm or evergreen screen in its place. The planning commission may also waive the wall requirement if in specific cases where cause can be shown that no good purpose would be served by compliance with the requirements of this section.
 8. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.
 9. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
 10. Parking aisles shall not exceed 300 feet without a break in circulation.
 11. Except for those serving single- and two-family dwellings, all parking lots shall be provided with wheel stops or bumper guards so located that no part of parked vehicles will extend beyond the property line or into required landscaped areas or pedestrian ways.
 12. No parking lot shall have more than one attendant shelter building. All shelter buildings shall conform to setback requirements for structures in the district in which it is located.

Cross reference(s)—Stopping, standing and parking, § 78-111Cross reference(s)— et seq.

Section 1408. Parking lot landscaping.

Off-street parking areas shall be landscaped as follows:

1. In off-street parking areas containing 20 or more parking spaces, an area equal to at least five percent of the total parking area shall be used for interior landscaping. Whenever possible, parking lot landscaping shall be arranged to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area, through the even distribution of the landscape effort across the total off-street parking area, rather than to concentrate all effort in one location.
2. Parking lot landscaping shall be not less than five feet in any single dimension and not less than 150 square feet in any single island area. Not more than two landscaped units of 150 square feet may be combined in plans designed to meet the minimum requirements.
3. The landscape plan shall designate the sizes, quantities, and types of plant material to be used in parking lot landscaping.
4. Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.

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5. A minimum of one deciduous tree shall be placated in each landscaped area.

Section 1409. Off-site parking facilities.

Required parking for a development may be located off site under certain circumstances. Requests for off site parking must meet the following requirements:

1. *Residential uses.* Parking facilities accessory to dwelling units shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings (such as churches) may be located on a lot adjacent to or directly across a street or alley from the lot occupied by the use served; but in no case at a distance in excess of 300 feet from such zoning lot.
2. *Nonresidential uses.* Parking facilities accessory to nonresidential uses may be located on other than the same zoning lot as the use served (off site). All required parking spaces shall be within 500 feet of such zoning lot. No parking spaces accessory to a use in a business or industrial district shall be located in a residential district, unless authorized by the planning commission.
3. *Agreement required.* A written agreement shall be drawn to the satisfaction of the city attorney and executed by all parties concerned assuring the continued availability of the off -site parking facilities for the use they are intended to serve.

Section 1410. Special parking districts, payment in lieu of providing required parking.

The provisions and requirements as set forth in sections 1406 and 1409, above shall apply to all areas within the city except as modified by this section. The city recognizes that special provisions should be considered for the downtown area including the reduction of required parking spaces due to the availability of public parking. To this end:

1. Portions of the City of Utica shall be contained within areas described as special parking districts as established by the city council with recommendation from the planning commission.
2. The boundaries of areas classified as special parking districts are hereby established as shown on the zoning map. Where uncertainty exists with respect to the boundaries of the special parking districts as shown on the zoning districts map, the rules as set forth in section 302, shall apply.
3. The number of off-street parking spaces and the size of loading and unloading areas required for any new use, expanded or intensified use of property located within, or partially within a special parking district shall be determined as set forth in sections 1409 and 1411 except as herein provided for:
 - a. *Off-street parking.* The determination of parking needs within a special parking district shall be based upon the standards specified below. For those uses not specified an adjustment may be made by the city council, following planning commission recommendation, when it is found that a reduction from the standards set forth in section 1406 would not adversely affect the retail, office and ancillary service facilities forming the commercial nucleus of these older core business areas. In this latter regard primary consideration shall be given to uses which are generally the object of special purpose trips and thereby have little or no interrelation with those business activities in the core business areas. The following standards reflect the gross floor area(s) actively used in day-to-day operations and shall exclude only vacant space and storage areas.
 - (1) *Retail stores except as otherwise specified.* One for each 350 square feet of gross floor area.
 - (2) *Furniture and appliance stores.* One for each 1,800 square feet of gross floor area.
 - (3) *Business and professional offices except as otherwise specified.* One for each 500 square feet of gross floor area.

- (4) *Medical and dental offices.* One for each 175 square feet of gross floor area.
 - (5) *Banks (excluding drive-in stations).* One for each 250 square feet of gross floor area.
 - (6) *Establishments offering food, beverages, or refreshments for sale and consumption on the premises.* One for each 100 square feet of gross floor area.
 - (7) *Apartments.* One for each dwelling unit plus one quarter for each bedroom.
- b. *Off-street loading.* The planning commission shall have the right to modify or waive the requirement for off-street loading areas as specified in section 1411. Any such modification or waiver shall be based upon a review of a site plan and/or the surrounding area and a determination that there is satisfactory loading space serving the building or that the provision of such loading space is physically and/or functionally impractical to provide.
4. The owner or owners of the said new or expanded use may make application to the city clerk for the option of paying a dollar amount established by resolution of the city council per required parking space and loading and unloading space in lieu of providing said required spaces as per the provisions and requirements set forth in sections 1406 and 1411, of this ordinance. These monies would be paid in to the special parking district fund established by the city council specifically for the purpose of constructing and improving off-street parking areas to serve uses located within the special parking districts. The timing of parking spaces provided and their location shall be at the sole discretion of the city council.
 5. The amount paid into the parking fund described above shall not apply against any present or future special assessments levied by the city for parking improvements.
 6. This exception may only be granted by the city council. Granting of the exception shall be based upon evidence presented by the property owner or owners showing that the reasonable ability to provide any or all of the required parking spaces and/or loading and unloading areas as required in sections 1406 and 1411, does not exist.
 7. A property owner or owners granted the exception of contributing to the parking fund will not receive an occupancy permit until said monies have been paid into said fund in full.
 8. The provisions of this section also apply to any change in use of property located within a special parking district that would require parking spaces in excess of those required for the previous use.

Section 1411. Off-street loading and unloading.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

	Total Floor Area of the Building	Off-street LoadingSpace Requirements
Office use	0—10,000 square feet	One usable loading space 10'x25' in area
	10,001—50,000 square feet	One usable loading space10'x50' in area
	Over 50,000	Two usable loading spaces 10'x50' in area
Commercial and industrial uses	0—1,400 square feet	One usable loading space 10'x25' in area

	1,401—20,000 square feet	One usable loading space 10'x50' in area
	20,001—50,000 square feet	Two usable loading spaces, each 10'x50' in area
	Over 50,000 square feet	Three usable loading spaces plus one space for each 50,000 square feet in excess of 50,000 square feet each 10'x50' in area

1. All loading spaces shall be in addition to the off-street parking area access drive, and maneuvering lane requirements.
2. Off-street loading space shall have a clearance of 14 feet in height.
3. Off-street loading space may be completely enclosed within a building, or may occupy a portion of the site outside of the building, provided that where any portion of a loading space is open to public view, said space shall be screened in accordance with section 1423, screening walls.
4. All loading and unloading in the industrial or mixed use districts shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least 50 feet.

Cross reference(s)—Traffic and vehicles, ch. 78 Cross reference(s)—.

Section 1412. Open parking and storage in all districts except where permitted.

1. *Intent.* The regulations set forth in this section are intended to prevent the storage or accumulation of unusable, inoperable, or unsightly motor vehicles, machinery, or building materials that could be hazardous to the safety of children, encourage the propagation of rats or rodents, or detract from the orderly appearance of the city.
2. *General requirements.*
 - a. *Motor vehicle parking and storage.* No motor vehicle shall be kept, parked or stored in any district zoned for residential use, unless the vehicle is in operating condition and properly licensed or is kept inside a building. However, these provisions shall not apply to any motor vehicle ordinarily used but temporarily out of running condition for not more than 30 continuous days within a 90-day period. If a motor vehicle is being kept for actual use, but is temporarily unlicensed, the building official may grant the owner a period of up to one month to procure a license.
 - b. *Machinery and building materials storage.* Unusable, rusty, or inoperable machinery, equipment, or machines and/or equipment parts of machines or equipment not intended for use upon the premises, or old and/or used building materials shall not be kept or stored outside of a building. However, the temporary storage of building materials intended to be used to improve the premises may be stored outside if piled off the ground so as not to become a suitable environment for rats or rodents. The temporary storage of building materials to be used for the purpose of new construction shall also be permitted. In no case shall usable or unusable machinery, building materials, or other items be stored on a permanent basis in a truck trailer or other type of trailer, with or without its wheels.

The storage of wood cut for the purpose of being used for fuel in fireplaces and/or wood burning appliances in any residential district shall be limited to one full cord with a cord being defined as cut fuel wood equal to 128 cubic feet in a stack measuring four by four by eight feet. In no case shall cut fuel wood be stacked higher than four feet in height in a residential district.

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- c. *Commercial vehicle parking and storage.* No commercial vehicle may be parked on residential property; upon public property including, but not limited to public streets, right-of-way, and planting areas between sidewalks and curbs; or within any designated off-street parking area, except under the following conditions:
- (i) The parking or storage of any commercial vehicle on private property in any nonresidential district is permitted provided such commercial vehicle is used in conjunction with the principal use or accessory use of the property. In such events, said parking or storage must comply with other codes and ordinances of the city.
 - (ii) The temporary parking of any commercial vehicle in any district is permitted provided the vehicle is owned or operated by a contractor performing work in the immediate area, is being loaded/unloaded with merchandise or furnishings for or from a residence, or while an operator is actively engaged in performing a service to the adjacent property for the period of time necessary to complete such service.
 - (iii) The occasional parking of commercial vehicles in any district is permitted provided such vehicles are used in response to emergency or on-request service calls.
- In no instance shall commercial vehicles so stored or parked be occupied as sleeping quarters.
- d. The open parking or storage of any commercially used or licensed vehicle shall be expressly prohibited from any residential district (single-family and multiple family), including private property, public property, public rights-of-way, parking lots and streets, except for the following:
- (1) No more than one commercially used or licensed vehicle with a load limit rating under one ton may be parked upon privately owned residential property provided said vehicle is parked upon an improved (concrete or asphalt) driveway and is no closer than 20 feet from the front property or road right-of-way line.
 - (2) Delivery or service vehicles during the hours of 7:00 a.m. and 9:00 p.m.

(Ord. No. 129-3, 10-8-1996; Ord. No. 129-5, 9-8-1998; Ord. No. 129-7, 2-9-1999)

Section 1413. Recreational vehicle storage.

1. The open parking or storage of tractors, boats, or similar vehicles not owned by the property owners or tenant of the city on lands not specifically designated for such parking or storage shall be permitted for a period of up to 72 hours. However, a travel trailer may be kept in the rear or side yard of a single-family lot for a period of up to four weeks provided a permit has first been secured from the building official.
2. Residents of the city may keep not more than one of their own trailer, boats, camper, motor home, and similar vehicles on their own property for an indefinite period of time, provided such vehicles are in operable condition and are not kept within 20 feet of the closest edge of any neighboring road surface area. Such vehicles shall be subject to all other applicable provisions concerning accessory buildings set forth in section 1405.
3. A travel trailer, motor home, or camper parked or stored on a residential lot shall not be connected to sanitary facilities and shall not be occupied.

Cross reference(s)—Traffic and vehicles, ch. 78Cross reference(s)—.

Section 1414. One-family dwelling standards.

1. Every dwelling unit hereafter erected shall have a minimum of 1,200 square feet of floor space on the ground floor provided that dwellings with 1½ stories or more shall have a minimum of 900 square feet on the ground floor. For the purpose of this paragraph, a basement or cellar shall not count as a story, and a breezeway or garage shall not be included in the computation of ground floor area.
2. It has a minimum width across any section of 24 feet and complies in all respects with the state construction code. Where as dwelling is required, by law, to comply with any federal or state standards or regulations for construction, and where such standards or regulations allow standards of construction which are less stringent than those imposed by the state construction code then, and in that event, the less stringent federal or state standard or regulation shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and co-extensive with the perimeter of the building, which attachment shall also meet all applicable building codes and other state and federal regulations.
4. It does not have exposed wheels, towing mechanism, undercarriage, or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the county health department.
6. The dwelling contains storage area whether in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure being of standard construction similar to, or of better quality than, the principal dwelling. Such storage shall be in addition to the space for the storage of automobiles and shall be equal to not less than 15 percent of the minimum square footage requirement of this ordinance for the zone in which the dwelling is located. In no case, however, shall more than 200 square feet of storage area be required by this provision.
7. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, and with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling; with not less than one exterior door being in the front of the dwelling and contains permanently attached steps connected to said exterior door area where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the city building official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved applicant to the board of zoning appeals within a period of 15 days from the receipt of notice of said building official's decision. Any determination of compatibility shall be based upon the following standards:

- a. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to its surroundings.
- b. Buildings shall have a good scale and be in harmonious conformance with permanent neighboring development.
- c. (i) Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
 - (ii) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
 - (iii) Materials shall be of durable quality.

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- (iv) In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
 - d. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
 - e. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
 - f. The roof overhang and pitch shall be comparable to the overhang and pitch of homes typically found in the surrounding area, provided the pitch of the roof shall not be less than one foot of rise for each three feet of horizontal run.
 - g. Any determination of compatibility shall be based upon the standards set forth in this section, as compared against the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within 1,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within said area; or where said area is not developed by the character, design, and appearance of one or more residential dwellings located outside of mobile home parks throughout the city. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the standard designed home.
8. The dwelling complies with all pertinent building and fire codes. In the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards" as amended, shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
 9. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the city pertaining to such parks.
 10. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable state construction code provisions and requirements.

Section 1415. Home occupations.

1. No article or service shall be sold or offered for sale on the premises, except as such is produced on the premises by such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the dwelling unit, (not counting areas of unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches) shall be used for purposes of the home occupation.
3. 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.
4. The outdoor storage of goods and materials shall be prohibited. No interior display shall be visible from the exterior of a dwelling unit used for purposes of a home occupation.
5. No more than one home occupation per dwelling unit shall be permitted.

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6. 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.

Cross reference(s)—Businesses, ch. 14Cross reference(s)—.

State law reference(s)—Certain required home occupations, MCL 125.583c.

Section 1416. Bed and breakfast operations.

Any dwelling unit used for bed and breakfast operation shall comply with the following requirements:

1. Not more than 25 percent of the total floor area shall be used for bed and breakfast sleeping rooms.
2. There shall be no separate cooking facilities used for the bed and breakfast stay.
3. Occupancy by guests shall be restricted from one to seven days.
4. One additional parking space shall be provided for each guestroom, on-site; further, said parking shall not be permitted within a required front yard.

Cross reference(s)—Businesses, ch. 14Cross reference(s)—.

Section 1417. Access to a major thoroughfare or collector street.

For uses making reference to this section 1417, vehicular access shall be provided only to an existing or planned major thoroughfare, freeway service drive, or collector street. Provided, however, that access driveways may be permitted to other than a major thoroughfare, freeway service drive, or collector street where such access is provided to a street where the property directly across the street between the driveway and the major thoroughfare, freeway service drive, or collector street is zoned for multiple-family use or any nonresidential uses, is developed with permanent uses other than single-family residences or is an area which, in the opinion of the planning commission, will be used for other than single-family purposes in the future. This exception shall apply only 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.

Section 1418. Residential entranceway.

In all residential districts, so called entranceway structures including but not limited to walls, columns, and gates marking entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in section 1300 provided that such entranceway structures shall comply to all codes of the municipality, and shall be approved by the building department and a permit issued.

Section 1419. Corner clearance.

Except as may otherwise be provided in the ordinance, no fence, wall, shrubbery, sign, or other obstruction to vision above a height of two 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 said right-of-way lines at a distance along each line of 25 feet from their point of intersection.

Section 1420. Preservation of environmental quality.

1. *Intent.* It is the intent of this section to specify certain materials which must be prepared and submitted by land developers to assist the city in determining if the proposed development is in compliance with local

ordinance and state and federal statutes, which are enacted to protect wildlife, preserve ecologically important features, and retain environmental resources.

2. *Definitions.*

"Natural resources" shall include:

- a. Archaeological finds.
 - b. Endangered species habitat.
 - c. Floodplain, 100-year. An area which has a one percent chance of flood occurrence in any given year.
 - d. Hedgerow. A row of eight or more trees having a four inch or more diameter at four feet. (The drip-line of the trees defines the land area of a hedgerow.)
 - e. Ponds and lakes. A natural or artificial impoundment of water that retains water year-round.
 - f. Wetlands. Land where standing water is retained for a portion of the year and does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.
 - g. Woodlot. An area of one-quarter acre or more containing eight or more trees per one-quarter acre having a four inch or more diameter at a four-foot height.
3. *Applicability.* In any zoning district, no natural resource shall be altered, changed, transformed, or otherwise varied by any person except as may otherwise be provided by this ordinance, and such person having submitted to the building official the required data, exhibits, and information as hereafter required.
4. *Information and data required.* The submission of a site plan review as provided by section 1300 of this zoning ordinance shall be accompanied by a natural resources analysis, which shall be submitted by and at the expense of the petitioner. Submission shall be made concurrently with the payment of site plan review fees.

The natural resources analysis shall include, but not be limited to, the following information:

- a. Site conditions of the subject property indicating the location, size, and type of existing natural resources. Such information shall be displayed on a map in relation to the subject parcel's property lines and existing development pattern.
- b. A project description which, in narrative form, shall describe the proposed development in terms of use, density, building coverage, height, gross floor area, number of units, parking, landscaping, internal site circulation, traffic to be generated, and other applicable design features.
- c. The petitioner shall provide a full analysis and description of the proposed project's impact on the natural resources existing on the site. This analysis shall include an evaluation of alternatives to affecting the natural resources in terms of alternative site location or actions. The analysis shall also assess the impact of affecting the natural resource(s) in terms the natural environment (topography, habitat, hazards, etc.), social concerns (aesthetics, historic and cultural values, etc.), economic aspects (employment opportunities created, tax base, land use pattern, etc.), and legal constraints (permits required, intergovernmental review, conformance with local plans/ordinances, etc.). These factors shall be evaluated in terms of both positive and negative impacts, direct and indirect impacts, as well as longterm vs. short-term affects.
- d. The applicant shall identify measures to mitigate or eliminate negative affects to natural resources identified in step 4(c) above.

Cross reference(s)—Environment, ch. 26Cross reference(s)—.

Section 1421. Landscaping.

1. *Intent.* Landscaping, greenbelts, and screening are necessary for the protection and enhancement of the environment and for the continued vitality of all land uses in the city. Landscaping and greenbelts are capable of enhancing the visual environment, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual disruption related to intensive uses. The purpose of this section is to set minimum standards for the protection and enhancement of the environment through requirements for the design and use of landscaping, greenbelts, and screening.
2. *Scope of application.* The requirements set forth in this section shall apply to all uses, lots, sites, and parcels which are developed or expanded following the effective date of this ordinance. No site plan shall be approved unless said site plan shows landscaping consistent with the provisions of this section. Furthermore, where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance bond has been posted in accordance with the provisions set forth in section 1800.7.

In cases where the use of an existing building changes or an existing building is changed or otherwise altered or reoccupied, all of the standards set forth herein shall be met.

The requirements of this section are minimum requirements, and nothing herein shall preclude a developer and the city from agreeing to more extensive landscaping.

3. *Landscaping design standards.* Except as otherwise specified in the general requirements for each zoning district, all landscaping shall conform to the following standards:
 - a. *General landscaping.* All portions of the lot or parcel area not covered by buildings, paving, or other impervious surfaces shall be landscaped with vegetative ground cover and other ornamental materials as required below, except where specific landscape elements, such as a greenbelt, berm, or screening are required:
 - (1) All portions of the landscaped area shall be planted with grass, ground cover, shrubbery, or other suitable plant material, except that paved patios, terraces, sidewalks and similar site features may be incorporated with planning commission approval.
 - (2) A mixture of evergreen and deciduous trees shall be planted at the rate of one tree for each 1,000 square feet or portion thereof of landscaped open-space area.
 - (3) Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.
 - (4) On sites which are two acres or larger in size, the landscaped area shall include a greenbelt of a minimum ten-foot width, located and continually maintained along a public right-of-way.
 - (5) In consideration of the overall design and impact of the landscape plan, the planning commission may reduce or waive the requirements outlined herein for general landscaping, or for landscaping in greenbelt areas, on berms, or as part of a screen, provided that any such adjustment is in keeping with the intent of the ordinance, and more specifically, with the intent of section 1421.1.
 - (6) The total landscaped area shall be the basis for determining the required number of trees or shrubs, irrespective of the portion which is devoted to patios, terraces, sidewalks, or other site features.
 - b. *Greenbelt buffer.* Where required, greenbelts and greenbelt buffers shall conform to the following standards:

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- (1) A required greenbelt or greenbelt buffer may be interrupted only to provide for roads or driveways for vehicular access.
 - (2) Grass, ground cover, or other suitable live plant material shall be planted over the entire greenbelt area, except that paving may be used in areas of intensive pedestrian circulation.
 - (3) A minimum of one deciduous tree or evergreen tree shall be planted for each 30 lineal feet or portion thereof of required greenbelt length. Required trees shall be at least five feet tall and may be planted at uniform intervals, at random, or in groupings.
 - (4) For each 50 linear feet or portion thereof of required greenbelt length, at least one ornamental spring flowering tree at least five feet in height shall be installed and maintained.
 - (5) Two 18-inch high or wide shrub shall be required for each 15 linear feet of greenbelt area. Required shrubs may be planted at uniform intervals, at random, or in groupings.
 - (6) For the purpose of determining required plant material, required greenbelt area length shall be measured along the exterior periphery of the greenbelt area inclusive of all driveways.
- c. *Berms.* Where required, earth berms or landscaped berms shall conform to the following standards:
- (1) The berm shall be at least three feet above the grade elevation, and shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal. For the purposes of this provision, grade elevation shall be the ground elevation at the property line adjacent to the proposed berm.
 - (2) The berm area shall be planted with grass or other suitable ground cover to ensure that it withstands wind and weather and retains its height and shape.
 - (3) A minimum of one deciduous or evergreen tree shall be planted for each 30 linear feet or portion of required berm.
 - (4) Eight shrubs per tree may be planted as substitute for trees (see item "3" above).
 - (5) Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.
 - (6) For the purpose of determining required plant material, required berm length shall be measured along the exterior periphery of the berm.
- d. *Evergreen screening.* Where required, evergreen screening shall consist of closely spaced plantings which form a visual barrier that is at least eight feet above ground level within five years of planting.
- e. *Landscaping of rights-of-way and other adjacent public open-space areas.* Public rights-of-way and other public open-space areas adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable ground cover and maintained by the owner of the adjacent property as if they were part of required landscaped areas and greenbelts.
- f. *Regulations pertaining to landscaping areas used for sight distance.* When a driveway intersects a public right-of-way or when the subject property abuts the intersection of public rights-of-way, all landscaping within the corner triangular areas described below shall permit unobstructed cross-visibility. Shrubs located in the triangular area shall not be permitted to grow to a height of more than two feet above the pavement grade at the edge of the pavement. Portions of required berms located within sight distance triangular areas shall also not exceed a height of two feet above the pavement grade at the edge of the pavement. Trees may be maintained in this area provided that all branches are trimmed to maintain a clear vision for a vertical height of eight feet above the roadway surface. Landscaping, except grass or ground cover, shall not be located closer than three feet from the edge of a driveway.

The triangular areas referred to above are:

- (1) The area formed at the corner intersection of a public right-of-way and a driveway, two sides of the triangle [triangular] area being ten feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two sides.
 - (2) The area formed at a corner intersection of two public right-of-way lines, the two sides of the triangular area being 25 feet in length measured along the abutting public rights of-way lines and the third side being a line connecting these two sides.
- g. *Maintenance of landscaping.* All required landscape areas shall be planted and maintained with living plant materials. All landscaping which is located more than 50 feet from a building site shall have an irrigation (water sprinkler) system installed to assist in maintaining plant materials in a healthy condition. Failure to maintain required landscaped areas, including the removal and replacement of dead or diseased plant materials, shall constitute a violation of this ordinance.

Section 1422. Plant materials.

Whenever in this ordinance planting is required, it shall be planted within six months from the date of completion of the building or improvement, and shall thereafter be reasonably maintained with permanent plant materials. Plastic and other nonorganic, nonliving plant materials shall be prohibited from use and shall not be in compliance with the spirit and intent of this ordinance.

- 1. *Plant material spacing.*
 - a. Plant materials shall not be placed closer than four feet from the fence line or property line except that shrubs may be planted no closer than two feet from the fence or property line.
 - b. Where plant materials are planted in two or more rows, plantings shall be staggered in rows.
 - c. Evergreen trees shall be planted not more than 30 feet on centers, except as provided in section 1222.3.d.
 - d. Narrow evergreens shall be planted not more than three feet on centers.
 - e. Deciduous trees shall be planted not more than 30 feet on centers.
 - f. Tree-like shrubs shall be planted not more than ten feet on centers.
 - g. Large deciduous shrubs shall be planted not more than four feet on centers.

2.	<i>Suggested Plant Materials</i>	<i>Minimum Size</i>	
	a.	Evergreen Trees	Six feet in height
		(1)	Hemlock
		(2)	Fir
		(3)	Pine
		(4)	Spruce
		(5)	Douglas-Fir
	b.	Narrow Evergreens	Four feet in height
		(1)	Column Honoki Cypress
		(2)	Blue Columnar Chinese Juniper
		(3)	Pyramidal Red-Cedar
		(4)	Irish Yew
		(5)	Douglas Arborvitae
		(6)	Columnar Giant Arborvitae

	c.	Tree-like Shrubs	Six feet in height
		(1)	Flowering Crab
		(2)	Russian Olive
		(3)	Mountain Ash
		(4)	Dogwood
		(5)	Redbud
		(6)	Rose of Sharon
		(7)	Hornbeam
		(8)	Hawthorn
		(9)	Magnolia
	d.	Large Deciduous Shrubs	Four feet in height
		(1)	Honeysuckle
		(2)	Viburnum
		(3)	Mock-Orange
		(4)	Forsythia
		(5)	Lilac
		(6)	Cotoneaster
		(7)	Hazelnut
		(8)	Euonymus
		(9)	Privet
		(10)	Buckthorn
		(11)	Sumac
	e.	Deciduous Trees	Two to three inch caliper
		(1)	Oaks
		(2)	Hard Maple
		(3)	Hackberry
		(4)	Birch
		(5)	Planetree (Sycamore)
		(6)	Ginkgo (male)
		(7)	Beech
		(8)	Sweet-Gum
		(9)	Honeylocust
		(10)	Hop Hornbeam
		(11)	Linden
3.	<i>Trees Not Permitted.</i>		
	a.	Box Elder	
	b.	Soft Maples (Red-Silver)	
	c.	Slippery Elms	
	d.	Poplars	
	e.	Willows	
	f.	Horse Chestnut (nut bearing)	
	g.	Tree of Heaven	
	h.	Catalpa	
	i.	Ginkgo (female)	

4. *Existing plant materials.* In instances where healthy plant material exists on a site prior to its development, the building official may adjust the application of the above standards to allow credit for

such plant material if such an adjustment is in keeping with, and will preserve, the intent of this section.

All existing plant materials must first be inspected by the building official to determine the health and desirability of such materials. In the event plant materials are to be saved, prior approval must be obtained from the building official before any delimiting, root pruning, or other work is done.

If such existing plant material is labeled "To Be Saved" on site plans, protective techniques, such as (but not limited to) fencing placed at the drip-line around the perimeter of the plant material, shall be installed. No vehicle or other construction equipment shall be parked or stored within the drip-line of any plant material intended to be saved.

In the event that healthy trees labeled "To Be Saved" on the approved site plan are destroyed or damaged, as determined by the building official, the owner, developer or contractor shall replace said trees with trees of comparable type.

Cross reference(s)—Vegetation, ch. 86Cross reference(s)—.

Section 1423. Screening walls.

1. For the use districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a single[-family] or two-family residential district an obscuring wall. The height of the wall shall be measured from the surface of the parking area or land on the nonresidential side of the wall:

	Use	Minimum Height Requirements
a.	Off-street parking Area	4'6" high wall (see also section 1409)
b.	R-3 (with 17 or more units), C-1, C-2, and O-1 districts	4'6" high wall
c.	I and MXD districts	4'6" high wall
d.	Open storage areas and loading and unloading zones	4'6" to 8'0" high wall or fence (see also sections 1412 and 1411)
e.	Trash receptacles	6'0" high wall (see also section 1425)
f.	Utility buildings, stations, and substations	6'0" high wall or fence

2. In the case of the variable wall height requirement in (d)[1.d] above, the extent of obscuring wall shall be determined by the planning commission on the basis of land usage, provided further that no wall or fence shall be less than the above required minimum, nor greater than the above required maximum height.
3. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this ordinance requires conformance with yard setback lines. Upon review of the site plan, the planning commission may approve an alternate location for the wall, or may modify the wall requirement by approving either an earth berm or evergreen screen in its place. The planning commission may also waive the wall requirement if in specific cases where cause can be shown that no good purpose would be served by the screening requirement.
4. Required walls shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this ordinance and except such openings as may be approved by the planning commission. All walls herein required shall be constructed of materials approved by the building official to be durable, weather resistant, and easily maintained.
5. The requirement for an obscuring wall between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than 200 feet distant from abutting residential district(s).

Section 1424. Fences.

1. *Scope.* The installation, erection, and/or maintenance of a fence is hereby prohibited except in strict compliance with this ordinance. A permit to be issued by the city clerk shall be obtained prior to installation or erection of any fence within the corporate limits of the City of Utica. Application shall be made upon a form provided by the building department and shall require such information as may be required by the city clerk. All applications for a fence permit shall be accompanied by a filing fee as may be established by city council resolution.
2. *Calculation of fence height.* The height of the fence shall be computed as the distance from the base of the fence at normal grade to the top of the highest component of the fence.
3. *Design requirements.*
 - a. *Residential fences.* All fences in areas zoned or used for residential purposes shall be of an ornamental type, and shall not be more than six feet in height, above the grade level. Any metal or masonry fence further shall not be more than four feet in height above grade level.
 - b. *Business, office, or commercial fences.* All fences in areas zoned or used for business, office, or commercial purposes shall be of an ornamental type, and shall not be more than six feet in height above grade level.
 - c. *Industrial fences.* All fences in areas zoned or used for industrial purposes shall not exceed eight feet in height above grade level.
 - d. *Fences separating single[-family] or two-family residential property from multiple-family residential property.* Areas zoned or used for multiple-family residential purposes, with five to 16 total number of units, which abut single[-family] or two-family property shall have erected upon said adjoining property line a fence or an ornamental type to be six feet in height above grade level.
 - e. *Fences for parks, schools, public buildings, etc.* The height and type of fences enclosing municipal parks, public and parochial school grounds, public building and church grounds or land used for playgrounds, parks, picnic groves, golf courses, golf driving ranges or similar facilities for outdoor exercise and recreation shall require the approval of the city council after receiving the recommendation of the building department.
 - f. *Fences required for swimming pools and ponds.* For the protection of the general public, any swimming pool, reflector pool, fish pond, lily pond, or artificially constructed body of water which contains 18 inches or more of water in depth at any point shall be enclosed by a fence not less than four feet in height above grade level. The gate(s) shall be of a self-closing and latching type, with the latch on the inside of the gate not readily accessible for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods; provided, however, that if the entire premises is enclosed with a fence of not less than four feet in height above grade level, this provision may be waived by the building department.
4. *Material specifications.* Fences shall be constructed of wood, metal or masonry, and other acceptable materials, excluding plastic interwoven weave designs. Only new material shall be used, which has been manufactured and/or treated in a manner to prevent rust and corrosion, and/or rot and decay.
 - a. All fences shall be constructed of a minimum of:
 - (1) Two-inch iron pipe; or
 - (2) Two-inch angle iron; or
 - (3) Four-inch wooden posts; or

(4) Four-inch reinforced concrete posts; or any other member having equal stability. All posts shall be sunk in the soil to a depth of at least three feet.

b. No person shall erect or cause to be erected a fence which is:

(1) Made with or upon which is fixed barbed wire; or

(2) Has any protective spike, nail, or sharp pointed object; or

(3) Charged with electric current;

Provided, however, that a fence in an industrial area may be erected with barbed wire on arms or brackets extending inward over such property upon application and approval by city council.

5. *Location.*

a. All fences must be located entirely on the private property of the person constructing the fence, provided that if the adjoining property owner(s) consent in writing to the construction of a fence on this property line, it may be so constructed. Such written consent shall be filed with the application for a permit.

b. No fence shall be erected between the front building line and the front property line of the premises, except decorative fences (does not include chain link fences) may be permitted in the front yard providing they do not exceed 30 inches in vertical height at the front property line (road right-of-way line) to a point (setback) of 15 feet from said property line. Decorative fences located beyond 15 feet from the front property line may not exceed 40 inches in vertical height. Decorative fences shall have openings of at least 30 percent of the total surface area, including all framing members, posts, and horizontal and vertical support members. Decorative fences, i.e., picket fences, shall not have pointed top ends. Said fences shall be designed with rounded or squared tops. Decorative fences in a front yard shall be subject to the requirements of section 1802, review and approval of conditional uses where appropriate; fees set by city council.

c. A fence may be erected parallel to the side street lot line of a corner lot provided it is located at least one foot inside the side street lot line and does not extend beyond the front building line into the front yard.

d. Privacy fences on private property and/or abutting a public street shall be constructed with the finished side (side with no framing materials, supporting posts, cross-members, etc. being visible) facing the property and/or properties adjacent to the property owner who is responsible for the fence.

6. *Maintenance of nuisance.* Fences must be maintained in a neat and safe condition, so as not to endanger life or property. Any fence which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance. The building department shall notify the owner, agent, or person in control of the property on which such fence is located of the existence of such nuisance and specify the required repairs or modifications to be made to render the fence safe or require that the unsafe fence or any portion thereof to be removed and shall provide a time limiting such repairs, modification, or removal.

7. *Existing fences.*

a. Fences presently in existence shall not be enlarged, rebuilt, or reconstructed without first having obtained a permit therefor from the building department. Such fences, when repaired or replaced, shall conform with all provisions of this ordinance.

b. Any newly rezoned property shall comply with all fence requirements for the newly zoned district.

c. Areas zoned or used for multiple-family residential purposes, with 17 or more total number of units shall comply with section 1423 upon a change in the nature of the property rights in the individual

units, such as rental apartments to condominiums, cooperatives, or townhouses to rentals or condominiums, or any similar type of change.

- d. In cases where the installation of a new fence is the replacement of an existing fence on the side street lot line of a corner lot, the fence may be installed in the same location as the existing fence provided that the fence remains entirely on the property for which it is intended.

(Ord. No. 129-11, 4-9-2002; Ord. No. 129-12, 10-14-2003; Ord. No. 129-19, 5-29-2007)

Section 1425. Screening of trash storage areas.

1. In all O-1, C-1, C-2, and MXD districts, there shall be provided an outdoor trash storage area. Any such area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. The requirement for such a trash storage area may be waived by the planning commission upon a finding that it is unnecessary due to the nature of the use, or owing to provisions for indoor trash storage.
2. In no instance shall any such refuse be visible above the required screening.
3. A screen wall in accordance with section 1423 of six feet in height shall enclose three sides of the storage area. Bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. The surface under any such storage area shall be constructed of concrete which complies with local building requirements.
4. Any such storage area shall be located in a rear yard and/or be so located and arranged as to minimize its visibility from adjacent streets and uses. The planning commission may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.
5. All trash storage areas and/or enclosures shall be located a minimum of ten feet from any building or structure.

Section 1426. Exterior lighting.

1. All outdoor lighting in all use districts other than residential shall be shielded so the surface of the source of the light shall not be visible from all adjacent residential districts, adjacent residences, and public rights-of-way.
2. Illumination guidelines shall be in accordance with the following standards:
 - a. *Street illumination.*

Street Hierarchy	Nonresidential		Residential	
	Lux	Footcandles	Lux	Footcandles
"Major"	12	1.2	6	0.6
"Collector"	8	0.8	4	0.4
"Local"	6	0.6	3	0.3

Major. The part of the roadway system that serves as the principal network for through traffic flow. The routes connect areas of principal traffic generation and important rural highways entering the city.

Collector. The distributor and collector roadways serving traffic between major and local roadways. These are roadways used mainly for traffic movements within residential, commercial, and industrial areas.

Local. Roadways used primarily for direct access to residential, commercial, industrial, or other abutting property. They do not include roadways carrying through traffic. Long local roadways will generally be divided into short sections by collector roadway systems.

b. *Parking illumination.*

		Vehicular Use Area Only			General Parking and Pedestrian Safety
Level of activity	Lux	Footcandles	Lux	Footcandles	
Low activity	5	0.5	2	0.2	
Medium activity	11	1.0	6	0.6	
High activity	22	2.0	10	0.9	

High activity. Examples include major-league athletic events, major cultural or civic events, regional shopping centers, and fast food facilities.

Medium activity. Examples include community shopping centers, office parks, hospital parking areas, transportation parking (airports, etc.), cultural, civic or recreational events, and residential complex parking.

Low activity. Examples include neighborhood shopping, industrial employee parking, educational facility parking, and church parking.

- All illumination shall not be of a flashing, moving, or intermittent type other than used in connection with a sign for the conveyance of noncommercial information which requires periodic change, such as time, temperature, or stock average.
- All illumination shall be constant in intensity and color at all times when in use.

Section 1427. Noise.

- No operation or activity shall be carried out in any district which causes or creates measurable noise levels exceeding the maximum sound pressure levels prescribed below, as measured on or beyond the boundary lines of the parcel on which the use is situated.

Maximum Permitted Sound Pressure Levels in Decibels

Octave band(cycles per second) (H2)	PR-1	
	Day	Night
00 to 74	76	70
75 to 149	70	62
150 to 299	64	56
300 to 599	57	49
600 to 1,199	51	44
1,200 to 2,399	45	39
2,400 to 4,799	38	33
4,800 and above	36	31

Maximum Permitted Sound Pressure Levels in Decibels (Post 1960 Preferred frequencies)

Center Frequency(Cycles Per Second) (H2)	PR-1	
	Day	Night
31.5	77	72

63	73	68
125	67	62
250	62	57
500	55	50
1,000	51	46
2,000	44	39
4,000	37	32
8,000	33	28

2. Sounds of very short duration, which cannot be measured accurately with the sound level meter, shall be measured by an impact noise analyzer; and the measurements so obtained may be permitted to exceed the maximum levels provided in the tables shown by no more than ten decibels. For purposes of this ordinance, impact noises shall be considered to be noises generated by sources that do not operate more than one minute in any one-hour period.
3. Where street traffic noises directly adjacent to the boundary line exceed these maximum permitted levels, the intensity levels permitted may then exceed those levels specified in the tables but may not exceed the level of the subject adjacent street traffic noise.
4. Sounds of an intermittent nature, or characterized by high frequencies, which the building official deems to be objectionable to adjacent land uses, shall be controlled so as not to generate a nuisance to adjacent land uses, even if the decibel measurement does not exceed that specified in those tables.
5. Noise resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section.

Section 1428. Satellite dish antenna.

1. A ground mounted satellite antenna shall be located only in the rear yard and shall be subject to the accessory structures setback requirements of the zoning district in which it is located, as measured at the property line to the nearest edge of the dish.
2. Not more than one satellite antenna shall be allowed on any single residential lot of record.
3. Any satellite dish antenna shall be installed and maintained with a screen that shall not interfere with the reception but will obscure the view from adjacent lots or streets.
4. No satellite dish antenna shall exceed 12 feet in diameter.
5. A roof mount location may be considered as an alternative to a ground mount for nonresidential structures. The maximum height of a roof mounted satellite antenna shall be not greater than 15 feet, including its base, nor shall the building and antenna exceed the maximum height permitted for a structure in its respective zoning district.
6. The satellite antenna and structural support shall be of noncombustible and corrosive resistant material.
7. All satellite antennas shall be grounded as required by the applicable building codes to alleviate electrical potential differences between exposed "dead" metal parts of the antenna and the premises A.C. electrical system.
8. Each satellite antenna shall be designed to withstand a wind force of 75 mph without the use of any supporting guide wires.
9. Wiring between a satellite dish and the receiver shall be placed at least 18 inches beneath the surface of the ground with a cable approved for direct burial.

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10. Any driving motor shall be limited to 100v maximum power design and be encased in protective guards. Any motor with operating voltage of more than 60v A.C. nominal shall comply with Article 430 of the National Electrical Code, as may be amended.
 11. A satellite antenna shall be permanently mounted. A satellite antenna may only be on wheels or temporarily installed when used to demonstrate and/or test the feasibility of use for no more than two weeks.
 12. No satellite dish antenna permanently mounted shall be used, nor contain a commercial or residential advertisement, except signs indicating the manufacturer, sales or servicing agent, the total of which shall not exceed 20 square inches.

Cross reference(s)—Telecommunications, ch. 74Cross reference(s)—.

Section 1429. Private swimming pools.

1. For permanent above[ground] or belowground swimming pools, and for portable pools with a diameter exceeding 12 feet or an area exceeding 100 square feet, a building permit must be obtained for its alteration, erection, and construction. Before a permit is issued, an application shall be approved by the enforcing official (building official or authorized representative). An application is not required for a wading pool. An application for a permit should provide the following information: name of the owner, plot plan specifying dimensions, site location of the pool, as well as nearby fences, buildings, gates, septic tanks, tile fields, public utilities, and easements. The application for a belowground pool must include plans and specifications to scale of the pool walls, slope, bottom, walkway, diving boards, type and rating of auxiliary equipment, piping, and valve layout.
2. Rear and side lot line setbacks shall not be less than ten feet between the pool outside wall and the side or rear property line, and not less than ten feet between pool wall and any building on the lot.
3. With regard to overhead electrical or telephone wires, a distance of not less than ten feet horizontally from the waters edge shall be enforced. Under no circumstances shall wire of any kind cross over the water surface.
4. A swimming pool shall not be less than 25 feet horizontally to any semi-public water well, unless a shorter distance is approved by the county health department.
5. A distance of at least three feet horizontally must be maintained from a permanent pool to any sewer. There shall be ten feet horizontally to a septic tank and tile field or other treatment facility, provided the water level in the pool is one foot or more above the ground surface elevation of such treatment facility.
6. A distance of three feet shall be provided from any portion of the pool to any underground water, electrical, telephone, gas, or other pipes and conduits, except for parts of the swimming pool system.
7. No yard containing a swimming pool or wading pool shall be constructed or maintained unless such swimming pool is entirely enclosed by a building, wall, and/or fence. The minimum height of all parts of the fence or wall, including gates, shall be four feet in height, and not more than six feet in height, measured from grade. The fence shall be designed and constructed so as to make the pool inaccessible to children by climbing or entering through the fence openings. The fence must be no closer than ten feet to the waters' edge. All openings in any such fence or building shall be equipped with a self-closing, self-latching gate or door which shall be securely locked with a tamper-proof lock when the pool is not in use.
8. A private swimming pool shall be located only in the rear yard.

Section 1430. Conditional (contract) zoning overlay option.

1. *Intent.* It is recognized that there are certain instances where it would be in the best interest of the City of Utica, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of section 405 of the Michigan Zoning Enabling Act of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. It is further the intent of this option to be an overlay zone to the underlying zoning district.
2. *Application and offer of conditions.*
 - a. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning application is requested. The land owner shall attend a pre-application meeting with the city's mayor and planner prior to offering any written conditions that are part of an application for rezoning. In addition, the following shall apply:
 - (1) The uses allowed under the proposed rezoning shall be compatible with city's general development plan (master plan) and compatible with other zones and uses in the surrounding area.
 - (2) Public services and facilities shall not be significantly or adversely impacted by a development or use allowed under the requested rezoning.
 - (3) The uses allowed under the proposed rezoning shall be equally or better suited to the area than uses allowed under the current zoning of the land.
 - b. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
 - c. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 - d. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is being requested.
 - e. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.
 - f. No variance(s) shall be made in connection with a use or development authorized by the provisions of this section for a conditional rezoning.
 - g. Any use or development proposed as part of an offer or conditions that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.
 - h. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its owners offer of conditions any time prior to final rezoning action of the city council provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.

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3. *Planning commission review.* The planning commission, after a public hearing and consideration of the factors for rezoning set forth in article XXII of this ordinance, may recommend approval, approval with recommended changes or recommend denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner. Should the owner fail to offer the recommended changes provided by the planning commission, the planning commission shall recommend a denial of the conditional rezoning to the city council.
 4. *City council review.* After receipt of the planning commission's recommendation, the city council shall deliberate the conditional rezoning request and may approve or deny the request. The city council's deliberations shall include, but limited to, a consideration of the factors for rezoning set forth in article XXII of this ordinance. Should the city council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the city council shall, in accordance with section 401 of the Michigan Zoning Enabling Act (MCL 125.3401), refer such amendments to the planning commission for a report thereon within a time specified by the city council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.
 5. *Approval.*
 - a. If the city council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the city council to accomplish the requested rezoning.
 - b. The statement of conditions shall:
 - (1) Be in a recordable form that is acceptable to the Macomb County Register of Deeds.
 - (2) Contain a legal description of the land to which it pertains.
 - (3) Contain a statement acknowledging that the statement of conditions run with the land and is binding upon successor owners of the land providing the use or development remains consistent with conditional rezoning statement of conditions.
 - (4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - (5) Contain a statement acknowledging that the statement of conditions shall be recorded by the owner with the Macomb County Register of Deeds and further that the owner provide to the City of Utica an affidavit from the Macomb County Register of Deeds giving notice that the statement of conditions have been duly registered.
 - (6) Contain the notarized signatures of all the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
 - c. Upon the rezoning taking effect, the city's zoning map shall be amended to the new zoning classification along with a designation that the land was with a statement of conditions. The city clerk shall maintain a listing of lands rezoned with a statement of conditions.
 - d. The approved statement of conditions shall be filed by the owner with the Macomb County Register of Deeds and the owner shall provide the City of Utica an affidavit from the Macomb County Register of Deeds giving notice that the statement of conditions have been duly registered.

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- e. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any provisions contained in the statement of conditions.
6. *Compliance with conditions.*
 - a. Any person who establishes a development or commences a use upon the land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this zoning ordinance as set forth in article XXVI and be punishable accordingly. Additionally, any such violation shall be deemed a public nuisance per se and subject to judicial abatement as provided by law as set forth in article XXVI of this ordinance.
 - b. No permit or approval shall be granted under this ordinance for any use or development that is contrary to an applicable statement of conditions.
 7. *Time period for establishing development or use.* Unless another time period is specified in the statement of conditions rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 12 months after the rezoning took effect and thereafter proceed diligently to completion. This time period shall not be extended regardless of any circumstances offered by the owner.
 8. *Reversion of zoning.* If the approved development and/or use of the rezoned land does not occur within the time frame specified under subsection 7. above, then the land shall revert to its former zoning classification as set forth in section 405 of the Michigan Zoning Enabling Act of 2006, as amended. The reversion process shall be initiated by the city council requesting that the planning commission proceed with consideration of rezoning of the land to its former rezoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
 9. *Subsequent rezoning of land.* When land that has been rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different statement of conditions or without statement of conditions, whether as a result of a reversion of zoning pursuant to subsection 8. above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Once the statement of conditions ceases to be in effect, the city clerk shall record a notice with the Macomb County Register of Deeds that the statement of conditions is no longer in effect.
 10. *Amendment of conditions.*
 - a. During the time period for commencement of an approved development or use specified pursuant to subsection 7. above, the city shall not add to or alter the conditions in the statement of conditions.
 - b. The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.
 11. *City right to rezone.* Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of the land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act of 2006, as amended.
 12. *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this ordinance.

(Ord. of 11-9-2010)

Section 1431. PUD ordinance.

1. *Intent.*
 - a. The intent of this section is to encourage innovation and to allow more efficient use of land through the use of regulatory flexibility in the consideration of proposed land uses within the city consistent with the requirements of the city's master land use plan. It is the further intent to replace the usual approval process involving rigid use and bulk specifications by the regulations contained in this section and by the utilization of an approved development plan.
 - b. The planned unit development (PUD) permitted under this section shall be considered as an option to the development permitted in all zoning districts and shall be mutually agreeable to the developer and the city. Development under this section shall be in accordance with a comprehensive physical development plan establishing functional use areas, density patterns, and vehicular and pedestrian circulation systems. The development is to be in keeping with the physical character of the city and the area surrounding the proposed development, preserving as much natural vegetation and terrain as possible.
2. *General requirements for PUD.* PUDs may be permitted after review and recommendation of the conceptual development plan by the planning commission and approval of the city council in accordance with the procedures set forth herein and after public hearings on the concept plan have been held by the planning commission and the city council, subject to the following conditions:
 - a. *Basic land conditions.*
 - (1) PUDs may be permitted in all zoning districts.
 - (2) The site area used for computing density shall consist of land that is under single ownership or control.
 - (3) The proposed development must be in basic accord with the intent of the PUDs.
 - (4) The city may also qualify sites where an innovative, unified, planned approach to developing the site would result in a significantly higher quality of development, the mitigation of potentially negative impacts of development, or more efficient development than conventional zoning would allow.
 - b. *Uses permitted.*
 - (1) All uses permitted as principal uses permitted, or special approval land uses and accessory uses permitted in all zoning districts. Multiple uses contained in a PUD must be complementary in nature. If a PUD includes residential uses, the housing types may be clustered to preserve common open space, in a design not feasible under the underlying zoning district regulations. The PUD must provide a complementary variety of housing types and/or a complementary mixed-use plan of residential and/or non-residential uses that is harmonious with adjacent development.
 - c. *Residential density.*
 - (1) The maximum permitted densities within a PUD shall be governed by the zoning district in which it is located. The overall dwelling density for single or multiple family residential districts cannot exceed the maximum dwelling unit density computed for the entire gross site area based on the allowable density of the underlying zoning district.
 - (2) At the discretion of the city council, after review and recommendation by the planning commission, the maximum density permitted may be increased, by up to 25 percent of the

permitted zoning density within that district, provided that the development meets the intent and all other standards of the PUD provisions and all other city ordinances.

- (3) A majority of the proposed residential units within all residential districts must be developed as either single family, two-family, or multiple family as determined by the underlying zoning.

d. *Mixed use and commercial PUDs.*

- (1) A PUD may include residential and non-residential uses as determined by the city council after review and recommendation of the planning commission. The use of creative development concepts including mixed uses and green infrastructure should be used to create commercial nodes and gateways and facilitate renovation of existing retail centers as opposed to creating strip commercial centers and large surface level parking areas along major thoroughfares.
- (2) Setback and other dimensional requirements of the underlying zoning district(s) shall be used as guidelines for reviewing a proposed mixed-use or commercial PUD, which requirements may be modified by the city council to achieve the intent of the PUD after review and recommendation of the planning commission.
- (3) Permitted commercial uses shall be limited to those determined by the city council after review and recommendation of the planning commission, to be suitable for the site and compatible with the surrounding area. Any uses listed as special approval land uses shall be required to comply with specific conditions relating to such uses, although no additional review process is needed, other than the PUD approval process.
- (4) Attached residential units may be permitted as a transitional use between commercial uses and lower density residential in a mixed-use PUD where the underlying zoning is commercial.
- (5) Elderly housing may be permitted in a mixed-use or commercial PUD. The permitted dwelling unit density of the elderly housing component shall be evaluated based upon the type of elderly housing proposed (i.e., independent, assisted, etc.), the conditions of the site, anticipated traffic impacts, and character of surrounding uses and the neighborhood.

e. *Design and layout conditions.* The planning commission and city council shall use any applicable standards for approval contained in city ordinances related to land use and any adopted development guidelines.

- (1) Where a planned or proposed major, secondary, or collector thoroughfare is included partially or wholly within the project area of a PUD, such portion of the roadway shall be provided as a public right-of-way with the width standards as stated in the master road plan for the right-of-way. The alignment of the roadway shall be in general conformance to the proposed alignment as shown on the master plan.
- (2) In order to provide an orderly transition of density, where the project being proposed for use as a PUD immediately abuts a residential district, (not including districts separated by a major thoroughfare), the city may require that the area immediately abutting the district shall be developed with a like development or landscaped open space.
- (3) Site design standards should include frontage beautification, buffering devices, landscaping, green infrastructure and storm water treatment, pedestrian amenities, walkway linkages, controlled vehicular access, and attractive signage.

(f) *Area, height and bulk conditions.*

- (1) All yards, height, bulk, minimum floor area, lot coverage, lot area, and lot width requirements for single-family development shall be in conformance with the requirements of the applicable

zoning districts, including special development options, unless otherwise modified by the approved development plan.

- (2) All yards, height, bulk, minimum floor area, and lot coverage requirements for multiple-family and attached development shall meet the requirements of C-1, C-2, MXD and DMXD districts, as applicable, unless otherwise modified by the approved development plan.
 - (3) All other uses permitted within the applicable districts shall be subject to the requirements of the respective districts unless otherwise modified by the approved development plan.
3. *Submittal procedures and conditions.* Two distinct steps are required to develop a parcel of land as a PUD development: approval of the concept plan and site plan approval. Any person owning or controlling land may make application to the city council for consideration of a PUD. In order to adequately review the site plan, the applicant shall be required to submit the following materials to the city:
- a. *Submittal of proposed PUD concept plan.* The proposed PUD concept plan shall contain at least the following:
 - (1) A boundary survey of the exact acreage being requested done by a registered land surveyor or civil engineer (Scale: 1 inch = 200 feet).
 - (2) A current aerial photograph of the area shall be provided (Scale: 1 inch = 200 feet).
 - (3) Application form and required fee.
 - (4) A narrative indicating the period of time within which the project will be completed.
 - (5) A site plan with four-sided elevations showing a layout of the uses and structures in the PUD and their locations including:
 - (a) Layout of proposed land use, acreage allotted to each use, residential density overall and by underlying zoning district, and generalized building footprints;
 - (b) Roads, parking areas, drives, driveways, and pedestrian paths;
 - (c) Building setbacks and spacing;
 - (d) General location and type of landscaping proposed;
 - (e) Any significant woodlands that will be preserved;
 - (f) A preliminary layout of the storm water drainage plan, including detention or retention pond locations;
 - (g) Locations of public or private utilities; and
 - (h) Identification of each phase, if a multi-phase development is proposed.
 - (6) Any additional graphics or written materials reasonably requested by the planning commission or city council to assist in determining the impacts of the proposed site plan, including, but not limited to, economic or market studies; impact on public primary and secondary schools and utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction costs.
 - b. *Planning commission review of proposed PUD plan.* Upon receipt of an application by the city, such request shall be referred to the planning commission for its review and recommendation. In its review, the planning commission shall consider the following:
 - (1) That all applicable provisions of this section have been met. Insofar as any provision of this section shall be in conflict with the provisions of any other section of this code, the provisions of this section shall apply to the lands embraced within a PUD area.

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- (2) That adequate areas have been provided for all utilities, walkways, recreational areas, parking areas and other open spaces, and areas to be used by the public or by residents of the community.
 - (3) The plan provides for an efficient, aesthetic, and desirable use of the open areas and the plan is in keeping with the physical character of the city and the area surrounding the development.
 - (4) Upon finding that the conditions outlined above have been satisfactorily met, the planning commission will within a reasonable time forward its report and recommendation to the city council.
- c. *Approval of PUD concept plan.* Upon receipt of the report and recommendation from the planning commission, the city council shall hold a public hearing and consider whether or not all conditions have been satisfactorily met
- (1) The city council shall review the conceptual plan, together with the findings of the planning commission, and shall approve, approve with conditions, or deny the conceptual plan.
 - (2) Once an area has been included within a plan for a PUD that has been approved by the city council, no development may take place in such area nor may any use thereof be made except in accordance with a city council approved amendment thereto.
 - (3) The owner must receive final site plan approval for the proposed development within 12 months of approval of the conceptual plan, obtain a building permit within 18 months of conceptual plan approval, and complete development of the PUD within 30 months of conceptual plan approval. This time limitation may be extended by the city council in response to a request from the owner.
 - (4) Approval of the concept plan by the city council shall not constitute final site plan approval. Approval of the conceptual plan shall serve as a guide in the preparation and review of the final site plan.
4. *Site plan review.* Upon approval of the PUD conceptual plan by the city council, a site plan review is required in accordance with ordinance site plan review requirements and procedures prior to the issuance of building or zoning compliance permits. Site plans shall also provide the following:
- a. Structural outline (building envelope) of all structures proposed on the site;
 - b. Architectural renderings of building facade elevations, typical floor plans and topography shall be drawn at a two-foot contour interval. Elevation drawing shall be drawn to scale. Where more than one type of structure or design is intended, the sample elevation and corresponding floor plans of each type shall be submitted;
 - c. A plan identifying the areas to be dedicated as open space and recreational use showing access, location and any improvements. To assure the permanence of the open space and its continued maintenance, the developer shall provide a proposed open space agreement for review and approval by the city attorney. The open space agreement must be in a form satisfactory to the city and shall include the following:
 - (1) The proposed manner of holding title to the open space;
 - (2) The proposed manner of payment of taxes;
 - (3) The proposed method of regulating the use of open space;
 - (4) The proposed method of maintenance of the open space area and the financing thereof;
 - (5) Any other facts relating to the legal or practical problems of ownership and maintenance of the open space;

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- d. The location of access drives, streets, off-street parking areas, and sidewalks;
 - e. A landscape plan showing location, extent and type of plantings and screening in accordance with the zoning ordinance.
5. *Regulatory flexibility.* The city council may increase, decrease, waive, or otherwise modify the current standards within the zoning ordinance including, but not limited to: Use, density, intensity, setbacks, building heights, parking, design standards, project design standards, and landscape standards provided the modification is found to improve the quality of development above and beyond what could be developed under the underlying zoning, or results in a higher level of public benefit, and to achieve the purpose of this article. The zoning board of appeals shall have no variance authority for PUD projects.

(Ord. of 12-11-2018)

ARTICLE XV SIGN REGULATIONS⁹

Section 1500. Statement of purpose.

These regulations establish rules and standards for the construction, location, maintenance and removal of all signs except those exempted from regulation by this ordinance. Directional, emergency, or traffic related signs owned by city, county, state or federal government agencies are not regulated by this section. The execution of these regulations recognizes that the purpose of this chapter is to protect the interest of public health, safety and welfare and to ensure the maintenance of an attractive physical environment while satisfying the needs of sign users for adequate identification and communication.

(Ord. of 6-14-2016 ; Ord. of 9-10-2019)

Section 1501. Exempt signs.

The following shall be deemed to be excluded from the definition of "sign" as it applies to this ordinance:

1. Any single sign with an area of one square foot or less limited to two per premises.
2. Building markers, plaque signs, tenant directory signs, affixed restaurant menu signs, canopy signs pursuant to section 1504.2, memorial tablets, historic designation signs or signs of a similar fashion.
3. Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal devices, or warnings at railroad crossings.
4. Signs required to be maintained by law or governmental order, rule or regulation; provided that they do not exceed 48 square feet.
5. Traffic control devices on private or public property, installed and maintained to comply with the Michigan Manual on Uniform Traffic Control Devices, and, if not, covered, with the Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration.
6. Wall murals and similar graphics, subject to the review and approval of the city council.

(Ord. of 6-14-2016 ; Ord. of 9-10-2019)

Section 1502. Prohibited signs.

It shall be unlawful for any person to erect, maintain, relocate or keep any sign as defined in this section.

1. A sign which copies or imitates or in any way approximates an official highway sign or carries the words "stop" or "danger;" or any sign which obscures a sign displayed by public authority for the purpose of giving traffic instruction or direction or other public information.

⁹Editor's note(s)—Ord. of 6-14-2016 Editor's note(s)—amended Art. XV in its entirety to read as herein set out. Former Art. XV, §§ 1500Editor's note(s)—1507, pertained to similar subject matter and derived from Ord. of 1-14-2014.

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2. A sign which displays flashing or intermittent lights or lights of changing degrees or intensity unless each interval in the cycle is eight seconds or more and the sign does not constitute a traffic hazard.
 3. A sign which obstructs any window or door opening used as a means of egress or prevents free passage from one part of a roof to any other part thereof. A sign which interferes with an opening required for legal ventilation.
 4. A sign or illumination that causes any direct glare into or upon any building or property, other than the building or property to which the sign is accessory to.
 5. Pennants, string flags, spinners, streamers and inflatable signs.
 6. Except as may otherwise be provided in this section, no sign or any portion thereof shall be permitted which moves or assumes any motion constituting a nonstationary condition.
 7. Abandoned signs.
 8. Signs which are of a size, location, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal which obstruct the view in any direction at a street or road intersection.
 9. Signs which contain statements, words, or pictures of an obscene, pornographic, or immoral character.
 10. Signs which are painted on any fence.
 11. Signs which emit audible sound, odor, or visible matter.
 12. Marquee signs.

(Ord. of 6-14-2016 ; Ord. of 9-10-2019)

Section 1503. General provisions.

Except as otherwise provided, the following conditions shall apply to all districts and sign types:

1. *Applicability and effect.* Signs shall be permitted which are in accordance with:
 - a. The general provisions of the sign ordinance.
 - b. Section 201. Definitions.
 - c. Section 1504. Schedule of regulations.
 - d. The sign regulations for the district in which the sign is to be located.
 - e. All applicable provisions of the building and electrical codes of Utica as adopted, and all amendments thereto.
2. *Interpretation.* In this interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements necessary for the promotion and protection of the public health, safety, and welfare.
3. *Existing agreements.* This ordinance shall not abrogate any private agreement, provided that where the regulations of this ordinance are more restrictive or impose higher standards than such private agreements, the provisions and requirements of this ordinance shall govern.
4. *Substitution clause.* Noncommercial signs are allowed in all districts and may be substituted for any sign expressly allowed under this ordinance.
5. *Separability.* In accordance with the following, it is hereby declared that the several provisions of this ordinance are separable:

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- a. If any court of competent jurisdiction determines any provisions of this ordinance to be invalid, such determination shall not affect any other provision of this ordinance, not specifically included in the court's judgment order.
 - b. If any court of competent jurisdiction determines any provision of this ordinance to be invalid as applied to any particular sign, such determination shall not affect the application of such provisions to any other sign not specifically included in the court's judgment order.
6. *Sign permits.*
- a. Prior to the erection or structural alteration of any sign, a building permit shall be secured from the city.
 - b. Application for initial sign permits shall be made upon forms provided by city and shall contain or have attached thereto the following information:
 - (1) Name, address, and telephone number of the applicant.
 - (2) Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
 - (3) Position of the sign or other advertising structure in relation to nearby buildings or structures.
 - (4) Detailed sign plan in paper or electronic files (Adobe Acrobat PDF format) detailing the plans, specifications, building materials, method of construction and attachment to the building or to the ground.
 - (5) Name of person, firm, corporation or association erecting the structure.
 - (6) Written consent of the owner of the building, structure or land to which or on which the structure is to be erected.
 - (7) Any building, electrical or structural permits required and issued for said sign. Application requesting the permits for the proposed sign must accompany the sign application.
 - (8) Such other information as the city shall require showing full compliance with the city ordinance.
 - c. Every applicant, before being granted a permit hereunder, shall pay to the city a permit fee for each sign or other advertising structure regulated by this chapter as may be established, by resolution, by the city council.
 - d. It shall be the duty of the city, upon the filing of an application for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure is in compliance with all the requirements of this chapter and all other laws and ordinances of the city, the city shall then issue the erection permit. If the work authorized under an erection permit has not been completed within 12 months after date of issuance, the said permit shall become null and void.
 - e. All rights and privileges acquired under the provisions of this ordinance or any amendment thereto are mere licenses revocable at any time by the city council.
7. *Computations.* The following principles shall control the computation of sign area (sign face), height, bulk, and placement.
- a. *Computation of area of individual signs.* The area of any sign shall be calculated as the area that includes any shape, writing representation, emblem, or colors used to display the sign's intended

message. This does not include any supporting structure, framework, bracing, or wall that otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

- b. *Computation of area of multi-faced signs.* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back-to-back, or similarly so that both faces cannot be viewed from any one point at the same time, the sign area shall be computed by the measurement of one of the faces.
 - c. *Computation of height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction; or, (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoning lot, whichever is lower.
8. *Placement, height and number restrictions.*
- a. No sign may extend above any parapet or roofline except as provided herein this chapter.
 - b. No sign may be located within the clear vision area or in a location deemed to be obstructive to motorists and non-motorist's vision of traffic or of traffic control signals as identified by city officials.
 - c. Except as otherwise provided herein this chapter, all signs must be setback a minimum of five feet from the property line and a minimum of five feet from any access drive.
 - d. Except as may be otherwise provided herein this chapter, the following sign number standards shall be applied to each business and/or parcel:
 - (1) There shall not be more than one freestanding sign for any one business or parcel with frontage on a single public street or two freestanding signs for anyone business or parcel with frontage on two or more public streets.
 - (2) There shall not be more than three total signs allowed for any one business or parcel unless said parcel consists of a multitenant or strip commercial styled development in which case each tenant is permitted one sign per business space.
 - e. In the case of multiple story buildings, the following regulations shall be applied:
 - (1) Ground floor tenants shall place signs at the storefront level, below the expression line separating the ground floor from the upper floors.
 - (2) Upper story tenants may only display window signs. Such window signs shall comply with section 1504.6 of the ordinance.
 - (3) A directory sign shall be permitted at ground level entrances and are exempt from the counting of total number of signs permitted per business or parcel.
9. *Building identification.* All buildings, including residential, shall have permanent conspicuous addresses with text that is legible. Residential properties must have text that is at least four inches in height; all other properties must have text that is at least eight inches in height. The city may require supplemental building identification or modify the size or location of such identification as deemed necessary to insure that each and every building is properly identified.

10. *Changeable messaging center (electronic and non-electronic) and electronic display screen.* The use of changeable messaging centers or electronic display screens are permitted in the design of monument and pylon signs provided:
 - a. The changeable message component of the sign shall not exceed 50 percent or 30 square feet of the total sign area, whichever is more restrictive.
 - b. The electronic message or image shall not change more frequently than once every eight seconds. Changes between messages shall be accomplished within one second or less.
 - c. The sign shall not contain full motion video or moving images.
 - d. The image or message shall not flash or scroll. Flashing, blinking or other visual effects are prohibited.
 - e. The LED or other light source of the electronic message board shall not be illuminated beyond the default settings of the manufacturer's brightness or dimming controls, nor create cross-boundary glare or have characteristics that impair the vision of motorists or pedestrians, or create nuisance for surrounding parcels. Solid white display backgrounds are prohibited.
 - f. The sign shall have automatic dimming capabilities that adjust to the brightness of the sign to the ambient light levels at all times of the day and night.
11. *Materials.* Materials chosen and design selected for signs shall be consistent with the architectural design of the building they identify. All signs shall be maintained in a condition similar to that which existed at the time of their erection. At the least, all signs and all awnings shall be kept clean, free of missing or loose parts, free of blistering or peeling paint, and without missing or obsolete sign panels.
12. *Abandoned signs.* All signs that are obsolete, due to the discontinuance of the business or activity advertised thereon, shall be removed within 30 days of the closure of said business or activity.

(Ord. of 6-14-2016 ; Ord. of 9-10-2019)

Section 1504. Schedule of regulations—Permitted signs (non-temporary).

(As defined under section 201, definitions).

The following chart specifies those districts where the following signs are permitted.

Sign Types	Zoning Districts							
	Residential R1-A, R1-B, R-2, R-3	Office O-1	Central Business District C-1	General Business C-2	Downtown Mixed Use DMXD	Mixed Use MXD	Industrial I	Vehicular Parking P-1
Billboard	N	N	N	N	N	N	Y	N
Canopy	N	Y	Y	Y	Y	Y	Y	N
Changeable Messaging Centers	N *see 1503(3)g	Y	N	Y	N	Y	Y	N
Monument	N *see 1504(3)f	Y	Y	Y	Y	Y	Y	N
Pylon	N	Y	N	Y	N	Y	N	N
Wall	N	Y	Y	Y	Y	Y	Y	N
Window	N	Y	Y	Y	Y	Y	Y	N
Projecting/Hanging	N	N	Y	Y	Y	Y	N	N

1. *Billboards (non-accessory signs).*

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- a. Shall not exceed 250 square feet in area.
 - b. Maximum height of a billboard shall not exceed 50 feet.
 - c. Shall not be less than 250 feet from any residential use.
 - d. Shall be at least 1,000 feet from another billboard.
 - e. No digital billboards or electronic display screens are permitted within the City of Utica.
 - f. Shall follow all Michigan Department of Transportation and Federal Highway Administration regulations where applicable.
2. *Awning and canopy signs.*
 - a. Canopies shall not project more than eight feet into the right-of-way but in no case closer than six feet to the curb line, or 18 feet from the pavement edge in case the pavement is not curbed.
 - b. A minimum under clearance of the sidewalk of eight feet shall be maintained.
 - c. Canopies hereafter erected shall, whenever practicable, match the established under clearance, height and projection of canopies which exist on abutting parcels.
 - d. Sign lettering and logos shall not comprise more than 30 percent of the total exterior surface of an awning or canopy.
 - e. Awnings and canopies may not be back-lit or contain any other kind of interior illumination.
 3. *Monument signs.*
 - a. Shall not exceed a sign surface area of 75 square feet on lots with less than 200 feet of linear road frontage.
 - b. Lots exceeding 200 linear feet of road frontage shall not exceed a sign surface area of 100 square feet.
 - c. Except as may otherwise be provided herein, monument signs shall be set back a minimum of five feet from any property line.
 - d. Monument signs may not exceed a height of five feet in the DMXD District, and eight feet in height in all other permitted districts.
 - e. No use may have more than one monument sign unless the development is located on a corner lot that fronts more than one major thoroughfare. In such cases one monument sign may be permitted on each road thoroughfare.
 - f. Monument signs are permitted in residential districts for the following uses: parks, institutional, civic, and to identify entrances to apartments, condominiums and subdivisions.
 - (1) The maximum sign area of each sign shall not exceed 40 square feet.
 - (2) The maximum height shall not exceed five feet.
 - g. Monument signs are permitted to have a changeable messaging center adhering to the standards set forth in section 1503(10)a—g governing changeable messaging centers (electronic and non-electronic).
 4. *Pylon signs.*
 - a. Shall not exceed a sign surface area of 50 square feet.
 - b. Except as otherwise provided herein, pylon signs shall be set back a minimum of five feet from any property line.

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- c. Pylon signs may not exceed a height of 20 feet. Pylon signs located on property which abuts both a controlled access highway and state or federal numbered highway may be erected above the plane of the pavement of the highest road at the intersection, provided such sign does not exceed a maximum of 40 feet in height.
 - d. Pylon signs are permitted to have a changeable messaging center adhering to the standards set forth in section 1503(10)a—g governing changeable messaging centers (electronic and non-electronic).
5. *Wall signs.*
- a. *Central business district (C-1), general commercial (C-2), office (O-1) and industrial (I) district requirements.*
 - (1) Flat wall signs may not project above the roof or parapet line and may not project more than 14 inches beyond the face of the wall of the building.
 - (2) Wall signs shall be attached to, and be parallel to, the wall of the building.
 - (3) Wall signs shall be limited in number to one wall sign per business for each wall having an individual means of access or is oriented towards and is visible from a public right-of-way. The maximum size of any such sign shall not exceed 15 percent of the building facade or 200 square feet, whichever is more restrictive.
 - (4) In the instance of several tenants utilizing a common public entranceway, an individual wall sign may be permitted for each business, placed over the common entrance so long as the total square footage of said signs does not exceed 15 percent of the building façade or 200 square feet, whichever is more restrictive.
 - b. *Mixed use development (MXD) requirements.*
 - (1) Flat wall signs may project above the roof or parapet line, though not more than five feet, and may not project more than 14 inches beyond the face of the wall of the building.
 - (2) Wall signs shall be attached to, and be parallel to, the wall of the building.
 - (3) Wall signs shall be limited in number to one wall sign per business for each wall having an individual means of access or is oriented towards and is visible from a public right-of-way. The maximum size of any such sign shall not exceed 15 percent of the building façade or 300 square feet, whichever is more restrictive.
 - c. *Downtown mixed use (DMXD) development requirements.*
 - (1) The wall sign dimensional and placement standards as regulated by section 1504(5)a of this ordinance shall be applied to all DMXD sign applications.
 - (2) Signs shall be integrated with the building architecture in terms of size, shape, color, character, materials and lighting so that signs are compatible with the overall building design.
 - (3) Signs shall be constructed using durable, high-quality architectural materials. Examples of materials include, but are not limited to, treated wood, metal, stone such as slate, marble, sandstone, brick or gilded or sandblasted glass.
 - (4) Sign colors shall blend with the building and storefront colors by selecting from complementary color ranges. Florescent or neon colors, or over-scaled letters shall not be used.
 - (5) Back-lit, halo-lit illumination, or reverse channel letters with halo illumination are recommended for lighting purposes. Such signs convey a subtle and attractive appearance and are legible using a warm light, similar to sunlight. Lighting of signs shall avoid creating glare or light distribution that adversely affects motorists or pedestrians or surrounding properties.

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- (6) For all newly constructed or exteriorly renovated buildings, an overall building sign design plan demonstrating the proposed aesthetic and structural qualities of the sign shall be approved by the historic district commission and the city planning commission.
 - d. Painted wall signs are subject to the dimensional requirements of the district that the parcel falls within.
6. *Window signs.*
- a. Window signs may be permitted on the building's primary or secondary store fronts. Window signs will be exempt from the calculation of the total number of signs allowed per business and/or parcel referenced in Section 1503.8(d) so long as the window sign does not exceed 50 percent of the total building window façade. If a window sign exceeds 50 percent of the total building window façade, the window sign will count as one of the three total permitted signs referenced in section 1503.8(d).
7. *Projecting/hanging signs.*
- a. A projecting/hanging sign is a sign that is affixed to the face of a building or structure that projects in a perpendicular manner from the wall or surface of the building. The following standards shall be applied to the design and regulation of said window signs:
 - (1) A projecting sign shall be small in scale, no greater than eight square feet in area, and provide for a minimum vertical clearance of eight feet and maximum vertical clearance of ten feet between the lowest point of the sign and the sidewalk.
 - (2) Mounting and hanging hardware shall be both attractive and durable, resistant to weathering, fire hazard and corrosion.

(Ord. of 6-14-2016 ; Ord. No. 1500A, § 2, 6-14-2016 ; Ord. of 9-10-2019)

Section 1505. Schedule of regulations—Permitted temporary signs.

Temporary sign. A free-standing sign, banner or other device, constructed of cloth, canvas, fabric, plastic, wood, paper or other material, with or without a structural frame, or any other sign intended for a limited period of display.

- 1. No permit shall be required for signs enumerated as follows by this paragraph. Such exemptions, however, shall not be construed to relieve the owner of the sign from responsibility for its proper location, erection and maintenance. The following shall be applicable to all exterior temporary signs:
 - a. Temporary signs(s) may be located only on private property with the property owner's permission.
 - b. Temporary signs(s) shall be setback not less than five feet from any property line, and in a manner so as not to project into or overhang any public right-of-way, driveway or sidewalk.
 - c. The location of a temporary signs(s) shall not impede on-site or off-site vehicular or pedestrian traffic.
 - d. *Size (area) limitations:* the total combined area of all temporary signs shall not exceed 12 square feet.
 - e. *Height limitations:* No sign shall be greater in height than three feet in residential districts and five feet in all other districts.
 - f. *Number of signs:* One or more temporary signs for each address may be displayed, up to the maximum permitted 12 square feet in sign area.
 - g. *Method of display:* Signs shall not be attached to any building, utility pole, street sign, traffic signal pole, street light, hydrant or tree. Signs shall not block visibility at intersections, sidewalks or driveways. Signs shall be securely fastened to the ground.

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- h. *Prompt removal of damaged signs:* Signs are considered damaged if faded, rusting, or are unsecure in nature. Damaged temporary signs shall be replaced, repaired or removed promptly.
2. Temporary signs that exceed the standards described in section 1505.1(a—h) will require a permit and approval from Utica City Council. A comprehensive sign plan containing dimensions, location and timeframe must be submitted to the City of Utica.
3. Human directional signs require a permit from the City of Utica and are limited to the following districts: central business district (C-1), general commercial (C-2), and mixed use development (MXD).
- a. Limited to four events per calendar year.
- b. Display period not to exceed 15 consecutive days.
- c. Human directional signs shall be limited to one individual per business.
- d. Human directional signs shall be exclusively located on the establishment's property, and must be setback a minimum of five feet from the property boundary.
- e. Human directional signs shall be positioned outside of the public right-of-way and shall not impede pedestrian or vehicular traffic.
4. Vehicular signs: It shall be prohibited to park, place or store a vehicle or trailer on which there is a vehicular sign on private or public property for the purposes of advertising a business or products or for the purpose of directing people to a business or business activity.
- a. *Presumption.* There shall be a presumption that the above subsection (4) has been violated if the motor vehicle sign is visible from the street and one or more of the following circumstances exists:
- (1) The motor vehicle is attached to a vehicle or trailer that is unregistered or not operable.
- (2) The vehicular sign is larger in any dimension than or extends beyond any surface of the vehicle or trailer to which it is attached.
- (3) The vehicular sign is attached to a vehicle or trailer that is parked or stored in a public right-of-way or an area not designed, designated, or commonly used for parking.
- (4) The vehicular sign is attached to a vehicle or trailer that is regularly parked or stored in a "front yard" or "side yard", as such terms are defined in section 201, that abuts a street, when there are other areas of the property designed or available for the parking or storage of the vehicle or trailer that are not visible from the street or do not abut streets.
- (5) The vehicular sign is attached to a vehicle or trailer that is regularly parked or stored within 50 feet of a street when there are other areas of the property designed, designated, or available for the parking or storage of the vehicle or trailer that are more distant from the street or not visible from the street.
- b. *Rebuttal presumption.* The presumption set forth in subsection (a) above, may be rebutted by evidence showing all of the following:
- (1) The vehicle is temporarily parked in a particular location in the course of conducting personal activities or business activities that involve loading or unloading of goods for customers, providing services to off-site customers, conducting off-site business, or engaging in work breaks.
- (2) The activities in subsection (1) above, are being actively undertaken during such periods of parking.
- (3) The activities in subsection (1) above, require the presence of the vehicle for purposes of transporting equipment, people, supplies and/or goods necessary for carrying out such activities.

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- (4) The activities in subsection (1) above, are not, other than incidentally, related to advertising, identifying, displaying, directing or attracting attention to an object, person, institution, organization, business, product, service, event or location.

(Ord. of 6-14-2016 ; Ord. No. 1500A, § 2, 6-14-2016 ; Ord. of 9-10-2019)

Section 1506. Nonconforming signs.

Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this article may be continued.

1. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.
2. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.
3. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this chapter, and the remnants of the former sign structure shall be cleared from the land. For purposes of this section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value of the sign so damaged.
4. The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premises sign under circumstances where such a sign would not be allowed).
5. Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed 50 percent of the present day replacement cost of the sign.
6. If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
7. If a nonconforming non-accessory sign (billboard) remains blank for a continuous period of 90 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this section, a sign is "blank" if:
 - a. It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted;
 - b. The advertising message it displays becomes illegible in whole or substantial part; or
 - c. The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

(Ord. of 6-14-2016 ; Ord. of 9-10-2019)

Section 1507. Maintenance of signs.

1. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in state of good repair. With respect to pylon signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
 - a. If the city finds that any sign is unsafe or insecure, or is adversely impacting the health, safety and general welfare of the public, it shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Correction of the safety condition which caused the city to give such notice shall be effected within ten days after receipt of the notice. If such condition is not corrected after the conclusion of such ten-day period, the city may cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. Notwithstanding the foregoing provision, the city may cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located, whenever the city determines that such sign is an immediate peril to persons or property.
 - b. If the message portion of a sign is removed, leaving only the supporting structure of a sign, the owner of the property where the sign is located, or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to alter the effect of section 1506 which prohibits the replacement of a nonconforming sign. Nor shall this subsection be construed to prevent the changing of the message of a sign.

(Ord. of 6-14-2016)

Section 1508. Sign definitions.

A sign is a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot and which directs attention to an object, product, place, activity, person, institution, organization, or business. Signs include, but are not limited to, figures, devices, pennants, emblems and pictures. Any of the above which is not placed out of doors, when placed near inside the surface of a window in such a way as to be in view of the general public and used or intended to be used to attract attention or convey information to motorists and pedestrians, shall also be considered as a sign.

Signs shall include the following types:

Abandoned sign. A sign which advertises a bona fide business, lessor, owner, product or activity no longer conducted or available upon the premises where such sign is displayed.

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

Accessory sign. A sign which is accessory to the main or principal use of the premises.

Banner. Any sign printed or displayed upon cloth or other flexible material, with or without frames. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Building marker. Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Canopy sign. Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

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

Directional sign. A sign, generally informational, that has a purpose secondary to the use of the zoning lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives.

Electronic display screen. A sign or portion of a sign that displays an electronic image, which may or may not include text. This definition includes television screens, multiprism screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

Electronic message center. Any sign or portion of a sign that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. This definition includes electronic changeable copy signs and menu boards

Flashing sign. An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.

Human directional sign. A sign that is worn (including costumes) or held by a human for commercial advertising or promotion purposes.

Identification sign. A sign stating the name or description of the use of the premises on which the sign is located.

Illuminated sign. Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

Inflatable sign. A sign or display that is inflated by a gaseous substance or continual stream of air.

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Marquee sign. Any sign attached to, in any manner, or made a part of a marquee.

Menu board. A permanently mounted dynamic sign displaying the bill of fare sign associated with drive-through windows and oriented toward drive-through traffic.

Monument sign. A sign attached to a permanent foundation and not attached or dependent for support from any building, pole, posts, or similar uprights.

Non-accessory sign. A sign which is not accessory to the main or principal use of the premises.

Nonconforming sign. Any sign that does not conform to the requirements of this ordinance.

Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Political sign. A non-illuminated temporary sign promoting political parties, candidates, or proposals.

Projecting sign. A sign other than a wall sign suspended from or supported by a building or structure and projecting out away from the building facade, including marquee signs.

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

Real estate (commercial/residential) sign. A sign placed upon a property advertising that particular property for sale, rent, or lease.

Residential sign. Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.

Residential development sign. A sign placed on the premises of a subdivision, or other real estate development site, to identify a proposed start of development, the participants of such development (such as owner, contractor, architect, leasing agent, etc.), and relative date of availability.

Roof sign. Any sign erected and constructed wholly on and over the roof of a building supported by the roof structure.

Sandwich board sign. A sandwich board is a freestanding temporary sign, with no moving parts or lights, no larger than seven square feet total sign size; displayed outside a business, during business hours, to advertise an event or a promotion.

Special decorative sign or display. Signs or displays used for holidays, public announcements or promotion of civic, charitable or non-commercial events.

Special event sign. A sign which advertises a grand opening, special event or similar message.

Swinging sign. Signs which are designed or constructed to move or pivot as a result of wind pressure for the purpose of attracting attention.

Suspended sign. A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary sign. Any sign that is used only temporarily and is not permanently mounted.

Vehicular sign. A sign measuring more than two square feet in size that is mounted, placed, written, or painted on a vehicle or trailer, whether motor driven or not.

Wall sign. A sign erected or fastened against the wall of a building with the exposed face of the sign in a plane approximately parallel to the plane of such wall and not extending more than 14 inches beyond the surface of the portion of the building wall on which erected or fastened.

Window sign. A sign attached to a window by which anything is made known to the general public and is visible and discernible off the site or from a public right-of-way.

(Ord. of 6-14-2016)

ARTICLE XVI FP, FLOODPLAIN PROTECTION OVERLAY DISTRICT¹⁰

¹⁰Cross reference(s)—Floods, ch. 34Cross reference(s)—; stopping, standing and parking, § 78-111Cross reference(s)— et seq.

Section 1600. Intent.

The floodplain provisions are intended to protect the "floodplain area," as defined below, so that the reservoir capacity shall not be reduced, thereby creating a danger to areas previously not so endangered in time of high water, or to impede, retard, accelerate, or change the direction of the flow of water or carrying capacity of the river valley or to otherwise increase the possibility of flood.

Section 1601. Scope.

The requirements of this article shall apply to all lands within the City of Utica that are located within the FP, floodplain protection overlay district, as shown on the City of Utica Zoning Districts Map. The provisions and restrictions of this article shall be considered to apply in addition to and where applicable, in lieu of the provisions of the underlying zoning districts shown on the official zoning districts map, sufficient to fulfill the purpose of this article.

This article shall take precedence over any conflicting laws, ordinances, or codes.

Section 1602. Floodplain area boundaries.

"Floodplain area," as used herein, is deemed to mean that area defined within the 100-year flood boundary in the FEMA "Flood Insurance Rate Map" for the City of Utica dated February 18, 1981.

Where there is a question as to the exact boundaries and limits of a floodplain area boundary, the city building official shall determine the limits from the topographical data available.

Section 1603. Special permitted or prohibited uses.

The following uses shall be permitted in floodplain areas subject to any limitations described herein:

1. Gardening, general farming, horticulture, forestry, or any similar agricultural activity.
2. Public and private open recreation areas such as parks, playgrounds, play fields, golf courses, and bridle paths.
3. Railroads, roads, bridges, dams, weirs, public utilities, when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety, and welfare.
4. Surface parking areas regulated by section 1407 of this ordinance.
5. Uses permitted by the zoning districts otherwise established for the parcel subject to the regulations of such district provided:
 - (a) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated one foot above the base flood level.
 - (b) All new construction and substantial improvements of nonresidential structures shall have either:
 - (1) The lowest floor, including basement, elevated one foot above the base flood level; or
 - (2) Be constructed such that below base flood level, together with attendant utility and sanitary facilities, is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the flood proofing methods employed are adequate to withstand the flood depths, pressures,

velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure.

- (c) In the area below the upper limit of the floodplain area boundary, dumping or backfilling with any material in any manner is prohibited, unless through compensating excavation and shaping of the floodplain area its flow and impoundment capacity will be maintained or improved.
- (d) Any filling on banks adjacent to a floodplain area boundary shall have approved erosion control to prevent soil from being washed into the floodplain. City council shall adopt erosion control standards to be enforced by the building official.

Section 1604. Applicant to provide technical data.

Where topographic data, engineering studies or other studies are required by any city agency to determine the effects of flooding on a proposed site, and/or the effect of a structure on the flow of water, the applicant shall submit such data or studies. All such required data or studies shall be prepared by a registered professional engineer.

All submittals for constructing within and/or otherwise occupying a floodplain within the floodplain protection overlay district shall be accompanied by an approved permit issued by the governing agency of the State of Michigan.

ARTICLE XVII HP, HISTORIC PRESERVATION OVERLAY DISTRICT¹¹

Section 1700. Statement of purpose.

It is the intent of the HP, historic preservation overlay district to establish regulations to protect the public health, safety, and general welfare, as well as the social and economic well-being of the community. More specifically, the purpose of this article is to:

1. Enable the city, as the steward for the preservation of the city's history, to protect and preserve the city's historic and cultural resources for future generations, inasmuch as they are considered to be treasured assets.
2. Promote, preserve, and protect the integrity of the city's historic areas, including the stabilization and enhancement of property values and the encouragement of compatible building development, inasmuch as these buildings individually and collectively represent an important era in the city's development and in Michigan history.
3. Protect and enhance historic areas to attract residents, tourists, and visitors to serve as a support and stimulus to business and industry.
4. Foster civic pride in the beauty and accomplishments of the past.
5. Strengthen the economy of the city.

¹¹Cross reference(s)—Historic preservation, ch. 38Cross reference(s)—; historic districts, § 38-81Cross reference(s)— et seq.

Section 1701. Scope.

The requirements of this article shall apply to all lands within the City of Utica that are located within the boundaries of an HP, historic preservation overlay district, as shown on the City of Utica Zoning Districts Map. The provisions and restrictions of this article shall be considered to apply in addition and to and where applicable, in the stead of the provisions of underlying zoning districts shown on the official zoning district map, sufficient to fulfill the purposes of this article. Uses and regulations otherwise applicable in existing zoning districts shall not be allowed unless also permitted in, and developed in accordance with, the following regulations.

This article shall take precedence over any conflicting laws, ordinances, or codes.

Section 1702. Special definitions.

The following definitions shall apply to this article in addition to those contained in article II of this ordinance.

1. *Alteration.* Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure or part thereof.
2. *Construction.* The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.
3. *Demolition.* Any act or process that destroys in part or in whole a structure within a historic area.
4. *Design guideline.* A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.
5. *Exterior architectural appearance.* The architectural character and general composition of the exterior of structure, including, but not limited to, the kind, color, and texture of the building material, and the type, design, color and character of all windows, doors, light fixtures, signs, and appurtenant elements.
6. [Reserved.]
7. *Moving.* Any relocation of a structure on it [the] site or to another site.
8. *Repair.* Any change to the exterior architectural features of a structure that is not construction, removal, or alteration.

Section 1703. Administration and enforcement.

1. The historic district commission (HDC) is hereby established as an administrative body whose purpose is to assist city officials and the planning commission in the administration and enforcement of the provisions of this article.
2. The HDC shall have the following powers and duties:
 - a. To adopt its own procedural regulations.
 - b. To review applications made under this ordinance for the construction, alteration, repair, removal, or demolition of structures and affected sites within areas contained in the boundaries of an HP, historic preservation overlay district as shown on the official zoning district map; and further to take action on such applications in accordance with the procedures in section 1704 of this article. In reviewing such applications, the HDC shall apply the standards and guidelines as contained in section 1705 of this article.

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- c. To further define design review standards and guidelines as contained in this section subject to the approval of the planning commission.
 - d. To advise the planning commission on proposed zoning amendments and special approval uses within the boundaries of an HP, historic preservation overlay district, as may be requested by the planning commission.

Cross reference(s)—Administration, ch. 2Cross reference(s)—; historic preservation, ch. 38Cross reference(s)—.

Section 1704. Design review procedures.

1. Prior to the issuance of a building permit for any construction, reconstruction, demolition, moving, alteration or repair activity within an HP district, and prior to the undertaking of any repair, maintenance, or alteration activity not requiring a building permit, but which affects the exterior architectural appearance of a structure located within an HP district, including signs and appurtenances thereto, the person, individual, firm, or corporation proposing to undertake such activity shall file an application for design review approval with the city clerk. The application, together with all plans and exhibits pertaining thereto, shall be referred to the HDC to initiate the design review approval process.
2. Depending upon the nature and scale of the proposed activity, any or all of the following information may be required for HDC and planning commission reviews: architectural plans, site plans, landscaping plans, proposed signs and appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view and indications as to construction materials, design of doors and window, ornamentation, colors and the like, photographs or perspective drawings indicating visual relationships to adjoining structures and spaces, and such other exhibits and reports as are necessary.
3. Upon receipt of all necessary applications and materials, the HDC shall review such applications and materials, and on the basis of the design review standards and guidelines contained in this article, shall either (1) approve, disapprove, or approve subject to such conditions as may be warranted, such applications for design review approval; or shall (2) make a recommendation to the planning commission for the approval, disapproval, or approval subject to certain conditions, of such applications, as set forth below.
4. There is herein established two levels of design review approval, which shall be determined by the type of the proposed construction, reconstruction, alteration, repair, removal, demolition, or maintenance activity. The first level of design review shall be applicable to the following activities proposed within an HP district: any alteration, repair or maintenance activity which affects the exterior architectural appearance of a structure, including signs and appurtenances thereto. Design review and approval for such activities shall be the sole responsibility of the HDC and its decisions on such matters shall be final unless appealed to city council. The second level of design review shall be applicable to the following activities proposed within an HP district: construction, demolition, or moving of any structure or part thereof. Design review for such activities shall be initiated by the HDC which shall receive all design review applications and materials from the city clerk, review such applications and materials according to the design review standards as set forth in section 1705 of this article, and make recommendations to the planning commission for the approval, disapproval, or approval subject to certain conditions, of such applications. Upon receipt of the HDC's recommendation, together with the design review application and pertinent materials, and shall approve, disapprove, or approve subject to certain conditions, the design review application.

Following the approval of the design review application by the planning commission or the HDC as appropriate, the design review application shall be transmitted, along with approved plans and materials to the building official and a building permit shall be issued so long as all other applicable codes and ordinances have been met. If no building permit is required, the building official shall issue a notice to proceed. No

building permit or notice to proceed shall be issued by the building official unless and until the design review applications has been appropriately approved.

If planning commission approval is required for the design review application, the design review period shall not exceed 60 days unless mutually agreed upon by the planning commission and the applicant. If only HDC approval is required for the design review application, the design review period shall not exceed 30 days unless mutually agreed upon by the HDC and the applicant. Failure of the planning commission or the HDC to act within the time limits specified above shall be deemed to constitute approval.

Section 1705. Design review standards and guidelines.

1. *Intent and application of the design review standards and guidelines.* The following design review standards and guidelines are set forth to guide the HDC and the planning commission in their review of proposed construction, reconstruction, demolition, moving, or repair activities within an HP district as required under this article. The overall purpose of the design review process and the application of the design review standards and guidelines contained herein is to: (1) maintain the scale and visual harmony of historic districts as a whole; (2) preserve the architectural integrity of individual significant buildings; (3) protect the "edges" of the historic districts; and (4) enhance the entrances into such historic districts. Within this general framework, the specific application of the design review standards and guidelines shall be based upon the type of activity being proposed, as follows:
 - a. For construction of new buildings or expansion of existing buildings within an HP district, the design review standards and guidelines shall be applied so as to ensure the compatibility of the new construction with the existing character of the district.
 - b. For reconstruction, remodeling, and repair of structures within an HP overlay district, the design review standards and guidelines shall be applied so as to guide and encourage rehabilitation in line with the original character of the structure.
 - c. For the relocation of buildings to sites with an HP district, the design review standards and guidelines shall be applied so as to ensure that buildings moved to sites within the district are compatible with the surrounding buildings and are appropriately sited on the lot.
 - d. For the proposed demolition or removal of all or parts of existing buildings within an HP district, the design review standards and guidelines shall be applied so as to discourage the demolition of significant buildings within the district and to identify feasible alternatives thereto.
2. The standards to be applied as set forth above shall be The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings published by the U.S. Department of the Interior, as may be amended.
 - a. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
 - b. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed, altered, or covered-up. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - c. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - d. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

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- e. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
 - f. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - g. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - h. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any project.
 - i. Contemporary design for alterations and additions to commercially used properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, character of the property, neighborhood, or environment.
 - j. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
 - k. Protected architectural features include, but are not limited to, a structure's general shape; gables, dormers, and other roof features; cornices, brackets and eaves; size, shape, arrangement, number, and size of window panes and muntins; beveled, leaded and stained glass; door and window trim; ornamental moldings; distinctive siding, such as stone, stucco, brick, or patterned shingling; distinctive roofing, such as false thatch, slate, and Spanish tile.
 - l. Demolition of any historic or nonhistoric building or structure within a historic district shall be prohibited unless the historic district commission finds said demolition to meet the criteria outlined in section 1706 of this chapter.
 - m. The general shape of a building or structure's roof, including original dormers, gables, and cornice lines and chimneys shall not be changed.
 - n. New chimneys or soil stacks which extend more than one foot above the surface of the roof may be permitted provided they do not occupy more than one square foot in horizontal area or are invisible from the street.
 - o. Substitute siding may be permitted, provided: (i) the size and style of the new siding is substantially similar to the original; (ii) protected architectural features, including but not limited to window trim, patterned shingling, stucco, stone, or brick and decorative brackets and cornices are not covered, removed, or damaged; and (iii) the substitute siding is placed over the original siding to allow for restoration in the future.
 - p. Existing unpainted brick or stone exterior walls shall not be painted.
 - q. Exposed wood surfaces on new work such as porches, railings, and fences shall be painted or stained to coordinate with the existing structure.
 - r. Paint or siding color selection shall not be regulated. The commission shall, however, make nonbinding recommendations for the use of historically accurate color schemes.
 - s. The shape, size, number, and arrangement of replacement windows and doors shall preserve the basic design and size of the originals. Replacement windows shall be substantially similar to the old windows

and within ten percent of the original dimensions. Muntins on new windows must appear to be of the same width as the original muntins. Any material may be used for replacement, provided the new materials replicate the original in appearance.

- t. Fences of all types shall be permitted where they have no visual impact on the streetscape. Metal chainlink fences shall be prohibited in front yards. In the case of schools, child care facilities and other uses where human safety concerns are paramount, the commission may approve any type of fencing necessary to effectively address the safety concerns of that use.
- u. Driveways and other surface paving shall meet the standards contained in section 1407, off-street parking space layout, standards, construction, and maintenance.
- v. Removal of street trees shall be allowed where such trees are dead, damaged, diseased, or constitute a threat to safety. Upon receipt of a letter from the DPW superintendent verifying that the reason for removal fulfills one of the above criteria, the building official shall immediately issue a certificate of approval. Removed trees shall be replaced within one year of removal with an appropriate substitute. The historic district commission, in consultation with the DPW superintendent, shall develop guidelines for tree replacement which take into account the contribution of specific species to the district history and character, the susceptibility of certain species to disease, and the specifications of any approved heritage neighborhoods plans.

Section 1706. Moving and demolition of structures.

1. No permit shall be issued to allow the moving of all or any portion of a structure into or out of an HP district without design review approval of the planning commission, in accordance with procedures and requirements as set forth in section 1704 of this article, and in accordance with design review standards and guidelines as set forth in section 1705 of this article. Structures being moved into such district shall be deemed to have the same impacts as new construction, while structures being moved out of such district shall be deemed to have the same impacts as demolition.
2. No permit shall be issued to allow the demolition of all or any portion of a structure in an HP district without design review approval of the planning commission, in accordance with procedures and requirements as set forth in section 1705 of this article.

The HDC, in making its recommendation to the planning commission, and the planning commission in making its decision, shall give consideration to: (1) the contribution of the building to its immediate surroundings and to the district character as a whole; (2) the historical and architectural importance of the building; and (3) the building's structural condition.

If, after its review of a design review application for demolition, the planning commission shall find that: (1) the structure does not contribute to the overall character of the district and is of no historical or architectural importance; and/or (2) the structure is a hazard to the public health, safety, and welfare and is beyond repair, the design review application shall be approved and a demolition permit shall be issued.

If, after its review of a design review application for demolition, the planning commission shall find that the demolition of the structure would be detrimental to the district as a whole, and that the structure is physically feasible to repair, no demolition permit shall be issued unless and until the following conditions have been met:

- a. The property owner shall be required to offer the property for sale, at a price reasonably related to its fair market value, and for a period of time to be determined by the planning commission, but which in no case shall be less than three months nor more than 12 months, to any party willing to preserve and restore the structure and the land pertaining thereto.

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- b. If, at the expiration of the time period specified by the planning commission, no bona fide contract, binding upon all parties thereto for the sale of the property shall have been executed, the property owner shall then offer the property for sale, at a price reasonably related to its fair market value, to the City of Utica which is [sic] the city council deems it to be in the public interest, may acquire such property for historical preservation purposes. The city shall have three months from the expiration date set by the planning commission to enter into a bona fide contract for the purchase of the property, at the expiration of which, if no such contract is executed, the demolition permit shall be issued.
 3. Any property owner who shall, by willful means, allow a building to deteriorate to the point where rehabilitation is no longer feasible and the building must be demolished shall be deemed to have demolished a property without a permit and shall be in violation of this ordinance.

ARTICLE XVIII REVIEW AND APPROVAL PROCEDURES

Section 1800. Review and approval of site plans.

1. *Application.* Prior to the establishment of a new use, change of use, addition to an existing use, the reoccupancy of any building, or the erection of any building in a zoning district, subject to the conditions listed below, a site plan (or site sketch where appropriate) shall be submitted and approved, approved with conditions, or disapproved by the city planning commission in accordance with the ordinance requirements of this article.
 - a. Site plan reviews are required for all permitted principal uses and structures in all zoning districts (except for the single-family detached and two-family dwellings and their accessory uses) and all conditional approval uses in all zoning districts. Site plans are required for all new construction, exterior remodeling, additions to the existing structure, and/or if the building has been vacant for over 180 days. For those cases of a building reoccupancy, applicants may submit a site sketch.
 - b. When the proposed new construction or remodeling constitutes an addition to an existing building, or use, site plan or site sketch review procedures may be modified, at the discretion of the building official and city clerk to provide for an administrative review by the building official, city clerk and city planner in lieu of a more formal review by the city planning commission provided both of the following are true:
 - (1) No variances to the ordinance are required.
 - (2) The proposed new construction would not increase the total square footage of the building greater than 25 percent.
 - c. For those cases requiring site plan or site sketch review solely as a result of building reoccupancy, review procedures may be modified, at the discretion of the building official and city clerk to provide for an administrative review by the building official, city clerk and city planner in lieu of a more formal review by the city planning commission provided all of the following are true:
 - (1) Such use is conducted within a completely enclosed building.
 - (2) Reoccupancy does not create additional parking demands, beyond 25 percent of that which exists.
 - (3) Reoccupancy does not substantially alter the character of the site.

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- d. Every site plan or site sketch submitted for review shall be in accordance with the requirements of this ordinance. Administrative review procedures are not intended to modify any ordinance, regulation or development standard.
2. *Copies required.* Every site plan or site sketch submitted to the planning commission shall be in accordance with the requirements of this ordinance. Two complete copies of all site plans or site sketch shall be filed with the city clerk who shall place the request on the next planning commission agenda. An electronic copy of the site plan or site sketch shall also be provided to the city clerk.
 3. *Information required.* The following information shall be included on the site plan:
 - a. A scale of not less than one inch equals 50 inches if the subject property is less than three acres and one inch equals 100 inches if three acres or more.
 - b. Date, north point and scale.
 - c. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties and buildings within 100 feet.
 - d. Legal description of parcel.
 - e. Existing and proposed topography with contours at two-foot intervals (based on U.S.G.S. datum) extending a minimum of 100 feet beyond site boundaries.
 - f. An inventory of existing vegetation on the site and an indication of any alterations.
 - g. The location and nature of any streams, drains, swamps, marshes, and/or unstable soils.
 - h. An indication of basic drainage patterns, existing and proposed, and including any structures, retention basins and fencing which are proposed. The applicant shall contact the municipality and municipal engineer to determine the adequacy of utility and storm water proposals, slope and sod erosion requirements to determine if any such requirements will adversely affect the site plan.
 - i. A schedule of parking needs. Separate drawings may be submitted to indicate usable floor areas, etc., for computation of parking needs.
 - j. A detailed planting plan and schedule of plant materials and sizes.
 - k. Cross section drawings of any walls, berms, etc.
 - l. The location and width of all existing and proposed sidewalks on or bordering the subject site. Where the subject site borders a public right-of-way, a concrete sidewalk five feet in width shall be provided within the public right-of-way one foot from the subjects site's property line. If a sidewalk in good condition exists within the public right-of-way, the above requirement may be waived by the building official.
 - m. The location of all existing and proposed structures of the subject property and all existing structures within 100 feet of the subject property. The setbacks to all existing and proposed structures to be retained or constructed on the site shall be indicated; this includes buildings, signs, trash storage areas, walls, fences, berms, parking areas, etc. The height of all proposed structures shall also be indicated.
 - n. The location of all existing and proposed drives and parking areas.
 - o. The location and right-of-way widths of all abutting streets and alleys.
 - p. The names, addresses, and telephone numbers of the architect, planner, designer, engineer or person responsible for the preparation of the site plan.
 - q. The names, addresses and telephone numbers of the developers.

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- r. In addition to the above information, the applicant shall submit a supplementary explanation as to the specific type(s) of activities proposed. Such information shall include, but not be limited to:
 - (1) Estimated number of employees, resident shoppers, etc.
 - (2) Hours of operation.
 - (3) Any changes anticipated in terms of dust, odor, smoke, fumes, noise, lights, etc.
 - (4) Modifications to vegetative cover, drainage patterns, earth work, problem areas.
 - (5) Any ancillary improvements that the applicant proposes to remedy or prevent problems created by the development.
 - (6) Estimated costs of proposed landscaping berms, walls, acceleration-deceleration lanes, or bypass lanes or any other required site improvement not covered in the building permit cost estimates shall be provided.
4. *Information required.* The following information shall be included on the site sketch:
- a. An electronic or hand drawing, drawn to scale.
 - b. General floorplan.
 - c. Property address, date, north point and scale.
 - d. The dimensions of all lot and property lines.
 - d. A schedule of parking needs. Separate drawings may be submitted to indicate usable floor areas, etc., for computation of parking needs.
 - e. The location of all existing and proposed structures of the subject property; this includes buildings, signs, trash storage areas, walls, fences, berms, parking areas, etc. The height of all proposed structures shall also be indicated.
 - f. The location of all existing and proposed drives and parking areas.
 - p. The names, addresses, and telephone numbers of the architect, planner, designer, engineer or person responsible for the preparation of the site plan.
 - q. The names, addresses and telephone numbers of the developers.
 - r. In addition to the above information, the applicant shall submit a supplementary explanation as to the specific type(s) of activities proposed. Such information shall include, but not be limited to:
 - (1) Estimated number of employees, resident shoppers, etc.
 - (2) Hours of operation.
 - (3) Any changes anticipated in terms of dust, odor, smoke, fumes, noise, lights, etc.
 - (4) Any ancillary improvements that the applicant proposes to remedy or prevent problems created by the development.
5. *Content of site plan file.* The site plan(s), all supplementary data, together with minutes of any meeting and/or hearings related to the proposed site plan shall become part of the official site plan file.
6. *Standards for approval.* In the process of reviewing the site plan or site sketch, the planning commission shall consider:
- a. Specific development requirements set forth in the zoning ordinance.

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- b. The location and design of driveways providing vehicular ingress to and egress from the 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 ensure:
 - (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 neighborhoods.
 - (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.
 - e. The planning commission may further require landscaping, fences, and walls in pursuance of these objectives and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.
 - f. In those instances wherein the planning commission finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, the planning commission may recommend marginal access drives. For a narrow frontage, which will require a single outlet, the planning commission may recommend that money be placed in escrow with the municipality so as to provide for a marginal service drive equal in length to the frontage of the property involved. Occupancy permits shall not be issued until the improvement is physically provided, or monies have been deposited with the clerk.
 - g. The cost estimates as required in this section shall be reviewed by the appropriate municipal official (i.e., building official, engineer or planner) for their compliance with current cost estimates. These reviews and recommendations shall be forwarded to the planning commission for inclusion in any approved site plan.
 - h. The planning commission may waive site plan information for topography, vegetation, problem soils, landscaping, employment data environmental considerations, etc., when such concerns are obviously not pertinent to the proposed development.
 - i. The planning commission, or building official as part of administrative review procedures, shall seek the input from local public safety officials as part of the site plan review process, prior to approving, disapproving, or approving with conditions, the site plan.
7. *Planning commission actions.* The planning commission, upon reviewing a site plan, shall take one of the following actions:
- a. *Approval.* If the site plan meets all the zoning ordinance and related development requirements and standards, the planning commission shall record such approval and the chairman shall sign three copies of the site plan filing one in the official site plan file, forwarding one to the building official, and returning one to the applicant.
 - b. *Disapproval.* If the site plan does not meet zoning ordinance and related development requirements and standards, the planning commission shall record the reasons for denial. The applicant may subsequently refile a corrected site plan under the same procedures followed for the initial submission.
 - c. *Conditional approval.* If minor corrections to the site are necessary, which can be clearly noted, then the planning commission shall so note such conditions and the chairman shall sign three site plans as conditionally approved and stating the necessary conditions. One copy shall be retained in the official site plan file, one forwarded to the building official, and one returned to the applicant.

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- d. *Table.* If the site plan is found to be in violation of the requirements or incomplete with respect to necessary information, the planning commission may table action on the site plan until ordinance compliance is shown or required additional information is provided.
8. *Performance guarantees.* To ensure compliance with the zoning ordinance and any condition imposed thereunder, the planning commission may require that a cash certified check, irrevocable bank letter of credit, or surety bond acceptable to the city covering the estimated cost of improvements associated with a project for which site plan approval is sought be deposited with the city to ensure faithful completion of the improvements and also be subject to the following:
- a. The performance guarantee shall be deposited prior to the issuance of a temporary certificate of occupancy. The city shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. Any partial release of funds shall be less than ten percent which shall be retained by the municipality until all work has been completed and subsequently inspected and approved by the building official. This does not relieve the applicant from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper functioning of said public improvements.
 - b. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act 288 of the Public Acts of 1967, as amended (the state subdivision control act (MCL 560.101 et seq)).
 - c. As used in this section, "improvements" mean those features and actions associated with a project which are considered necessary by the body or official granting zoning approval to protect natural resources, or the health, safety, and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping, and surface drainage. Improvements do not include the entire project which is the subject of zoning approval.
9. *Period of completion.* An approved site plan shall remain valid for a period of one year from the date of approval. In the event all improvements are not installed, then any such remaining improvements shall be completed no later than July 1 of the following construction season except that the planning commission may, at its discretion, upon application by the owner and for cause shown, provide for up to two successive 12-month extensions.

(Ord. of 11-27-2006; Ord. of 4-10-2018)

State law reference(s)—Site plans, MCL 125.584c, 125.584d.

Section 1801. Review and approval of condominium developments.

The following regulations shall apply to all condominium developments within the City of Utica:

1. *Initial information.* Concurrently with notice required to be given the City of Utica pursuant to Section 71 of Pubic Act 59 of 1978, as amended (the condominium act (MCL 559.171)), a person, firm or corporation intending to develop a condominium development shall provide the following information:
 - a. The name, address, and telephone number of:
 - (1) All persons, firms or corporations with an ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
 - (2) All engineers, attorneys, architects or registered land surveyors associated with the project.
 - (3) The developer or proprietor of the condominium development.

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- b. The legal description of the land on which the condominium development will be developed together with appropriate tax identification numbers.
 - c. The acreage content of the land on which the condominium development will be developed.
 - d. The purpose of the development (for example, residential, commercial, industrial, etc.).
 - e. Approximate number of condominium units to be developed on the subject parcel.
 - f. Whether or not a community water system is contemplated.
 - g. Whether or not a community septic system is contemplated.
2. *Information to be kept current.* The information shall be furnished to the building official and shall be kept updated until such time as a certificate of occupancy has been issued pursuant to section 2104 of this ordinance.
 3. *Site plans for new projects.* Prior to recording of the master deed required by section 72 of Public Act 59 of 1978, as amended, (MCL 579.172), the condominium development shall undergo site plan review and approval pursuant to section 1800 of this ordinance. In addition, the city shall require appropriate engineering plans and inspections prior to the issuance of any certifications of occupancy.
 4. *Site plans for expandable or convertible projects.* Prior to expansion or conversion of a condominium development to additional land, the new phase of the project shall undergo site plan review and approval pursuant to section 1800 of this ordinance.
 5. *Master deed, restrictive covenants and "as-built" survey to be furnished.* The condominium development developer or proprietor shall furnish the building official with the following: One copy of recorded master deed, one copy of all restrictive covenants and two copies of an "as-built survey." The "as-built survey" shall be reviewed by the city engineer for compliance with local ordinances. Fees for this review shall be established by resolution of the city council.
 6. *Monuments required.* All condominium developments which consist in whole or in part of condominium units which are building sites shall be marked with monuments as provided in this subsection.
 - a. All monuments used shall be made of solid iron or steel bars at least one-half inches in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
 - b. Monuments shall be located in the ground at all angles in the boundaries of the condominium development; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development and at the intersection of alleys with the boundaries of the condominium development; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys and at all angles of an intermediate traverse line. It is not intended nor required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.
 - c. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
 - d. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
 - e. All required monuments shall be placed flush with the ground where practicable.

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- f. All unit corners and the intersection of all limited common elements and all common elements shall be monumented in the field by iron or steel bars or iron pipe at least 18 inches long and one-half inch in diameter, or other approved markers.
 - g. The city council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the city cash or a certified check, or irrevocable bank letter of credit to the city, whichever the proprietor selects in an amount to the established by council, by resolution. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.
7. *Compliance with federal, state, and local law.* All condominium developments shall comply with federal and state statutes and local ordinances.
8. The building official may allow occupancy of the condominium development before all improvements required by this ordinance are installed provided that cash, a certified check, or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the city.
9. *Single-family detached condominiums.*
- a. Single-family detached condominium project shall be subject to all requirements and standards of the applicable R-1A through R-1B, one-family residential districts.
 - b. The design of a single-family detached condominium project shall be subject to the design layout and engineering standards, as provided below, except as may otherwise be provided by this ordinance:
 - (1) Location arrangement and design of streets.
 - (a) The street layout shall provide for the continuation of collector streets in the adjoining subdivisions or of the proper projection of streets when adjoining property is not subdivided; or conform to a plan for a neighborhood unit drawn up and adopted by the planning commission.
 - (b) The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.
 - (c) Should a proposed development border on or contain an existing or proposed major thoroughfare, the planning commission may require marginal access streets, reverse frontage, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.
 - (d) Should a proposed development border on or contain a railroad, expressway, or other limited access highway right-of-way, the planning commission may require the location of a street approximately parallel to and on each side of such right-of-way at a distance suitable for the development of an appropriate use of the intervening land, such as for parks, in residential districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.
 - (e) The minimum street grade shall not be less than 0.5 percent. The maximum street grade shall be 5.0 percent, except that the planning commission may modify this standard on the recommendation of the city engineers.

- (f) Streets shall be laid out so as to intersect as nearly as possible to 90 degrees.
- (g) Street jogs with centerline offsets of less than 125 feet shall be avoided.
- (h) Sight distances on horizontal or vertical curves and at intersecting roads shall be a minimum of 200 feet. Sight distance for intersecting streets shall be measured ten feet from the edge of the traveled portion of the road and from an eye height of 3.5 feet to an object height of 3.5 feet.
- (i) Construction standards shall conform to at least the following minimum requirements:

Street Type	Right-of-Way Width	Pavement Width
All types of streets	60 feet	24 feet
Cul-de-sac	60-foot radius	45-foot radius

- (j) The maximum length for residential cul-de-sac streets shall generally be 500 feet; however, the planning commission may approve a distance of up to 1,000 feet.
- (k) All pavements shall be asphalt or concrete pavement with concrete curb and gutter on each side in accordance with the standards prescribed by the city engineer.

(2) *Blocks.*

- (1) Maximum length for blocks shall not exceed 1,300 feet in length, except where, in the opinion of the planning commission, conditions may justify a greater distance.
- (2) Widths of blocks shall be determined by the condition of the layout and shall be suited to the intended layout.
- (3) Natural features. The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, watercourses, and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate barriers, where appropriate, shall be required.
- (4) Walkways. Walkways shall be installed in all single-family detached condominium developments. Such walkways shall be a minimum of five feet in width and shall be constructed of concrete four inches thick. In addition, walkways shall be located on both sides of all interior roadways and so located as to provide access to all general common areas. Upon review of the site plan, the planning commission may approve alternative locations for the walkways or may waive the walkway requirement if it would not serve the purpose of providing adequate pedestrian circulation.

(5) *Utilities.*

- (a) An adequate storm drainage system including necessary storm sewers, catchbasins, manholes, culverts, bridges, and other appurtenances shall be required in all developments.
- (b) A public sanitary sewer system shall be required.
- (c) A public water supply system shall be required.
- (d) The proprietor shall make arrangements for all lines for telephone, electric, television, and other similar services distributed by wire or cable to be placed underground entirely

throughout the development area, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways, provided only that overhead lines may be permitted upon written recommendation of the city engineer and the approval of the planning commission at the time of site plan approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, design, and character of the development. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All drainage and underground utility installations which traverse privately held property shall be protected by easements granted by the proprietor.

10. *Final documents to be provided.* After submittal of the condominium plan and by-laws as part of the master deed, the proprietor shall furnish to the city a copy of the site plan on a mylar sheet of at least 13×16 inches with an image not to exceed 10½×14 inches.

Section 1802. Review and approval of conditional uses.

1. Application.

- a. The uses identified as special condition uses are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, public utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.
- b. The city council, as provided herein, shall have the authority to approve conditional use permits, subject to such conditions of design, operation, and appropriate and reasonable safeguards as the city may require for any special condition use included in the various provisions of this zoning ordinance. Conditional use site plan additions or amendments may be reviewed and approved administratively, at the discretion of the building official, city clerk, city planner and mayor, if the revision complies with the conditions of section 1800(1)c. and it does not alter the use or function of the site.

2. Data required.

- a. Application for any conditional use permit as provided under the provisions of this ordinance shall be made to the building official by filing an official special condition use permit application form; submitting required data, exhibits, and information; and depositing the required fee as established by resolution of the city council, and as may be amended from time to time. No portion of such fee shall be reimbursable to the applicant.
- b. An application for a conditional use permit shall contain the following:
 - (1) Applicant's name, address and telephone number.
 - (2) Address and tax description number of the subject parcel.
 - (3) A signed statement that the applicant is the owner of the subject parcel, or is acting as the owner's representative.
 - (4) A certified survey drawing of the subject parcel.
 - (5) A complete site plan containing all of the applicable data outlined in section 1800, review and approval of site plans.

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- (6) Supporting statements, evidence, data, information and exhibits which address those standards and requirements for assessing special condition use permit applications outlined in section 1802.4 below.
3. *Public hearing requirements.* Upon receipt of an application for a use requiring conditional approval, the planning commission shall hold a public hearing, one notice of which shall be published at least 15 days prior to the public hearing date in a newspaper of general circulation in the city and sent by first class mail to the owners of the property for which special condition approval is being considered, to the owners of record of all real property and to the occupants of all structures located within 300 feet of the boundaries of the property in question. The notice shall:
- a. Describe the nature of the special condition use request.
 - b. Adequately describe the property in question.
 - c. State the date, time, and place of the public hearing.
 - d. Indicate when and where written comments concerning the request will be received.
4. *Standards for approval.*
- a. The planning commission shall review the particular circumstances and facts applicable to each proposed special condition use in terms of the following standards and requirements and shall make a determination as to whether the use proposed to be developed on the subject parcel meets the following standards and requirements:
 - (1) Will be harmonious with and in accordance with the general objective of the future land use plan.
 - (2) Will be designed, constructed, operated, maintained, in harmony with existing and intended character of the general vicinity and so that such use will not change the essential character of that area.
 - (3) Will not be hazardous or detrimental to existing or future neighboring uses.
 - (4) Will represent a substantial improvement to property in the immediate vicinity and general benefit to the community as a whole.
 - (5) Will be served adequately by essential public services and facilities, such as highways, streets, drainage structures, police and fire protection and refuse disposal; or persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
 - (6) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.
 - (7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration or odors.
 - (8) Will be consistent with the intent and purposes of this ordinance.
 - b. If the facts regarding the special condition use being reviewed do not establish by a preponderance of the evidence that the standards and requirements set forth in this zoning ordinance will be met by the proposed use, the planning commission shall not recommend special condition approval to the city council.
- In recommending approval of a special condition use permit to the city council, the planning commission shall recommend imposition of such reasonable conditions of use as it deems necessary to

protect the best interests of the city and the general vicinity, to achieve the objectives of this ordinance and to ensure that the general public health, safety, and welfare will not be infringed upon.

The planning commission may recommend denial, approval or approval with conditions, on a request for special condition use approval. The recommendation on a special condition use shall be incorporated in a statement containing the conclusions relative to the special condition use under consideration which specifies the basis for the decision and any conditions recommended.

- c. Upon holding a public hearing and review of the special condition use request, the planning commission shall within 30 days forward to the city council its finding and recommendation. The finding shall include a record of those conditions which are recommended to be imposed. The city council, upon receipt of the finding and recommendation, may deny, approve, or approve with conditions any request for a special condition use approval. Any decision on such a request shall state the findings of fact and specify the conclusions drawn therefrom and any conditions imposed thereon. Any conditions imposed shall remain unchanged except upon the mutual consent of a majority of the city council and the landowner, and the city council shall maintain a record of all conditions that are changed. All records of proceedings hereunder shall be kept and made available to the public.
- d. The conditional use review and site plan review may occur concurrently at the discretion of the planning commission.

(Ord. of 4-10-2018)

State law reference(s)—Special land uses, MCL 125.584a.

ARTICLE XIX APPEAL PROCEDURES¹²

Section 1900. Intent.

An appeals procedure is herein established in order that the objectives of this ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this ordinance, that adequate but controlled flexibility be provided in the application of this ordinance, that the health, safety, and welfare of the public is secured, and that justice be done.

Section 1901. Membership.

The city council shall act as the board of appeals upon questions arising under this ordinance. In this capacity, it shall perform its duties and exercise its powers as provided in Section 5 of P.A. 207 of 1921, as amended (MCL 125.585).

Section 1902. Meetings.

1. All meetings shall be held at the call of the mayor.
2. All hearings conducted shall be open to the public. The city council shall keep minutes of its proceedings showing the vote of each member in question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official actions in the office of the city clerk, and shall be a public record.

¹²State law reference(s)—Appeals, MCL 125.585 et seq.

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3. The city council shall not conduct business unless a majority of the members are present. The concurring vote of a majority of the full membership of city council shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance.
 4. The city council shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony, and the production of books, papers, files, and other evidence pertinent to the matters before it.

(Ord. of 4-10-2018)

Section 1903. Appeal and notice requirements.

1. An appeal may be taken to the city council by any person or entity affected by a decision of the building official. Such appeal shall be taken within such time as shall be prescribed by the city council by general rule, by filing with the building official, a notice of appeal, specifying the grounds thereof. The building official shall forthwith transmit to the city council all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the building official certifies to the city council, after notice of appeal has 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, the proceedings shall not be stayed, otherwise than by a restraining order which may be granted by a court of record.
2. The city council shall select a reasonable time and place for the hearing of the appeal and give due notice of the appeal to the parties, and to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single- and two-family dwellings within 300 feet, the notice to be delivered personally, or by mail, addressed to the respective owners and tenants at the address given in the last assessment role. The city council shall decide the appeal within a reasonable time. If the tenants name is unknown, the term occupant may be used. Public notice of the time, date, and place of the hearing shall also be given in the manner required by Act 267 of the Public Acts of 1976 (MCL 15.261 et seq.), and by insertion in a newspaper of general circulation in the city 15 days prior to said hearing date. Such notice shall contain the address, if available, and the location of the property for which the ruling of the city council is sought, as well as a brief description of the nature of the appeal. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.
3. No appeal shall be taken to the city council from a decision of the planning commission and city council in connection with a special conditional use.
4. No appeal shall be taken to the city from a decision of the planning commission in connection with an approved site plan unless such appeal has first been reviewed by the planning commission and a recommendation on the variance is provided by the planning commission.

(Ord. of 4-10-2018)

Section 1904. Jurisdiction.

The city council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision of determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this ordinance, the city council shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of this ordinance shall be observed, public safety secured, and substantial justice done. Nothing

herein contained shall be construed to give or grant to the city council the authority to make changes in the zoning ordinance or the zoning map acting under the authority of appeal board. The power and authority to rezone is reserved to the city council in the manner provided by Section 4 of P.A. 207 of 1921, as amended (MCL 125.584).

Section 1905. Powers and duties.

The city council shall have the following specified powers and duties acting as the appeal board:

1. *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the building official or any other administrative official in carrying out, or enforcing, any provisions of this ordinance.
2. *Interpretation.* To hear and decide in accordance with the provisions of this ordinance:
 - a. Appeals for the interpretation of the provisions of the ordinance.
 - b. Requests to determine the precise location of the boundary lines between the zoning districts as they are displayed on the zoning map, when there is dissatisfaction with the decision on such subject.
3. *Variances.* The city council shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, such requirements as off street parking and loading space, and sign regulations, and other similar requirements as specified in the ordinance. To obtain a variance, the applicant must show "practical difficulty," by demonstrating:
 - a. Whether strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render the conformity unnecessarily burdensome;
 - b. Whether a variance would do substantial justice to the applicant, as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;
 - c. Whether the plight of the owner is due to the unique circumstances of the property; and
 - d. Whether the problem is self-created.
4. *Approval of temporary uses.*
 - a. The city council shall have the power to grant permits authorizing temporary land uses for seasonal sales of produce, firewood or Christmas trees, and similar uses; under the following conditions:
 - (1) *Zoning districts where permitted.* Temporary uses shall be restricted to nonresidential zoning districts.
 - (2) *Application and submittal requirement.* The application for a temporary use permit shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:
 - (i) The shape, location, and dimensions of the lot, including the shape, size, and location of all buildings or other structures already on the lot, off street parking layout, and the location of any designated fire lanes.
 - (ii) The materials to be utilized in and the shape, size, and location of all buildings and structures to be erected or moved onto the lot, including all tents, tables, stands, or display racks.

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- (iii) The anticipated automobile traffic flow to and from the lot and any adjacent thoroughfares, loss of off-street parking spaces, if any, as well as the anticipated flow of pedestrian traffic upon lot sidewalks.
 - (3) *Time limitations.*
 - (i) A temporary use permit for the sale of Christmas trees, seasonal items such as flowers and similar uses shall by its terms be effective for no longer than 30 days. No more than one temporary use permit for the sale of Christmas trees shall be issued for any given location within a single calendar year.
 - (ii) A temporary use permit for a vegetable, fruit or produce stand or for the sale of firewood or similar use shall, by its terms, be effective for no longer than three months. No more than one temporary use permit for such uses shall be issued for any given location within a single calendar year.
 - b. The city council shall have the power to grant permits authorizing temporary land uses for uses which do not require the erection of any capital improvement of a structural nature, not otherwise permitted in any district (such as art fairs, carnivals, and civic festival events), not to exceed 12 months.

In classifying uses as not requiring capital improvement, the city council shall determine that they are either demountable structures related to the permitted use of land; recreation developments, such as, but not limited to: golf driving range and outdoor archery courts; or structures which do not require foundations, heating systems, or sanitary connections.
 - c. The granting of a temporary use shall be in writing, and state all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
 - d. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this ordinance. Further, the city council shall seek the review and recommendation of the planning commission prior to the taking of any action.
 - 5. *Essential services.* The city council shall review and approve, after a public hearing, the location of overhead or underground and necessary poles and towers to be erected to service primarily those areas beyond the municipality.
 - 6. *Standards for approval for temporary uses and essential services.* A temporary use permit shall only be granted if the city council determines that the proposed use, including the erection of any temporary building or structure, will:
 - a. Provide adequate light and ventilation between buildings and structures.
 - b. Provide adequate automobile and pedestrian traffic flow and provide adequate off-street parking.
 - c. Provide adequate lot access for fire protection purposes.
 - d. Not adversely affect the stability and integrity of the zoning plan prescribed by this ordinance or otherwise interfere with the protection of public health, safety, and general welfare.
 - e. Not be incompatible with or otherwise adversely affect the physical character of the community and, in particular, the surrounding area with a distance of 1,000 feet.
 - f. When the proposed temporary use is to be conducted on an otherwise vacant or unused lot, the use shall comply with all applicable zoning regulations for the district in which the temporary

special use is to be located, including all requirements pertaining to lot size, height, setback, open space ratio, maximum percentage of covered lot area, and off street parking.

(Ord. of 4-10-2018)

Section 1906. Prohibited variances.

1. No variance shall be made in connection with a condition attached to a special condition use approved by the city.
2. A use variance shall not be permitted, except as described under section 1905.4, approval of temporary uses.

Section 1907. Attachment of conditions.

The city council may impose conditions upon an affirmative decision. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use, or activity, and the community as a whole.
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
4. The conditions imposed with 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 approving authority shall maintain a record of changes granted in conditions.

Section 1908. Fees.

The city council may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeal proceedings. At the time an application is filed, said fee shall be paid to the city clerk.

Section 1909. Rehearing.

1. The decision of the city council shall be final. However, a person having an interest affected by the zoning ordinance may appeal to circuit court.
2. The city council is without general authority to reconsider a matter it has decided and from reversing its previous decision unless the facts and circumstances which actuated the decision have so changed as to vitiate or materially affect the reason which produced and supported it, and no vested rights have intervened.

ARTICLE XX GENERAL EXCEPTIONS

Section 2000. Area, height, and use exceptions.

The regulations in this ordinance shall be subject to the following interpretations and exceptions.

Section 2001. Essential services.

Essential services serving the City of Utica shall be permitted as authorized and regulated by law and other ordinances of the municipality. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the municipality shall receive the review and approval, after a public hearing, of the city council acting in the capacity of appeal board. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the City of Utica.

Section 2002. Voting place.

The provisions of this ordinance 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.

Section 2003. Height limit.

The height limitations of this ordinance shall not apply to farm buildings, chimneys, church spires, flagpoles, public monuments or television antennae for personal use; provided, however, that the city council may specify a height limit for any such structure when such structure requires authorization as a conditional use.

Section 2004. Lot area.

Any lot existing and of record on the effective date of this ordinance may be used for any principal use permitted in the district which such lot is located, other than conditional uses for which special lot area requirements are specified in this ordinance, whether or not such lot complies with the lot area and width requirements of this ordinance. Such use may be made provided that all requirements other than lot area and width prescribed in this ordinance are complied with and provided that not more than one dwelling unit shall occupy any lot except in conformance with the provisions of this ordinance for required lot area for each dwelling unit. (See also section 1403, nonconforming lots.)

Section 2005. Yard regulations.

When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified as determined by the city council, acting as appeal board.

Section 2006. Porches.

An open, unenclosed, and uncovered porch or paved terrace may project into a front yard for a distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies.

Section 2007. Projections into yards.

Architectural features, not including vertical projections, may extend or project into a required side yard not more than three inches for each one foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three feet.

Section 2008. Access through yards.

For the purpose of this ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of nine inches above the grade upon which placed, shall for the purpose of this ordinance not be considered to be a structure, and shall be permitted in any required yard.

Section 2009. Canopies and awnings.

Canopies and awnings offering partial protection from the weather, but not fully enclosed, and which extend into a public right-of-way or required yard, may be considered for approval subject to the following conditions:

1. Canopies and awnings extending into a public right-of-way are subject to the following requirements:
 - a. Such approval shall only be granted by the city council following planning commission recommendation.
 - b. Any such structure shall not extend closer than 24 inches to any vehicular parking space or moving vehicle lane.
 - c. Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.
 - d. Any such structure shall not conflict with any existing or proposed: landscape features, traffic control device, adjacent properties and signs and pedestrian movements.
 - e. The height, location, materials, construction and signage involved in any such structure shall specifically be subject to review and approval by the city council.
 - f. The structure shall be maintained in such a manner as to continue its original appearance and provide proper safety to the persons and property it may affect.
 - g. The City of Utica, its officials, employees and any of its representatives shall be guaranteed full protection against any liability or damages resulting from the construction and existence of any such structure. The nature of such protection and its continuous effect shall be subject to city council determination.
2. Canopies and awnings extending into a required yard are subject to the following requirements:
 - a. Such approval shall only be granted by the planning commission.
 - b. Any such structure shall not extend closer than the height of the structure to any property line adjacent to a residential district.
 - c. Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.
 - d. Any such structure shall not conflict with any existing or potential development on adjacent property.

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- e. The height, location, materials, construction and signage involved in any such structure shall specifically be subject to review and approval.
 - f. The structure shall be maintained in such a manner as to continue its original appearance and provide proper safety to the persons and property it may affect.

Section 2010. Decks.

A deck which is associated with a residential structure shall maintain a distance of at least 15 feet from the rear lot line and shall not occupy any required side yard or front yard area, and shall be subject to the following restrictions:

- a. The portion of a deck which occupies the required rear yard shall not be above the elevation of the first floor of the residence;
- b. No more than 25 percent of any deck shall be covered with structures such as a gazebo or a screened porch and such structures shall be nonhabitable; provided that the portion of a deck which occupies the required rear yard shall not contain any such covered structures;
- c. The portion of a deck which occupies the required rear yard shall not be converted into any enclosed habitable space.
- d. A deck shall be subject to lot coverage limitations.

ARTICLE XXI ADMINISTRATION AND ENFORCEMENT¹³

Section 2100. Enforcement.

The provisions of this ordinance shall be administered and enforced by the building official or by such deputies of his department as the building official may delegate to enforce the provisions of this ordinance.

Section 2101. Duties of building official.

The building official shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. It shall be unlawful for the building official to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this ordinance.

The building official shall record all nonconforming uses existing at the effective date of this ordinance for the purpose of carrying out the provisions of section 1403.

Under no circumstances is the building official permitted to make changes to this ordinance nor to vary the terms of this ordinance in carrying out his duties as building official.

The building official shall not refuse to issue a permit when conditions imposed by this ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

¹³Cross reference(s)—Administration, ch. 2Cross reference(s)—.

Section 2102. Plot plan.

The building official shall require that all applications for building permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

1. The actual shape, location, and dimensions of the lot.
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
3. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

Section 2103. Permits.

The following shall apply in the issuance of any permit:

1. *Permits not to be issued.* No building permit shall be issued for the erection, alteration or use of any building or structure, or part thereof, or for the use of any land, which is not in accordance with all provisions of this ordinance.
2. *Permits for new use of land.* No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
3. *Permits for new use of buildings.* No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
4. *Permits required.* No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the City of Utica Building Code, housing law, or this ordinance, except for minor repairs or changes not involving any of the aforesaid features.

Section 2104. Certificates.

No land, building, or part thereof shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

1. *Certificate not to be issue.* No certificates of occupancy shall be issued for any buildings, structure or part thereof, or for the use of any land, which is not in accordance with all the provisions of this ordinance.
2. *Certificates required.* No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
3. *Certificates including zoning.* Certificates of occupancy as required by the city building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this ordinance.

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4. *Certificates for existing buildings.* Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land, are in conformity with the provisions of this ordinance.
 5. *Record of certificates.* A record of all certificates issued shall be kept on file in the office of the building official, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
 6. *Certificates for dwelling accessory buildings.* Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
 7. *Application for certificates.* Application for certificates of occupancy shall be made in writing to the building official on forms furnished by that department, and such certificates shall be issued within ten days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this ordinance. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid ten-day period.

Section 2105. Final inspection.

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure or part thereof shall notify the building official immediately upon the completion of the work authorized by such permit, for a final inspection.

Section 2106. Fees.

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this ordinance may be collected by the building inspector in advance of issuance. The amount of such fees shall be established by resolution of the city council and shall cover the cost of inspection and supervision resulting from enforcement of this ordinance.

Section 2107. Temporary tents and uses of a temporary nature.

Temporary tents and uses of a temporary nature, such as, but not limited to, seasonal sales, tent sales, holiday sales, on-site events of a house of worship, school or non-profit group, temporary signs, and the like may be permitted by the city clerk, city planner and building official, or their designee, subject to the following standards:

1. An application form, available from the city clerk's office, shall be submitted along with the fee established from time-to-time by city council.
2. A site sketch shall be submitted, drawn to scale that illustrates the location of the proposed temporary use on the applicant's property.
3. If the property in question is not owned by the applicant, a letter signed by the owner shall be submitted giving the applicant authorization to use the property for the specific period of time requested in the temporary tent or use permit application.
4. If the temporary tent or use is not an accessory use to the parcel's identified use, the application shall require review and approval by the zoning board of appeals before a temporary use permit is issued.
5. The application shall clearly describe the nature of the temporary tent or use and the proposed time period to be covered by the permit. If the temporary tent or use will be in place for a period of time

exceeding five days, the application shall require review and approval by the zoning board of appeals before a temporary use permit is issued.

6. The applicant may be granted up to four temporary use permits in one calendar year. If the applicant wishes to exceed this number of permits, the application shall require review and approval by the zoning board of appeals before a temporary use permit is issued.
7. An applicant shall not apply for more than one temporary tent or use permit in a given month or within a 30-day period of the previously approved permit without review and approval by the zoning board of appeals before a temporary use permit is issued.
8. If the temporary tent or use exceeds 800 square feet in size, the application shall require review and approval by the zoning board of appeals before a temporary use permit is issued.
9. The applicant shall agree that the temporary tent or use will be removed immediately upon expiration of the temporary permit.
10. The application shall clearly demonstrate no potential adverse impact on adjoining properties or residence from the proposed temporary tent or use.
11. Prior to the issuance of a temporary use permit, the application shall be reviewed by the police chief and fire chief or their designees.
12. At the discretion of the city planner, city clerk and building inspector, an application for a temporary permit for a temporary tent or use may be referred to the zoning board of appeals for their review and approval, approval with conditions, or denial under the provisions of section 1905.04.

(Ord. of 4-10-2018)

ARTICLE XXII AMENDING THE ORDINANCE¹⁴

All amendments to the zoning ordinance must be reviewed by the city planning commission. Amendments may take the form of the city council proposal, staff initiated recommendations or citizen petitions, for either zoning text or zoning district boundary changes. In any event, the planning commission shall hold a public hearing as provided in Public Act 207 of 1921 as amended (MCL 125.581 et seq). After the public hearing has been closed, the planning commission shall submit a report and recommendations to the city council on the proposed change.

Whenever the planning commission holds a public hearing to consider a proposed change in the zoning district boundaries, a written notice of such time and place for a public hearing shall be mailed to the owners, at the address given in the last assessment rolls, of all lots or parcels of land lying within 300 feet of the boundaries or within lots in every direction of the area proposed to be rezoned, whichever is the greater area.

Notices of public hearing shall also be sent to each public utility company and each railroad owning or operating within the districts or zones affected. Such notices shall be delivered personally or by first class mail, at least 15 days prior to the date of the hearing.

Citizen petitions for zoning ordinance amendments shall be submitted to the city clerk on standard forms provided at least 15 days prior to the next regularly scheduled planning commission meeting. At the next regularly scheduled meeting, the planning commission shall set a date for a public hearing to receive public comment. The standard forms shall be completed in the manner prescribed and such documents, as required by the ordinance, shall be filed with the clerk. A fee schedule, as provided by resolution of the city council, shall be levied against each petition to cover the cost of administering the application process and for advertising public hearings and

¹⁴State law reference(s)—Amendments, MCL 125.584.

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ARTICLE XXII AMENDING THE ORDINANCE

other incidental costs relative to said petition. The city clerk shall transmit the application to the planning commission.

A petition for rezoning, once denied by city council, shall not be resubmitted for recommendation or action within one year from date of denial.

If the council does not take any action to resolve a petition for rezoning after public hearing within six months beginning with the initial day of filing, said petition shall be determined to have been denied.

Upon presentation of a protest petition, an amendment to a zoning ordinance, which is the object of the petition, shall be passed only by a two-thirds vote of the legislative body unless a larger vote, but not to exceed three-fourths vote, is required by ordinance or Charter. The protest petition shall be presented to a legislative body before final legislative action on the amendment, and shall be signed by one of the following:

- a. The owners of at least 20 percent of the area of land included in the proposed change.
- b. The owners of at least 20 percent of the area of land included with an area extending outward 100 feet from any point on the boundary of land included in the proposed change.

ARTICLE XXIII PLANNING COMMISSION¹⁵

Section 2300. Creation.

The planning commission is hereby designated as the commission specified in section 4 of Act 207 of the Public Acts of 1921 (MCL 125.584), and shall perform the zoning duties of said commission as provided in the statute in connection with the amendment of this ordinance.

Section 2301. Approval.

In cases where the planning commission is empowered to approve certain use of premises under the provisions of this ordinance, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said commission for the proper consideration of the matter.

The planning commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.

ARTICLE XXIV REPEAL OF PRIOR ORDINANCE

The zoning ordinance adopted by the City of Utica, known as Ordinance No. 62 and all amendments thereto, are hereby repealed. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

¹⁵Cross reference(s)—Planning commission, § 2-246Cross reference(s)— et seq.

ARTICLE XXV INTERPRETATION¹⁶

In the interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this ordinance to repeal, abrogate, annul, or in anyway to impair or interfere with any existing provision of law or ordinance other than the above described zoning ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this ordinance shall control.

ARTICLE XXVI VESTED RIGHT

Nothing in this ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

ARTICLE XXVII ENFORCEMENT, PENALTIES AND OTHER REMEDIES

Section 2701. Violations.

Any person, firm or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than \$500.00 and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the county jail for a period not to exceed 90 days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the cost of such prosecution.

Section 2702. Public nuisance per se.

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

State law reference(s)—Similar provisions, MCL 125.587.

Section 2703. Fines; imprisonment.

The owner of any building, structure or premises or part thereof, where any condition in violation of this ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall

¹⁶State law reference(s)—Conflicts, MCL 125.586.

be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

Section 2704. Each day a separate offense.

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

Section 2705. Rights and remedies are cumulative.

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

ARTICLE XXVIII SEVERANCE CLAUSE

Section of this ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or any part so declared to be unconstitutional or invalid.