

Chapter 78 ZONING¹

ARTICLE I. IN GENERAL

Sec. 78-1. Definitions.

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

Accessory building means a building or portion of a building subordinate to a principal building on the same parcel of property, and occupied by or devoted exclusively to an accessory use.

Accessory use means a use of land or a portion of a building customarily incidental and subordinate in purpose to the principal use of the land or building and located on the same lot with such principal use.

Adult regulated uses. The following definitions shall apply to adult-regulated uses:

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, internet, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images and where the images so displayed are distinguished or characterized by the depicting or describing of "sexually explicit activities" or "specific anatomical areas."

Adult book store or adult video store means a commercial establishment which offers for sale or rental for any form of consideration, occupying 15 percent or more of the floor area of the establishment, any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video matter, or photographs, cassettes or video reproductions slides, or other visual representation which depict or describe "sexually explicit activities" or "specified anatomical areas";
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "sexually explicit activities."

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of restricted nudity; or
- (2) Live performances which are characterized by the partial exposure of "specified anatomical areas"; or

¹Charter reference(s)—Zoning powers, §§ 4.2(5), 7.9.

Cross reference(s)—Any ordinance rezoning property or amending the zoning map saved from repeal, § 1-12(a)(16); buildings and building regulations, ch. 14; environment, ch. 30; planning, ch. 46; streets, sidewalks and other public places, ch. 58; subdivisions, ch. 62; vegetation, ch. 74.

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

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- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas."

Adult mini motion picture theater means an enclosed building with a capacity for less than 50 persons used commercially for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in subsections (9) and (10) of this definition, for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

Adult motel means a hotel, motel or similar commercial establishment which:

- (1) Offer accommodations to the public for any form of consideration; provide patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Permit patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web or similar types of distribution media; or
- (3) Offer a sleeping room for rent for a period of time that is less than 10 hours; or allow a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- (4) Allow a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "sexually explicit activities" or "specified anatomical areas."

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

Amusement gallery/arcade means any business which provides on its premises four or more machines which upon the insertion of a coin or slug may be operated for use as a game, contest or amusement of any description, not including musical devices.

Establishment, sexually oriented business means and includes any of the following:

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

Halfway house means an institution or facility established by the state department of corrections in connection with a jail, prison or other correctional institution or facility as a residence for three or more persons committed to the jail, prison or correctional institution prior to full release from supervision, including any period of parole.

Massage parlor means a building, room, place or establishment other than a regularly licensed hospital or dispensary where nonmedical and nonsurgical manipulative exercises are practiced on the human body for

other than cosmetic or beautifying purposes with or without the use of mechanical or bathing devices by anyone not a physician or surgeon or similarly registered status.

Modeling studio means an establishment which furnishes facilities to the public for the taking of photographs of males and/or females with specified anatomical areas, as defined in subsection (9) of this definition, exposed or makes such models available for any other purposes.

Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and / or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude or permits patrons to display or to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web or other similar distribution media.

Sexually explicit activities means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Excretory functions as part of or in connection with any of the activities set for in subsections (1) through (3), above;
- (5) Any activity intended to arouse, appeal to or gratify a person's lust, passions or sexual desires.

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or similar establishment, or any place that permits patrons to be filmed or photographed performing "sexually explicit activities" or displaying "specified anatomical areas" for electronic transmission over the World Wide Web or other similar types of distribution media.

Specified anatomical areas means:

- a. Less than completely and opaquely covered:
 1. Human genitals or pubic region;
 2. Buttocks;
 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.

Specified sexual activities means:

- 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.

Alley means a public way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

Alterations means any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, columns, beams, girders; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area; or any change which may be referred to in this chapter as "altered" or "reconstructed" or "change of use."

Apartment means a room or suite of rooms used as a dwelling for one family which does its cooking therein.

Apartment house means a residential structure containing three or more attached apartments.

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

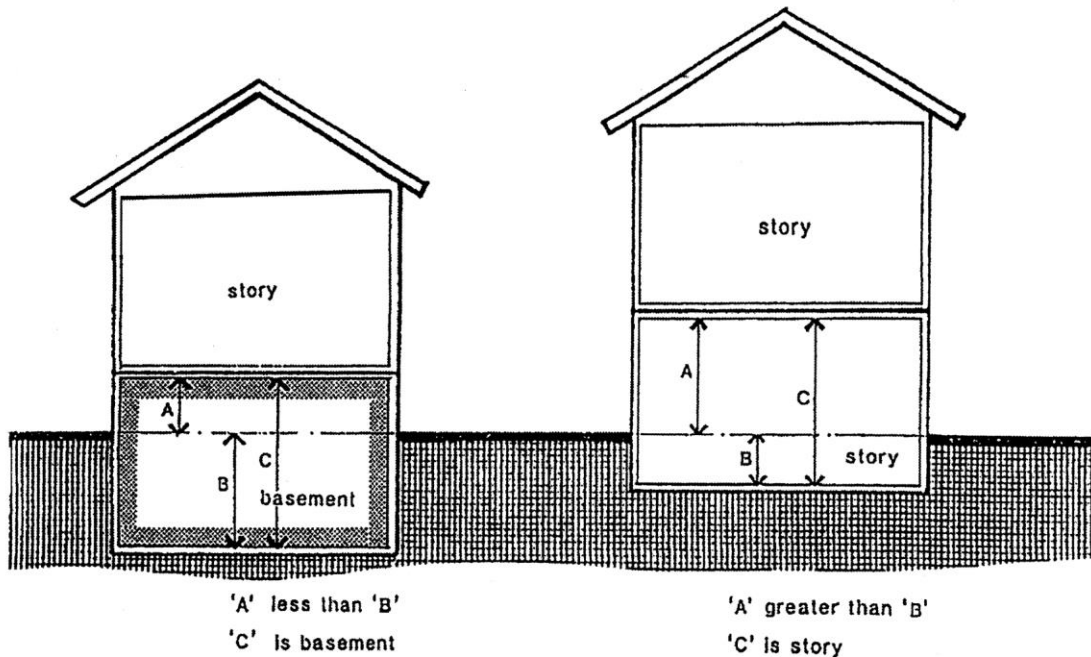
Automobile-oriented business means any place of business that primarily provides automobile-related services and/or that provides goods or services to customers while in an automobile. Such uses include those listed below:

- (1) *Automobile detailing shop* means a commercial establishment that provides services such as application of paint protectors, interior and exterior cleaning and polishing, and installation of after-market accessories including tinting, spoilers, sunroofs/moonroofs, headlight covers, car alarms, CB radios, stereo equipment, or cellular telephones. Automobile detailing does not include engine degreasing and car wash operations as defined in this chapter, or similar automobile cleaning services.
- (2) *Automotive repair garage* means a commercial establishment that provides major or minor repair services for automobiles, trailers, recreational vehicles, motorcycles, or similar noncommercial motor vehicles, but excludes dismantling, wrecking, or salvage.
 - a. *Major repair service* includes general repair, rebuilding, or reconditioning of engines, transmissions, motor vehicles, or trailers; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing, major painting services; or similar servicing, rebuilding, or repairs that normally do require significant disassembly and/or overnight on-site storage of vehicles.
 - b. *Minor repair service* includes the replacement of any part or repair of any part that does not require removal of the engine head or pan, transmission, or differential; engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment and/or balancing; sales and installation of batteries and/or tires; incidental body and fender work; minor painting and upholstering service, or similar servicing or repairs not as part of collision repair that normally do not require any significant disassembly or overnight on-site storage of vehicles.
- (3) *Car wash* means a facility for the washing and/or waxing of automobiles but not heavy trucks or commercial fleets.
 - a. *Automatic car wash* means a building or portion thereof containing automatic or mechanical devices for washing automobiles.
 - b. *Self-service car wash* means a facility where washing, drying, polishing, and/or vacuuming of an automobile is done by the driver or an occupant of the automobile.
- (4) *Gas station or filling station* means an establishment where motor fuels (including gasoline, diesel fuel, and alternative fuels) and lubricants are sold and/or dispensed as the principal use on the site. Household propane and kerosene sales may be permitted pursuant to this section. The sale of convenience items may be accessory to the principal use, provided that payment for such items is made outside any structure on the site.
- (5) *Gas station with convenience store* means any commercial establishment that sells both motor fuels and convenience items for which payment may be made inside a structure on the site. Convenience items may include hot or cold beverages, prepackaged food items, and/or self-service food items, but not food prepared on the premises by a person other than the consumer.
- (6) *Service station* means any commercial establishment where motor fuels and lubricants are sold and/or dispensed as the principal use on the site, but which also offers minor repair service (see automotive

repair garage) and/or retail sales of tires, batteries, and other small accessories or parts for motor vehicles.

Automobile-oriented uses shall not include new or used automobile dealerships, retail establishments providing goods but no repair service (e.g., auto parts stores), mass transportation facilities (e.g., bus terminals), parking spaces or parking lots, automobile rental establishments, automobile liveryes, truck repair garages, truck stops, or any public or governmental use.

Basement means that portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average natural or existing grade to the basement floor is greater than the vertical distance from the average natural or existing grade to the basement ceiling. A basement shall not be included as a story for height measurement. (See definition of "*Basement, walkout*" and illustration entitled "basement and story".)



basement and story

Basement, walkout means a basement which has direct access to the exterior of the structure on a maximum of one side. A walkout basement shall be considered half a story.

Bed and breakfast inn means a dwelling in which overnight accommodations are provided or offered for transient guests for compensation, including provision for a morning meal only and for overnight guests only.

Bedroom means a room in a dwelling unit for or intended to be used solely for sleeping purposes by human beings.

Bikeway means pedestrian or nonmotorized vehicular circulation routes built according to the standards of the city or other agency with right-of-way jurisdiction, as applicable.

Billboard means any nonaccessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located.

Board means the zoning board of appeals.

Boardinghouse means a single-family dwelling which provides eating or sleeping accommodations for more than one person who is not a member of the resident family.

Buildable area means the buildable area of a lot is the space remaining after the minimum open space requirements of this chapter have been complied with.

Building means an independent structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or chattels. When any portion thereof is completely separated from every other part by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building. This refers to both temporary and permanent structures and includes tents, sheds, garages, stables, greenhouses or other accessory structures.

Building, main or principal means a building in which is conducted the principal use of the lot upon which it is situated.

Building official means the person, or his authorized representative, authorized by the city manager or city council pursuant to article II of this chapter to administer and carry out the duties of enforcement of this chapter. The terms "building inspector" or "code official," if used in this chapter, shall be synonymous with "building official."

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

Building setback line means the line which pertains to and defines those minimum (building) setback lines which are established parallel to the front street or right-of-way line and within which setback area no part of a building shall project or be located, except as otherwise provided for by this chapter. Such line when adjacent to a building is normally formed by the junction of the outer surface of the building or enclosure wall with the finish grade or surface of the adjoining ground.

Canal means a natural or artificially constructed or excavated channel intended to connect two bodies of water; used for navigation purposes or boat docks; as a means of ingress or egress to other bodies of water; or for building lots on the banks thereof.

Change of use means any alteration; any expansion of floor area, off-street parking area, outdoor storage, service or operational area; land or water occupancy by a different permitted use; land or water occupancy by the same permitted use if a building or site has been unoccupied for a period of six months; the addition of a canopy for vehicles or display area; dredging, filling, excavating, grading or paving which results in an earth change of more than five cubic yards, except gardening or agriculture.

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

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

Commercial use means a commercial use related to the use of property in connection with the purchase, sale, barter, display or exchange of goods, wares, merchandise or personal services or the maintenance of offices or recreational or amusement enterprises, or garage, basements conducted on residential premises for more than six calendar days during a given one-year period.

Commercial vehicle means a truck or motor vehicle with cab and chassis construction having a commercial license plate and having stake bed, dump body, wrecker body, tanker body or any other body or cargo box, the mounted height of which exceeds the height of the cab roof by more than eight inches, and/or is over nine feet in exterior length. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction such as backhoes, power shovels, bulldozers, earth moving equipment and other similar equipment. Commercial vehicles shall also include semitrailers and tractors, as well as other trailers used for commercial

purposes, such as landscaping equipment trailers. Any vehicle in excess of 10,000 pounds gross vehicle weight will be considered a commercial vehicle.

Commission and planning commission mean the city planning commission.

Condominium means a plan or project consisting of not less than two units as established and approved in conformance with Public Acts No. 59 of 1978 (MCL 559.101 et seq., MSA 26.50(101) et seq).

Convalescent or nursing home means a home for the care of the aged, impaired and persons suffering from permanent and/or extended physical disorders and illness, wherein two or more persons receive care.

Deck means a generally horizontal structure containing no roof or walls, commonly constructed of wood, typically attached to a house, and used for leisure activities.

Density means the number of dwelling units permitted on an area of land.

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

Drive-in establishment means a business establishment so developed that its principle retail or service character provides a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, e.g., restaurants, cleaners, banks and theaters.

Drive-up service means a business activity so developed that its retail or service character is dependent on providing a driveway approach and waiting spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Dumpster means a container used for the temporary storage of rubbish, pending collection, having a capacity of at least two cubic yards.

Dwelling unit means any house or building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in no case shall an automobile chassis, tent or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings. Garage space, attached or detached, shall not be deemed a part of a dwelling for area requirements.

Dwelling, multiple means a building used for and as a residence for three or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses and apartment hotels, but not including mobile home parks.

Dwelling, row, terrace or townhouse means a row of three or more attached one-family dwellings, not more than 2½ stories in height, in which each dwelling has its own front entrance and rear entrance.

Dwelling, single-family means a detached building containing not more than one dwelling unit designed for residential use of one family only, provided:

- (1) It complies with the minimum square footage requirements of this chapter for the zone in which it is located.
- (2) It has a minimum width across front, side and rear elevations of 20 feet and complies in all respects with the city building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the city building code, then and in that event, such federal or state standard or regulation shall apply; further provided that the provisions of this section shall not have the effect of making one-family dwellings, which exist as of the effective date of the ordinance from which this chapter is derived, nonconforming.

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- (3) It is firmly attached to a permanent foundation constructed on the site in accordance with the city building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one-family dwellings. If the dwelling is a mobile home, as defined in this section, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state mobile home commission and shall have a perimeter wall as required.
 - (4) If a dwelling is a mobile home as defined in this section, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
 - (5) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
 - (6) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors, with the second one being in either the rear or side of the dwelling; and contains steps connected to such exterior door areas or to porches connected to such door areas where a difference in elevation requires such steps.

The compatibility of design and appearance shall be determined in the first instance by the building official upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning board of appeals within a period of 30 days from the receipt of notice of such building official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single-family dwelling as well as the character, design and appearance of one or more residential dwellings to the extent of less than 20 percent of the lots situated within such area; or, where such area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the city.

- (7) The dwelling contains no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of foundations as required in this chapter.
- (8) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to such mobile home shall be of a type and quality conforming to the "mobile home construction and safety standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (9) The foregoing standard shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law.
- (10) All construction required in this section shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

Dwelling, two-family means a detached two-family dwelling occupied by two families, each provided with separate facilities for each family for living accommodations. Also known as a duplex dwelling.

Efficiency unit means a dwelling unit consisting of one room, exclusive of bathroom, kitchen, hallway, closets or dining alcove, directly off the principal room providing not less than 350 square feet of floor area.

Erected includes built, constructed, reconstructed, moved upon or any physical operations on the premises required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.

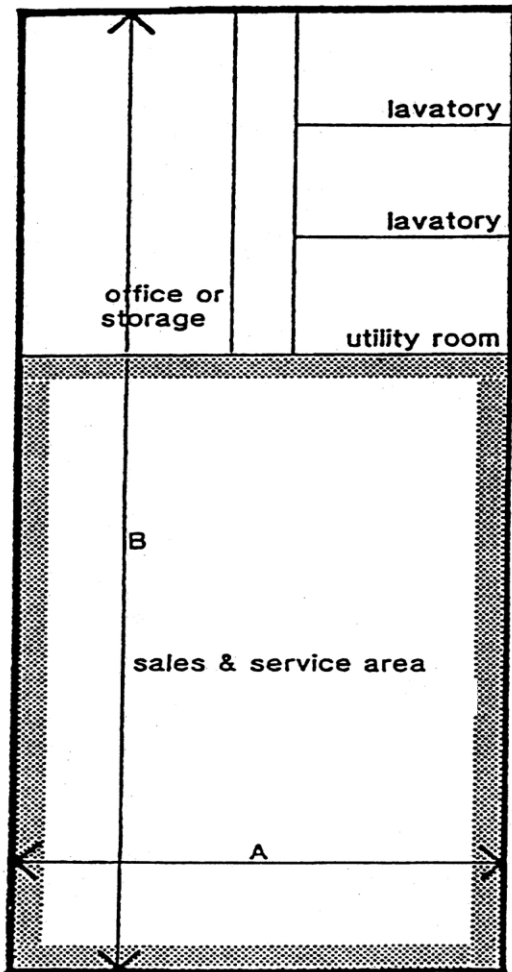
Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including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

Family means one or more persons related by blood, adoption or marriage, living and cooking together as a single nonprofit housekeeping unit, inclusive of household servants. A number of persons living and cooking together as a single nonprofit housekeeping unit having a continuing nontransient domestic character, though not related by blood, adoption or marriage, shall be deemed to constitute a family. This definition shall not include any society, club, fraternity, sorority, group of students, association, lodge, combine, federation, group, coterie or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort/seasonal or similar to a boardinghouse, motel or hotel or for an anticipated limited duration of a school term or terms on a similar determinable period.

Fence means a man-made barrier or structure which, when erected or placed, encloses, screens, separates an area or areas, or marks a line.

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

Floor area, gross means the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The "floor area" of a building shall include the basement floor area when more than one-half of the basement height is above the established curb level or finished lot grade, whichever is higher (see *Basement* definition). The area of a walkout basement shall be included in the calculation of gross floor area. Any space devoted to off-street parking or loading shall not be included in "floor area." Areas of basements, utility rooms, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included. (See illustration entitled "Floor Area Terminology.")



"A"x"B": GROSS FLOOR AREA



USABLE FLOOR AREA

floor area terminology

Floor area, usable. The measurement of usable floor area shall include that portion of the floor area measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, excluding utility or mechanical equipment rooms, or sanitary facilities. In the case of a half-story, the usable floor area shall be considered to be only that portion having a clear height above it of five feet or more. Provided, however, for the purpose of calculating required parking, usable floor area means 75 percent of the gross floor area measured from the interior face of the exterior walls. For uses not enclosed within a building, the required parking shall be based on 75 percent of the area used for the display of merchandise and/or area used to serve the patrons or clients.

State law reference(s)—Similar provisions, MCL 400.703, MSA 16.610(53).

Garbage means every refuse, accumulation of all waste, animal, fish, fowl, fruit or vegetable matter, incident to the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit and vegetables, including spoiled food, dead animals, animal manure and fowl manure.

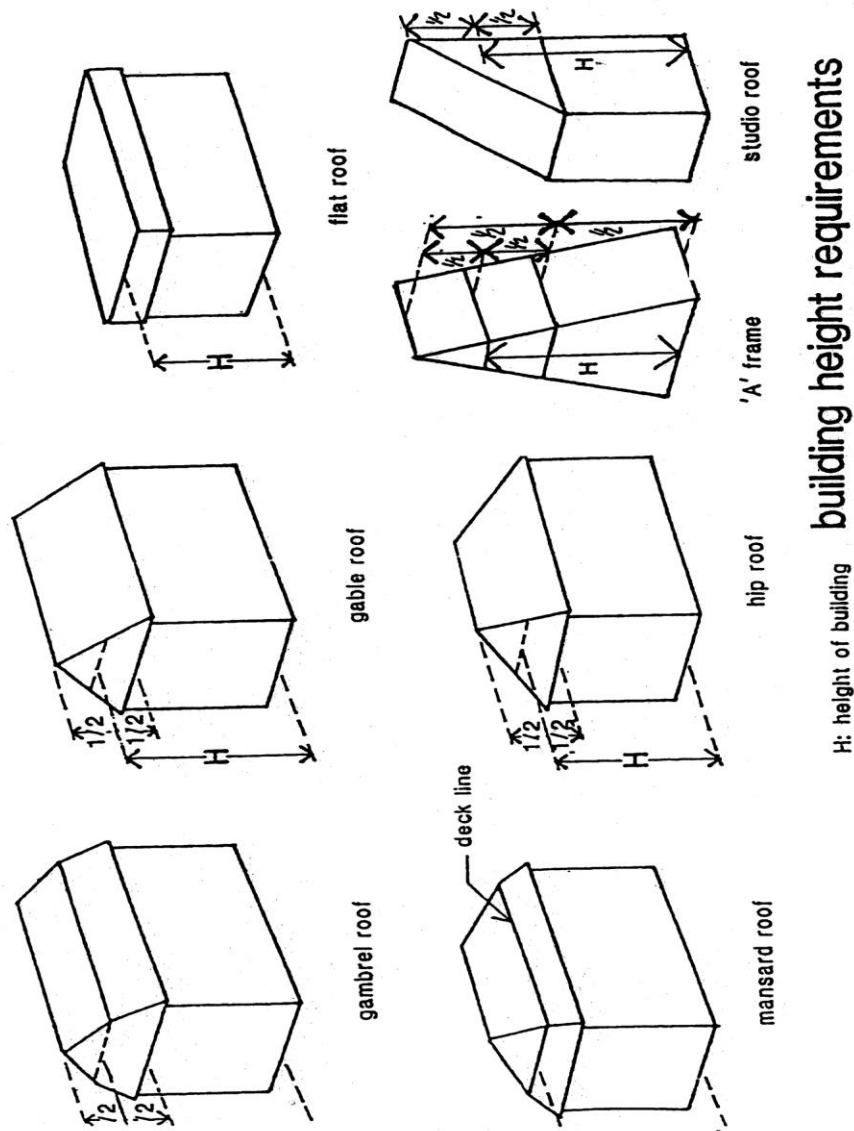
Grade means the surface of the land, including the surface contours and slope. The grade is depicted by elevations of the surface of the land.

Grade, finished or final means the grade after excavating, filling, regrading or other similar changes or improvements to the land.

Grade, natural or existing means the grade prior to excavating, filling, regrading or other similar changes or improvements to the land.

Greenbelt means a strip of land which is planted with trees or shrubs acceptable in species and caliper to the planning commission.

Height, building means the vertical distance measured from any point on the natural or existing grade to the roofline of the building immediately above. The roofline of the building shall be measured at the highest point of the roof surface if a flat roof; to the deck line of mansard roofs and to the mean high level between eaves and ridge of gable, studio, hip and gambrel roofs; and 75 percent of the height of an "A" frame. (See illustration entitled "building height requirements.")



Home occupation means any occupation conducted within a dwelling unit and carried on by the inhabitants thereof, not involving employees other than members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof and which does not endanger the health, safety and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby. Provided further that:

- (1) No article or service shall be sold or offered for sale on the premises except such as is produced by such occupation.
- (2) No home occupation shall be conducted in any accessory building.
- (3) Such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage or signs not customarily found in residential areas.
- (4) No home occupation shall generate other than normal residential traffic either in amount or type.
- (5) Parking needs generated by a home occupation shall be provided for in an off-street parking area, located other than in a required front yard.
- (6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal sense off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- (7) Day care centers, tea rooms, veterinarian's office, tourist homes, animal hospitals, kennels, millinery shops, barbershops and beauty shops, among others, shall not be deemed to be home occupations.

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

Hotel means a building occupied as a more or less temporary abiding place for individuals, who are lodged with or without meals in rooms occupied singly for hire, in which provision is not made for cooking on any individual plan and in which there are more than ten sleeping rooms.

Junk means motor vehicles, machinery, appliances, products or merchandise with parts missing, or scrap metals or other scrap materials that are damaged, deteriorated or are in a condition which cannot be used for the purpose for which the product was intended.

Junkyard means and includes automobile wrecking yards and salvage areas and includes any area of more than 200 square feet for the storage, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include uses established entirely within enclosed buildings which are in conformance with all other provisions of this chapter.

Kennel means any lot or premises on which three or more dogs, six months or more old, are permanently or temporarily boarded, or are kept for the purpose of breeding or selling.

Laboratory means a place devoted to experimental, routine study or basic study, such as testing and analytical operations and in which manufacturing of products, except prototypes, is not performed.

Livestock means any of the various bird or animal breeds, long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man, including horses, ponies, mules, donkeys, cattle, swine, sheep, goats, chickens, ducks, geese and turkeys.

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

Lot means a piece or parcel of land occupied or intended to be occupied by a building and any accessory buildings or by any other use or activity permitted thereon, and including the open spaces and yards required under this chapter, and having its frontage upon a public city street or road either certified for maintenance by the county road commission or designated on a recorded subdivision. Provided, that the owner or any number of contiguous lots may have as many of such contiguous lots considered as a single lot for the purpose of this chapter as he so elects; in such case, the outside perimeter of such group of lots shall constitute the front, rear and side lot lines thereof. This latter parcel is a "zoning lot."

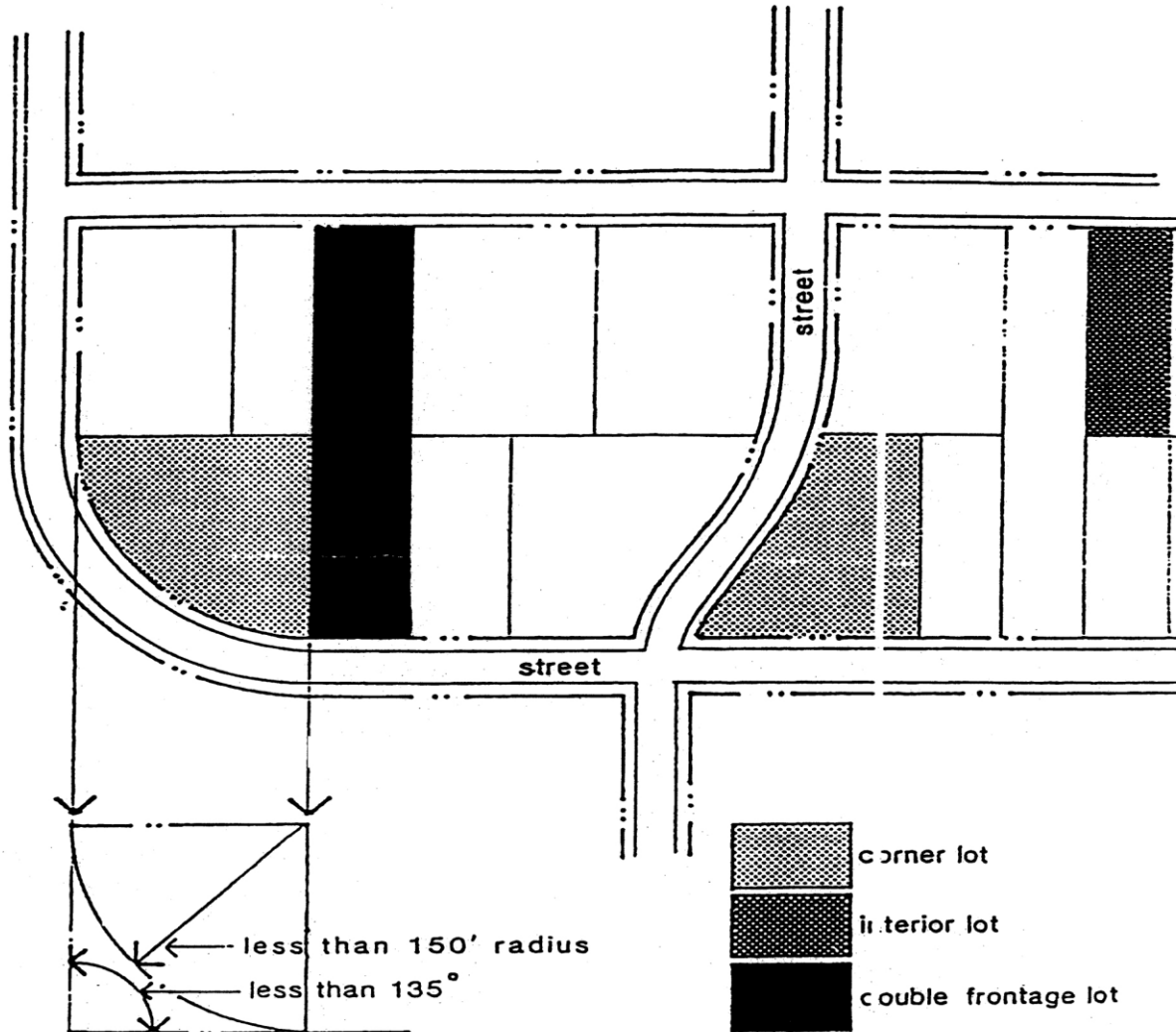
Lot, corner means a lot of which at least two adjacent sides abut for their full length upon a street, provided that such two sides intersect at an angle of not more than 135 degrees. Where a lot is on a curve, if tangents through the extreme point of the street line of such lot make an interior angle of not more than 135 degrees, it is a corner lot. In the case of a corner lot with curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described in this definition.

Lot coverage means the part or percent of the lot occupied by buildings or structures, including accessory buildings or structures and temporary or permanent swimming pools.

Lot, depth means the mean horizontal distance from the center of the front street line to the center of the rear lot line.

Lot, double frontage means a lot other than a corner lot having frontage on two more or less parallel streets. In the case of a row of double frontage lots, one street will be designated as the front street for all lots in the plat and in the request for a building permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed from both streets where buildings front.

Lot, interior means a lot other than a corner lot with only one lot line fronting on a street.



corner, interior & double frontage lots

Lot, lake means a lot having any frontage directly upon a lake, canal, natural or manmade. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall also be designated the front yard of the lot.

Lot line means any line dividing one lot from another or from the right-of-way, and thus constitutes property lines bounding a lot.

- (1) *Lot line, front* means, in the case of an interior lot or lake lot abutting on one public or private street, the line separating the lot from the street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating such lot from the street which is designated as the front street: in a plat and/or in the request for a building permit. In the case of a lake lot, one front lot line shall be the legal lake level line or the platted lot line, whichever is nearest to the proposed structure or use.
- (2) *Rear lot line* means that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular or gore-shaped lot, a line ten feet in length entirely within the lot

parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of the rear yard. In cases where none of these definitions are applicable, the planning commission shall designate the rear lot line.

- (3) *Side lot line* means any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lot of record means a lot which actually exists in a subdivision plat as shown on the records of the county register of deeds as of November 8, 1957, or a lot or parcel described by metes and bounds, the description of which has been so recorded in the office of the register of deeds for the county as of November 8, 1957.

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

Major thoroughfare means an existing paved highway having an existing or planned right-of-way of at least 120 feet.

Manufactured housing means a mobile home, residential building, modular home, dwelling unit, a dwelling room or a building component, assembly or system that is manufactured in a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage or destruction, which is either wholly or substantially manufactured at an off-site location, and the installation of which is to be wholly or partially on-site in accordance with building standards established for the construction and installation of premanufactured units under the mobile home commission act (MCL 125.2301 et seq., MSA 19.855(101) et seq.).

Marina means a boat basin with facilities for berthing and securing all types of recreational craft, as well as providing supplies, provisions and service facilities.

Massage business means health clubs, tanning salons, gyms and other businesses, which provide massage as a primary or accessory use.

Minimum landscaped open space means the percentage of lot area which must be maintained in grass or other living vegetation.

Mobile home means a movable or portable dwelling constructed to be towed on its own chassis and designed for permanent yearround living as a single-family dwelling. Provided, however, that the term "mobile home" shall not include motor homes, campers, recreational vehicles (whether licensed or not as motor vehicles) or other transportable structures designed for temporary use and which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power and portable water utilities.

Mobile home park means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

Mobile home site means a designated lot within a mobile home park for the exclusive use of occupants of a single mobile home.

Mobile home subdivision means a subdivision designed and/or intended for the sale of lots for residential occupancy by mobile homes in accordance with standards established under the land division act (MCL 560.101 et seq., MSA 26.430(101) et seq.).

Motel means a series of attached, semidetached or detached rental units which may or may not be independently accessible from the outside parking area, containing bedroom, bathroom and closet space and designed for or occupied primarily for transients. No kitchen or cooking facilities are to be provided without the approval of the city planning commission, with the exception of units for use of the manager and/or caretaker.

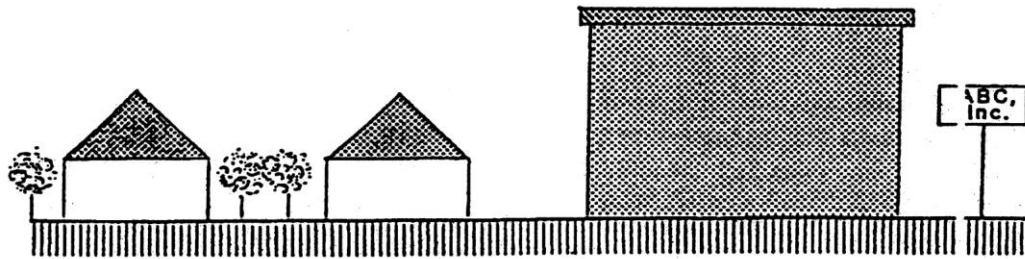
Motor home means a motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile home.

Nonconforming use of building means:

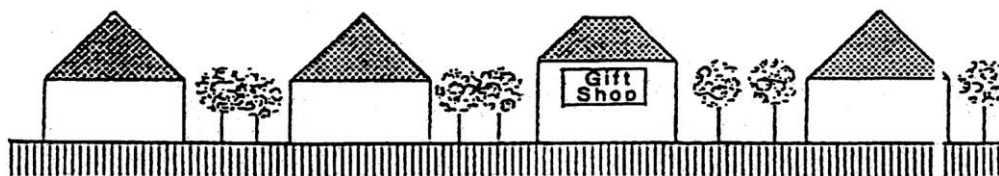
- (1) *Nonconforming use* means a use which lawfully occupied a building or land at the effective date of the ordinance from which this chapter is derived or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.
- (2) *Nonconforming building* means a building or portion thereof lawfully existing at the effective date of the ordinance from which this chapter is derived, or amendments thereto, and which does not conform to the provisions (e.g., setbacks, height, lot coverage, parking) of this chapter in the zoning district in which it is located. (See illustration entitled "nonconforming use".)

Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity or A state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast, as defined by MCL 41.181(3).



Nonconforming Building and Use
(Industrial Plant in Residential District)



Nonconforming Use
(Residence Converted to Commercial Use in Residential District)

nonconforming use

Nursery, plant materials means a space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for wholesale or retail sale, including products used for gardening or landscaping.

Occupancy, change of means a discontinuance of an existing use and the substitution thereof of a use of a different kind or class, or the expansion of a use.

Off-street parking space means a space of 180 square feet (nine feet by 20 feet) for the parking of an automobile, exclusive of access drives and aisles thereto. Handicap parking spaces shall be a minimum of 240 square feet (12 feet by 20 feet).

Open air business uses means business uses not conducted entirely within an enclosed building. Open air business uses shall include the following business uses:

- (1) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- (2) Retail sale of fruit and vegetables.
- (3) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.
- (4) Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sale, rental or repair services.
- (5) Outdoor display and sale of garages, swimming pools, motor homes, snowmobiles, farm implements and similar products.

Open steps means steps primarily used for safe access to a doorway, built to current building code requirements for step tread and step height specifications. In no case shall the step tread exceed 18 inches. The top step used for direct access to the door (the landing area) shall not be larger than 25 square feet.

Parking area, total means the actual parking area and the area of the access drives thereto.

Patio means an open unenclosed area usually constructed of aggregate materials, located on grade and used for outdoor leisure activities.

Pawnshop means a shop of a pawnbroker or one who lends money at interest in exchange for personal property left with him/ her as security.

Pet means a domesticated dog, cat, canary, parakeet, parrot, gerbil, hamster, guinea pig, turtle, fish, rabbit and similar animals.

Planned technology and research development district overlay (PTD) means an overlay district for the planned development of technology and research uses as provided for under division 11 of article IV of this chapter.

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

Porch, open means a covered entrance to a building or structure which is a maximum of 50 percent enclosed by walls and columns supporting the porch roof, and projects out from the main wall of such building or structure and has a separate roof or an integral roof with a principal building or structure to which it is attached.

Poultry means any of various breeds of birds long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys, not including game fowl.

Premises means a lot with a building which functions as a single unit in certain respects, such as multiple tenant occupancy of one building, occupancy of more than one building on one lot; use of common entrances or off-street parking by more than one dwelling unit or use. A shopping center is an example of a premises.

Privacy screen means any unroofed manmade vertical structure intended and used as a visual barrier designed to inhibit observation of an area from off the lot.

Public utility means any person, municipal department or board duly authorized to furnish or furnishing under federal, state or municipal regulations a service which is of public consequence and need. The principal distinctive characteristic of a public utility is that of a service to or readiness to serve an indefinite public (or portion of a public as such), which has a legal right to demand and receive its services or commodities. Services or commodities for the purposes of this chapter include gas, electricity, steam, water, sewage, transportation, telephone, cable television and microwave and mobile phone communication.

Quarry excavation means any breaking of the ground to hollow out by cutting or digging or removing any soil matter, except common household gardening and general farm care.

Recreational vehicle means a boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pick-up camper, trailer which is designed for private recreational or recreational travel use.

Residential occupant means any person, including an owner or operator, living and/or sleeping, and/or cooking, and/or eating in, or having actual possession of a dwelling unit or rooming unit.

Restaurants:

- (1) *Dining room* means a structure which is maintained, operated and advertised or held out to the public as a place where food and beverage are served, and consumed, primarily within the structure. Such food and beverage are served primarily in nondisposable (reusable by the restaurant) containers.
- (2) *Drive-in restaurant* means any establishment where food, frozen dessert and/or beverages are served to customers while seated in their motor vehicles upon the premises. It shall also include any establishment where the customers may serve themselves and are permitted to consume food and beverages in a motor vehicle parked on the premises or at other facilities which are provided for the use of the patron for the purpose of consumption and which are located outside of the building or structures.
- (3) *Fast food restaurant* means a structure which is maintained, operated and advertised or held out to the public as a place where food, beverage and/or desserts are served to customers from a serving counter in disposable (not reusable by restaurant) containers or wrappers. Such food, beverage and/or desserts may be consumed inside the building; outside, at facilities provided; or "carried out" for consumption off the premises.
- (4) *Carryout restaurant* means a structure which is maintained, operated and/or advertised or held out to the public as place where food, beverage and/or desserts are served in disposable containers or wrappers from a serving counter for consumption exclusively off the premises.

Roadside stands means a temporary or permanent building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family, and its use shall not make into a commercial district land which would otherwise be noncommercial, nor shall its used be deemed a commercial activity. Such stand, if of a permanent character, shall not be more than one story high nor larger than 20 feet by 20 feet, and must be set back from the nearest right-of-way line at least 25 feet.

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

Satellite antenna means an accessory structure which at its widest dimension is in excess of 36 inches; an earth-based station, the purpose of which is to receive signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

Separate ownership means ownership of a parcel of property wherein the owner does not own adjoining vacant property. Owner of a property may include dual or multiple ownership by a partnership, corporation or other group, provided that the owner of any number of contiguous lots of record for the purpose of this chapter as he so elects, and in such case the outside perimeter of such group of lots of record shall constitute the front, rear and side lot lines thereof.

Setback means the minimum horizontal distance required to exist between the nearest point of the structure and the defined lot line, with the following exceptions:

- (1) One fireplace or chimney, not more than eight feet in width, shall be permitted to project a maximum of 12 inches into the required side or rear yard setback; and
- (2) Cornices, eaves and gutters shall be permitted to project a maximum of 24 inches into the required setback.

Sidewalk means pedestrian or nonmotorized vehicular circulation routes built according to the standards of the city or other agency with right-of-way jurisdiction, as applicable.

Sidewalk sale means the temporary sale of goods outside of the building which normally encloses a business establishment. The purpose of such activity is generally to promote sales relating to a specific event or holiday.

Smoke shop means a retail establishment where 50 percent or more of the retail area, defined as wall to wall, is used for the display, promotion, sale or use of products listed below; or an establishment where the sale of products listed below constitutes greater than 50 percent of the establishment's merchandise:

- (1) Cigarettes, e-cigarettes, vapor, nicotine/alternative nicotine products, cigars, and packaged tobacco;
- (2) Tobacco smoking and e-cigarette paraphernalia products, including, but not limited to: Pipes for smoking tobacco and nicotine products, cigarette holders, pens and electronic devices used for smoking tobacco, vape, and other nicotine or alternative nicotine products, and cigarette rolling papers.
- (3) Alternative nicotine product means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, inhaled or ingested by any other means.
- (4) Nicotine product means a product that does not contain tobacco, but delivers nicotine, including vapor products, and other nicotine delivery methods and devices.
- (5) Tobacco product means a product that contains tobacco and is intended for human consumption including, but not limited to, cigarettes, cigars, non-cigarette smoking tobacco, chewing tobacco, tobacco snuff or smokeless tobacco as those terms are defined in Section 2 of the Tobacco Products Tax Act, 1993 PA 327, MCL 205.422.
- (6) Vapor product means a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electric, chemical, or mechanical means regardless of shape or size that can be used to produce vapor from nicotine in a solution or other form. Vapor products include, but are not limited to, an electronic cigarette (E-cigarette), electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette (E-cigarette), electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Soil removal means removal of any kind of soil or earth matter, including topsoil, sand gravel, clay or similar materials, or combination thereof, except common household gardening and general farm care.

Stable, public means a use for the breeding, rearing and housing of more than two horses, ponies and similar animals, and including riding academies and stables to which the public is admitted for a fee to ride and/or board horses.

State equalized valuation means the value shown on the city assessment roll as equalized through the process of state and county equalization.

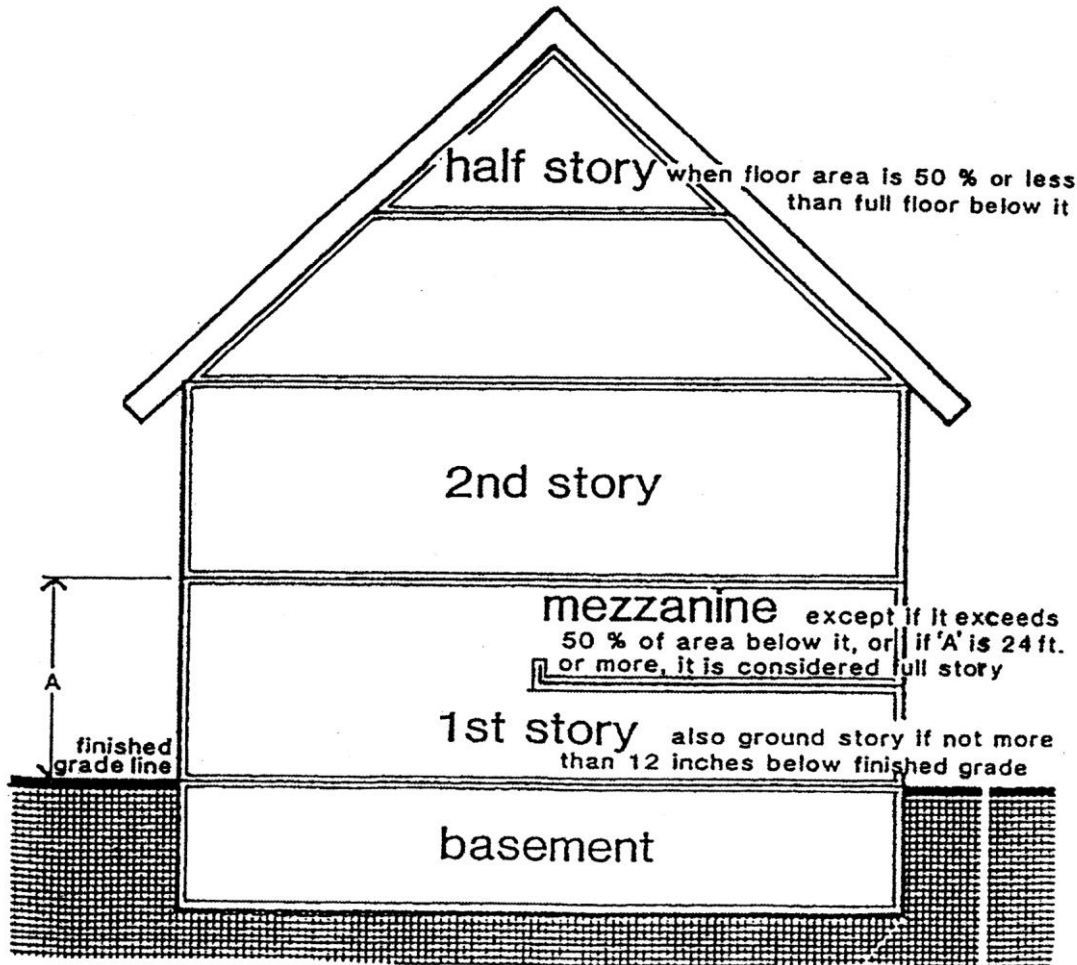
State licensed residential facility. The following types of facilities are included in this definition:

- (1) *Adult foster care facility.*
- (2) *Adult foster care family home.*
- (3) *Adult foster care large group home* means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.
- (4) *Adult foster care small group home* means an adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.
- (5) *Child caring institution* means a child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates through out the year. An educational program may or may not be provided. Child caring institutions includes a maternity home for the care of unmarried mothers who are minors and an agency group home, that is described as a small child caring institution owned, leased, or rented by a licensed agency providing care for more than four but less than thirteen (13) minor children. Child caring institutions also includes institutions for mentally retarded or emotionally disturbed minor children. This definition is subject to the exclusions of MCL 722.111(b).
- (6) *Child care center or day care center* means a facility, other than a private residence, receiving one or more preschool or school-aged children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care centers or day care centers include facilities that provide care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. This definition is subject to the exclusions of MCL 722.111(e).
- (7) *Family day care home* means a private home in which one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
- (8) *Foster family home* means a private home in which one but not more than four children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- (9) *Foster family group home* means a private home licenses by the Michigan Department of Social Services in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- (10) *Group day care home* means a private home in which more than six but not more than twelve children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption.

Story means that portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable

floor area to at least 50 percent of the usable floor area of the floor immediately below it. A top floor area under a sloping roof with less than 50 percent of the usable floor area is a half story. A walkout basement is a half story. The first story shall be considered the lowest story of which the ceiling is more than four feet above the average contact ground level finished or final grade at the exterior walls of the building. (See *Height, Building, Basement walkout, and Story, half.*)

Story, half means the part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed 50 percent or less than the floor area below it. That part of a building which is a walkout basement. (See definition of "Story, Height, Building," and illustration entitled "Basic Structural Terms.")



basic structural terms

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

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

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

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

Swimming pool means any nonportable structure, or portable container, either above or below grade, located either in part or wholly outside a permanent enclosed and roofed building, designed to hold water to a depth greater than 12 inches, when filled to capacity, intended for immersion of the human body, either for swimming or wading or both. A pond created by the excavation of an earthen pit shall not be considered a swimming pool.

Tattoo establishment means any facility that provides, as its principle function, the service of providing a tattoo, an indelible mark or figure fixed upon the body by insertion of pigment, or dye under the skin, or by the production of scars.

Temporary building and use means a structure or use permitted by the board of zoning appeals to exist during periods of construction of a use, for special events or for other uses which have a limited duration, not to exceed one year.

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

Tourist home means a dwelling in which overnight accommodations are provided or offered for transient guests for compensation, without provision for meals.

Toxic or hazardous materials means materials including waste or a combination of waste and other discarded material including solid, liquid, semisolid or contained gaseous material which because of its quality; concentration; or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or increase in serious irreversible illness or serious incapacitation, but reversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of or otherwise managed.

Trailer, recreational means a portable vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging, but which does not exceed eight feet in width or 25 feet in length. This term also includes folding campers and truck-mounted campers but not mobile homes.

Use means the purpose for which a lot or premises or a building thereon is designed, arranged or intended, or for which it is occupied, or maintained, let or leased.

Utility room means a room in a dwelling, not located in the basement, the use of which is primarily for storage or for housing a heating unit, or for laundry purposes.

Variance means a modification of the literal provisions of this chapter that is granted when strict enforcement would cause undue hardship or practical difficulties owing to circumstances unique to the individual property on which the variance is granted. Hardships or practical difficulties based solely on economic consideration shall not be a basis for granting a variance.

Vehicle storage, indoor means a private facility used for the storage of operable passenger vehicles of less than 10,000 pounds gross vehicle weight only within an enclosed building.

Wall, retaining means a structural mass which is designed and used to resist lateral pressures of soil behind it and is designed to be safely supported by soil beneath it.

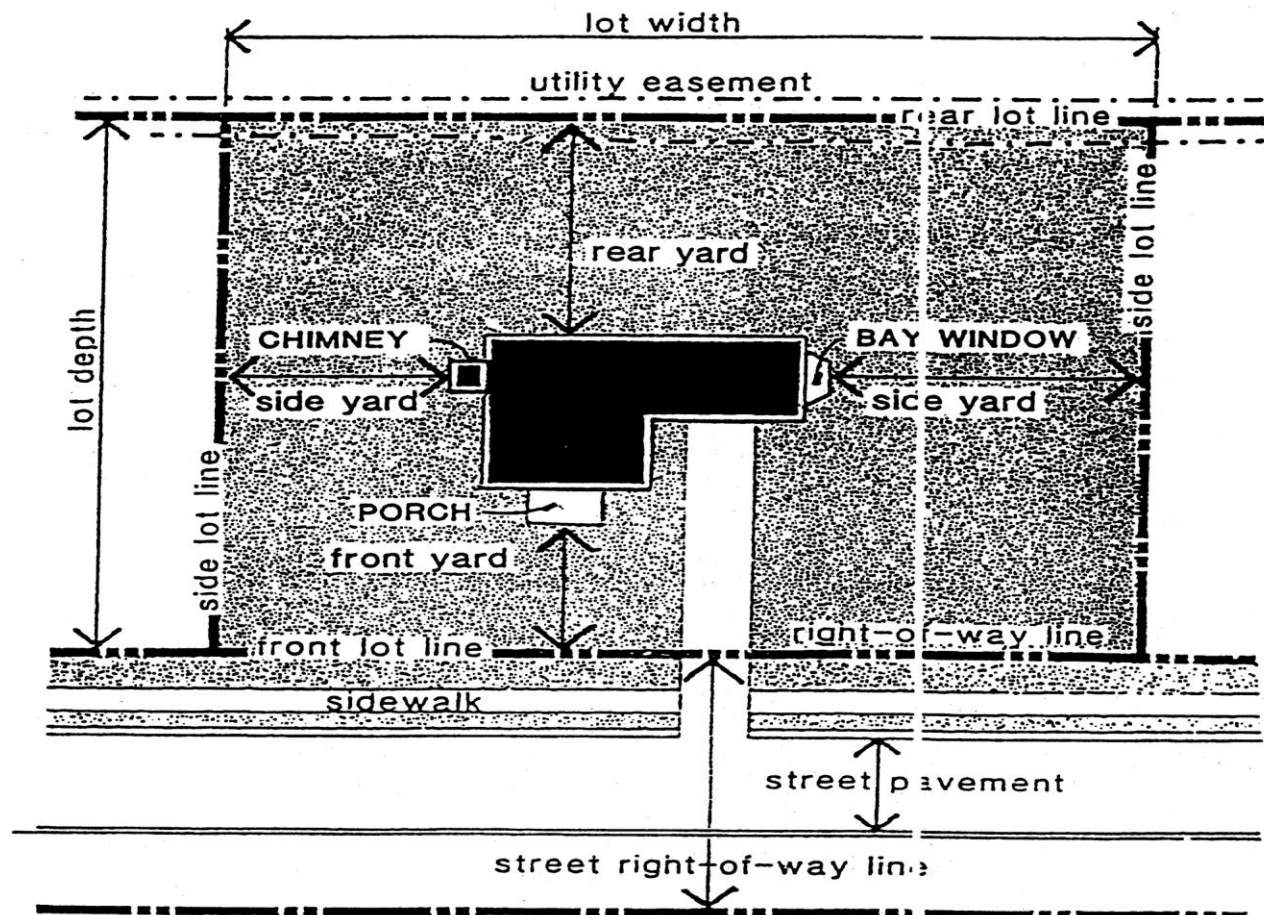
Yard means an open space of a width or depth on the same lot with a building or group of buildings, which open space lies between the nearest point of a building or group of buildings and the nearest lot line, and is

unoccupied and unobstructed from the ground upward, except for overhanging eaves and gutters which project less than 24 inches into a required yard.

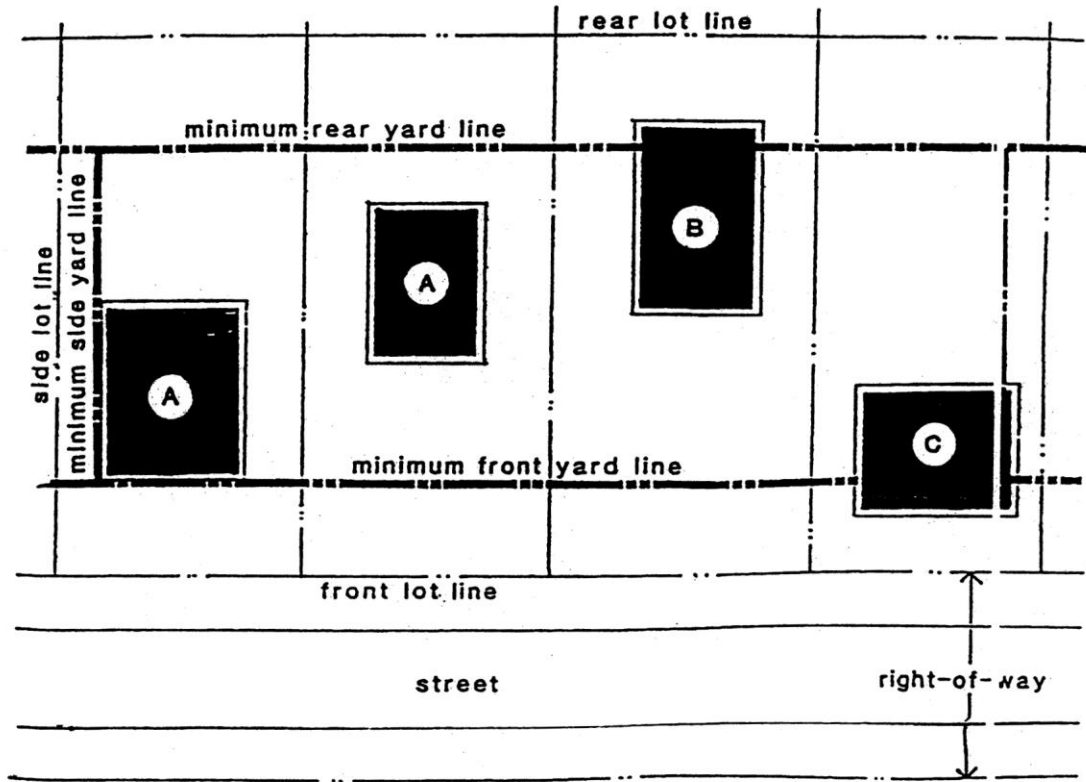
Yard, front means a yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the defined front lot line and the nearest point of the structure. (See illustration entitled "yard terms".)

Yard, rear means a yard extending across 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 structure. For the purposes of this chapter, lake lots will not have a rear yard.

Yard, side means a yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of the main building.



yard terms



yard requirements

Legend

- A Structures satisfying minimum yard requirements.
- B Structure with deficient rear yard.
- C Structure with deficient front and side yards.

(Ord. No. 54A, § 3.01, 11-11-1987; Ord. No. 201, § 1, 5-9-1990; Ord. No. 217, § 1, 3-13-1991; Ord. No. 219A, § 1, 2-12-1992; Ord. No. 222, §§ 1, 2, 7-14-1993; Ord. No. 226, § 1, 2-9-1994; Ord. No. 250, §§ 1—5, 1-13-1999; Ord. No. 251, § 1, 3-8-2000; Ord. No. 255, § 1, 12-6-2000; Ord. No. 266, § 1, 3-10-2004; Ord. No. 271, § 1, 7-13-2005; Ord. No. 277, § 1, 8-2-2006; Ord. No. 284, § 1, 4-11-2007; Ord. No. 347, § 1, 10-16-2019; Ord. No. 355, §§ 1, 2, 3-10-2021)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 78-2. Compliance with provisions of chapter.

- (a) No change of use shall be made and no structure shall be constructed, erected, placed or continued and no land redeveloped or use commenced, expanded or continued within the city except as specifically, or by necessary implication, authorized by this chapter.
- (b) Land uses are permitted specifically in the various zoning districts of this chapter. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted by the zoning board of appeals. No land contained within any zoning district within the city shall

be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by article II, division 4 of this chapter.

- (c) No portion of a lot used in or necessary for compliance with the provisions of this chapter shall through sale or otherwise be reduced beyond such minimums or again be used to satisfy the zoning requirements of another lot.
- (d) Except as otherwise provided in this chapter, no structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved or altered except in conformity with the regulations specified in this chapter for the zone district in which the structure or land is located.
- (e) Except as otherwise provided in this chapter, regulations governing land and building use are hereby established as shown in this chapter. Uses permitted in each district after special approval shall be permitted only in accordance with the special approval standards and procedures of this chapter.

(Ord. No. 54A, §§ 4.02, 4.05, 4.06, 16.03, 16.05, 11-11-1987)

Sec. 78-3. Penalty for violation of chapter.

- (a) *Generally.* Any person failing to comply with any of the provisions of this chapter, including failure to comply with any of the conditions or safeguards established or imposed in connection with site plan approval, special approval of principal permitted uses or the grant of a zoning variance, shall be deemed in violation of this chapter.
- (b) *Violation of a civil infraction.* Any person, firm, or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of chapter 1, section 1-7 of the Sylvan Lake City Code.
- (c) *Other rights or remedies not affected.* The rights and remedies provided in this chapter are cumulative and shall be deemed to be in addition to, and shall not adversely effect, any and all other rights and remedies provided by law.
- (d) *Rights and remedies preserved, no waiver.* Any failure or omission to enforce the provisions of this chapter, and any failure or omission to prosecute any violations of this chapter, shall not constitute a waiver of any rights and remedies provided by this chapter or by law, and shall not constitute a waiver of nor prevent any further prosecution of violations of this chapter.
- (e) *Public nuisance.* 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 effective date of the ordinance from which this chapter is derived and in violation of any of the provisions of this chapter is hereby declared to be a public nuisance per se. The board of appeals, any person designated by the city council or any aggrieved person may institute a suit in a court of law to have the nuisance abated.

(Ord. No. 54A, §§ 21.01, 21.02, 11-11-1987; Ord. No. 354 , Pt. I, 3-10-2021)

State law reference(s)—Violations declared nuisance, MCL 125.587, MSA 5.2937.

Secs. 78-4—78-35. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT²

DIVISION 1. GENERALLY

Sec. 78-36. Establishment of administrative officer.

The provisions of this chapter shall be administered by such person or group of persons designated by the city manager or the city council, who shall be referred to in this chapter as the building official or zoning administrator. The building official shall have the power to:

- (1) Grant certificates of occupancy.
- (2) Make inspections of buildings and premises necessary to carry out the duties of the enforcement of this chapter.
- (3) Issue building permits.

(Ord. No. 54A, § 19.01, 11-11-1987)

Sec. 78-37. Fees.

The city council may, from time to time, prescribe and amend by resolution a reasonable schedule of fees to be charged to petitioners for amendments to this chapter and for the review of special approval uses and site plans in accordance with the provisions of this chapter.

(Ord. No. 54A, § 16.42, 11-11-1987)

Sec. 78-38. Building permit application.

- (a) No building or structure within the city shall hereafter be erected, moved, repaired, altered or razed, nor shall any work be started to erect, move, repair or raze until a building permit shall have been obtained from the building official, nor shall any use be added to an existing use, nor shall any change be made in the use of any of building or land without a building permit having been obtained from the building official, except that no building permit shall be required for nonstructural alterations costing less than \$500.00. No such building permit shall be issued to erect a building or structure or make any change of use of a building or land unless it is in conformity with the provisions of this chapter and all amendments hereto. Unless construction is started within six months after the date of issuance of a building permit, the building permit shall automatically become void and fees forfeited. The building official may reinstate a building permit that has become void for failure to commence construction without payment of further fees at his discretion as long as site plan approval, if required, has not expired. Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter shall be collected by the building official in advance of issuance. The amount of such fees shall be established by resolution of the city council.

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

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- (b) The building official shall record all nonconforming uses for the purposes of carrying out the provisions of article II, division 4 of this chapter.
 - (c) The building official shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of such permit.
 - (d) The building official shall issue appearance tickets for violations pursuant to this chapter.
 - (e) The building official shall require that all applications for building permits be accompanied by plans and specifications, including a plot plan in duplicate, which shall agree with the site plan approved by the city council when required under article II, division 5 of this chapter. The plot plan shall show the following:
 - (1) Legal description of the property.
 - (2) North point and scale of not less than one inch equals 100 feet.
 - (3) Exact dimensions of the property, including bearings and distances as described in the legal description.
 - (4) Property relationship of subject property with all abutting property lines.
 - (5) Two-foot contours or pegged grade elevations at 50 feet on center for the entire property and for a distance not less than 50 feet outside the entire perimeter of the property.
 - (6) The existing finish grade elevations of all existing buildings or structures on or within 50 feet of the property.
 - (7) The location of all existing and/or proposed drives and parking areas.
 - (8) The location of all existing or proposed overhead and underground utilities.
 - (9) The natural and proposed finished grade of all buildings, the site itself and the entire perimeter of the property, including property corners.
 - (10) The location and widths of all existing and/or proposed rights-of-way and/or easements and all abutting streets and alleys.
 - (11) The point, area, ditch or enclosure to which stormwater is to drain, including discharge of sump pumps.
 - (12) The location of the existing and/or proposed buildings on the property shall be clearly shown and shall include the dimensions to front, side and rear property lines and ties from the proposed building to any adjoining building on or within 50 feet of the proposed building.
 - (13) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.
 - (14) Prior to pouring concrete for any footings, the builder shall demonstrate to the building official that the footing forms are properly located on the lot and that the footing grade is set to the proper elevation, both according to the dimensions and elevations as indicated on the plot plan.

One copy of the plans shall be returned to the applicant by the building official, after the building official shall have marked such copy either as approved or disapproved. The remaining copy shall be retained in the office of the building official.

- (f) Upon the completion of the work authorized by a building permit, the holder thereof shall seek final inspection thereof by notifying the building official, who shall then make such final inspection promptly.
- (g) Whenever the building, land and uses thereof as set forth in the application are in conformity with the provisions of this chapter, it shall be the duty of the building official to issue within seven working days after

the receipt of such application a building permit, and when such permit is refused, to state such refusal in writing with the reasons therefor.

- (h) Whenever the application for a building permit involves an addition or alteration to an existing building or structure, the building official may waive the requirements in this section of the furnishing of a plot plan when he determines that the public health, safety and welfare will not be adversely affected by doing so.

(Ord. No. 54A, § 19.02, 11-11-1987; Ord. No. 222, § 5, 7-14-1993)

Sec. 78-39. Certificate of occupancy.

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

- (1) *Certificates not to be issued.* No certificates of occupancy pursuant to the building code of the city shall be issued for any building, structure or part thereof, or for the use or change of use of any building or land, which is not in accordance with all the provisions of this chapter.
- (2) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected or altered shall be occupied or used or such occupancy or use caused to be done unless and until a certificate of occupancy shall have been issued for such building or structure. Such certificate shall not be issued until the following requirements are complied with and are approved by the building official:
 - a. Prior to the official issuance of a certificate of occupancy, the building official shall inspect the site to determine if the grading is in accordance with the approved plot plan. If, in the judgment of the building official, there is doubt that such grading is in accordance with the plot plan, the building official shall request a grading certificate prepared, signed and sealed by a registered professional civil engineer, architect or land surveyor be submitted to the building official, in duplicate, attesting to the fact that the site has been constructed and graded in accordance with the plot plan, permanent irons at each lot corner are in evidence and that the drainage pattern is in accordance with the plot plan as approved at the time of issuance of the building permit.
 - b. In lieu of a grading survey, a surety bond, letter of credit or cash deposit in an amount set by the building official may be required to ensure grading and submission of such survey at a later date when a building, land or structure is otherwise suitable for occupancy during that season of the year when weather conditions make finish grading unfeasible. In such case a temporary certificate of occupancy may be issued and the date for completion of grading shall be indicated on the temporary certificate of occupancy or its related documents.
- (3) *Certificates including zoning.* Certificates of occupancy as required by the building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings, structures or lands shall also constitute a certificate of occupancy as required by this chapter.
- (4) *Certificates for existing buildings.* Certificates of occupancy will 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 in land, are in conformity with the provisions of this chapter.
- (5) *Temporary certificates.* Nothing in this chapter shall prevent the building official from the issuing of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months nor more than five days after the completion of the entire building, to a state ready for occupancy, and provided further that such portion of the building, structure or premises is in conformity with the provisions of this chapter.

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- (6) *Records 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.
 - (7) *Certificates for dwelling accessory buildings.* Buildings 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.
 - (8) *Application for certificates.* Application for certificates of occupancy shall be made in writing to the building official on forms furnished by the department, and such certificates shall be issued if, after final inspection, it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant therefor shall be notified in writing of such refusal and cause thereof.

(Ord. No. 54A, § 19.03, 11-11-1987)

Sec. 78-40. Plats.

Proposed plats of lands hereafter to be platted into lots in the city shall be submitted to the city council for approval. All lots therein shall have a street frontage of not less than 65 feet and a depth of not less than 125 feet, or shall contain not less than 8,000 square feet; provided, however, that if the available lands, or part thereof, shall be so submitted that it would be impracticable, or would work an undue hardship to require all the dimensions in such plat to be of the size specified in this section, then and in that event the city council shall have authority to approve such where a portion of the lots therein do not conform to the requirements set forth in this section.

(Ord. No. 54A, § 19.04, 11-11-1987)

Sec. 78-41. Planning commission.

The planning commission is hereby designated as the commission specified in Section 301 of Act 110 of the Public Acts of 2006, as amended, and shall perform the duties of said commission as provided in the statute and in this chapter 78.

(Ord. No. 277, § 2, 8-2-2006)

Sec. 78-42. Notice of public hearing.

- (a) Except as otherwise provided in this chapter, if the city is required to provide notice of a public hearing, the city shall do all of the following:
 - (1) Publish notice of the request in a newspaper of general circulation in the city;
 - (2) Mail or personally deliver said notice to the owners of property for which approval is being considered; and
 - (3) Mail or personally deliver said notice to all persons to whom real property is assessed within 300 feet of the subject property and to the occupants of all structures within 300 feet of the subject property, regardless of whether the property or occupant is located in the city. If the name of an occupant is not known, the term "occupant" may be used.
- (b) The notices specified above shall be given not less than 15 days before the date of the public hearing or the date the application will be considered for approval.
- (c) The notice specified above shall do all of the following:

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- (1) Describe the nature of the request;
 - (2) Indicate the property that is the subject of the request by street address, or if none, other appropriate descriptive terms;
 - (3) State when and where the request will be considered; and
 - (4) Indicate when and where written comments will be received concerning the request.

(Ord. No. 277, § 2, 8-2-2006)

Secs. 78-43—78-60. Reserved.

DIVISION 2. AMENDMENTS AND RELATED MATTERS³

Sec. 78-61. Statement of intent.

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the city, this chapter shall not be amended except to correct an error in the chapter or, because of changed or changing conditions in a particular area or in the city generally, to rezone an area, to extend the boundary of an existing district or to change the regulations and restrictions thereof. Such amendment to this chapter may be initiated by any person by filing an application therefor with the city clerk, or by motion of the city council or the planning commission requesting the city clerk to initiate an amendment procedure.

(Ord. No. 54A, § 22.01, 11-11-1987)

Sec. 78-62. Amendment procedure.

- (a) All applications for amendments to this chapter shall be in writing, signed and filed in triplicate with the city clerk. All applications for amendments to this chapter, without limiting the right to file additional material, shall contain the following:
 - (1) The applicant's name, address and interest in the application as well as the name, address and interest of every person having a legal or equitable interest in the land.
 - (2) The nature and effect of the proposed amendment.
 - (3) If the proposed amendment would require a change in the zoning map, a fully dimensioned drawing showing the land which would be affected by the proposed amendment, a complete legal description of the land, the present zoning classification of the land, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration.
 - (4) If the proposed amendment would require a change in the zoning map, the names and addresses of the owners of all land and their legal descriptions within the area to be changed by the proposed amendment.

³State law reference(s)—Amendments, MCL 125.584, MSA 5.2934.

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- (5) The alleged error in this chapter which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the error.
 - (6) The changed or changing conditions in the area or in the city that make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
 - (7) All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
- (b) The city clerk, upon receipt of an application to amend or request to amend by the city council or planning commission, shall refer such application to the planning commission for study and report. The planning commission shall cause a complete study of the proposed amendment to be made and shall recommend to the city council such action as it deems proper. A public hearing on the proposed amendment shall be held by the planning commission before its recommendation to council on any proposed amendment to this chapter. Notice of the public hearing shall be given according to section 78-42 of this chapter. If 11 or more adjacent parcels are proposed for rezoning, notice of the public hearing need not include the addresses of individual parcels and the notice need to be mailed to all owners and occupants within 300 feet. Such notice shall also be mailed to each public utility company owning or operating any public utility within the zoning districts affected by the proposed amendment that registers its name and mailing address with the city for the purpose of receiving such notice. The city clerk shall maintain an affidavit of such mailing.

In addition to the provisions of this subsection, if an individual property or several adjacent properties are proposed for rezoning, the planning commission shall give a written notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within 300 feet of the premises in question is assessed and to the occupants of all single- and two-family dwellings within 300 feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the planning commission before the hearing. The notice shall be mailed or delivered not less than 18 days before the hearing stating the time, place, date and purpose of the hearing.

- (c) After the public hearing held by the planning commission, the city council may adopt the proposed amendment. The council may decline to adopt the proposed amendment or may adopt it in whole, in part, or with or without additional changes. The council may also refer the proposed amendment back to the planning commission for further study and review or for additional public hearings.

(Ord. No. 54A, § 22.02, 11-11-1987; Ord. No. 277, § 3, 8-2-2006)

Sec. 78-63. Protests.

- (a) In case a protest against a proposed amendment is presented, duly signed by the owners, or part owners, of 20 percent of the land proposed to be altered, or by the owners of at least 20 percent of the area of land included within the area extending outward 100 feet from any point on the boundary of the land included in the proposed change, such amendment shall not be passed except by the three-quarters vote of the city council.
- (b) If a parcel of land is owned by the entireties, by joint tenants, by tenants in common or by legal and equitable owners, any one of such owners may sign the protest for the parcel so owned. In determining the land area upon which percentages shall be calculated, there shall be included all the property in a common ownership as a single unit. For purposes of this subsection, publicly-owned land shall be excluded in calculating the 20 percent land area requirement.

(Ord. No. 54A, § 22.03, 11-11-1987)

State law reference(s)—Protests, MCL 125.584(5), MSA 5.2934, (5).

Sec. 78-64. Comprehensive review of chapter.

The planning commission shall, from time to time at intervals of not more than three years, examine the provisions of this chapter and the location of district boundary lines and shall submit a report to the city council recommending changes and amendments, if any, which are desirable in the interest of public health, safety and general welfare.

(Ord. No. 54A, § 22.04, 11-11-1987)

Secs. 78-65—78-85. Reserved.

*DIVISION 3. ZONING BOARD
OF APPEALS⁴*

Sec. 78-86. Creation of the zoning board of appeals; alternate members; terms of members; meetings.

- (a) *Creation.* A zoning board of appeals is hereby established, and shall consist of five members, appointed by majority vote of the members of the city council. One of the regular members of the zoning board of appeals shall be a member of the planning commission. One regular member may be a member of the legislative body but shall not serve as the chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals. The remaining regular members shall be selected from the electors of the city residing within the zoning jurisdiction of the city. The members selected shall be representative of the population and of the various interests in the city. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest.
- (b) *Alternate members.* The city council may appoint not more than two alternate members for the same term as regular members of the board of appeals. The alternate members may be called on a rotating basis to sit as regular members of the board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member called shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the board of appeals. A use in this section the phrase "absence of a regular member" shall mean the inability of a regular member to attend one or more meetings due to illness, death in the family, out to town on vacation and/or business, or similar situation.
- (c) *Terms of members.* The terms of office for members appointed to the zoning board of appeals shall be for three years, except for members serving because of their membership on the planning commission or

⁴Editor's note(s)—Ord. No. 289, § 1, adopted June 13, 2008, in effect, repealed the former Div. 3, §§ 78-86—78-91, and enacted a new Div. 3 as set out herein. The former Div. 3 pertained to similar subject matter and derived from Ord. No. 54A, adopted Nov. 11, 1987; Ord. No. 272, adopted Apr. 12, 2006 and Ord. No. 278, adopted Aug. 2, 2006.

Cross reference(s)—Boards and commissions, § 2-121 et seq.

State law reference(s)—Board of appeals, MCL 125.585, MSA 5.2935.

legislative body, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than three years to provide for staggered terms. A successor shall be appointed not more than one month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment.

- (d) *Officers and compensation.* The board shall annually elect its own chairperson, vice chairperson and a secretary. The compensation of the appointed members of the board shall be fixed by city council.
- (e) *Removal.* A member of the board may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- (f) *Meetings.* Meetings of the board shall be held at the call of the chairperson and at other times as the zoning board of appeals in its rules of procedure may specify. The chairperson or, in his or her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.
- (g) *Record of proceedings.* The zoning board of appeals shall maintain a record of its proceedings, which shall be filed in the office of the city council clerk.

(Ord. No. 289, § 1, 6-13-2008)

State law reference(s)—Authority for governing body to serve as board of appeals, MCL 125.585(1).

Sec. 78-87. Powers.

As set forth in Section 603(1) of Public Act 110 of 2006, as amended, and herein, the zoning board of appeals shall have the authority to hear and decide questions that arise in the administration of the zoning ordinance, including interpretation of the zoning map and to hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official, planning commission or city council. The zoning board of appeals shall hear and decide upon matters referred to it as required in this chapter. Also, the zoning board of appeals may adopt rules to govern its procedures sitting as a zoning board of appeals pursuant to Public Act 110 of 2006, as amended.

The zoning board of appeals shall not have the authority to alter or change the zoning district classification of any property, nor make any change in the text of this chapter. The zoning board of appeals shall not have the authority to hear and decide upon an appeal regarding a special use or a planned development. Further, the zoning board of appeals shall not grant any "non-use" or dimensional variance to any property located in a planned development zoning district, unless specifically authorized by the applicable recorded planned development agreement.

- (1) *Administrative review.* The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, city council or planning commission in carrying out or enforcing any provisions of this chapter. The applicant shall request such appeal within 30 days of the date of the order, refusal, requirement, or determination being appealed.

In hearing and deciding appeals under this subsection, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information, which had not been presented to the administrative official, city council or planning commission from whom the appeal is taken. The ZBA shall not substitute its judgment for that of the administrative official, (city council or planning commission) being appealed, and the appeal shall be limited to determining, based

upon the record, whether the administrative official, (city council or planning commission) breached a duty or discretion in carrying out this chapter.

- (2) *Interpretation of zoning map.* The ZBA shall have authority to hear and decide requests for interpretation of the zoning ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this chapter shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the ordinance as a whole, and shall not have the effect of amending the ordinance. Map interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the ordinance, the ZBA shall consider reasonable and/or practical interpretations, which have been consistently applied in the administration of the ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the ordinance.
- (3) *Public service or public utility building variance.* To permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes in any permitted district to a greater height or larger area than the district requirements established in this chapter, and permit the location, in any use district, of a public utility building, structure or use, if the board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service, and if an applicant under this subsection shall demonstrate to the satisfaction of the board that no reasonable alternative exists which, if employed, would allow full compliance with this chapter.
- (4) *Variances.*
 - a. *Dimensional or non-use.* The ZBA shall have authority in specific cases to authorize one or more dimensional or "non-use" variances from the strict letter and terms of this chapter by varying or modifying any of its rules or provisions so that the spirit of this chapter is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
 1. *Practical difficulties.* Strict compliance with the specified dimensional standard(s) will deprive the applicant of rights commonly enjoyed by other property owners in the same zoning district, create an unnecessary burden on the applicant or unreasonably prevent the owner from using the property for a permitted purpose.
 2. *Substantial justice.* The variance will do substantial justice to the applicant, as well as to other property owners, and a lesser variance than requested will not give substantial relief to the applicant or be consistent with justice to other property owners.
 3. *Unique circumstances.* The need for the variance is due to unique circumstances peculiar to the land or structures involved that are not applicable to other land or structures in the same district.
 4. *Preservation of property rights.* The variance is necessary for the preservation and enjoyment of a substantial property right also possessed by other property owners in the same zoning district.

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5. *Public safety and welfare.* The requested variance or appeal can be granted in such fashion that the spirit of this chapter will be observed and public safety and welfare secured.
 6. *Not self-created.* The problem and resulting need for the variance has not been self-created by the applicant or the applicant's predecessors.
 7. *More than mere inconvenience.* The alleged hardship and practical difficulties that will result from a failure to grant the variance include substantially more than mere inconvenience, or an inability to attain a higher financial return.
 8. *Additional considerations.* The ZBA shall consider all of the following when reviewing a variance to ensure that the proposed variance is the minimum necessary to meet the requirements of the applicant under the ordinance and may impose condition upon any variance granted based upon its findings under this subsection:
 - i. The granting of a lesser variance will not provide reasonable relief and substantial justice to the applicant.
 - ii. The granting of a variance will not increase the hazard of fire or otherwise endanger public safety.
 - iii. The granting of a variance will not unreasonably diminish or impair the value of surrounding properties.
 - iv. The granting of a variance will not alter the essential character of the neighborhood or surrounding properties.
 - v. The granting of a variance will not impair the adequate supply of light and air to any adjacent property.
- b. *Use.* The ZBA may grant a requested "use" variance only upon a finding that an unnecessary hardship exist, subject to a $\frac{2}{3}$ majority vote of the members of the ZBA. A finding of unnecessary hardship shall require demonstration by the applicant of all of the following:
1. *The current zoning ordinance prohibits the property owner from securing any reasonable economic return or making any reasonable use of the property.* Under this standard, the ZBA shall find that the property (land, structures and other improvements) is not suitable for uses permitted in the zoning district.
 2. *The landowner's plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.* Circumstances common to the larger neighborhood may reflect the unreasonableness of the zoning itself, which should be addressed through a rezoning or other legislative action.
 3. *The use variance, if granted, would not alter the essential character of the neighborhood.* This standard requires consideration of whether the intent and purpose of the ordinance and zoning district will be preserved and the essential character of the area will be maintained.
 4. *The hardship is not the result of the applicant's actions.* Under this standard, the ZBA shall determine that the hardship that led to the use variance request was not self-created by the applicant. Purchase of a property with a pre-existing hardship does not constitute a self-created hardship. Financial hardships that would prevent reasonable use of the property shall be considered, but shall not be the only determining factor in granting a use variance.
- c. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings.

Administrative officials and other persons may, but shall not be required to, provide information, testimony and/or evidence on a variance request. The fact that a variance would increase the value of property or allow an owner to increase profits is not sufficient grounds for granting the variance.

- (5) *Temporary buildings and uses.* The zoning board of appeals shall have the power to grant permits authorizing the following temporary uses:
- a. *Application and submittal requirements.* 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:
 1. 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.
 2. 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.
 3. 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.
- (6) *Conditions.* The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to insure that public services and facilities affected by a proposed land use or activity will be capable or accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:
- a. Be designed to protect natural resources, the health, safety and welfare and 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 whole.
 - b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
 - d. Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case.
- (7) *Consent of property owner required.* Applications to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

(Ord. No. 289, § 1, 6-13-2008)

State law reference(s)—Powers of board of appeals, MCL 125.585(3).

Sec. 78-88. Application and notices.

- (a) *Application.* All applications to the ZBA shall be filed with the city clerk, on forms provided by the city, and shall be accompanied by the applicable fee established by resolution of the city council. Applications shall include all plans, studies and other information and data to be relied upon by the applicant. Applications involving a request for a variance shall specify the requirements from which a variance is sought.
- (b) *Plot plan.* Applications involving a specific site shall be accompanied by a sketch which includes the following information, where applicable:
 - (1) Applicant's name, address, and telephone number.
 - (2) Scale, north point, and dates of submission and revisions.
 - (3) Zoning classification of petitioner's parcel and all abutting parcels.
 - (4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 50 feet of the site.
 - (5) Proposed lot lines and lot dimensions, and general layout of proposed structures, parking areas, driveways, and other improvements on the site.
 - (6) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
 - (7) Location of existing drainage courses, floodplains, lakes and streams, and woodlots.
 - (8) All existing and proposed easements.
 - (10) Location of sanitary sewer or septic systems, existing and proposed.
 - (11) Location and size of water mains, well sites, and building service, existing and proposed.
 - (12) Any additional information required by the zoning board of appeals to make the determination requested herein.

Where an application requests a variance sought in conjunction with a regular site plan review, a site plan prepared according to article ii, division 5, site plan review shall satisfy the requirements of this section.

The zoning board of appeals has the authority to require a land survey prepared by a registered land surveyor or registered engineer when the ZBA determines it to be necessary to insure accuracy of the plan.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

- (c) *Applications involving an appeal of administrative order.* In a case involving an appeal from an action of an administrative official or entity, the administrative official, or the clerk or secretary of the administrative entity, as the case may be, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
- (d) *Consent of property owner required.* Applications to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.
- (e) *Public notice.* The zoning board of appeals must hold a public hearing. The city council shall provide written notice of the hearing of an appeal, variance, or interpretation, as follows:
 - (1) *Notice contents.* The notice shall contain the following information, where applicable:
 - a. A description of the nature of the application and the purpose of the public hearing;
 - b. A statement indicating the applicable sections of the zoning ordinance;

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- c. A legal description and, when known, the address of the property;
 - d. A statement of when and where the public hearing will be held;
 - e. A statement of when and where written comments can be sent concerning the application.
- (f) *Newspaper publication and written notification.* The general requirements for newspaper publication and written notification shall be as indicated below:
- (1) Notices of public hearings must be published in a newspaper of general circulation within the city council not less than 15 days prior to the date of the hearing.
 - (2) Notification of a dimensional or use variance request must be sent by mail to the owners and occupants of all property and structures within 300 feet of the subject site, including outside of the city if applicable. However, if the request does not involve a specific parcel, notice need only be published as cited above.
 - (3) Notification need not be given to more than one occupant of a structure. In the case of a structure containing up to four dwelling units that are owned or leased by different persons, one occupant of each dwelling unit shall be given notice. For a structure containing more than four dwelling units that are owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
 - (4) Notices shall be considered given when personally delivered or when deposited with the United States postal service or other public or private delivery service during normal business hours.
 - (5) Notices must be given not less than 15 days prior to the date of the hearing.
- (g) *Stay of proceedings.* An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed (with the exception of court proceedings already in process) unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.
- (h) *Decision by the zoning board of appeals.* The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, (city council or planning commission) made in the administration of this chapter, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this chapter, or to grant a "non-use" variance from the terms of this chapter.

(Ord. No. 289, § 1, 6-13-2008)

Sec. 78-89. Disposition and duration of approval.

The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, (city council or planning commission) from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this chapter and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.

- (1) The concurring vote of the majority of the members of the zoning board of appeals shall be necessary to:
 - a. Reverse any order, requirement, decision or determination of any administrative official;
 - b. Decide in favor of the applicant on any matter upon which the board is required to pass under this chapter; or

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- c. Effect any variance in this chapter, except that a use variance shall be granted subject to the provisions of section 78-87(4)b.
- (2) Every decision of the board shall be based upon finding of fact, and each and every such finding shall be supported in the record of the proceedings of the board.
 - (3) Nothing contained in this section shall be construed to empower the board to change the terms of this chapter, to effect changes in the zoning map or to add to the uses permitted in any zoning district, except when specifically empowered to do so.
 - (4) A decision by the ZBA shall be considered final as of the meeting at which the decision has been made, and the date of such meeting shall be deemed to be the date of notice of the decision to the applicant. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting and decision, as proposed under supervision of the secretary, shall constitute the written decision.
 - (5) Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than 24 months, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void. The period of approval may be automatically extended by 12 months if the variance was sought in conjunction with a site plan for which approval has been extended by the planning commission.
 - (6) The city council administrative staff, under the supervision of the secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be within the ultimate authority, and shall be the responsibility, of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval.

(Ord. No. 289, § 1, 6-13-2008)

Sec. 78-90. Procedure for appeals.

- (a) The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court of the county in which the property is located. An appeal of the decision of the zoning board of appeals shall be filed within 30 days after the zoning board of appeals certifies its decision in writing or approves the minutes of its decision. Appeals of decisions of the zoning board of appeals shall be subject to the provisions of Section 606 of PA 110 of 2006, as amended.
- (b) If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to re-consideration for a period of one year, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one-year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

(Ord. No. 289, § 1, 6-13-2008)

State law reference(s)—Appeals, MCL 125.585(5)—(9)

Secs. 78-91—78-110. Reserved.

DIVISION 4. NONCONFORMITIES⁵

Sec. 78-111. Intent.

- (a) It is the intent of this chapter to permit legal nonconforming lots, structures or uses to continue until they are removed, but not to encourage their survival.
- (b) It is recognized that there exists within the districts established by this chapter and subsequent amendments, lots, structures and uses of land and structures which were lawful before this chapter was passed or amended which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.
- (c) Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as ground 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 chapter 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 in the district involved.
- (d) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance from which this chapter is derived and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

(Ord. No. 54A, § 14.01, 11-11-1987)

Sec. 78-112. Nonconforming uses of land.

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

- (1) No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived.

⁵State law reference(s)—Nonconformities, MCL 125.583a, MSA 5.2933(1).

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- (3) If such nonconforming use of land ceases for any reason for a period of more than 180 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(Ord. No. 54A, § 14.02, 11-11-1987)

Sec. 78-113. Nonconforming structures.

- (a) Where a lawful structure exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (1) No such structures may be enlarged or altered in a way which increases their nonconformity. Such structures may, however, be enlarged or altered in a way which does not increase nonconformity.
 - (2) Should such structure be destroyed by any means to an extent of more than 100 percent of its current assessed value, exclusive of the foundations, at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
 - (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Nothing contained in this chapter shall, however, prohibit a single-family residential homeowner from improving his homestead by an enlargement or alteration of the homestead structure, so long as the enlargement or alteration thereto is in keeping as near as reasonably can be with the provisions contained in this chapter, and provided such improvement receives the prior approval of the zoning board of appeals; provided, further, that any homestead destroyed by any means, except voluntary destruction, to an extent of more than 100 percent of its current assessed value exclusive of foundations at the time of destruction may be reconstructed by a homeowner as his homestead, provided such reconstruction meets the provisions of this chapter as near as reasonably can be and such reconstruction receives the prior approval of the zoning board of appeals. Under this subsection, the homeowner may only have one homestead in the city and such homestead must be his sole residence in the city and he must be residing in or have resided therein at time application to enlarge, alter or reconstruct is applied for.

- (b) Existing nonconforming single-family residential homes built prior to 1960 may be improved, modified, expanded, and maintained if said improvement, modification, expansion or maintenance replaces or increases the nonconforming portion of the structure provided all of the following are complied with:
 - (1) The alterations and/or improvements do not further reduce the existing nonconforming distance between the structure and the front yard setback;
 - (2) The alterations and/or improvements do not violate any additional side or rear yard setback requirements or the total lot coverage for the parcel;
 - (3) The alterations and/or improvements do not enlarge the living space of the nonconforming structure; and
 - (4) The alterations and/or improvements do not change the use of the improved area. (For example, but not by way of limitation, a nonconforming porch in the front yard may be expanded and improved along the front of the house toward each of the side lot lines, but may not decrease the distance to the front yard lot line, and provided the use thereof is not changed from a porch to enclosed living area.)

(Ord. No. 54A, § 14.03, 11-11-1987; Ord. No. 286, § 1, 8-8-2007)

Sec. 78-114. 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 the ordinance from which this chapter is derived that would not be allowed in the district under the terms of this chapter, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted in whole or in part to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, 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.
- (2) 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 the ordinance from which this chapter is derived, but no such use shall be extended to occupy any land outside such building.
- (3) If no such structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that the zoning board of appeals, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.
- (4) 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 thereafter be resumed.
- (5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months or for 12 months during any three-year period, or is otherwise sooner abandoned, 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 shall be exempt from this subsection.
- (6) 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.
- (7) Nothing contained in this chapter shall, however, prohibit a single-family residential homeowner from improving his homestead by an enlargement or alteration of the homestead structure, so long as the enlargement or alteration therein is in keeping as near as reasonably can be with the provisions contained in this chapter and provided such improvement receives the prior approval of the zoning board of appeals; provided further that any homestead destroyed by any means, except voluntary destruction, to an extent of more than 100 percent of its current assessed value, exclusive of foundations, at the time of destruction may be reconstructed by a homeowner as his homestead, provided such reconstruction meets the provisions of this chapter as near as reasonably can be and such reconstruction receives the prior approval of the zoning board of appeals. Under this subsection a homeowner may only have one homestead in the city and such homestead must be his sole residence in the city and he must be residing in or have resided therein at time application to enlarge alter or reconstruct is applied for.

(Ord. No. 54A, § 14.04, 11-11-1987)

Sec. 78-115. 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, providing that the cubic content of the building as it existed at the time of passage or amendment to this chapter shall not be increased. Nothing in this chapter 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.

(Ord. No. 54A, § 14.05, 11-11-1987)

Sec. 78-116. Uses under special approval provision not nonconforming uses.

Any use which is listed as a principal use permitted subject to special approval in this chapter shall be deemed a conforming use.

(Ord. No. 54A, § 14.06, 11-11-1987)

Sec. 78-117. 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.

(Ord. No. 54A, § 14.07, 11-11-1987)

Sec. 78-118. City removal of nonconforming uses and/or structures.

The city may acquire by purchase, condemnation or otherwise, private property for the removal of nonconforming uses and/or structures. Pursuant thereto, the council may, in its discretion, provide that the cost and expense of acquiring such property be paid from general funds or that any portion thereto be assessed to a special district.

(Ord. No. 54A, § 14.08, 11-11-1987)

Sec. 78-119. Nonconforming lots of record.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance from which this chapter is derived. This section 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.

(Ord. No. 54A, § 14.09, 11-11-1987)

Sec. 78-120. Zoning lot.

- (a) If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are recorded at the time of passage or amendment of the ordinance from which this chapter is derived, and if all or part of such lots do not meet the requirements of the schedule of regulations and footnotes for lot width and area, the lands involved shall be considered to be a single undivided lot for a building permit and all other purposes of this chapter, and no portion of such lot shall be used or sold in any manner which diminishes compliance with lot width, yard and area requirements established by this chapter, nor shall any division of any lot be made which creates a lot width, yard or area less than the requirements stated in this chapter. These same provisions shall apply to platted and unplatted lots or parcels.
- (b) Except that, when two or more abutting or contiguous lots (one or more of which is/are nonconforming in width or area) are of record and in single ownership as of the effective date of the ordinance from which this chapter is derived and each is occupied by a principal structure (as of the effective date of the ordinance from which this chapter is derived) the two or more abutting lots shall be deemed as nonconforming lots of record under this chapter.

(Ord. No. 54A, § 14.10, 11-11-1987)

Sec. 78-121. Contiguous lots in same ownership.

If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are recorded at the time of passage or amendment of the ordinance from which this chapter is derived, or are created subsequently, and if the sale, lease, disposal or development of one or more of such lots would or has, in the judgement of the building official (or on appeal, in the judgement of the zoning board of appeals) create or has created a situation unsuitable to the public health, welfare or safety or would be contrary to the intent of the district, no building permit shall be issued until such situation has been corrected in the judgement of the building official. The intent of this section is to avoid the creation of a situation where the location of existing driveways, walls, accessory buildings, principal buildings, off-street parking and similar features would not meet minimum yard requirements or would be located in part or entirely on a lot which would be in a different ownership. The further intent of this section is to resolve existing and potential nonconformities or conflicts prior to the sale, lease or disposal of contiguous lots in the same ownership to separate owners.

(Ord. No. 54A, § 14.11, 11-11-1987)

Secs. 78-122—78-140. Reserved.

DIVISION 5. SITE PLAN REVIEW⁶

Sec. 78-141. Purpose of division.

- (a) The purpose of site plan review is to provide for consultation and cooperation between the land developer and the city in order to accomplish the developer's land utilization objectives in harmony with the existing and prospective use and development of adjacent properties. It shall be the further purpose of this section to ensure that each proposed use and its components, appearance and function is in compliance with this chapter, other city ordinances and state and federal statutes. Further purposes of site plan approval shall

⁶State law reference(s)—Site plans, MCL 125.584d, MSA 5.2934(4).

include: privacy, efficiency for the public and local government servicing, preservation of the natural landscape, emergency access, effective drainage, vehicular and pedestrian safety and conveniences, control of temporary flooding, preventing stagnant water and ponding in intensively used areas; prevention of air, water and noise pollution; limitation of obnoxious odors, reduction of glare; exposure of toxic particles, substances and wastes.

- (b) The approvals, required information, procedures and standards set forth in this division shall be adhered to accomplish the purposes set forth in subsection (a) of this section.

(Ord. No. 54A, § 16.28(a), 11-11-1987; Ord. No. 318, § 1, 12-11-2013)

Sec. 78-142. Approval required.

In each zoning district, except for detached one-family residential uses, no building, including accessory buildings, shall be erected, moved, relocated, converted or structurally altered, and no change or addition of use, expansion or decreasing of off-street parking, or filling, excavation, or grading shall be undertaken until a site plan for such use has been approved. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building. Filling, grading or excavation which causes more than 15 cubic yards of earth material to be disturbed shall require a site plan approval. No billboard shall be constructed without site plan approval. No condominium, including single-family detached, shall be established or constructed without site plan approval. The establishment of any special land use shall require site plan approval. The improvement, expansion, extension, or abandonment of any public or private overhead or underground utility or utility-related lines or easements (including oil and gas production facilities) shall require site plan approval.

All site plans shall be reviewed for approval by the planning commission, except that the following may be reviewed administratively by the city manager without formal review by the planning commission:

- (1) When the plan only proposes improvements to or expansion of an existing off-street parking area;
- (2) When the plan only proposes modifications to a previously approved off-street parking lot layout, provided the proposed modifications do not reduce the number of approved parking spaces to less than the minimum number of spaces required by the division;
- (3) When the plan only proposes a change of use within an existing freestanding building or an interior modification of an existing use where such change results in an attendant increase in off-street parking need;
- (4) When the plan only proposes the improvement, expansion, extension or abandonment of any utility line or easement;
- (5) When the plan only proposes revisions to a previously approved landscape planting layout, provided that the revision does not compromise any applicable minimum standards of this division; or
- (6) When the plan only proposes changes in the location of previously approved buildings, provided the proposed relocation does not displace approved off-street parking areas and has no significant impact on the site or adjacent properties.
- (7) When the site is already the subject of an existing and previously approved site plan and the revised plan only proposes the construction of an accessory building for any customary accessory use, provided that the accessory building or structure does not exceed 1,000 square feet in total (gross) floor area.
- (8) When the site is already the subject of an existing and previously approved site plan and the revised plan only proposes one of the following:
 - a. An addition totaling 1,000 square feet or less to an existing building or structure; or
 - b. A reduction in the proposed building size.

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- (9) When an existing restaurant use proposes an outdoor seating area, where such change does not result in a deficiency in off-street parking demand.

(Ord. No. 54A, § 16.28(b), 11-11-1987; Ord. No. 318, § 1, 12-11-2013)

Sec. 78-143. Application.

- (a) Application for site plan review shall be made to the city by filing of not less than 12 copies of the detailed site plan with the office of the city manager at least 15 days in advance of the regularly scheduled planning commission meeting at which the plan is to be first considered. Fees are required to be paid within the fee schedule in effect as established by the council at time application is made.
- (b) The city manager shall examine the site plan to determine that it contains all the necessary information. If it is incomplete, it shall be returned to the applicant owner. If generally complete and if it appears to comply with this chapter, it shall be processed in accordance with this chapter.

(Ord. No. 54A, § 16.28(c), 11-11-1987; Ord. No. 318, § 1, 12-11-2013)

Sec. 78-144. Required information.

The following required information shall be included on all site plans:

- (1) Name of development and general location sketch.
- (2) Name, address and phone number of owner, developer and designer. Date drawn and revision dates shall be indicated on the site plan.
- (3) The seal of one of the following professionals registered in the state: registered architect, registered civil engineer, registered landscape architect or registered professional community planner. The architectural plans of the buildings shall be prepared by and bear the seal of a registered architect. A site plan for an alteration or addition to existing structures may be prepared by the builder or contractor.
- (4) A legal description and address of the property in question.
- (5) Boundary dimensions (to the nearest foot) of the property clearly indicated on the site plan, differentiated from other contiguous property.
- (6) Existing zoning classification of the parcel.
- (7) Adjacent land uses and zoning, and if the parcel is a part of a larger parcel boundaries of total land holding.
- (8) To facilitate determination of off-street parking needs and similar matters, the applicant shall indicate the name and nature of the establishments proposed to occupy the buildings if this has been determined, or shall indicate cases where exact occupancy has not yet been determined.
- (9) All plans shall include a north arrow and scale. The scale of the site plan shall be not less than one inch equals 20 feet if the subject property is less than three acres and one inch equals 100 feet if three acres or more.
- (10) The area of the site in square feet and acres, excluding all existing and proposed public right-of-way.
- (11) The dimensions of all lots and property lines, showing the relationship of the subject property to abutting properties and all required minimum setbacks from the existing or proposed right-of-way and from adjacent properties.

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- (12) The location and dimension of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property.
 - (13) The location and right-of-way widths of all abutting streets and alleys, and driveway locations across abutting public streets.
 - (14) Traffic and pedestrian circulation patterns, both within the site and on the public streets adjacent to the site and the proposed location and dimensions of any required pedestrian sidewalks.
 - (15) Parking lots including layout and typical dimensions of parking spaces, number of spaces provided, including how computed, per ordinance requirements, and type of surfacing. If carports, so designate.
 - (16) Existing ground elevations on the site of an appropriate grid or contours, including existing ground elevations of adjacent land within 100 feet of the subject property and existing building, drive and/or parking lot elevations or any adjacent unusual surface conditions.
 - (17) Existing natural grade of buildings and proposed finish grade of buildings, driveways, walkways and parking lots.
 - (18) With residential proposals, a site summary indicating the number and/or of one-bedroom units, two-bedroom units, etc., typical floor plans with the square feet of floor area; density computation, recreation facilities, open spaces, street names and lot coverage.
 - (19) With nonresidential proposals, the number of offices, number of employees, the number of floors and typical floor plans and cross sections.
 - (20) Proposed sanitary sewer facilities and location of all existing utilities, easements, vacations and the general placement of lines, manholes, tap-ins, pump stations and lift stations.
 - (21) Proposed storm sewer facilities (sewers and appurtenances), including outlets (enclosed or open ditches) and proposed methods of stormwater retention on site, if any.
 - (22) Sufficient off-site drainage basin data and estimated runoff to permit review of feasibility and permanency of drainage detention and/or retention.
 - (23) Proposed water service, including any proposed tap-ins, main extensions or extensions for adequate fire hydrant spacing and/or considerations for extensions to loop other public water mains.
 - (24) Locations of existing and proposed fire hydrants with reasonable access thereto for firefighting, police and other emergency equipment.
 - (25) Location and dimensions of rubbish storage areas and screening construction.
 - (26) Elevations of proposed buildings which show natural and finished grade, proposed type of building materials, roof design, projections, canopies and overhangs, screen walls and accessory buildings, and any other outdoor or roof-located mechanical equipment, such as air conditioning, heating units and transformers that will be visible from the exterior.
 - (27) Easements for public right-of-way, utilities, access, shared access and drainage.
 - (28) Notation of any variances which have been or must be secured.
 - (29) Performance guarantees to be provided and amounts and type and terms.
 - (30) Soil erosions and sedimentation control measures.
 - (31) Detailed landscaping plan indicating location, types and sizes of material. A landscaping maintenance plan and schedule for pruning, mowing, watering, fertilizing and replacement of dead and diseased materials. Cross section of any berms shall be provided.
 - (32) Location of all existing trees over three inches in diameter.

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- (33) The dimensions and locations of all signs, freestanding signs and lighting structures and shielding.
 - (34) Types of soils; location of floodplain and wetland, if any.
 - (35) All proposed screen and freestanding architectural walls, including typical cross-sections and the height aboveground on both sides.
 - (36) The location of any outdoor storage of materials and the manner in which they shall be screened or covered.
 - (37) Information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or city. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services and estimates of potential costs to the city due to failures as a basis for performance guarantees.
 - (38) Information and statement of how the applicant proposes to comply with state, local and federal laws, as applicable to site or use.
 - (39) Other data which the city may reasonably deem necessary for adequate review.

(Ord. No. 54A, § 16.28(d), 11-11-1987; Ord. No. 222, § 3, 7-14-1993; Ord. No. 318, § 1, 12-11-2013)

Sec. 78-145. Criteria for approval.

The following criteria shall be used as a basis upon which site plans will be reviewed and approved. The city shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:

- (1) All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size and type of land, and the character of the adjacent properties and the proposed use. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted on such property.
- (2) The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in the schedule of regulations, unless otherwise provided in this chapter.
- (3) The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
- (4) There shall be reasonable visual and sound privacy. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users.
- (5) All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- (6) Where possible and practical, drainage design shall recognize existing natural drainage patterns.
- (7) There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to ensure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities and other uses that generate considerable amounts of pedestrian movement.
- (8) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site.

Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a city recognized source of reference. The applicant may be required to dedicate adequate land and improvements to the city in order to achieve access which is safe and convenient.

- (9) Appropriate measures shall be taken to ensure that the removal of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of stormwater facilities and the prevention of erosion and dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas. Final grades may be required to conform to existing and future grades of adjacent properties.
- (10) Off-street parking, loading and unloading areas and outside refuse storage areas, or other storage areas that face or are visible from adjacent homes, or from public thoroughfares, shall be screened by walls or landscaping of effective height. Dumpsters shall have gates.
- (11) Exterior lighting shall be so arranged and limited in intensity and height so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
- (12) Adequate services and utilities, including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
- (13) Any use permitted in any zoning district must also comply with all applicable federal, state, county and city health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, floodplains and requirements of the state fire marshal.
- (14) An objective of site plan review shall be to protect and to promote public health, safety and general welfare by requiring the screening, buffering and landscaping of sites and parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to preserve underground water reservoirs and return precipitation to the groundwater strata; to act as a natural drainage system and solve stormwater drainage problems; to reduce the level of carbon dioxide and return oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values; to relieve the stark character of parking lots; to conserve energy, provide visual and sound privacy and to otherwise facilitate the preservation and creation of a healthful convenient, attractive and harmonious community.
- (15) It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in keeping with sound site development standards of the city.
- (16) A major objective shall be to retain, enhance and protect the quality, value and privacy of single-family land uses.
- (17) All development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development potential of lands.
- (18) All sites shall be designed to comply with state and local barrier-free requirements and to reasonably accommodate the handicapped and elderly.

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- (19) All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities and open space shall be coordinated with adjacent properties.

(Ord. No. 54A, § 16.28(e), 11-11-1987; Ord. No. 318, § 1, 12-11-2013)

Sec. 78-146. Review.

The city manager shall secure comments from the city building, police and fire departments, and, as applicable, the city engineer and planner, and, where the planning commission is the approving body, shall forward all site plans along with written comments to the planning commission for its review. The planning commission or the city manager, if the review is administrative, shall review the plans and may solicit further comments from the building department, engineer, planning consultant and other agencies, groups or persons.

(Ord. No. 54A, § 16.28(f), 11-11-1987; Ord. No. 318, § 1, 12-11-2013)

Sec. 78-147. Approval and record.

- (a) The city planning commission, and the city manager if the approval is administrative, are hereby authorized to review and approve, to approve with conditions or review and deny approval, all site plans submitted under this chapter. Guidelines for consideration of each case shall follow this chapter and other applicable ordinances. Each action taken with reference to site plan review and approval shall be duly recorded in minutes of the planning commission. When the commission or city manager approves a site plan with conditions from the applicant, the building official shall require a revised site plan with a revision date, indicating such conditions on the site plan.
- (b) When a site plan approval is required, no building permit shall be issued until four copies of a final site plan, which includes all conditions of approval, a revision date and notation of all variances has been signed by the planning commission or city manager, the building official, or their designees. Prior to issuance of a permit, one copy of the final signed plan shall be filed with each of the following: clerk, building official and the applicant.

(Ord. No. 54A, § 16.28(g), 11-11-1987; Ord. No. 318, § 1, 12-11-2013)

Sec. 78-148. Construction under plan.

When an applicant receives site plan approval as provided in section 78-146, the applicant shall develop the site in complete conformity with the approved site plan. Complete construction plans, including component phases, shall be submitted for review by the building official with a landscape plan prepared by a registered landscape architect for all landscape areas. Upon review and finding by the building official that the construction plans meet with the requirements of site plan approval and other applicable ordinances of the city, the building official shall issue a building permit for such construction. Site plan approval pursuant to this division shall be valid for one year from the date of approval. If the construction does not commence within three months after the issuance of a building permit, the site plan approval expires and is of no force or effect, unless extended by the planning commission.

(Ord. No. 54A, § 16.28(h), 11-11-1987; Ord. No. 318, § 1, 12-11-2013)

Sec. 78-149. Certificate of occupancy.

A certificate of occupancy shall be withheld by the building official in any case where the site plan and major conditions as approved by the city have not been complied with. Any minor variations may be approved by the

building official and shall be reported within 30 days to the planning commission or the city manager, if the review is administrative, after the issuance of certificate of occupancy.

(Ord. No. 54A, § 16.28(i), 11-11-1987; Ord. No. 318, § 1, 12-11-2013)

Secs. 78-150—78-170. Reserved.

DIVISION 6. PERMITTED USES SUBJECT TO SPECIAL APPROVAL⁷

Sec. 78-171. Intent.

The types of uses requiring special approval shall be deemed to be permitted uses in their respective districts, subject, as to each specific use, to satisfaction of the procedures, requirements and standards set forth in this section. Each specific use for which a permit is sought shall be considered as an individual case and shall conform to the detailed application of the procedures and standards set forth in this division in a manner appropriate to the particular circumstances of such use. Each use as listed in any district requiring special approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is suggested and will not be detrimental to the orderly development of adjacent districts and uses.

(Ord. No. 54A, § 16.29(a), 11-11-1987)

Sec. 78-172. Public hearings.

Upon the request for special approval use authorization, a public hearing with notification as required for a notice of a request for special approval use as provided in section 78-173 shall be held before a decision is made on a special approval use request. No decision on a special approval use request shall be made unless notification of a public hearing is given as required.

(Ord. No. 54A, § 16.29(b), 11-11-1987)

Sec. 78-173. Notice.

Upon receipt of an application for a permitted principal use subject to special approval, one notice of a public hearing shall be given according to section 78-42 of this chapter.

(Ord. No. 54A, § 16.29(c), 11-11-1987; Ord. No. 277, § 4, 8-2-2006)

Sec. 78-174. Planning commission hearing, review and recommendation.

Special approval shall not be granted until a public hearing has been held by the planning commission, in accordance with procedures described in section 78-173. The planning commission shall make a written recommendation to the city council to deny, approve or approve with conditions, requests for special approval use. The recommendation on a special approval use shall be incorporated in a statement of conclusions relative to

⁷State law reference(s)—Special land uses, MCL 125.584a, MSA 5.2934(1).

the special approval use under consideration. The decision shall specify the basis for the decision, and any conditions.

(Ord. No. 54A, § 16.29(d), 11-11-1987)

Sec. 78-175. Approval by city council.

- (a) The city council shall deny, approve or approve with conditions requests for special approval use. The decision on a special approval use shall be incorporated in a statement of findings and conclusions relative to the special approval use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.
- (b) Any denial or approval of a request for special approval by the city council for a sexual oriented business as defined in article I, section 78-1, definitions and article VI, subsection 78-629(2)q of this chapter, shall not be subject to the standards for granting special approval in section 78-178 and any conditions of special approval for such uses shall be limited to those conditions necessary to assure compliance with the standards and requirements in article VI, subsection 78-629(i) of this chapter.

(Ord. No. 54A, § 16.29(e), 11-11-1987; Ord. No. 266, § 2, 3-10-2004)

Sec. 78-176. Site plan review and information required.

For all special approval uses, a site plan shall be required and submitted in accordance with article II, division 5 of this chapter. Approval of the use, as specifically described in the application and the approval under section 78-175, shall run with the land and shall not be issued for specified periods, unless the use is temporary or time-related in nature; provided, however, that a change in use, including any change in the use described in the application and approval for establishments dispensing, serving, or selling alcoholic beverages for consumption on the premises under section 78-180, shall require an additional application and separate approval in accordance with the procedures in this division and the original special approval shall become null and void.

(Ord. No. 54A, § 16.29(f), 11-11-1987; Ord. No. 318, § 2, 12-11-2013 ; Ord. No. 319, § 2, 3-12-2014)

Sec. 78-177. Performance guarantees.

Performance guarantees may be required by the city council to ensure compliance with special approval conditions, in accordance with this chapter.

(Ord. No. 54A, § 16.29(g), 11-11-1987)

Sec. 78-178. Approval standards.

In addition to specific site plan standards which the city shall apply to the use, the following standards shall serve the city council as the basis for decisions involving special approval uses and other discretionary decisions contained in this chapter. Each proposed use or activity shall:

- (1) In location, size and intensity of the principal and/or accessory operations, be compatible with adjacent uses and zoning of land.
- (2) Be consistent with and promote the intent and purpose of this chapter.
- (3) Be compatible with the natural environment and conserve natural resources and energy.

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- (4) Be consistent with existing and future capabilities of municipal services and facilities affected by the proposed use.
 - (5) Protect the public health, safety and welfare as well as the social and economic wellbeing of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the city as a whole.
 - (6) Promote the use of land in a socially and economically desirable manner.
 - (7) Not be in conflict with convenient, safe and normal neighborhood vehicular and pedestrian traffic routes, flows, intersections and general character and intensity of neighborhood development.
 - (8) Be of such a design and impact that the use, its location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
 - (9) In the nature, location, size and site layout and function of the use, be a harmonious part of the district in which it is situated, taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of such district.
 - (10) In the location, size, intensity of the use and site layout be such that operations will not be objectionable to nearby dwellings or uses, by reason of odor, noise, fumes, glare, flash of lights, radiation or potential air, water or soil pollution.

(Ord. No. 54A, § 16.29(h), 11-11-1987)

Sec. 78-179. Record.

All conditions imposed on a special approval use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the city council and the applicant. The city shall maintain a record of changes granted in conditions.

(Ord. No. 54A, § 16.29(i), 11-11-1987)

Sec. 78-180. Additional standards for establishments dispensing, serving, or selling alcoholic beverages for consumption on the premises.

In addition to the approval standards set forth in section 78-178, an applicant shall establish that:

- (1) The proposed establishment will promote the city's economic health, and contribute to the city's master plan and zoning ordinance policies.
- (2) Given the character, location, development trends and other aspects of the area in which the proposed use or change in use is requested, it is demonstrated that the area is underserved by such a use and that the addition of the use or proposed change in use will be an asset to the area.
- (3) The use or change in use as constructed and operated by the applicant is compatible with the area in which it will be located, and will not have any appreciable negative secondary effects on the area, such as:
 - a. Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb area residents.

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- b. Noise, odors, or lights that emanate beyond the site's boundaries onto property in the area on which there are residential dwellings.
 - c. Excessive numbers of persons gathering outside the establishment.
 - d. Peak hours of use that add to congestion or other negative effects in the neighborhood.
 - e. Fighting, brawling, outside urination or other behavior that can accompany intoxication.
- (4) No alcoholic beverages may be sold between the hours of midnight (12:00 a.m.) and 8:00 a.m. the next day. Such hours of operation shall apply to all establishments that have received special land use approval as of the date of adoption of this provision, regardless of the terms and conditions of the establishment's special land use approval or the contents of its plan of operation. Notwithstanding the foregoing, the city may, at the time of approval of a special land use, limit the hours of operation of an establishment as a condition of approval.
- (5) No more than a third of the customer floor area on any floor level may consist of bar facilities, including alcoholic drink preparation, storage, and serving areas; bar stools; or other seating/standing areas primarily intended for consuming drinks. Food receipts shall exceed 70 percent of sales when compared to alcohol. As a condition of special land use approval, each applicant shall submit an annual report with sufficient information, as determined by the city, to establish that the requirements of this subsection are met. Such report shall be filed with the city clerk no later than February 1 of each year, for the period covering the previous calendar year.

(Ord. No. 315 , § 6, 9-11-2013; Ord. No. 356, § 1, 6-9-2021)

Secs. 78-181—78-200. Reserved.

DIVISION 7. PERFORMANCE GUARANTEES⁸

Sec. 78-201. Definitions.

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

Improvements means those features and actions associated with a project which are considered necessary 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, landscaping, parking, paving of parking and circulation areas, screening, drainage and other site improvements. The term "improvements" shall not include the entire project which is the subject of the approval.

(Ord. No. 54A, § 16.30(b), 11-11-1987)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 78-202. Required.

To ensure compliance with this chapter and any conditions imposed under this chapter, including conditions of the site plan approval, special approval, cluster development, planned development and street access approval,

⁸State law reference(s)—Performance guarantees, MCL 125.584e, MSA 5.2934(5).

the city council, planning commission or zoning board of appeals may require that financial security acceptable to the city be deposited with the city clerk to ensure faithful completion of improvements as defined in section 78-203. The amount of the cash deposit, certified check or irrevocable bank letter of credit shall cover the estimated cost of improvements associated with a project and other reasonable incidental costs associated therewith, for which approval is sought.

(Ord. No. 54A, § 16.30(a), 11-11-1987)

Sec. 78-203. Filing with city clerk.

The performance guarantee, along with a detailed description and schedule of improvements to be completed, shall be deposited with the clerk prior to the issuance of a certificate of occupancy authorizing use of the activity or project.

(Ord. No. 54A, § 16.30(c), 11-11-1987)

Sec. 78-204. Arrangements for security.

The applicant shall be required to provide the performance guarantee or financial security in one or a combination of the following arrangements, whichever the applicant elects:

- (1) *Irrevocable letter of credit.* An irrevocable letter of credit issued by a bank authorized to do business in the state in an amount to cover the cost of the contemplated improvements as estimated by the city.
- (2) *Escrow fund.* A cash deposit, or deposit by certified check drawn on a bank authorized to do business in the state, sufficient to cover the cost of the contemplated improvements as estimated by the city shall be deposited with the clerk. The escrow deposit shall be for the estimated time period necessary to complete the required improvements.

(Ord. No. 54A, § 16.30(d), 11-11-1987)

Sec. 78-205. Rebate for cash deposits.

In the case of cash deposits, the clerk shall rebate or release to the applicant, as the work progresses, amounts equal to the ratio of the completed and accepted work to the entire project, after the approvals described in section 78-206.

(Ord. No. 54A, § 16.30(e), 11-11-1987)

Sec. 78-206. Inspection and certification; private improvements and acceptance for maintenance of required public improvements.

- (a) *Certification by the building department.* The applicant shall furnish the clerk a letter or document signed by the building official indicating satisfactory completion of the required improvements in accordance with the description of improvements in section 78-201.
- (b) *Inspection of public improvements by the city engineer or building department.* After the completion of the construction of the required public improvements, the engineer or building official, or the county, state or federal agency with jurisdiction to grant approval or accept, shall conduct a final inspection and certify compliance with the required improvements. This inspection shall be made to assure the improvements are completed according to the approved plans and specifications.

(c) *Partial street.* In no case shall acceptance of any partial street be made for maintenance.

(Ord. No. 54A, § 16.30(f), 11-11-1987)

Sec. 78-207. Failure to complete required improvements.

In case the applicant shall fail to complete the required improvements work within such time period as required by the conditions or guarantees as outlined in this division, the city council may proceed to have such work completed and reimburse itself for the cost thereof by appropriating the cash deposit or certified check, or by drawing upon the letter of credit.

(Ord. No. 54A, § 16.30(g), 11-11-1987)

Sec. 78-208. Maintenance bond.

The city may require, prior to the acceptance by the city of public improvements, a maintenance bond acceptable to the city for a period of up to three years in an amount not to exceed 35 percent of the total cost of the public improvements.

(Ord. No. 54A, § 16.30(h), 11-11-1987)

Sec. 78-209. Applicability of division to certain subdivisions.

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 the land division act (MCL 560.101 et seq., MSA 26.430(101) et seq.).

(Ord. No. 54A, § 16.30(i), 11-11-1987)

Secs. 78-210—78-240. Reserved.

ARTICLE III. ZONING DISTRICTS CREATED; ZONING MAP

Sec. 78-241. Districts.

For the purpose of regulating and restricting the location of trades and other commerce as is set forth in this chapter and the location of buildings designed for residence purposes and also for the purpose of regulating and restricting the size, height, ratio of maximum useable floor area to lot area, setbacks and area of buildings hereafter erected, reconstructed, altered or occupied; to determine the area of yards and other open spaces and parking area and to regulate and limit the density of population, the classes of districts set forth in article IV of this chapter are hereby created within the confines of the city.

(Ord. No. 54A, § 4.01, 11-11-1987)

State law reference(s)—Districts authorized, MCL 125.582, MSA 5.2932.

Sec. 78-242. Zoning map.

The boundaries of the zone districts are hereby established as shown on the zoning map on file in the office of the city clerk. The zoning map, with all notations references and other information shown thereon, is hereby incorporated in this section and is a part of this chapter. Unless otherwise shown, the boundaries of the zone districts shall be lot lines, centerlines of streets, alleys, railroads or such lines extended, and the city limit line. Submerged lands shall have the zoning classification of the lots of which such lands are a part.

(Ord. No. 54A, § 4.03, 11-11-1987)

Sec. 78-243. Interpretation of zoning map.

Where, due to the scale, lack of detail or illegibility of the zoning map, there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary shown thereon, the exact location of the zone district boundary line shall be determined by the zoning board of appeals.

(Ord. No. 54A, § 4.04, 11-11-1987)

Sec. 78-244. Classification of annexed areas.

All territory annexed to the city shall automatically be classified R-1 single-family residential.

(Ord. No. 54A, § 16.01, 11-11-1987)

Sec. 78-245. Zoning of vacated streets.

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

(Ord. No. 54A, § 16.02, 11-11-1987)

Secs. 78-246—78-275. Reserved.

ARTICLE IV. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Secs. 78-276—78-295. Reserved.

DIVISION 2. SCHEDULE OF REGULATIONS

Sec. 78-296. Area, height, bulk and placement requirements for all zone districts.

						Minimum Setback Measured From Lot Line (feet)	
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Zoning Districts	Lot(i) Minimums		Maximum Building Height		Maximum Coverage of Lot by All Buildings (percent)	Front Yard	Side Yards			Minimum Usable Floor Area Per Unit (square feet)
	Area (square feet)	Width (feet)	In Stories	In Feet			Least One	Total of Two	Rear Yard	
R-1 single-family residential	8,000(a)	65(a)	2 1/2	30	(j)	30(d)	5	13	35	(b)
R-2 single-family residential	10,000(a)	75(a)	2 1/2	30	(j)	35(d)	8	16	35	(b)
R-3 multiple-family	(c)	100	2 1/2	35	30	35(d)	8	16	35	(c)
CS community service	—	—	2	15	—	35(d)	10	25	20	—
P parking	—	60	1	25	—	10(d),(h)	5(h)	10(h)	10(h)	—
O-1 office	—	—	2	20	—	25(d)	10(g)	20	30	—
C-1 neighborhood commercial	—	—	1	20	—	25(d)	20(g)	40	25	—
C-2 general commercial	—	—	2	30	—	25(d)	10(g)	20	25	—
I-1 limited industrial	—	—	1	30	—	25(d)	20	50	50	—

Note: see section 78-297, pertaining to notes to the schedule, for specifications assigned to lettered subsections.

(Ord. No. 54A, § 13.01, 11-11-1987; Ord. No. 294, § 1, 11-12-2008)

Sec. 78-297. Notes to schedule of regulations.

- (a) In the case of lots platted of record in the office of the register of deeds for the county, at the effective date of the ordinance from which this chapter is derived, where there is insufficient lot area to permit compliance with the minimum requirements of this division, the minimum requirements shall be as follows:

Zoning District	Lot Minimums		Maximum Coverage of Lot by All Buildings (percent)	Minimum Setback Measured From Lot Line (feet)				Minimum Floor Area per Unit (square feet)
	Area (square feet)	Width (feet)		Front Yard	Least One	Total of Two	Rear Yard	
R-1	5,000	50	(j)	30	5*	13*	30**	See below**
R-2	6,000	55	(j)	35	5*	13*	30**	See below**

*The smaller required side yard shall be along the right-hand lot line as viewed from the street along the front lot line.

** Minimum floor area of the first floor in square feet (i.e., above ground level floor).

Zoning District	One-Story Dwelling	1½-Story Dwelling	Two-Story Dwelling
R-1	950	925	875
R-2	1,075	975	900

(b) Minimum floor area of the first floor in square feet (i.e., above ground level floor).

Zoning District	One-Story Dwelling	1½-Story Dwelling	Two-Story Dwelling
R-1	1,000	970	900
R-2	1,200	1,050	1,000

(c) Minimum land area per dwelling unit for R-3 district.

Number of Bedrooms	Minimum Land Area Per Unit (square feet)	Minimum Floor Area Per Unit (square feet)
Efficiency unit	6,000	600
One-bedroom unit	6,000	600
Two-bedroom unit	7,000	800
Three-bedroom unit	8,000	1,000

(d) Front yard setbacks are measured from the edge of the existing or planned right-of-way or, in case of a lake lot, from the defined front lot lines. Where a parcel or lot is at an intersection, the setback shall be measured from the maximum requirement for the district considering each side as a front yard area. Within the Lakefront Setback Overlay District 1, the setback from the lake shall be as set forth in section 78-603.

(e) Side yards adjacent to any one-family residential district shall be a minimum of 25 feet.

(f) Spacing of multiple dwellings shall be controlled by the following schedule:

Building Relationship	Overall Distance Between Buildings (feet)
Front to front	60
Front to rear	60
Rear to rear	60
Rear to side	45
Side to side	20

Corner to corner	15
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Parking may be permitted in up to 50 percent of the required yard, provided that there shall be at least 20 feet of yard space between such parking area and the multiple-family building.

- (g) No side yards are required along interior lot lines, except as required by the building code, provided that walls so located shall be solid and shall not contain any windows, doors or any other openings. On exterior lot lines the minimum setbacks shall be maintained.
- (h) Other yard and parking requirements.
 - (1) *Side and rear yards.* Where the P district is contiguous to the side and/or rear lot lines of premises within a residentially-zoned district, the required wall shall be located along such lot line.
 - (2) *Front yards.* Where the P 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 shall be a setback equal to the required residential setback for such residential district, or a minimum of 35 feet, or whichever is the greater. Such area shall be landscaped and properly maintained.
 - (3) *Parking space layout, standards, construction and maintenance.* P vehicular parking districts shall be developed and maintained in accordance with the parking requirements of article V of this chapter.
 - (4) *Location.* No parking structure shall be erected closer than 40 feet to any residentially-zoned district.
- (i) In the case of condominium developments, lot minimums shall mean minimum land area per dwelling unit.
- (j) Maximum coverage of lot by all buildings in single-family residential districts.

Zoning Districts	Lot Area (square feet)	Maximum Coverage of Lot by All Buildings
R-1 and R-2	All	35 percent

(Ord. No. 54A, § 13.02, 11-11-1987; Ord. No. 226, § 2, 2-9-1994; Ord. No. 294, § 2, 11-12-2008; Ord. No. 322, § 2, 8-13-2014; Ord. No. 340, Pt. I, 2-20-2019)

Secs. 78-298—78-320. Reserved.

DIVISION 3. R-1 AND R-2 SINGLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 78-321. Purpose of districts.

The R-1 and R-2 single-family residential districts are established as districts in which the principal use of land is for single-family dwellings, but within each district having different minimum lot areas to permit differing development character and densities. For these residential districts, in promoting the general purpose of this section, the specific intent of this division is to:

- (1) Permit the construction of, and the continued use of, the land for single-family dwellings; and
- (2) Prohibit multiple-family, business, commercial or industrial use of the land, and to prohibit any other use which would substantially interfere with development or continuation of single-family dwellings in the district.

(Ord. No. 54A, § 5.01, 11-11-1987)

Sec. 78-322. Permitted principal uses.

In the R-1 and R-2 districts, no uses shall be permitted except the following:

- (1) Single-family dwellings/units.
- (2) State licensed residential facilities which provide resident service of six or fewer persons, such as family day care homes, adult foster care family homes, foster family homes, and foster family group homes, with the exception of adult foster care facilities licensed by a state agency of care and treatment of persons released from or assigned to adult correctional institutions, as provided in Section 2061(1) of PA 110 of 2006, as amended.
- (3) Uses or structures accessory to those listed in subsections (1) through (2) of this section when located on the same lot and not involving any business, profession, trade or occupation.

(Ord. No. 54A, § 5.02, 11-11-1987; Ord. No. 277, § 5, 8-2-2006)

Sec. 78-323. Permitted uses after special approval.

The following uses are permitted in the R-1 and R-2 districts after special approval subject to article II, division 6 of this chapter:

- (1) Clubs, private, noncommercial, social, fraternal, service clubs or boat clubs, not operated for profit and subject to the following requirements:
 - a. The use does not impair the natural appearance of the land or surrounding properties.
 - b. The clubhouse, other structures and accessory buildings as well as parking facilities pertaining to the use therefor shall have ingress and egress directly from a major or secondary thoroughfare and shall be located not closer than 150 feet from any abutting side or rear property line.
 - c. A greenbelt buffer shall be provided where the parking is abutting a residential district. Such buffer shall be a minimum of 20 feet in width and shall be heavily planted in trees and shrubs so as to be completely obscuring and to prevent unreasonable noise or annoyance to surrounding properties.
 - d. No sale of food or beverages of any kind shall be made outside the clubhouse, except by permission of the city council.
 - e. No activities of any kind other than club-related shall be permitted, except within the clubhouse or in the immediate vicinity of the clubhouse.
 - f. No business activity other than those directly related to the club or to its operation shall be permitted.
- (2) Nursing and convalescent homes, when the following conditions are met:
 - a. The lot for such use shall be operated in a dwelling or a building with the external appearance of a single-family dwelling, aesthetically compatible with other dwellings within a 100-foot radius.
 - b. Four hundred square feet of open lawn or landscaped area shall be provided for each bed.
 - c. Off-street parking may be permitted within the front yard, provided that not more than 50 percent of the minimum yard setback shall be used for vehicular parking or driveways.

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- d. Off-street parking may be located within a side or rear yard, provided that it is not located closer than 50 feet to any adjacent single-family residential district, unless an exception is approved by the planning commission.
 - e. Buildings shall not exceed 175 feet in length unless an exception is approved by the planning commission.
- (3) Churches and related religious buildings and facilities customarily incidental thereto, but not including tents and other temporary structures, subject to the following:
- a. Direct primary access to a major public street.
 - b. In order to mitigate any negative off-site impacts, such as glare, noise, trespassing, fumes, odors or sound, on single-family residential uses, the planning commission may require adequate fencing, screening or landscaping of all or parts of the site.
 - c. Related uses, such as social centers, social service centers, schools, nursery school and rental banquet facilities, among others, shall be prohibited unless the planning commission shall find that adverse impacts will be mitigated.
- (4) Utility and municipal, county, regional and state service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards, but excluding outside storage yards.
- (5) Municipally-owned and operated libraries, parks, swimming pools or beaches, playgrounds, public boat docks and ramps, and other municipal recreation facilities.
- (6) Municipal buildings and uses.
- (7) Libraries, public, parochial and other private elementary or secondary schools offering courses in general education and not operated for profit.
- (8) Tourist homes, boardinghouses and bed and breakfast inns.
- (9) Group day care home, subject to Section 206(6) of PA 110 of 2006, child care center, day care center, nursery schools and preschools, as provided and subject to the regulations in Section 206 of PA 110 of 2006, as amended, and further subject to the following regulations:
- a. In accordance with applicable state laws, all child care facilities shall be registered with or licensed with or licensed by the Department of Social Services and shall comply with the minimum standards outlined for such facilities.
 - b. A minimum of one hundred fifty (150) square feet of outdoor play area shall be provided, and maintained per child, provided that the overall size of the play area shall not be less than 5,000 square feet.
 - c. The outdoor play area shall be suitably fenced and screened from abutting residentially zoned or used land by a landscaped greenbelt. The landscaped greenbelt shall be a minimum of 5-feet in width and shall consist of closely-spaced evergreen plantings (i.e., no farther than fifteen (15) feet apart) which can be reasonable expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant material may be used provided that a complete visual barrier is maintained throughout the year. Wherever screening is required adjacent to residentially zoned or used property, the screening shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.
 - d. The proposed facility shall front on to a paved thoroughfare or collector road.

(Ord. No. 54A, § 5.03, 11-11-1987; Ord. No. 277, § 6, 8-2-2006)

Sec. 78-324. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements for the R-1 and R-2 districts, unless otherwise specified, are as provided in article IV, division 2 of this chapter.

(Ord. No. 54A, § 5.04, 11-11-1987)

Sec. 78-325. Site plan review.

Site plan review requirements for the R-1 and R-2 districts shall be as provided in article II, division 5 of this chapter.

(Ord. No. 54A, § 5.05, 11-11-1987)

Secs. 78-326—78-345. Reserved.

DIVISION 4. R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 78-346. Purpose of district.

The R-3 multiple-family residential district is designed to provide sites for multiple-family dwelling structures and related uses. The multiple-family district is further provided to serve the limited need for an apartment-type dwelling in an otherwise low density single-family community.

(Ord. No. 54A, § 6.01, 11-11-1987)

Sec. 78-347. Permitted principal uses.

In all R-3 districts, no building or land, except as otherwise provided in this chapter, shall be erected or used except for one or more of the following specified uses:

- (1) Multiple-family dwellings of a low-rise type, including but not limited to apartment houses, row houses, terraces, townhouses and cluster houses.
- (2) Two-family dwellings.
- (3) State licensed residential facilities, which provide resident service for six or fewer persons, such as family day care homes, adult foster care family homes, foster family homes, and foster family group homes, with the exception of adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions, as provided in Section 206(1) of PA 110 of 2006, as amended.
- (4) Accessory off-street parking, buildings, and uses customarily incident to any of uses permitted pursuant to subsections (1), (2) and (3) of this section, in conformance with this chapter.

(Ord. No. 54A, § 6.02, 11-11-1987; Ord. No. 277, § 7, 8-2-2006)

Sec. 78-348. Permitted uses after special approval.

The following uses are permitted in the R-3 district after special approval subject to article II, division 6 of this chapter:

- (1) Municipally-owned and operated libraries, museums, parks, parkways and recreational facilities.
- (2) Churches, parish houses and related facilities when located on a major thoroughfare.
- (3) Housing for the elderly, not to exceed a height of one story, when the following conditions are met:
 - a. All housing for the elderly shall be provided as a planned development consisting of at least one acre and shall provide for the common services containing, but not limited to, central dining rooms, recreational rooms, central lounge and workshops.
 - b. All dwelling units shall consist of at least a bedroom, living room and private bath and toilet and shall be equal to at least 350 square feet per person, and not less than 350 square feet per unit.
 - c. The maximum extent of development shall not exceed 15 dwelling units per gross acre and total coverage per gross acre shall not exceed 25 percent for all buildings, including dwelling units and related service buildings.
 - d. Facilities shall be designed with grab bars in hallways and bathrooms.
- (4) Utility and public service facilities and uses needed to serve the immediate vicinity, including transformer stations, lift stations and switchboards, but excluding outside storage yards.
- (5) Nursery schools, day nurseries, preschools, child care centers, day care centers, and group day care homes as provided and subject to the regulations in Section 206 of PA 110 of 2006, as amended, and further subject to the following regulations:
 - a. In accordance with applicable state laws, all child care facilities shall be registered with or licensed by the department of social services and shall comply with the minimum standards outlined for such facilities.
 - b. A minimum of 150 square feet of outdoor play area shall be provided, and maintained per child, provided that the overall size of play area shall not be less than 5,000 square feet.
 - c. The outdoor play area shall be suitably fenced and screened from abutting residentially zoned or used land by a landscape greenbelt. The landscape greenbelt shall be a minimum of five feet in width and shall consist of closely-spaced evergreen plantings (i.e., no farther than 15 feet apart) which can be reasonable expected for form a complete visual barrier that is at least six feet above ground level within three years of planting. Deciduous plant material may be used provided that a complete visual barrier is maintained throughout the year. Wherever screening is required adjacent to residentially zoned or used property, the screening shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.
 - d. The proposed facility shall front on to a paved thoroughfare of collector road.
- (6) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education, provided no building other than a structure for residential purposes shall be closer than 50 feet to any property line which abuts or is adjacent to land zoned or used for residential purposes.
- (7) Public, parochial and other private elementary, intermediate and/or high schools offering courses in general education, subject to the following conditions:

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- a. No building shall be closer than 50 feet to any property line when such property line abuts or is adjacent to land zoned or used for residential purposes.
 - b. All vehicular access shall be only from a major or secondary thoroughfare.
 - c. All public utilities shall be placed underground.
 - d. All parking and circulation shall be paved in accordance with the off-street parking standards of this chapter.
 - e. Internal pedestrian circulation shall be provided.
- (8) Adult foster care large group homes and adult foster care small group homes, subject to the following:
- a. No foster care group home shall be located closer than 1,500 to any other licensed group day care home or foster care group home, as measured from the nearest wall of each such structure.
 - b. A foster care group home and property shall be maintained in a manner consistent with the visual characteristics of the neighborhood.
- (9) Group day care home, child care center, day care center, nursery schools and pre-schools, as provided and subject to the regulations in Section 206 of PA 110 of 2006, as amended, and further subject to the following regulations:
- a. In accordance with applicable state laws, all child care facilities shall be registered with or licensed by the department of social services and shall comply with the minimum standards outlined for such facilities.
 - b. A minimum of 150 square feet of outdoor play area shall be provided, and maintained per child, provided that the overall size of play area shall not be less than 5,000 square feet.
 - c. The outdoor play area shall be suitably fenced and screened from abutting residentially zoned or used land by a landscape greenbelt. The landscape greenbelt shall be a minimum of five feet in width and shall consist of closely-spaced evergreen plantings (i.e., no farther than 15 feet apart) which can be reasonable expected for form a complete visual barrier that is at least six feet above ground level within three years of planting. Deciduous plant material may be used provided that a complete visual barrier is maintained throughout the year. Wherever screening is required adjacent to residentially zoned or used property, the screening shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.
 - d. The proposed facility shall front on to a paved thoroughfare or collector road.

(Ord. No. 54A, § 6.03, 11-11-1987; Ord. No. 277, § 7, 8-2-2006)

Sec. 78-349. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements for the R-3 district, unless otherwise specified, are as provided in article IV, division 2 of this chapter.

(Ord. No. 54A, § 6.04, 11-11-1987)

Sec. 78-350. Site plan review.

Site plan review requirements for the R-3 district shall be as provided in article II, division 5 of this chapter.

(Ord. No. 54A, § 6.05, 11-11-1987)

Secs. 78-351—78-370. Reserved.

DIVISION 5. CS COMMUNITY SERVICE DISTRICT

Sec. 78-371. Purpose of district.

The intent of the CS community service district is to provide a district wherein community services and facilities may be optimally located with respect to providing public service within the city, while also allowing alternative uses if the property is not owned or controlled by a public entity or an entity providing public or community services.

(Ord. No. 54A, § 7.01, 11-11-1987; Ord. No. 345 , § 1, 11-13-2019)

Sec. 78-372. Permitted principal uses.

In the CS district, no uses shall be permitted unless otherwise provided in this chapter, except the following:

- (1) Buildings and uses of the city, including municipal buildings, fire and police stations, libraries, museums, wells, water towers, and similar uses.
- (2) Parks, beaches, playgrounds, and playfields of the city.
- (3) Off-street parking in connection with the permitted principal uses.
- (4) Municipal boat ramps.
- (5) Accessory buildings and uses customarily incidental to the principal uses permitted in subsections (1) through (4) of this section.
- (6) Principal permitted uses in the R-1 and R-2 districts.

(Ord. No. 54A, § 7.02, 11-11-1987; Ord. No. 345 , § 1, 11-13-2019)

Sec. 78-373. Permitted uses after special approval.

The following uses are permitted in the CS district after special approval subject to article II, division 6 of this chapter:

- (1) The following uses are permitted in the CS district after special approval subject to article II, division 6 of this chapter:
 - a. Office buildings and uses of the county or state.
 - b. Schools, municipal buildings which generate truck traffic or have outside storage, water towers, auditoriums, cemeteries, essential services, and any use similar in character.
 - c. Non-city parks, playgrounds, and playfields.
 - d. Churches and related religious facilities.
- (2) For parcels with at least 100 feet of frontage on Orchard Lake Road, the following uses may be permitted with special approval:
 - a. Nursing and convalescent homes.

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- b. Group daycare home, subject to Section 206(6) of PA 110 of 2006, childcare center, daycare center, nursery schools, and preschools, as provided and subject to the regulations in Section 206 of PA 110 of 2006, as amended, and further subject to the following regulations:
 - 1. In accordance with applicable state laws, all childcare facilities shall be registered with or licensed with or licensed by the department of social services and shall comply with the minimum standards outlined for such facilities.
 - 2. A minimum of 150 square feet of outdoor play area shall be provided and maintained per child, provided that the overall size of the play area shall not be less than 5,000 square feet.
 - 3. The outdoor play area shall be suitably fenced and screened from abutting residentially zoned or used land by a landscaped greenbelt. The landscaped greenbelt shall be a minimum of five feet in width and shall consist of closely-spaced evergreen plantings (i.e., no farther than 15 feet apart) which can be reasonably expected to form a complete visual barrier that is at least six feet above ground level within three years of planting. Deciduous plant material may be used provided that a complete visual barrier is maintained throughout the year. Wherever screening is required adjacent to residentially zoned or used property, the screening shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.
 - 4. The proposed facility shall front on to a paved thoroughfare or collector road.
 - c. Retail establishment, defined as a business having as its primary function the supply of merchandise or wares to the end consumer. Includes but is not limited to, general merchandise and specialty shops, pharmacies, and stores selling furniture, electronics, appliances, home improvement products, and other consumer goods.
 - d. Any personal service establishment which is defined as a business that performs personal services on the premises including, but not limited to, barbershops, beauty shops, day spas, tailor shops, photographic studios.
 - e. Professional, medical, and administrative offices.
 - f. Dining rooms [fast food, carryout, drive-up, and drive-in restaurants are not permitted].
 - g. Off-street parking in connection with the uses permitted in this section.

(Ord. No. 54A, § 7.03, 11-11-1987; Ord. No. 345 , § 1, 11-13-2019)

Sec. 78-374. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements for the CS district are as provided in Article IV, Division 2 of this chapter, except that:

- (1) For the single-family uses provided in section 78-372, the standards of the R-1 district shall apply as provided in section 78-296.
- (2) For the uses set forth in section 78-373(1)d. and section 78-373(2), the standard of the C-1 district shall apply.

(Ord. No. 54A, § 7.04, 11-11-1987; Ord. No. 345 , § 1, 11-13-2019)

Sec. 78-375. Site plan review.

Site plan review requirements for the CS district are as provided in article II, division 5 of this chapter.

(Ord. No. 54A, § 7.05, 11-11-1987; Ord. No. 345 , § 1, 11-13-2019)

Secs. 78-376—78-395. Reserved.

DIVISION 6. P PARKING DISTRICT⁹

Sec. 78-396. Purpose of district.

The P parking districts are designed to accommodate the off-street parking for those nonresidential uses which are not able to provide adequate space within their own district boundaries.

(Ord. No. 54A, § 8.01, 11-11-1987)

Sec. 78-397. Permitted principal uses.

In a P parking district, no land shall be used, and no building shall be hereafter erected, converted or structurally altered for any use other than an off-street vehicular parking area. Such off-street parking facility shall be developed and maintained subject to the following regulations:

- (1) *Limitation of use.*
 - a. The parking area shall be accessory to, and for use in connection with, one or more existing professional or institutional offices or institutions.
 - b. Parking area shall be used solely for parking for private passenger vehicles, for periods of less than one day.
 - c. No commercial repair work or service of any kind, on sale or display thereof, shall be conducted in such parking area.
 - d. No building shall be erected upon premises.
- (2) *Entrance and exit.*
 - a. Adequate entrance and exit for vehicles to premises used as a parking area shall be provided.
 - b. Each entrance and exit to and from such parking lot shall be at least 20 feet in distance from any adjacent property located in any residential district.
- (3) *Minimum distance and setbacks.*
 - a. *Side yards.* Where the P district is contiguous to side lot lines of premises within a residentially-zoned district, the required wall shall be so located with respect to the side lot line as would a residential dwelling located on side lot for the particular residential zone.
 - b. *Front yards.* Where the P district is contiguous to a residentially-zoned district which has a common frontage on the same block with single-family residential use or zoning, there shall be setback equal to the required residential setback for such residential district, or a minimum of 15 feet, or whichever is the lesser. The required wall shall be located on this minimum setback line.
- (4) *Screening and landscaping.*

⁹Cross reference(s)—Traffic and vehicles, ch. 66.

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- a. The parking area shall be provided with a continuous and completely obscuring screening wall. This wall shall be provided on all sides where the next zoning district is designated as a single-family or multiple-family residential district. Whenever such wall is required, all land between such wall and boundaries of the P district shall be kept free from refuse and debris and shall be landscaped with shrubs, evergreen material and/or ornamental trees. All ornamental plantings shall be planted at distances consistent with their natural spread and height. The planting shall be maintained in a healthy growing condition neat and orderly in appearance.
 - b. All landscape plans shall be submitted to the planning commission for approval as to suitability of planting material, maintenance and arrangement thereof.
- (5) *Surface of parking area.* The parking area shall be provided with pavement having an asphaltic or concrete binder approved by the city so as to provide a permanent, durable and dustless surface and shall be graded and drained as to dispose of all surface water accumulated within the area. Such area shall be free of chuckholes, cracks and other deterioration.
- (6) *Lighting.* Lighting facilities which conform to the electrical code of the city shall be provided, and shall be so arranged as to reflect the light away from all residential districts. The height of all lighting standards shall be limited by the planning commission.
- (7) *Approval and modifications.*
- a. The zoning board of appeals, upon application by the property owner of the parking area may modify the yard and wall requirement wherein, in unusual circumstances, no good purpose would be served by compliance with the requirements of this section.
 - b. In all cases where a wall extends to an alley which is a means of ingress and egress to a 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.
 - c. In addition to the requirements of subsections (7)a and b of this section, such parking area shall comply with such further requirements or conditions as may be prescribed by the zoning board of appeals for protection of the residence district abutting such parcel in which the parking area is to be located.

(Ord. No. 54A, § 8.02, 11-11-1987)

Sec. 78-398. Permitted uses after special approval.

The following uses may be permitted in the P district under the purview of article II, division 6 of this chapter after review and approval of the use and a site plan by the planning commission, after public hearing, subject to the applicable conditions imposed by the planning commission:

- (1) Public utility buildings.

(Ord. No. 54A, § 8.03, 11-11-1987)

Sec. 78-399. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements for the P district, unless otherwise specified, are as provided in article IV, division 2 of this chapter.

(Ord. No. 54A, § 8.04, 11-11-1987)

Sec. 78-400. Site plan review.

Site plan review requirements for the P district are as provided in article II, division 5 of this chapter.
(Ord. No. 54A, § 8.05, 11-11-1987)

Secs. 78-401—78-420. Reserved.

DIVISION 7. O-1 OFFICE DISTRICT¹⁰

Sec. 78-421. Purpose of district.

The O-1 office district is designed to accommodate uses such as offices, banks and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.

(Ord. No. 54A, § 9.01, 11-11-1987)

Sec. 78-422. Permitted principal uses.

In an O-1 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 chapter:

- (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting; business services: writing, clerical, stenographic or drafting; public administration.
- (2) Retail sales subject to the following conditions:
 - a. No interior display shall be visible from the exterior of the building and the total area devoted to sales and display of items for sale, including both the objects displayed and the floor space set aside for persons observing the displayed objects, shall not exceed 25 percent of the total usable floor area.
 - b. The outdoor display or storage of goods or material shall be prohibited.
 - c. Warehousing or indoor storage of goods or material, beyond that normally incident to the uses permitted in subsections (2)a and b of this section, shall be prohibited.
 - d. Where the O-1 district abuts a residential district, a ten-foot-wide greenbelt shall be provided where the required screen wall is not provided.
- (3) Medical offices, including clinics.
- (4) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.
- (5) Banks, credit unions, savings and loan associations and similar uses; drive-up facilities as an accessory use only.
- (6) Personal service establishments including barbershops, beauty shops and health salons.

¹⁰Cross reference(s)—Businesses, ch. 18.

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- (7) Nursery schools.
 - (8) Churches and related religious facilities.
 - (9) Other uses similar to the uses in subsections (1) through (8) of this section, subject to the purpose of this district.
 - (10) Accessory off-street parking and structures and uses customarily incident to the permitted uses in subsections (1) through (9) of this section and permitted uses after special approval. No accessory structure shall be located in any front yard.

(Ord. No. 54A, § 9.02, 11-11-1987)

Sec. 78-423. Permitted uses after special approval.

The following uses are permitted in the O-1 district after special approval subject to article II, division 6 of this chapter, subject to the conditions imposed in this section for each use and subject further to the review and approval of the planning commission:

- (1) An accessory use customarily related to a principal use authorized by this section, such as but not limited to a pharmacy or apothecary shop. Stores, limited to corrective garments or bandages, or optical service, may be permitted.
- (2) Mortuary establishments, when adequate assembly area is provided off-street for vehicles to be used in funeral processions, provided further that such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of mortuary establishments.
- (3) Municipally-owned buildings, telephone exchange buildings and public utility offices, but not including storage yards, transformer stations or gas regulator stations.
- (4) Regulated uses including businesses which provide massage as a primary or accessory use, including health clubs, tanning salons, gyms and spas, pool and billiard halls and shall be subject to the standards in article VI, section 78-629, Regulated uses, and shall be subject to special approval review as required by article II, division 6.
- (5) Sexually oriented businesses subject to the standards in article VI, section 78-629, Regulated Uses, and shall be subject to special approval review as required by article II, division 6, but shall not be subject to the standards for granting approval in section 78-178.

(Ord. No. 54A, § 9.03, 11-11-1987; Ord. No. 266, § 3, 3-10-2004)

Sec. 78-424. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements for the O-1 district, unless otherwise specified, are as provided in article IV, division 2 of this chapter.

(Ord. No. 54A, § 9.04, 11-11-1987)

Sec. 78-425. Site plan review.

Site plan review requirements for the O-1 district shall be as provided in article II, division 5 of this chapter.

(Ord. No. 54A, § 9.05, 11-11-1987)

Secs. 78-426—78-445. Reserved.

DIVISION 8. C-1 NEIGHBORHOOD COMMERCIAL DISTRICT¹¹

Sec. 78-446. Purpose of district.

The C-1 neighborhood commercial district is designed solely for the convenience shopping and service of persons residing in adjacent residential areas, to permit only such uses are necessary to satisfy those limited basic shopping and/or service needs which by their very nature are not related to the shopping pattern of the general commercial.

(Ord. No. 54A, § 10.01, 11-11-1987)

Sec. 78-447. Permitted principal uses.

In a C-1 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 chapter:

- (1) Any generally recognized retail business which supplies commodities on the premises, for persons residing in adjacent residential areas, such as groceries, meats, dairy products, baked goods or other foods, drugs, dry goods and notions or hardware.
- (2) Any personal service establishment which performs services on the premises for persons residing in adjacent residential areas, such as shoe repair, dry cleaning shops, tailor shops, beauty parlors, barbershops, banks and savings and loan offices, pharmacist or any service establishment of an office-showroom or workshop nature of an electrician, decorator, dressmaker, tailor, shoemaker, baker, printer, upholsterer or an establishment doing radio, television or home appliance repair, photographic reproduction and similar establishments that require a retail character similar to the aforementioned, subject to the provision that no more than five persons shall be employed at any time in the fabrication, repair and other processing of goods.
- (3) Dining rooms, fast food, carryout and drive-up service restaurants, or other places serving food, except drive-in restaurants, and not including the dispensing, serving, or selling alcoholic beverages for consumption on the premises.
- (4) Professional offices of doctors, lawyers, dentists, chiropractors, architects, engineers, executive, administrative, professional and business services, and similar or allied professions.
- (5) Post office and other governmental administrative office buildings.
- (6) Newspaper offices; printing facilities less than 10,000 square feet in area.
- (7) Private clubs or lodge halls.
- (8) Accessory off-street parking and parking structures.
- (9) Uses similar to those in subsections (1) through (8) of this section and subject to the following restrictions:

¹¹Cross reference(s)—Businesses, ch. 18.

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- a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
 - b. All business, servicing or processing, except off-street parking or loading, shall be conducted within a completely enclosed building, except as noted in subsection (11) of this section.
- (10) Accessory structures and uses customarily incidental to the permitted uses in subsections (1) through (9) of this section, provided no accessory structures shall be located in a front yard.
- (11) Outdoor sidewalk sales shall be allowed on a limited basis. Temporary permits must be obtained from the city manager. The following minimum restrictions apply:
- a. All merchandise offered for sale shall be of a similar nature to the products sold by the particular business on a regular basis.
 - b. The city manager shall have responsibility to ensure such sales are in the best interest of the health, safety and welfare of the community. As such, he will be responsible for administering guidelines including, but not limited to, location, number of events per year, hours of operation, permit processes, parking and goods offered for sale. These guidelines will be reviewed and adopted by the city council.
- (12) Outdoor cafes or seating areas when adjacent to a licensed restaurant or food establishment that sells food for immediate consumption on the premises shall be allowed on a limited basis. Permits for outdoor seating will be granted by the planning commission following a satisfactory plan review. Approval may be granted by the city manager (without planning commission approval) if the proposed seating is contained to an existing sidewalk adjacent to the establishment and meets all of the restrictions below. Application will be made using the same guidelines and fees as a site plan review. Written approval from the property owner for the proposed outdoor seating must be submitted with the application.

If approved, and the business wishes to modify the outdoor seating plan or the business changes ownership, a new permit will be required. The following minimum restrictions apply:

- a. Outdoor seating areas may be permitted on private property. The outdoor seating area must be immediately adjacent to the associated restaurant or food establishment.
- b. Outdoor seating areas shall be required to be enclosed in instances where there is wait staff or alcohol service. For the purpose of the section, an enclosure is a decorative wood or metal railing or other decorative removable physical delineation, approved by the city manager. Access to the outdoor seating area will be restricted to patrons only.
- c. Outdoor seating shall be permitted only during normal business hours between March 15th and November 1st. In no case shall an outdoor seating area operate between the hours of 11:00 p.m. and 7:00 a.m. There will be no outdoor storage of portable or temporary tables, chairs or other equipment from November 2nd to March 14th.
- d. The outdoor seating area shall be kept free of litter and debris, and with a well-kept appearance within and immediately adjacent to the area of tables and chairs. Additional outdoor waste receptacles may be required. Written procedures for required maintenance services, such as cleaning and waste containment and removal responsibilities must be included with all applications and approved by the Planning Commission.
- e. There shall be no loudspeakers located in or in conjunction with an outdoor seating area and all other noise shall be controlled so as to not be audible more than ten feet from the outdoor seating area. All lighting must be shielded to prevent glare on adjacent roadways and protect abutting parcels.

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- f. The capacity of the outdoor seating area shall be provided by the applicant and verified by the city manager. The entire seating area for the establishment will be calculated including the proposed outdoor seating. The establishment must provide for the required number of parking spaces consistent with the restaurant parking standard in section 78-571.
 - g. A sign must be posted stating "No food or beverages allowed beyond this point." Additional signs associated with the outdoor seating area are prohibited.
 - h. Any outdoor seating areas shall be completely screened from view of all single family residential properties by an obscuring wall or landscape buffer, unless the outdoor seating area is separated by a public road, public alley, or public parking area.
 - i. Vending machines and other similar products shall be prohibited in all outdoor seating areas.
 - j. Preparation of food and beverages shall be prohibited in any outdoor seating area. The sale and consumption of alcohol are governed by the Michigan Liquor Control Act and local ordinance. Additionally, such seating areas must include food service if they are intending to provide the sale and service of alcoholic beverages.
 - k. A minimum of five feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances, in accordance with the provisions of the national Americans with Disabilities Act (ADA) and Michigan barrier-free requirements. If the sidewalk is not wide enough to allow for a five-foot wide clearance for circulation, the outdoor seating area shall not be permitted.
 - l. Outdoor seating shall be subject to applicable city, county and state requirements.

(Ord. No. 54A, § 10.02, 11-11-1987; Ord. No. 305, § 1, 5-18-2011; Ord. No. 315, § 2, 9-11-2013)

Sec. 78-448. Permitted uses after special approval in the C-1 neighborhood commercial district.

The following uses are permitted in the C-1 district after special approval subject to article II, division 6, of this chapter:

- (1) Publicly-owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations with service yards, but without storage yards, and water and sewage pumping stations.
- (2) Establishments dispensing, serving, or selling alcoholic beverages for consumption on the premises, including dining rooms, restaurants, bar/lounges.
- (3) Accessory buildings and uses customarily incident to any of the uses in subsections (1) and (2) of this section.
- (4) Uses similar to the uses in subsections (1) through (3) of this section, based on a specific determination by the planning commission, subject to subsection 78-447(9).

(Ord. No. 54A, § 10.03, 11-11-1987; Ord. No. 266, § 4, 3-10-2004; Ord. No. 284, § 2, 4-11-2007; Ord. No. 315, § 3, 9-11-2013)

Sec. 78-449. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements for the C-1 district, unless otherwise specified, are as provided in article IV, division 5 of this chapter.

(Ord. No. 54A, § 10.04, 11-11-1987)

Sec. 78-450. Site plan review.

Site plan review requirements for the C-1 district shall be as provided in article II, division 5 of this chapter.

(Ord. No. 54A, § 10.05, 11-11-1987)

Secs. 78-451—78-470. Reserved.

DIVISION 9. C-2 GENERAL COMMERCIAL DISTRICT¹²

Sec. 78-471. Purpose of district.

The C-2 general commercial district is designed to provide for a variety of automotive services and goods incompatible with the uses in C-1 districts, and uses not permitted in the C-1 neighborhood business district.

(Ord. No. 54A, § 11.01, 11-11-1987)

Sec. 78-472. Permitted principal uses in C-2 general commercial district.

In the C-2 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 chapter:

- (1) All principal uses permitted in the C-1 neighborhood commercial district.
- (2) Restaurants, except drive-in restaurants, and not including the dispensing, serving, or selling alcoholic beverages for consumption on the premises.
- (3) Theaters, when completely enclosed.
- (4) Banks, with drive-up facilities permitted, when such drive-up facilities are incidental to the principal function.
- (5) Offices and showrooms of plumbers, electricians, decorators or similar trades, in connection with which not more than 25 percent of the floor area of the building or part of the building occupied by such establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise, and provided that the ground floor premises facing upon, and visible from, any abutting street shall be used only for entrances, offices or display. All assembly, fabrication, modification, [and] storage of materials shall be within the confines of the building or part thereof occupied by such establishment.
- (6) Business schools, or private schools operated for profit. Examples of private schools permitted include, but are not limited to, dance schools, music and voice schools and art studios.
- (7) Warehouse and storage facilities when incident to and physically connected with any principal uses permitted, provided that such facility is within the confines of the building or part thereof occupied by such establishment.

¹²Cross reference(s)—Businesses, ch. 18.

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- (8) Veterinarian offices, with all animals stored within the building.
 - (9) Bus passenger stations.
 - (10) Funeral homes.
 - (11) Public utility offices, exchanges, transformer stations, pump stations and service yards, but not including outdoor storage.
 - (12) Clinics and hospitals.
 - (13) Retail cold storage establishments.
 - (14) Self service laundry and dry cleaning establishments.
 - (15) Bowling alleys.
 - (16) Pool or billiard parlors or clubs.
 - (17) Storage of materials or goods to be sold at retail, provided such storage is within a building or is enclosed so as not to be visible to the public from any abutting residential district or public street.
 - (18) Uses which are similar to the uses in subsections (1) through (17) of this section, subject to the purpose of the district as determined by the planning commission.
 - (19) Off-street parking and accessory structures customarily incident to the permitted uses in subsections (1) through (18) of this section.

(Ord. No. 54A, § 11.02, 11-11-1987; Ord. No. 284, § 3, 4-11-2007; Ord. No. 315, § 4, 9-11-2013)

Sec. 78-473. Permitted uses after special approval in the C-2 general commercial district.

The following uses are permitted in the C-2 district after special approval subject to article II, division 6, of this chapter, after review and approval of the uses and a site plan by the planning commission, after public hearing, subject to the applicable conditions and any other reasonable conditions imposed by the planning commission:

- (1) Outdoor sales space for sale of new and used automobiles, house trailers, and travel trailers subject to the following:
 - a. Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
 - b. No major repair or major refinishing shall be done on the lot.
- (2) Hotel or motel, subject to the following:
 - a. Provided that it can be demonstrated that ingress and egress do not conflict with adjacent business uses.
 - b. No kitchen or cooking facilities are to be provided, with the exception of units for the use of the manager or caretaker.
 - c. Each unit shall contain not less than 200 square feet of floor area.
- (3) Drive-in restaurants and businesses of the character of a drive-in restaurant, subject to the following:
 - a. A setback of at least 60 feet from the street right-of-way line of any existing or proposed major thoroughfare.

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- b. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
- (4) Commercially used outdoor recreational space for children's amusement parks, miniature golf courses, subject to the following:
- a. Children's amusement parks must be fenced on all sides with a four-foot wall or fence.
 - b. Adequate parking shall be provided off the road right-of-way and shall be fenced with a four-foot six-inch wall or fence.
- (5) Automotive repair (minor) garages, gas stations, gas stations with convenience store, and service stations, subject to the following:
- a. A gas station, gas station with convenience store, service station, or automotive repair (minor) garage shall be located on a lot having not less than 140 feet of frontage along a major thoroughfare and having a minimum area of not less than 14,000 square feet.
 - b. No gas station, gas station with convenience store, service station, or automotive (minor) repair garage shall be located nearer than 500 feet as measured from any point on the property line to any church, public or private school, or playground.
 - c. All buildings, canopies, fuel pumps, and pump islands shall be located no closer than 40 feet to property zoned or used for residential purposes.
 - d. All public restroom facilities shall be accessed from within an enclosed building.
 - e. Pump island canopies shall be set back a minimum of 20 feet from any right-of-way line.
 - f. Fuel pump islands shall be set back a minimum of 30 feet from any right-of-way line
 - g. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 15 feet from any nonresidential lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any landscaped area, sidewalk, street, or adjoining property.
 - h. Ingress and egress drives shall be a minimum of 30 feet and a maximum of 40 feet in width. No more than one such drive or curb opening shall be permitted for every 75 feet of frontage (or fraction thereof) along any street.
 - 1. The nearest edge of any such drive shall be located at least 25 feet from the nearest point of any property zoned or used for residential purposes.
 - 2. No driveway shall be located closer than 25 feet from the intersection of any public or private street right-of-way.
 - 3. No driveway shall be located closer than 30 feet, as measured along the property line, to any other access drive to the same site.
 - 4. Curb openings for access drives shall not be permitted where the drive would create a safety hazard or traffic nuisance because of its location in relation to other ingress and egress drives, its location in relation to the traffic generated by other buildings or uses or adjacent to pedestrian crossings.
 - i. Except for access drives, a curb of at least six inches in height shall be installed to prevent vehicles from being driven onto or parked with any part of the vehicle extending within two feet of abutting landscaped areas, sidewalks, streets, buildings, or adjoining property.

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- j. The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or a plant-mixed bituminous material, or, if any part of the lot is not so surfaced, then that area shall be landscaped and separated from all paved areas by a six-inch concrete curb.
 - k. Parking shall be provided according to the standards below in lieu of the standards of Section 78-571. A double-sided gas pump counts as two fueling stations.
 - 1. *Gas station*: One space per fueling station, plus one space per employee at largest shift, plus one stacking space per two fueling stations.
 - 2. *Gas station with convenience store*: one space per fueling station, plus one space per employee at largest shift, plus one stacking space per fueling station, plus one space for every 150 square feet of usable floor area in the convenience store.
 - 3. *Service station*: One space per fueling station, plus one space per employee at largest shift, plus two outdoor spaces per service bay, plus one space for every 200 square feet of usable floor area of any customer service/waiting area.
 - 4. *Automotive repair garage*: One space per employee at largest shift, plus two outdoor spaces per service bay, plus one space for every 200 square feet of usable floor area of any customer service/waiting area.
 - l. Where a gas station, gas station with convenience store, service station, or minor automotive repair garage adjoins any property located in any residential zone, a decorative masonry wall six feet in height shall be erected and maintained along the common lot line. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall.
 - m. Overhead doors shall not face residential districts or uses. The planning commission may modify this requirement upon determining that there is no reasonable alternative and that adequate screening has been provided.
 - n. All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.
 - o. All lighting fixtures under the canopy shall be fully recessed into the canopy structure. A maximum illumination intensity of ten footcandles shall be permitted under the canopy.
 - p. There shall be no external evidence of service and repair operations, in the form of dust, odors, or noise, beyond the interior of any automotive service building. Building walls facing any residential districts or uses shall be of masonry construction with soundproofing.
 - q. The storage, sale, rental or display of new or used cars, trucks, trailers, and any other vehicles, vehicle components and parts, materials, commodities, supplies or equipment on the premises is prohibited except in conformance with the requirements of this section and chapter 78.
 - 1. Inoperable vehicles shall not be stored or parked outside of a gas station, gas station with convenience store, or service station.
 - 2. Inoperable vehicles may be stored or parked outside an automotive repair garage during hours of operation only.
 - 3. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
 - r. Accessory retail uses (e.g., convenience store) shall conform to any applicable standards for such uses, as specified in this section.
 - s. A traffic impact study may be required by the planning commission.

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- (6) Adult-regulated uses, pawnshops and tattoo parlors.
 - (7) Self-storage facilities.
 - (8) Temporary outdoor sales, including roadside stands.
 - (9) Recreational vehicles storage.
 - (10) Open air businesses and nurseries; plant materials.
 - (11) Car wash, subject to the following:
 - a. All car washes shall have a minimum lot area of 21,780 square feet (one-half acre).
 - b. All car washes shall have a minimum front yard setback of 40 feet. All buildings shall maintain a 50-foot setback from any residential district or use.
 - c. All washing activities shall be carried on within a fully enclosed building (or a covered vehicle bay for a self-service car wash).
 - d. Automatic drying equipment shall be provided within the wash facility, or adequate drying area shall be provided at the wash facility exit.
 - e. Vacuuming activities shall be permitted in the rear yard only provided such activities are located at least 50 feet from adjacent residentially zoned or used property.
 - f. Parking shall be provided according to the standards below in lieu of the standards of section 78-571.
 1. *Automatic car wash*: Two spaces, plus one space per employee, plus, for each lane, 20 stacking spaces and two exit spaces.
 2. *Self service car wash*: Two spaces, plus one space per employee, plus, for each lane, three stacking spaces and one exit space.
 - g. All maneuvering areas, stacking lanes, and exit aprons shall be located on the car wash parcel itself. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the car wash.
 - h. Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley.
 - i. Buildings should be oriented so that open bays, particularly for self-serve car washes, do not face onto adjacent streets or residentially zoned or used property unless screened by landscaping.
 - j. Entrances and exits to a car wash shall not face residentially zoned or used property.
 - k. Exit lanes shall be sloped to drain water back to the wash building or to drainage grates.
 - l. Drains shall be provided at all entrances and exits to prevent surface drainage from flowing across public sidewalks or into the street right-of-way.
 - m. Curb openings for drives shall not be permitted where such drive would create a safety hazard or traffic nuisance for other ingress and egress drives, traffic generated by other buildings or uses, or adjacent pedestrian crossings.
 - n. A traffic impact study may be required by the planning commission.
 - (12) Establishments dispensing, serving, or selling alcoholic beverages for consumption on the premises, including dining rooms, restaurants, and bar/lounges.

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- (13) Accessory off-street parking and uses and accessory buildings customarily incidental to the permitted uses in subsections (1) through (12) of this section.
 - (14) Smoke shops.
 - (15) Uses similar to the uses in subsections (1) through (14) of this section as determined by the planning commission and subject to the purposes of this district.

(Ord. No. 54A, § 11.03, 11-11-1987; Ord. No. 266, § 5, 3-10-2004; Ord. No. 284, § 4, 4-11-2007; Ord. No. 315, § 2, 9-11-2013; Ord. No. 347, § 2, 10-16-2019)

Sec. 78-474. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements for the C-2 district, unless otherwise specified, are as provided in article IV, division 2 of this chapter.

(Ord. No. 54A, § 11.04, 11-11-1987)

Sec. 78-475. Site plan review.

Site plan review requirements for the C-2 district shall be as provided in article II, division 5 of this chapter.

(Ord. No. 54A, § 11.05, 11-11-1987)

Secs. 78-476—78-495. Reserved.

DIVISION 10. I-1 LIMITED INDUSTRIAL DISTRICT¹³

Sec. 78-496. Purpose of district.

The I-1 limited industrial district is designed so as to primarily accommodate wholesale activities, warehousing and light 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 I-1 district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semifinished products from previously prepared material.

(Ord. No. 54A, § 12.01, 11-11-1987)

Sec. 78-497. Permitted principal uses in the I-1 limited industrial district.

In the I-1 limited 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 chapter:

- (1) Any use charged with the principal function of basic research, design and pilot or experimental project development when conducted within a completely enclosed building. The growing of any vegetation requisite to the conducting of basic research shall be excluded from the requirement of enclosure.

¹³Cross reference(s)—Businesses, ch. 18.

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- (2) Any of the following uses:
- a. Warehousing and wholesale establishments.
 - 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 machining shops.
 - c. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as, but not limited to, bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, rubber, precious or semiprecious metals or stone, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns.
 - d. The manufacturer 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, radios, phonographs and television.
 - 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.
- (3) Central dry cleaning plants or laundries.
- (4) Nonaccessory signs, limited to an area of 100 square feet.
- (5) Kennel, commercial or noncommercial.
- (6) Indoor vehicle storage, subject to the following:
- a. The storage of passenger vehicles of less than 10,000 pounds gross vehicle weight shall only be permitted within an enclosed building.
 - b. All passenger vehicles stored shall be in operable condition and properly licensed and registered by the State of Michigan.
 - c. The storage of junk, inoperable vehicles, partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be prohibited.
 - d. The outdoor display or storage of goods or material shall be prohibited.
 - e. The storage, indoors or outdoors, of any recreational vehicles shall be prohibited.
 - f. The storage, indoors or outdoors, of any commercial vehicles in excess of 10,000 pounds gross vehicle weight shall be prohibited.
 - g. An indoor vehicle storage facility shall not include any of the following uses: automobile detailing shop, automotive repair garage (major or minor), car wash, gas station or filling station, service stations, new or used automobile dealerships (sales), recreational vehicle sales or service, retail establishments providing goods but no repair service (e.g., auto parts stores), automobile rental establishments, automobile liveries, truck repair garages, truck stops, or any other automobile-related uses not explicitly permitted by this section.
 - h. Minor repair service, maintenance, cleaning, and detailing may be performed on stored vehicles indoors only by the vehicle's owner or authorized representative.

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- i. Major repair service shall be prohibited on-site.
 - j. Any vehicles offered for sale shall only be stored indoors at all times and may only be sold by the individual responsible for vehicle licensing and registration. The outdoor sales space for the sale of new and use automobiles, house trailers, travel trailers, recreational vehicles, or any other type of vehicle shall be prohibited.
 - k. A certificate of occupancy is required in accordance with section 78-39.
- (7) Uses which are similar to uses in subsections (1) through (6) of this section.
 - (8) Accessory off-street parking and buildings and uses customarily incidental to the permitted uses in subsections (1) through (7) of this section.

(Ord. No. 54A, § 12.02, 11-11-1987; Ord. No. 284, § 5, 4-11-2007; Ord. No. 355 , § 3, 3-10-2021)

Sec. 78-498. Permitted uses after special approval in the I-1 limited industrial district.

The following uses are permitted in the I-1 district after special approval subject to article II, division 6, of this chapter after review and approval of the use and a site plan by the planning commission, after public hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the planning commission:

- (1) 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. Water supply and sewage disposal plants. Water and propane tank holders. Railroad transfer and storage tracks. Railroad rights-of-way.
- (2) Retail uses which have an industrial character in terms of either their outdoor storage requirements of activities, such as, but not limited to, lumberyards, building materials outlets, garage sales, upholsterers, cabinetmaker; outdoor boat, recreational vehicle sales or service; house trailer sales; automobile or agricultural or construction implement sales.
- (3) Lumber and planting mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the I-1 district.
- (4) Metal plating, buffering and polishing.
- (5) Reserved.
- (6) Railroad buildings, loading and storage facilities, and off-street vehicular parking.
- (7) Automobile detailing shop, subject to the following:
 - a. Off-street parking shall be provided at the rate of one space per employee, plus three outdoor spaces per service bay, plus one space for every 200 square feet of usable floor area of any customer service/waiting area.
- (8) Automotive repair garages (major repair), subject to the following:
 - a. A major automotive repair garage shall be located on a lot having not less than 140 feet of frontage along a major thoroughfare and having a minimum area of not less than 14,000 square feet.
 - b. No major automotive repair garage shall be located nearer than 500 feet as measured from any point on the property line to any church, public or private school, or playground.
 - c. All buildings and structures shall be located no closer than 40 feet to property zoned or used for residential purposes.

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- d. All public restroom facilities shall be accessed from within an enclosed building.
 - e. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists, and pits shall be enclosed entirely within a building.
 - f. Ingress and egress drives shall be a minimum of 30 feet and a maximum of 40 feet in width. No more than one such drive or curb opening shall be permitted for every 75 feet of frontage (or fraction thereof) along any street.
 - 1. The nearest edge of any such drive shall be located at least 25 feet from the nearest point of any property zoned or used for residential purposes.
 - 2. No driveway shall be located closer than 25 feet from the intersection of any public or private street right-of-way.
 - 3. No driveway shall be located closer than 30 feet, as measured along the property line, to any other access drive to the same site.
 - 4. Curb openings for access drives shall not be permitted where the drive would create a safety hazard or traffic nuisance because of its location in relation to other ingress and egress drives, its location in relation to the traffic generated by other buildings or uses or adjacent to pedestrian crossings.
 - g. Except for access drives, a curb of at least six inches in height shall be installed to prevent vehicles from being driven onto or parked with any part of the vehicle extending within two feet of abutting landscaped areas, sidewalks, streets, buildings, or adjoining property.
 - h. The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or a plant-mixed bituminous material, or, if any part of the lot is not so surfaced, then that area shall be landscaped and separated from all paved areas by a six-inch concrete curb.
 - i. Parking shall be provided, in lieu of the standards of section 78-571, at the rate of one space per employee, plus two outdoor spaces per service bay, plus one space for every 200 square feet of usable floor area of any customer service/waiting area.
 - j. Where a major automotive repair garage adjoins any property located in any residential zone, a decorative masonry wall six feet in height shall be erected and maintained along the common lot line. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall.
 - k. Overhead doors shall not face residential districts or uses. The planning commission may modify this requirement upon determining that there is no reasonable alternative and that adequate screening has been provided.
 - l. All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.
 - m. All lighting fixtures under any canopy shall be fully recessed into the canopy structure. A maximum illumination intensity of ten footcandles shall be permitted under the canopy.
 - n. There shall be no external evidence of service and repair operations, in the form of dust, odors, or noise, beyond the interior of any automotive service building. Building walls facing any residential districts or uses shall be of masonry construction with soundproofing.
 - o. The storage, sale, rental or display of new or used cars, trucks, trailers, and any other vehicles, vehicle components and parts, materials, commodities, supplies or equipment on the premises is prohibited except in conformance with the requirements of this section and chapter.

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1. Inoperable vehicles may be stored or parked outside an automotive repair garage during hours of operation only.
 2. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
- p. Accessory retail uses shall conform to any applicable standards for such uses, as specified in this section.
- q. A traffic impact study may be required by the planning commission.
- (9) Indoor personal sports training facility.
- (10) Accessory off-street parking and buildings and uses customarily incidental to any of the permitted uses in subsections (1) through (9) of this section.
- (11) Uses similar to the uses in subsections (1) through (10) of this section, as determined by the planning commission.

(Ord. No. 54A, § 12.03, 11-11-1987; Ord. No. 258, § 1, 5-9-2001; Ord. No. 266, § 6, 3-10-2004; Ord. No. 284, § 6, 4-11-2007; Ord. No. 297, § 1, 5-12-2009)

Sec. 78-499. Area, height, bulk and placement requirements.

Area, height, bulk and placement requirements for the I-1 district, unless otherwise specified, are as provided in article IV, division 2 of this chapter.

(Ord. No. 54A, § 12.04, 11-11-1987)

Sec. 78-500. Site plan review.

Site plan review requirements for the I-1 district shall be as provided in article II, division 5 of this chapter.

(Ord. No. 54A, § 12.05, 11-11-1987)

Secs. 78-501—78-510. Reserved.

DIVISION 11. PTD PLANNED TECHNOLOGY AND RESEARCH DEVELOPMENT DISTRICT OVERLAY

Sec. 78-511. Purpose of district.

Advances in industry and technology have created uses which are related to industry and office uses, but may not be appropriate or function adequately in a typical industrial or office zoning district. These uses have been identified as "high tech" uses. The purpose of the PTD, planned technology and research development district, is to provide an environment where high tech uses and functions such as engineering, design, research and development, photonics/optics, computer-assisted design, robotics research, numerical control equipment (CAD/CAM), prototype development and limited manufacturing, biotechnology, lasers, medical research, food and materials testing, telecommunications, and related storage, warehousing and limited assembly operations associated with principal permitted uses can be located.

It is the intent of these regulations to permit planned technology and research development for the purpose of encouraging innovation in land use planning and development; achieving a higher quality of development than would otherwise be achieved; encouraging infill development on sites that would be difficult to develop according to conventional standards because of the shape, size, abutting development; accessibility, or other features of the site; providing employment opportunities for residents; providing a development framework that promotes appropriate business activity that significantly improves the economic vitality of the city; ensuring compatibility of design and function between neighboring properties; and encouraging development that is consistent with the city's master plan.

It is also the intent of the planned technology and research district overlay to permit low intensity high tech uses to provide a transition between high intensity commercial uses found on major arterials such as Orchard Lake Road and more sensitive residential neighborhoods.

The overlay district regulations are not intended as a device for ignoring the more specific standards in the zoning ordinance, or the planning upon which the standards are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning standards generally applied to the proposed uses, but allowing for modifications to the general standards to assure a superior quality of development.

(Ord. No. 255, § 2, 12-6-2000)

Sec. 78-512. Eligibility criteria.

To be eligible for the planned technology and research development district overlay zoning designation, the applicant must demonstrate that the following criteria will be met:

- (a) The underlying zoning shall be either C-1 neighborhood commercial, C-2 general commercial or I-1 limited industrial.
- (b) The proposed development should provide a transition between commercial uses and single family residential uses.
- (c) The planned development shall result in a recognized and substantial benefit to the ultimate users of the project and to the community.
- (d) The site shall have a minimum frontage of 200 feet along a public street or road. The minimum size of a parcel that is developed as a planned technology and research development district shall be two acres.
- (e) The proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities and utilities.
- (f) The proposed development shall be generally consistent with the goals and policies contained in the master plan of the city.
- (g) The proposed development shall be consistent with the purpose and intent of the planned technology and research development district regulations.
- (h) The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the zoning ordinance.
- (i) The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the planned technology and research development district regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is given immediately to the city.

(Ord. No. 255, § 2, 12-6-2000)

Sec. 78-513. Permitted uses.

All uses permitted in this district shall be constructed and conducted wholly within a building in accordance with the standards of this article and limited to those listed on the approved site plan, and no other uses shall be permitted unless the appropriate plans are amended in accordance with this chapter. The following specific uses are permitted under the PTD overlay district:

- (a) Corporate headquarters offices, administrative, professional, and/or business offices of permitted principal uses, legal, engineering, surveying, accounting, architectural, and similar professional offices.
- (b) Research, development, and testing facilities for technological, scientific and business establishments, including the development of prototypes.
- (c) Educational and design facilities whose principal function is the research and development of new products and processes and technical training.
- (d) Technological, medical and dental clinics; medical, optical, pharmaceutical and dental laboratories.
- (e) Data processing and computer centers, including incidental service and maintenance of electronic data processing.
- (f) Any use charged with the principal function of research in the areas of photonics/optics, robotics, and electronic equipment.
- (g) A high technology service activity which has as its principal function the providing of services including computer, information transfer, communication, distribution, processing, administrative, laboratory, experimental, developmental, technical, or testing services.
- (h) A high technology industrial activity which has as its principal function limited manufacture for the purposes of one-time prototype production, robotics, biological or pharmaceutical research, or technology oriented or emerging industrial or business activity not involving any heavy and/or volume manufacturing.

(Ord. No. 255, § 2, 12-6-2000)

Sec. 78-514. Development regulations.

Generally, the standards of the underlying zoning district will apply; however, the planning commission and the city council may approve departures from the regulations to encourage flexibility and creativity consistent with the planned development concept. Flexibility may be provided for lot dimensional standards; setback requirements may be permitted only if they will result in a higher quality of development than would be possible without the modifications. The following regulations shall also apply:

- (a) *[Open space:]* At least 20 percent of the site area must be left as open space, free of impervious surfaces. Significant vegetation and natural features shall be preserved.
- (b) *[Underground utilities:]* All utilities serving the site shall be placed underground wherever feasible.
- (c) *Nuisance activities:* All operations shall be conducted so as not to allow a noise, odor, fumes, dust, smoke, glare or radioactive material exceeding the limits set forth in nuisance activities, section 78-627. In no case shall such impacts be detectable from districts in which residence occupancy is permitted within the City of Sylvan Lake.
- (d) *Yard grading and drainage:* All yards in PTD, planned technology and research district, shall be graded in a manner which shall avoid the ponding of stormwater unless said conditions have been designed to occur as part of a storm detention plan which has been approved by the City of Sylvan Lake and such

grading shall comply with the engineering design standards for the City of Sylvan Lake. A detailed grading plan shall be submitted by the builder and shall be approved by the City of Sylvan Lake prior to issuance of a permit.

- (e) *Hours of operation:* The hours of operation of businesses located on the site shall be established to reasonably eliminate disturbance to adjacent residential areas. The planning commission may impose additional restrictions on the hours of operation depending on the proposed operators.
- (f) *Emergency access:* All buildings shall be readily accessible by fire and emergency vehicles and shall comply with the city fire prevention ordinance.
- (g) *[Sidewalks:]* Sidewalks shall be provided within the interior of the project boundaries. Interior walks shall be minimum four feet in width except where such walks directly abut a parking area. In cases where sidewalks abut a parking area, the minimum width required shall be six feet. All sidewalks shall conform to the standards as established by the city council.
- (h) *[Lighting:]* Lighting shall be provided in an amount which shall be sufficient to permit safe movement of vehicles and pedestrians at night. The lighting shall be high pressure sodium and shall be so located and designated as to reflect light away from adjacent single-family residential areas.
- (i) *[Trash removal:]* The method of trash removal shall be presented to the planning commission for approval. If dumpsters or compactors are proposed, they shall be located within the building.
- (j) *[Fences:]* Fences and screen walls shall require review and approval by the planning commission as a part of the site plan approval. In a PTD planned technology and research district, the following shall apply in regards to fencing:
 - 1. No fence shall be built closer to the street than the established front building line along said street or in front of the building closest to the street on the fenced premise.
 - 2. All fences visible from a public road, private road easement, or adjacent property shall be of a decorative nature consisting of brick or wrought iron type fencing with landscaping. The planning commission may modify this requirement based on the specifics of an individual development.
- (k) *Landscaping:* Creativity in landscaping is encouraged. All parking or loading areas that are visible from a public road, private road easement, or adjacent property shall be suitably screened with a combination of berms, evergreen and deciduous trees and shrubs, and ornamental plant material. At a minimum, all landscaping shall conform to section 78-632, Time limit for landscaping requirements and plant materials, buffer strip standards and right-of-way planting.
- (l) *[Parking and loading:]* All parking and loading areas shall be located to the rear or side of the principal building(s) as approved by the planning commission.
- (m) *[Exterior equipment:]* All exterior equipment including tanks, heating and air conditioning equipment, vents, ducts, pipes and other similar apparatus shall be screened from view from off site by a penthouse or structure equal in height to the height of the equipment being screened. The outside finish of such penthouse or structure shall be the same as, or complimentary to, the finish material on the facade of the building to which it is attached. The planning commission may modify this requirement based on the specifics of an individual development.
- (n) *[Truck routes:]* The application shall indicate the type of trucks expected to service the site. The use of tractor-trailers for delivery to the site shall only be permitted on class A roads. A truck circulation diagram indicating access points, turning movements, and typical on-site truck circulation shall be approved at the time of site plan approval.
- (o) *Buffer strips:* A minimum landscape planting area 30 feet deep shall be provided along the front and perimeter of the development landscaped according to subsection 10 above.

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- (p) *[Trees:]* In the interest of tree preservation, all trees more than six inches in diameter measured five feet from the ground shall be surveyed and included on the proposed site plan. The site plan shall clearly indicate what trees are to be removed. Removed trees must be replaced using a tree species and caliper acceptable to the planning commission. The planning commission may waive these requirements depending on the specifics of an individual proposal.
 - (q) *[Hazardous materials:]* Protective measures for the containment of hazardous materials used on site shall be required. Such measures can include the following: secondary containment for above ground storage and loading and unloading areas, blocking of interior floor drains, or any other measures deemed necessary by the planning commission.

(Ord. No. 255, § 2, 12-6-2000)

Sec. 78-515. Procedures.

The review process for PTA approval shall include the following steps:

- (a) An optional pre-application workshop with the planning commission may be requested by the applicant to discuss:
 - 1. Whether a site and development proposal are likely to meet the standards for PTD zoning;
 - 2. Conceptual site layout and design elements; and
 - 3. Application requirements.
- (b) PTD review shall be initiated by submittal of an application for PTD overlay zoning. The application shall include the following:
 - 1. A completed application form as approved by the city and payment of an application fee in an amount as established by city council resolution.
 - 2. A complete site plan containing all information required for a typical site plan under section 78-144.
 - 3. A written statement outlining any proposed departures from ordinance requirements, as provided for in section 78-514.
 - 4. A written statement indicating how the project satisfies the PTD eligibility criteria in section 78-512, and permitted uses in section 78-513.
 - 5. A draft PTD agreement in recordable form, which shall include terms and conditions of the PTD overlay zoning approval, all of which shall be binding upon all owners and occupiers of the land and shall run with the land.
 - 6. Proof of current ownership of the land or evidence of a contractual ability to acquire such land, such as a purchase option or agreement, and the authority to enter into the agreement mentioned in section 78-516.
- (c) The PTD application shall be reviewed first by the planning commission, who shall hold a public hearing, giving notice as required for a rezoning case. Following the public hearing, the planning commission shall recommend approval, approval with conditions, or denial of the PTD application, in accordance with section 78-515, as well as normal site plan and rezoning review procedures. The planning commission may table deliberation until such time as the applicant has submitted revisions to the materials contained in the application package. Those revisions shall reflect modifications based on the concerns of the planning commission and the public.

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- (d) Following receipt of the planning commission's recommendation, the city council shall review the PTD application, together with the findings of the planning commission and reports and recommendations from consultants and other agencies, and shall approve, approve with conditions, or deny the PTD application.
 - (e) Approval of the PTD application shall constitute an amendment to the zoning chapter as well as site plan approval. The PTD plan and written agreement setting forth conditions upon which the PTD approval was based, shall constitute an inseparable part of the zoning chapter.
 - (f) If the PTD application was approved, no other use may be made of the property except as permitted by the PTD site plan and the written agreement.

(Ord. No. 255, § 2, 12-6-2000)

Sec. 78-516. PTD agreement.

The PTD agreement which is a part of the final PTD overlay application, shall include all of the requirements specified in this section. After the agreement is approved and executed, it shall be recorded in the office of the Oakland County register of deeds at the expense of the applicant.

- (a) The agreement shall set forth the permitted uses within the PTD, including the preliminary plan for development and improvement of the site.
- (b) The agreement shall set forth the conditions upon which the approval is based, including phasing requirements, requirements for on-site improvements and contributions to required improvements to public facilities.
- (c) When open space or common areas are indicated in the PTD plats, such areas shall be conveyed in fee or committed by dedication to an association of the residents.
- (d) The agreement shall set forth a program and financing for maintaining common areas and features such as, but not limited to, walkways, signs, lighting, parking areas and landscaping, etc.
- (e) The agreement shall establish architectural standards and requirements for building elevations and building materials.
- (f) The agreement shall assure that trees and woodlands will be preserved as shown on the site plan, or replaced on a caliper for caliper basis or as required by the city's tree protection ordinance and/or regulations.
- (g) The agreement shall assure the construction and maintenance of all streets and utilities (including public water, storm water, waste water, collection and treatment). Such assurance may include bonds or other financial guarantees and the establishment of a condominium or property owner's association with appropriate assessments to ensure the ongoing maintenance of all roads, storm drainage improvements, landscaping and all other common areas. If private roads are proposed, the association or condominium documents shall include provisions for a sinking or reserve fund to pay for the long-term maintenance and reconstruction of roads.
- (h) The agreement shall address any other concerns of the city regarding construction and maintenance of roads and common area improvements.
- (i) The agreement may include specific terms or conditions regarding the expiration or revocation of the PTD zoning designation.
- (j) The agreement shall state that the agreement shall not be effective until the agreement is recorded in the office of the Oakland County register of deeds and a certified copy of the recorded agreement has been delivered to the city.

(Ord. No. 255, § 2, 12-6-2000)

Sec. 78-517. Changes and amendments.

- (a) If the planning commission determines that a proposed modification to an approved site plan, subdivision plat or final condominium plan significantly alters the intent and conditions of PTD approval, a revised PTD application shall be submitted for review according to the procedures outlined in section 78-515.
- (b) If the proposed change is determined to not significantly alter the intent and conditions of the PTD, the change shall be reviewed as an amendment to the site plan, plat, or condominium plan as provided for by applicable ordinances, and the PTD agreement shall be amended and recorded accordingly.

(Ord. No. 255, § 2, 12-6-2000)

Sec. 78-518. Appeals and violations.

- (a) The zoning board of appeals shall have the authority to hear and decide appeals by the property owner for variances from the zoning chapter regulations. However, the zoning board of appeals shall not have the authority to change conditions, or make interpretations to the PTD site plan or written conditions, which right is reserved to the city council.
- (b) Any violation or deviation from the approved PTD site plan or written conditions, except as authorized in this zoning chapter, shall be considered a violation of division 11 and treated as a violation of this chapter 78. Further, any such deviation may be grounds to invalidate the PTD designation.

(Ord. No. 255, § 2, 12-6-2000)

DIVISION 12. PLANNED UNIT DEVELOPMENT—ORCHARD LAKE EAST¹⁴

Sec. 78-519. Intent.

The provisions of this section are intended to provide standards for the submission, review, and approval of an application for a planned unit development (PUD) to be reviewed and authorized under Section 503 of the Michigan Zoning Enabling Act, Act 110 of 2006, MCL 125.3503. It is the intent of this section to authorize the use of planned unit development for large parcels of land, five acres or greater, fronting on Orchard Lake Road, east of Inverness Street in areas designated CS or I-1 on the City's Master Plan for Land Use.

As provided further below, the applicant for PUD approval must demonstrate that the proposed development represents an innovative, unified, planned approach to developing the site that would result in a significantly higher quality of development, the mitigation of potentially negative impacts of development, or more efficient development than conventional development will allow, in accordance with the specific standards provided in this division.

The PUD is not intended to avoid the imposition of standards and requirements of the underlying district. Rather, flexibility is permitted so that the PUD plan provides advantages to both the developer and the city.

¹⁴Editor's note(s)—Ord. No. 346 , § 1, adopted November 13, 2019, amended division 12 in its entirety to read as herein set out. Former division 12, §§ 78-519—78-528, pertained to planned unit development, and derived from Ord. No. 317 , adopted December 11, 2013.

A PUD plan is a discretionary, optional form of development only upon terms and conditions agreeable to the city, and is subject to approval by the city council, following a recommendation by the planning commission. The provision of this option imposes no obligation upon the city to foster or encourage its use. The city council retains authority to determine if a PUD is appropriate for a particular development site and the sole discretion whether to approve the use of this option.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-520. Qualifying criteria.

The following provisions shall apply to all PUD projects:

- (1) *Unified control.* The planned unit development shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
- (2) *Recognizable benefit.*
 - a. The applicant shall demonstrate that the PUD provides as many of the following site design elements as the city determines to be appropriate under the circumstances of the proposed development that could not be attained through a project designed under conventional zoning:
 1. Establishment of a mixed-use development with residential and nonresidential uses or a variety of housing types;
 2. Redevelopment of brownfield or greyfield sites;
 3. Pedestrian/transit-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site;
 4. Enhancement of the aesthetic appearance of the city through high-quality building design and site development beyond the site plan requirements of this chapter;
 5. Extensive landscaping beyond the site plan requirements of this chapter;
 6. Preservation, enhancement, or restoration of natural resources (trees, slopes, nonregulated wetland areas);
 7. Preservation or restoration of historic resources;
 8. Provision of open space or public plazas or features;
 9. Use and improvement of existing sites when the uniform regulations contained in the underlying zoning district alone do not provide adequate protection and safeguards for the site or its surrounding areas or where the current ordinances do not permit flexibility to consider redevelopment, replacement, or adaptive reuse of existing structures or sites;
 10. Effective transition between higher and lower density uses, and/or between nonresidential and residential uses or between incompatible adjacent land uses proposed to be developed in a manner that is not possible using a conventional approach;
 11. Shared vehicular access between properties or uses;
 12. Provision of a public improvement that would not otherwise be required to further the public health, safety, and welfare, protect existing or planned uses, or alleviate or lessen an existing or potential problem relating to public facilities (such as road improvements or the relocation of overhead utilities);
 13. Significant use of sustainable building and site design features such as: Water use reduction, water-efficient landscaping, innovative wastewater technologies, low impact

stormwater management, optimize energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality or other elements identified as sustainable by established groups such as the U.S. Green Building Council (LEED) or ANSI National Green Building Standards.

14. Permanent establishment of land use patterns that are compatible with or will protect existing or planned uses, which may include the limitation of the permissible uses of the property.
 15. Innovation in land use, form of ownership, and variety in design, layout, and type of structures constructed.
 16. Other benefits as determined by the city.
- (3) *Compatibility with adjacent uses.* The proposed location of uses or structures that are of a significantly different scale or character than the abutting residential districts, such as access drives, parking areas, waste receptacles, swimming pools, tennis courts and facilities of a similar nature, shall not be located near the perimeter of the PUD, unless adequately screened and buffered, or so as to negatively impact the residential use of adjacent lands.
 - (4) *Public utilities.* All uses within the PUD shall be served by public water and sewer systems.
 - (5) *Master plan.* The proposed PUD shall be consistent with the City of Sylvan Lake Master Plan.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-521. Permitted uses.

The uses permitted in the PUD shall include the uses permitted by right, and special land uses in the underlying zoning district. Other uses, however, may be permitted upon a finding by the city council, upon recommendation by the planning commission, that such uses will be appropriate and compatible with the uses proposed for the development and with surrounding uses. The city council may permit additional uses to create an integrated, mixed-use development based upon the recommendations of the City of Sylvan Lake Master Plan. Approval of a PUD shall include the specific identification of the uses permitted within the PUD, and only those uses so approved shall be permitted. Mixed-use PUDs shall include commercial uses intended to serve the local area. Large, single-use office buildings are discouraged. Office uses are encouraged to be only within mixed-use buildings located along Orchard Lake Road. Industrial uses are prohibited.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-522. Use, bulk, yard, height, and density standards.

The uses shall be designated on the PUD site plan, shall conform to the requirements of the underlying zoning district, and must meet the following applicable standards:

- (1) *Residential standards.* The following standards apply to any residential component of the PUD:
 - a. *Permitted residential uses.* Permitted residential uses include single-family and two-family residential units as well as rowhouses, terrace homes, and townhomes that are attached side-by-side. Multiple-family dwellings are not permitted in the PUD.
 - b. *Density.* The dwelling unit density of the PUD shall not exceed five dwelling units per acre. The density for residential uses shall be based on the total acreage of the subject parcel, although units may be clustered subject to subsection c below.

c. *Dimensional and parking standards.*

1. If single-family or two-family dwellings are proposed, the lot area and width, yards, height, coverage restrictions, and minimum floor area restrictions in article IV, district regulations, for the R-1 single-family residential district shall apply.
2. If [single-family] rowhouse, terrace home, or townhouse dwellings are proposed, the dimensional standards in article IV, district regulations, for the R-3 multiple-family residential district shall apply (Multiple-family dwellings are not permitted in the PUD), except that footnote (c) of section 78-297 shall not apply, and the minimum lot area per dwelling is 8,712 square ft (a maximum of five dwellings per acre).
3. Projects proposing one or more types of housing must follow those standards applicable to each housing type. Off-street parking requirements shall be specified by article V.
4. To accommodate a true integration of mixed uses and improved efficiency in land use, the planning commission may permit the overlap in parking requirements between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips.
5. Parking lots shall not occupy more than 25 percent of the full width of the PUD area along Orchard Lake Road. Perimeter parking lots along public streets are discouraged in favor of buildings that contribute to the adjacent streets' urban design quality.
6. Bicycle parking shall be provided at a rate of one space per four dwelling units and provide covered storage facilities for securing bicycles for a minimum of ten percent of the number of vehicular parking spaces provided.

d. *Mixed-use and residential design guidelines.* Development shall demonstrate compliance with the following standards:

1. Development should respect the scale and character of adjacent homes and neighborhoods.
2. Buildings should have a well-defined base, middle, and top to reduce apparent building height and bulk, and provide architectural interest. Patios, upper-floor balconies, roofline changes, and overhangs are encouraged.
3. Primary facades and building entrances should be provided along public streets, open space areas, and other pedestrian-oriented circulation areas, with walkways provided from these areas to building entrances.
4. Building corners adjacent to public streets should be emphasized with changes in architectural massing, height, roofline treatment, materials, or transparency.
5. High-quality, durable materials should be used for all buildings. Masonry, metal, and glass façade materials are strongly encouraged. Vinyl siding and synthetic stucco/E.I.F.S. shall not constitute more than ten percent of façade materials on any one facade due to their lack of durability.
6. Ground floor storefronts should have a transparent appearance with substantial non-tinted glass areas along public streets.
7. Buildings should include features that add depth, shadow, and architectural interest, such as balconies, recesses, cornices, bay windows, and step-backs at upper floors, consistent with the building's style and scaled for pedestrians.

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8. Balconies, decks, and patios facing public streets or pedestrian ways that are large enough to accommodate boxes, bicycles, and similar stored materials should provide solid walls on the lower portions of surrounding railings. Fully open railings are acceptable for smaller decks and balconies that are less likely to be used for storage.
 9. Pedestrian access between residential buildings and adjacent commercial and residential areas shall be provided to enhance mobility and connectivity within and around the city.
- (2) *Screening and buffering.* The city council may require greater yards or additional screening measures deemed necessary to avoid or reduce adverse impacts on adjacent land and to protect nearby residential neighborhoods.
 - (3) *Open space.* Not less than 15 percent of the total PUD site shall be devoted to open space. Open space may include common private open space or public recreation area or open space outside of the required setbacks and yards as required in article IV. Private yards or required yards and setbacks for commercial or residential structures may not be counted toward this open space requirement.
 - (4) *Deviations from standards.*
 - a. Deviations from the dimensional standards and parking requirements of this section may be permitted if the deviation is found to be acceptable to the planning commission and city council as provided for in this section. No deviations from residential density shall be permitted.
 - b. Any deviation from these standards shall be consistent with the city's master plan and shall be justified by documentation provided by the applicant in a form acceptable to the planning commission and city council. Such documentation may include a written justification, analysis, and/or data necessary to justify the deviation to the satisfaction of the planning commission and city council.
 - c. In granting the deviation or relaxation of any district standard for a PUD, the city council may require the applicant to demonstrate through bona fide documentation that the project will not be detrimental to the public health, safety or welfare of the future occupants of the PUD, the surrounding neighborhood, or the city as a whole. Such documentation may include but is not limited to, traffic impact studies, environmental impact studies, market needs assessments, infrastructure impact studies, and any other such reports or studies.
 - d. The granting of deviations may be recommended by the planning commission and approved by the city council if the applicant can establish that:
 1. If the deviation were not granted, the development would not be able to provide an enhancement to the area that is in the public interest;
 2. Approving the deviation would be consistent with the master plan and the surrounding area; and
 3. Approving the deviation would result in a recognizable and material benefit to the ultimate users of the property and to the city as a whole, including, but not limited to, those qualifying criteria listed in section 78-520 above.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-523. Application and review procedure.

- (a) *Preapplication review.* A pre-application workshop with the planning commission is required to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting

the proposal. An applicant desiring such a workshop shall request placement on the planning commission agenda.

- (b) *PUD plan submission.* An application shall be made in the form and manner determined by the city, which shall include a PUD Plan that shall be a schematic land use plan containing enough detail to explain the function of open space; the location of land use areas, streets providing access to the site, pedestrian and vehicular circulation within the site; dwelling unit density and types; and buildings or floor areas contemplated and a plan for the protection of natural features, if any. At a minimum, the PUD Plan shall include the following:
- (1) A boundary survey of the exact acreage being requested done by a registered land surveyor or civil engineer (scale not smaller than one-inch equals 100 feet).
 - (2) A topographic map of the entire area at a contour interval of not more than two feet. This map shall indicate all major stands of trees, bodies of water, wetlands, and unbuildable areas (scale: not smaller than one-inch equals 100 feet).
 - (3) A proposed land-use plan indicating the following at a scale no smaller than one inch equals 100 feet:
 - a. Land use areas represented by the zoning districts enumerated in this chapter.
 - b. Vehicular circulation, including major drives and location of vehicular access. Preliminary proposals as to cross-sections and as to public or private streets shall be made.
 - c. Transition treatment, including minimum building setbacks to land adjoining the PUD and between different land-use areas within the PUD.
 - d. The general location of buildings and parking areas, estimated floor areas, building coverage, and the number of stories or height.
- (c) *Planning commission review.* After the pre-application conference and upon receipt of an application for purposes of a PUD plan submittal, the application shall be referred to the planning commission for a public hearing and recommendation. The PUD plan shall include all the information required for site plan approval, as set forth in this ordinance.

The planning commission shall hold a public hearing on the application and shall consider the application in accordance with the requirements of this division. Following such review, the planning commission shall provide its report and recommendation to the city council. In making its recommendation to the city council, the planning commission shall determine whether the PUD plan meets the standards for qualification and approval set forth in section 78-524.

- (d) *City council review.* Following a recommendation by the planning commission, the PUD plan shall be placed on an agenda of the city council, and the city council shall conduct a public hearing. In making its review, the city council shall follow the standards and guidelines applicable to a PUD project as set forth in section 78-524. After review of the planning commission's recommendation, consideration of the input received at the public hearing, and other information relative to the PUD application, the city council may deny the application, grant the application, or grant the application with conditions. When such approval is given, it shall be tentative, and the city council shall instruct the city's legal counsel to prepare a contract, which shall incorporate the PUD plan and specify the terms, conditions, and provisions upon which the approval is based. The agreement shall provide at a minimum:
- (1) A legal description of the property comprising the proposed development.
 - (2) The manner of ownership of the developed land.
 - (3) The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space.

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- (4) Provisions assuring that open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose; the city may require conveyances or other documents to be placed in escrow to accomplish this.
 - (5) Provisions to provide for the future financing of any improvements shown on the plan for site improvements, open space areas, and common areas that are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the planning commission.
 - (6) Provisions to ensure the cost of installing, improving, and maintaining streets and the necessary utilities have been assured by a means satisfactory to the city.
 - (7) Provisions to ensure adequate protection of natural features.
 - (8) Provisions relating to the approved use(s) of the property and any conditions imposed by the city with regard to such use.
 - (9) Other terms and conditions necessary in the city's opinion to assure compliance with the city's code of ordinances and the PUD plan being approved.
 - (10) The PUD plan shall be incorporated by reference and attached as an exhibit.

After approval of the contract by resolution of the city council, the contract shall be executed by the city and the applicant and recorded in the office of the Oakland County Register of Deeds. Final approval of the PUD plan shall be effective upon recording. The physical development of the site shall be in accordance with the approved PUD plan.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-524. Standards for approval of the PUD plan.

The following standards shall be considered by the planning commission and city council when reviewing the application and the proposed PUD plan:

- (1) The PUD project meets the qualification requirements of sections 78-520—78-522 above.
- (2) The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses.
- (3) The uses proposed will not adversely affect the public utilities and traffic circulation system, adjacent properties, or the environment.
- (4) The recognized public benefits of the project could not be achieved under the regulation of the underlying district alone.

The city may impose additional reasonable conditions: 1) to ensure that public services and facilities affected by a PUD will be capable of accommodating increased service and facility loads caused by the PUD; 2) to protect the natural environment and conserve natural resources and energy; 3) to ensure compatibility with adjacent uses of land; and 4) to promote the use of land in a socially and economically desirable manner.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-525. Effect of approval of PUD plan; submission of site plan.

Approval of the PUD plan and PUD contract confirms only the entitlement to submit a site plan for the development of the property under the usual process for site plan approval under this chapter, including sections 78-141 through 78-149. Such site plan shall be in conformity with the PUD plan.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-526. Expiration of PUD plan.

Approval of the PUD plan by the city council shall be valid for two years from the date of approval. An extension up to an additional two years may be requested. The request must state the reasons for the extension and the request must be approved by city council.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-527. Appeals and violations.

The zoning board of appeals shall not have the authority to hear and decide appeal requests by property owners for variances from the zoning ordinance. Any deviation from the approved PUD plan, except as authorized in this article, shall be considered a violation of the article and treated as a violation of the zoning ordinance. Further, any such deviation shall invalidate the PUD designation.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-528. Changes and amendments to the PUD.

Any modification to the approved PUD Plan shall require resubmittal to the planning commission for review. Modifications which do not significantly alter the intent of the PUD approval shall require only approval of the modified site plan by the planning commission. Should the planning commission determine that the modifications to the PUD concept plan significantly alter the intent of the PUD approval, a revised PUD Plan shall be submitted according to the procedures outlined above, including a full PUD submittal and review.

(Ord. No. 346 , § 1, 11-13-2019)

Sec. 78-528.1. Condominium projects.

For any site condominium within a PUD, the applicant shall provide a copy of the master deed and condominium association bylaws for approval by the city. The condominium documents shall provide limits on the use of common areas or open space for accessory structures such as swimming pools, decks, playground equipment, and buildings. A plan shall be provided indicating the limits of such accessory structures within a defined envelope.

(Ord. No. 346 , § 1, 11-13-2019)

Editor's note(s)—Ord. No. 346 , § 1, adopted November 13, 2019, set out provisions intended for use as § 78-528.

For purposes of classification, and at the editor's discretion, these provisions have been included as § 78-528.1.

DIVISION 13. LAKEFRONT SETBACK DISTRICT 1¹⁵

Sec. 78-529. Purpose of district.

The purpose of this district is to recognize that the residential areas along the lakefront of Sylvan Lake are at this point effectively fully-developed. However, some of the residential homes in certain areas of the city were constructed many years ago. The city has, as a result, been experiencing significant redevelopment in some areas along the lakefront. This has included not simply re-modeling or renovation of existing homes, but in some cases the complete demolition, removal, and reconstruction of existing homes.

While the city's zoning ordinance does include regulations establishing a setback from the lake of 30 feet, where the lots being redeveloped are deep and where the development pattern has resulted in an established line of homes and a character that includes a greater setback from the lake than would otherwise be required, the city believes that the existing setback requirements would be inadequate. Under the general setback requirement, homes and other structures could be built significantly closer to the lake than the other existing homes in the area, which could adversely affect the existing homes in terms of sight lines and property values.

After studying the homes and character of the lakefront area located on Garland from Lakeview to Beverly (even numbered addresses approximately 2470 to 2640), the city has determined that a greater setback should apply to such area, and that compliance with the greater setback would preserve the existing character of the area and would not deprive the owners of lots of full and complete use of their properties.

(Ord. No. 322, § 1, 8-13-2014)

Sec. 78-530. Permitted uses.

All principal, accessory, and special land uses within the underlying district shall be permitted in this overlay district, and no additional uses shall be permitted.

(Ord. No. 322, § 1, 8-13-2014)

Sec. 78-530.1. Applicable height, area, and bulk standards.

Except as specifically provided herein with regard to setback from the lakefront, all regulations of this chapter 78 applicable to the underlying district shall apply to the uses within this overlay district.

(Ord. No. 322, § 1, 8-13-2014)

¹⁵Editor's note(s)—Ord. No. 322, § 1, adopted August 13, 2014 , set out provisions intended for use as division 12, §§ 78-600—78-603. For purposes of classification, and at the editor's discretion, these provisions have been included as division 13, §§ 78-529—78-530.2.

Sec. 78-530.2. Setback from lake within district.

All structures of any kind within this district shall be setback from the lakefront no less than 70 feet, as measured from the platted front lot line at the lake or from the ordinary high water mark, whichever is lesser; provided, however, that the an uncovered patio or deck may encroach into the required lakefront setback a maximum of 20 feet. If installing a deck, the portion encroaching into the required lakefront setback may not exceed 36 inches (three feet) in average height above grade. All improvements made within the required lakefront setback, for example; patio, deck and open steps will be included when calculating total lot coverage.

(Ord. No. 322, § 1, 8-13-2014)

ARTICLE V. OFF-STREET PARKING AND OFF-STREET LOADING¹⁶

DIVISION 1. GENERALLY

Sec. 78-531. Off-street loading and unloading.

- (a) On the same premises with every building, structure or part thereof, erected or occupied for storage, retail sales, warehouse of goods, display, a department store, a wholesale store, a market, a hotel, a hospital, a mortuary, a laundry, a dry cleaning establishment or other such similar use involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading in order to avoid undue interference with public use of the streets or alleys.
- (b) All such loading and unloading areas, including all access drives, shall be paved and shall be in addition to the required off-street parking area requirements.
- (c) Such loading and unloading space, unless otherwise adequately provided for, shall be an area ten feet by 40 feet with a 14-foot height clearance and shall be provided according to the following table:

Gross Floor Area (square feet)	Loading and Unloading Spaces Required in Terms of Square Feet of Usable Floor Area
0 to 3,000	None
3,001 to 20,000	1
20,001 to 100,000	1
Plus, for each 20,000 square feet of excess over 20,000 square feet	1
100,001 or more	5

¹⁶Cross reference(s)—Traffic and vehicles, ch. 66.

Plus, for each 40,000 square feet of excess over 100,000 square feet	1
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- (d) No loading space may be on any street frontage and provision for handling all freight shall be on those sides of any building which do not face on any street or proposed street, except where such areas are obscured, from such street, with a solid masonry wall not less than six feet in height. At its discretion, the planning commission may require a solid masonry wall up to eight feet in height.

(Ord. No. 54A, § 15.05, 11-11-1987)

Secs. 78-532—78-560. Reserved.

DIVISION 2. OFF-STREET PARKING

Sec. 78-561. Required generally.

For every use, activity or structure permitted by this chapter and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading and loading for motor vehicles that may be expected to transport their users or occupants, whether as patrons, residents, customers, employees, guests or otherwise, to an establishment, activity or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations in this article for the area or capacity of such expansion in combination with the previously existing uses, structure or activity. Existing off-street parking facilities actually being used on the effective date of the ordinance from which this chapter is derived for the parking of automobiles in connection with the operation of an existing building or use shall not be reduced to an amount less than that required in this article for a similar new building or use unless additional parking facilities of the same amount are provided as described in this article.

(Ord. No. 54A, § 15.01(a), 11-11-1987)

Sec. 78-562. Single-family residential districts.

Every building intended for single-family residential occupancy shall provide, on the same lot with such building, a minimum of two off-street parking spaces for each dwelling unit, provided that such minimum required parking spaces shall not be located in the required front yard setback area. One driveway curb cut or street access point is allowed for lots less than 75 feet wide. A maximum of two curb cuts or street access points is permitted for lots with a minimum of 75 feet width. Any parking area in the required front yard setback area shall not exceed 42 percent of that area. All parking within the required front yard of any lot shall be within the paved area for access and parking (i.e., not on the lawn area or other unimproved area). No paved area for access and parking shall be wider than 21 feet.

(Ord. No. 54A, § 15.01(b), 11-11-1987; Ord. No. 319, § 1, 3-12-2014)

Sec. 78-563. Nonresidential uses of residential buildings.

In any district a residential building being used for nonresidential purposes, except places of public assembly as provided in this article, shall provide in addition to the off-street parking spaces for the dwelling units required

under section 78-562, off-street parking in the same amounts set forth in section 78-571, for that portion of the floor area which is being utilized for nonresidential purposes.

(Ord. No. 54A, § 15.01(c), 11-11-1987)

Cross reference(s)—Businesses, ch. 18.

Sec. 78-564. Methods of providing parking facilities.

The required off-street parking facilities for buildings used for other than residential purposes may be provided by any one, or any combination, of the following methods:

- (1) By providing the required off-street parking on the same lot as the building served.
- (2) By providing the required off-street parking within 300 feet of the building being served, measured without crossing a major thoroughfare, from the nearest point of the lot to the nearest point of the off-street facility.
- (3) By the collective provisions of the required off-street parking for two or more buildings or uses, provided that the total of such off-street parking area shall not be less than the sum of the requirements of the various buildings or uses computed separately and such parking areas are within 300 feet of the buildings being served, measured without crossing a major thoroughfare, from the nearest point of the building or use to the nearest point of the off-street parking facility.

(Ord. No. 54A, § 15.01(d), 11-11-1987)

Sec. 78-565. Uses not specifically mentioned.

For those uses not specifically mentioned in this division, the requirements for off-street parking facilities shall be in accord with a use which the zoning board of appeals determines as being most similar in nature.

(Ord. No. 54A, § 15.01(e), 11-11-1987)

Sec. 78-566. Change in use of parking.

Any area once designated as required accessory off-street parking shall never be changed to any other use unless and until off-street parking facilities are provided elsewhere in accordance with this division or in the case of a P parking district, until a change in zoning occurs.

(Ord. No. 54A, § 15.01(f), 11-11-1987)

Sec. 78-567. Zoning of accessory parking.

All accessory parking facilities, whether provided in fulfillment of or in excess of the requirements of this division, and whether located on the same or on a different lot from the principal use as provided in this division, shall be located on property zoned within the same zoning district as the principal use served by the parking.

(Ord. No. 54A, § 15.01(g), 11-11-1987)

Sec. 78-568. Joint parking facilities.

Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided and used collectively or jointly in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, subject to the following provisions:

- (1) A written agreement assuring the perpetual joint usage of such common parking for the combination of uses or buildings is properly drawn and executed by the parties concerned, approved as to form and execution by the planning commission and city attorney and filed with and made part of the application for a building permit.
- (2) The parking spaces required for a theater or other place of evening entertainment, for a church, for multifamily dwelling units or for a school, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during evening hours if specifically approved by the planning commission; provided, however, that written agreement assuring the retention for such purpose shall be properly drawn and executed by the parties concerned.

(Ord. No. 54A, § 15.01(h), 11-11-1987)

Sec. 78-569. Mixed uses.

For building or land containing more than one use, the total parking requirement shall be determined to be the sum of the requirements for each use, unless joint parking facilities shall be provided, subject to planning commission approval.

(Ord. No. 54A, § 15.01(i), 11-11-1987)

Sec. 78-570. Duty of continuing compliance.

Notwithstanding any transfer of the title to the real estate on which building or buildings are located, the transferees and occupants shall continue to maintain the offstreet parking and loading area requirements of this chapter. It shall be unlawful for the owner or occupants of any building to discontinue or change, or cause the discontinuance or change of the required off-street parking without establishing, prior to such discontinuance or change, alternative off-street parking which meets the requirements of and is in compliance with this chapter.

(Ord. No. 54A, § 15.01(j), 11-11-1987)

Sec. 78-571. Schedule.

The minimum number of off-street parking spaces by use shall be determined in accordance with the following schedule:

Use	Number of Off-Street Parking Spaces Per Each Unit of Measure

(a)	<i>Residential:</i>		
	(1)	Single-family dwellings, per dwelling unit	2
	(2)	Multiple-family and apartments, per each dwelling unit	2
		Per efficiency dwelling unit	1
	(3)	Boardinghouses, roominghouses, lodging establishments and/or tourist homes, for each occupancy unit	1.1
		Plus, for each employee	1
	(4)	Senior citizen parking, for each dwelling unit	1
		Plus, for each employee	1
		Should units revert to general occupancy, then parking spaces shall be provided as indicated in subsection (a)(2) of this section	
(b)	<i>Institutional:</i>		
	(1)	Churches, temples, community centers and similar places of public assembly having fixed seating, per 3 seats or 6 lineal feet of benches or pews in the main unit of seating	1
	(2)	Dancehalls, assembly halls, exhibition halls, mechanical amusement arcades and similar places of public assembly not having fixed seating, per each 3 persons allowed within a maximum occupancy as established by fire, building or health codes	1
	(3)	Theaters, auditoriums or similar places of indoor assembly, per each 3 seats, or 6 lineal feet of bench	1
		Or, for every 3 persons allowed at maximum occupancy (as applicable)	1
		Plus, additional for each 2 employees	1
	(4)	Nurseries, child care centers and private schools or schools for special education, for each employee	1
		Plus, per classroom	2
		Plus auditorium, if applicable	
	(5)	Nursing homes, convalescent homes, orphanages, children's homes, special group housing and similar institutional uses for care of the young, ill, aged or impaired, for each 4 beds	1
		Plus, for each staff or visiting doctor	1
		Plus, for each employee including nurses	1
	(6)	Industrial or vocational school, including commercial schools, business, business machines and computer technology schools, for every teacher, employee and administrator	1
		And for each 2 students	1
		Additional parking shall be provided to accommodate any retail sales or service activities conducted	
	(7)	Library, for each 300 square feet of floor space	1
		Plus, additional space for each employee on the largest shift	1
	(8)	Museum, cultural center or similar facility, for each 300 square feet of floor space	1
		Plus, per employee on the largest shift	1
	(9)	Post office, for every 300 square feet of floor area over 4,000 square feet	1
		Plus, for each person employed on the largest shift	1

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	(10)	Private civic, fraternal club or lodge, for every 50 square feet of floor area	1
		Or, per 3 persons of maximum occupancy as established by the fire marshal, whichever is greater	1
	(11)	Private swimming pool clubs, for every 2-member family or individual member	1
	(12)	Elementary, junior high and intermediate schools, for each teacher, administrator or other employee in addition to the requirements of the auditorium	1
		The number of teachers, administrators and other employees shall be based on the design capacity of the facility. If there is no auditorium or assembly hall, then 2 spaces per classroom shall be provided in addition to those for each teacher, administrator or employee	
(c)	<i>Offices:</i>		
	(1)	General tenant offices, professional offices of lawyers, architects, engineers, urban planners and similar professions, for each 200 square feet of usable floor area	1
	(2)	Offices of doctors, dentists and similar practitioners, and medical and dental clinics, for each 100 square feet of usable floor area	1
(d)	<i>Retail sales or services:</i>		
	(1)	Retail stores, except as otherwise specified herein, for each 150 square feet of usable floor area	1
	(2)	Planned commercial or retail shopping centers having more than 4 establishments, for each 125 square feet for usable floor area	1
	(3)	Furniture or major appliances, household equipment, personal service shops (other than barbershops and beauty shops), repair shops, showroom of a plumber, decorator, electrician or a similar trade, shoe repair and other similar uses, for each 800 square feet of usable floor area, exclusive of that floor area used for processing	1
		Plus, for each 2 persons employed therein	1
	(4)	Laundromats and self-service dry cleaning establishments, for each 2 machines	1
	(5)	Banks and similar financial institutions, for each 200 square feet of usable floor area	1
	(6)	Barbershops and beauty shops, for each employee and/or service operator	1
		Plus, for each service chair	1
		Plus, for every 2 stationary hair dryers	1
	(7)	Bowling alleys, per alley	5
		Plus such additional spaces as are required for restaurants, bars, assembly rooms and affiliated facilities	
	(8)	Automobile service and filling stations, for each service bay	2
		Plus, for each 200 square feet of usable sales floor area	1
		Plus, for every 2 employees, with a minimum of 2 employee spaces	1
	(9)	Auto washes, for each employee	1
		In addition, stacking spaces equal in number to 5 times the maximum capacity of the auto wash for automobiles awaiting entrance to the auto wash shall be provided. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of	

			washing at the same time, which shall be determined by dividing the length of each wash line by 20 feet	
	(10)	Auto repair, auto body repair, buffing and/or collision, per bay		1
			Plus, per each employee on the peak shift	1
			The area used to store damaged or inoperative vehicles shall be screened as required for outdoor storage areas in this chapter and shall not be counted as off-street parking. Adequate area shall be provided to store 2 vehicles for every service bay	
	(11)	Mortuary establishments, for each 50 square feet of assembly room, parlor and slumber room usable floor area		1
	(12)	Indoor recreation facilities, athletic clubs, physical exercise establishments, skating rinks, exhibit or assembly halls, court recreation, health studios, sauna baths and similar uses, per each 3 patrons based on maximum occupancy as established by local, county or state fire, building or health codes, whichever is greater		1
			Plus, per employee at peak shift	1
			Plus such spaces as are required for affiliated uses such as bar, restaurant, etc.	
	(13)	Outdoor recreation facilities, such as athletic, swimming, tennis or similar uses, per each potential patron		1
			Plus, per peak shift employee	1
			Plus such spaces as may be required for any indoor facilities.	
	(14)	Restaurants		
		a.	Dining room, including banquet areas, per 65 square feet of usable floor area	1
		b.	Bar/lounge, per 50 square feet of usable floor area	1
			That portion of a larger dining facility utilized for lounge shall be computed at this rate	
		c.	Fast food restaurant, per 30 square feet of usable floor area	1
		d.	Carry-out restaurant, per 80 square feet of usable floor area	1
			Or 6 spaces, whichever is greater	
		e.	Drive-in or drive-up restaurant, per 30 square feet of usable floor area	1
			Plus, stacking spaces for each drive-up transaction station	10
	(15)	New motor vehicle sales, rental and service establishments, for each 200 square feet of floor area, exclusive of the service area		1
			Plus, for each auto service stall in the service room	1
			Plus, per employee on the largest shift	1
	(16)	Used motor vehicle sales, for every 500 square feet of outdoor sales area		1
			Plus, for each auto service stall	1
			Plus, per employee on the largest shift	1
	(17)	Pool room, billiard parlor and table game establishments, either		
			1 parking space per pool table, billiard table or game, plus 1 space for every 20 square feet of floor area; or	

			1 parking space per 3 persons based on the occupancy load as established by local, county and state fire, building and health codes;	
		Whichever is greater.		
	(18)	Open air businesses, including nurseries, per 500 square feet of land area being utilized for sales or rental purposes		1
			Plus, per employee	1
	(19)	Retail lumber yards, for each employee on the largest shift		1
			Plus, for each 150 square feet of enclosed retail sales areas	1
	(20)	Self-service storage facility (miniwarehouse), for every 40 storage cubicles		1
			Plus, for each manager's quarters	2
	(21)	Unspecified commercial uses, for each 50 square feet of usable floor area		1
			Or such spaces as are required for the specified use which is most similar in nature as determined by the zoning board of appeals	
(e)	<i>Wholesale and warehouses:</i>			
	(1)	Wholesale, storage and warehousing establishments		5
			Plus, for each employee in the peak working shift	1
			Or, for each 1,700 square feet of usable floor area	1
		Whichever is greater. Any retail or service area shall be in addition to this subsection		
	(2)	Heavy equipment storage yard, nonretail lumber and building materials yard, motor freight terminal, per employee on the largest shift		1
			Plus, per company vehicle	1
			Plus sufficient space to accommodate the largest number of visitors that may be expected at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area	
	(3)	Manufacturing establishment or establishment for production, processing, assembly, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and business offices accessory thereto, per employee on the largest shift		1
			Plus, per company and piece of mobile equipment	1
			Plus sufficient space to accommodate the largest accessory number of visitors that may be expected at any one time, but with a minimum of 1 space per 1,000 square feet of gross floor area	

(Ord. No. 54A, § 15.02, 11-11-1987)

Sec. 78-572. Space layout, standards, construction and maintenance.

- (a) Whenever the off-street parking requirements require the building of an off-street parking facility or where the P vehicular parking district is used for parking purposes, such off-street parking lots shall be designed, constructed and maintained in accordance with the standards and regulations set forth in this section.

- (b) No building, structure or land shall be erected or used for parking or driveway purposes of more than three required parking spaces unless a site plan therefor has been approved by the planning commission.
- (c) No parking lot shall be constructed without a proper permit issued by the building official. Application for a permit shall be submitted to the building department in such form as may be determined by the department and shall be accompanied by not less than two sets of site plans for the development of the parking lot, showing that the provisions of this section will be fully complied with.
- (d) The parking facilities shall not be less than the following minimum requirements:

Parking Pattern (degrees)	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)	Total Width of One Tier of Spaces Plus Maneuvering Lane (feet)	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)
0 (parallel parking)	12	9	20	21	29
30 to 53	12	9	20	32	52
54 to 74	15	9	20	36.5	58
75 to 90	20	9	20	40	60

- (e) Except for parallel parking, all parking spaces shall be clearly striped with a minimum of four-inch-wide double lines, 24 inches apart, centered nine feet apart, to facilitate movement and to help maintain an orderly and efficient parking arrangement.
- (f) Parking space standards.
- (1) All parking spaces shall be nine feet in width, center to center, and 20 feet in length.
 - (2) Off-street parking reserved for the handicapped shall be provided in accordance with the following table and identified by signs bearing the international symbol for the handicapped as being reserved for physically handicapped persons. A maximum of two spaces may be designated by a single sign when the sign displays arrows specifically delineating each space. Signs shall be installed approximately seven feet above grade. Each reserved parking space shall not be less than 12 feet in width. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one foot in 12 feet and a width of not less than four feet shall be provided for wheelchair access. Parking spaces for the physically handicapped shall be located as close as possible to walkways and entrances. Signs shall be provided when necessary, indicating the direction of travel to an accessible entrance.

Total Parking Spaces in Lot	Required Number of Handicapped 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 percent of total
Over 1,000	20, plus 1 for each 100 over 1,000

- (g) Stacking spaces shall be a minimum of nine feet wide and 20 feet in length, shall not extend into any public street right-of-way and shall be distinctly separated from on-site parking so as not to interfere with ingress and egress to parking spaces.
- (h) Parallel parking spaces shall be 20 feet in length with a six-foot maneuvering space for each two parking spaces.
- (i) All parking lots shall have clearly limited and defined access from roadways, and such access shall not be less than 24 feet in width at the right-of-way line. Interior driveways shall also be clearly defined and not less than 12 feet wide for one-way and 20 feet wide for two-way traffic.
- (j) All parking spaces shall have access from an aisle on the site. Backing directly onto a street shall be prohibited.
- (k) The city may require the posting of such traffic control signs as it deems necessary to promote vehicular and pedestrian safety.
- (l) Bumper stops, curbing or wheel chocks shall be provided to prevent any vehicle from damaging or encroaching upon any required wall, berm, pedestrian or bike path or buffer strips, upon any building adjacent to the parking lot, or upon any adjacent property. Freeway-type guard rails shall be prohibited.
- (m) All lighting used to illuminate any off-street parking area shall be limited to 14 feet in height and so installed, maintained and directed as to have no adverse effect upon adjacent properties.
- (n) The off-street parking facilities in all nonsingle-family residential districts shall be provided with asphalt or concrete surfacing in accordance with city standards. Drainage of all off-street parking facilities shall be provided to collect and dispose of surface water so that water will not flow on to abutting properties or otherwise become a nuisance or a health hazard.
- (o) In order to ensure pedestrian safety, sidewalks, of not less than five feet in width, may be required to separate any driveway or parking area from a building.
- (p) On all lots, except those zoned and used for single-family dwellings, sidewalks, not less than five feet in width, shall be constructed along the right-of-way line of all abutting streets.
- (q) All interior circulation routes shall have rights-of-way of a sufficient width to accommodate the vehicular traffic generated by the uses permitted in the district or adequate provision shall be made at the time of the approval of the plan for such sufficient width of rights-of-way. The right-of-way provided to satisfy this condition shall conform with the right-of-way as provided in the city master plan.

(Ord. No. 54A, § 15.03, 11-11-1987)

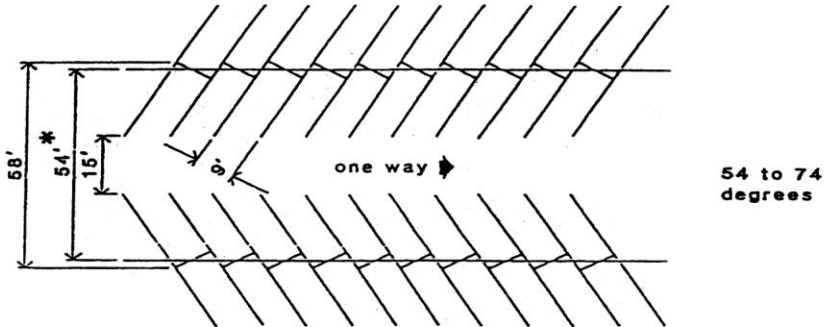
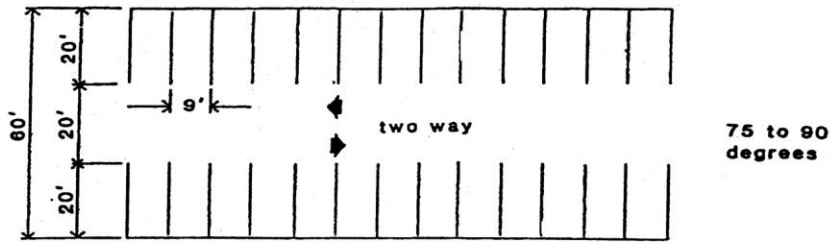
Sec. 78-573. Parking lot landscaping.

- (a) For those uses requiring greater than 20 parking spaces, there shall be a minimum of 25 square feet of landscaping for each space in excess of 20 spaces required, and a minimum of 200 square feet of landscaping must be provided. This parking lot requirement is exclusive of any yard and other landscaping requirement within a given zone.
- (b) Parking lot landscaping shall be no less than five feet in any single dimension and no less than 150 square feet in any single area and shall be protected from parking areas with curbing, or other permanent means to prevent vehicular encroachment onto the landscaped areas. Areas less than these minimum requirements shall not be considered as meeting part of the landscaping requirements.
- (c) For all off-street parking lots, a landscaping plan shall be submitted to the planning commission. The landscape plan shall include an itemized plant materials schedule with botanical and common names of materials, their locations, sizes and quantities. The arrangement of this landscaping shall be done in such a manner as to contribute significantly to safe circulation, visual orientation and other positive environmental factors.

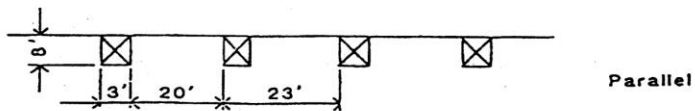
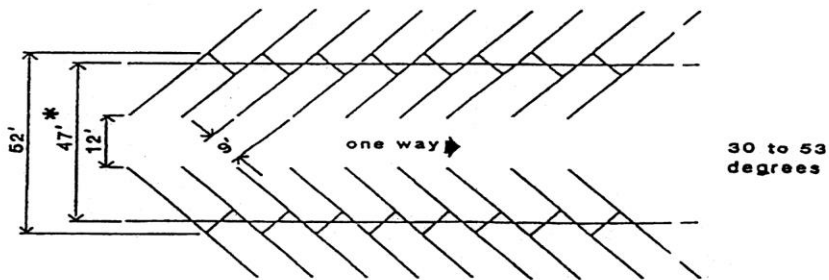
(Ord. No. 54A, § 15.04, 11-11-1987)

Sec. 78-574. Parking layouts.

All off-street parking shall be designed in conformity with the following layouts.



* Overlapping dimension (including herringbone pattern)



Parking Layouts

(Ord. No. 54A, § 15.06, 11-11-1987)

Secs. 78-575—78-605. Reserved.

ARTICLE VI. SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 78-606. Exceptions to height limits.

- (a) The height limits of this chapter may be modified by the zoning board of appeals in its application to radio transmitting and receiving or television antennae, chimneys or flagpoles, church spires, belfries, cupolas, domes, water towers, observation towers, power transmission towers, radio towers, mass, aerials, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers and other similar and necessary mechanical appurtenance pertaining to the permitted uses of the districts in which they are located.
- (b) The maximum height set forth in the schedule of regulations in article IV, division 2 of this article shall not apply to radio or television antennae that do not exceed the maximum permitted height of the building by more than ten feet.

(Ord. No. 54A, § 16.06, 11-11-1987)

Sec. 78-607. Corner lot setback on side street in residential districts.

Every corner lot in any residential district shall have a minimum setback from the side street equal to the minimum front setback for the district in which such building is located. An encroachment into the side street setback will be permitted to obtain a 30-foot building width; provided, however, a minimum 12-foot setback from the side street lot line shall be maintained.

(Ord. No. 54A, § 16.07, 11-11-1987; Ord. No. 226, § 3, 2-9-1994)

Sec. 78-608. Obstructions to vision on corner lots.

No structure, wall, fence, shrubbery or trees shall be erected, maintained or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection, excepting that shrubbery and low retaining walls not exceeding 2½ feet in height above the curb level and trees where all branches are not less than eight feet above the street level will be permitted. In the case of corner lots, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points formed by the street property lines and a line connecting them at points 25 feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

(Ord. No. 54A, § 16.08, 11-11-1987)

Cross reference(s)—Traffic and vehicles, ch. 66.

Sec. 78-609. Minimum distance between residential buildings.

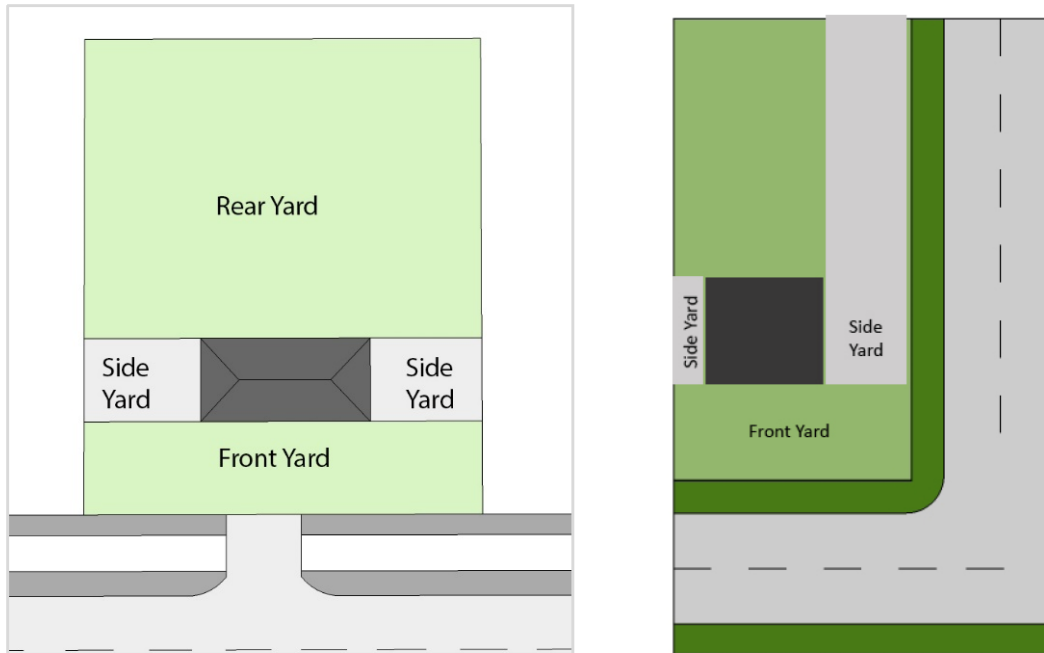
The sum of the minimum required side yards for single-family residential buildings on two lots which abut each other along a common side lot line shall be not less than the total of the two required side yards of either of the lots.

(Ord. No. 54A, § 16.09, 11-11-1987)

Sec. 78-610. Accessory buildings, structures and uses in single-family residential districts.

- (a) Covered and/or enclosed accessory buildings, structures and uses shall be permitted subject to the following conditions:

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- (1) No detached accessory building, structure or use shall be within permanent easements.
 - (2) Accessory buildings or structures shall only be placed in a rear yard, or portions of a side yard outside of the required setback (i.e., a non-required side yard), and shall be at least three feet from all adjoining lot lines and shall not exceed 15 feet in height, except as otherwise provided in this chapter. In no instance shall any portion of an accessory structure be located in a front yard or street-facing (exterior) side yard.
 - (3) On corner lots where a rear yard abuts a side yard, accessory buildings on the corner lot shall have a minimum setback from the rear lot line a distance equal to the least side setback required from the lot abutting the corner lot.
 - (4) No more than two accessory buildings shall be located on a single-family residential lot, and the floor area of all accessory buildings shall be limited to 45 percent of the required rear yard area.
 - (5) On double frontage lots, no accessory buildings, structures or uses shall be permitted in the required front yard setback portion of the designated rear yard of the double frontage lot.
 - (6) On corner lots, no accessory structure shall be located in the front yard or street-facing (exterior) side yard.
 - (7) Accessory structures shall include tree houses, playhouses, shed or other similar structures, which are permanently anchored to a surface, with a maximum floor area for such structures not to exceed 100 square feet. Such structures shall require a permit and are subject to all height and setback requirements applicable to accessory buildings and structures. Plastic, modular or pre-fabricated play structures which are not anchored to the ground or any surface and can be moved around the yard without the need for removing any anchors or other means of attachment, shall not be included in this regulation.
Examples of tree houses (regulated).
Examples of play houses (regulated).
Examples of plastic/modular play structures (not regulated).
 - (8) Garages shall be permitted as accessory structures and shall not be limited to the 100 square feet floor area limit noted above. All accessory structures shall conform to the lot coverage standards as established in the ordinance.



- (b) Attached, uncovered and unenclosed structures shall be permitted subject to the following conditions:
- (1) Decks, open steps and patios will be allowed to encroach into the required rear or front yard setback a maximum distance of ten feet, provided the maximum area of the encroachment shall be no greater than ten percent of the required front or rear yard setback area, and provided further that the average height of a deck, excluding open railings, shall not be more than three feet as defined in this section.
 - (2) The average deck height shall be no higher than the sum of the minimum and maximum distance between the surface of the deck and grade, divided by two. The yard grades used for measurement will be those existing prior to any grading for landscaping purposes.
 - (3) The area of decks, patios and open steps will be considered in the maximum lot coverage computation.
 - (4) A lot survey and ground elevations must accompany the permit for deck, patio and open stem construction so that setbacks may be accurately determined.
 - (5) Storage under decks is not permitted unless the storage area is completely obscured from view.
- (c) Decks and patios that are not attached to the principal building must be located to meet the required front, rear and side yard setbacks.
- (d) A roof overhang may be constructed over an existing open deck, patio or steps that encroaches into the front yard setback, subject to the following conditions:
- (1) The roof may not extend into the required front yard setback more than five feet and the total area of the encroachment may not exceed 25 square feet.
 - (2) A roof may not be constructed over an existing open deck, patio or steps that encroaches into the front yard setback if the deck, patio or steps were constructed after January 1, 1994.
 - (3) The porch encroachment may not be enclosed partially or entirely in any way, by either permanent or temporary means, with the exception of a railing with open balusters, as required by applicable construction codes. Prohibited temporary enclosures include, but are not limited to, canvas, plastic,

wood or any other type of screening material which could be hung, rolled or temporarily fastened into place.

- (e) In and adjacent to all residential lots, freestanding air conditioners and/or air conditioning units, permanently mounted or freestanding generators, or other mechanical devices generating a continuous sound, may be placed in the side and rear yards (including the required side and rear yard setback area as restricted below) of the lot but shall not be permitted within the front yard. These units permitted in the side and rear yards shall be screened with landscaping so as not to be visible from the street. (Fencing, lattice, or other fence-type materials used for screening must follow the restrictions outlined in section 78-613 of this Code). The units must be set back at least three and one-half feet from the side lot line and at least 20 feet from the rear lot line. In the case of a double frontage lot, freestanding air conditioning units will be allowed in the designated rear yard. In the case of a lake lot, air conditioning units will be allowed in the yard adjacent to the water, but may not be located in the required front yard setback of said yard. However, any unit must be at least ten feet from the living area of adjacent residential homes at all times (excluding garages). This provision pertains to first-time installations only. An existing unit may be replaced with a new unit in the exact same location, even if it does not meet the requirements of this section.

(Ord. No. 54A, § 16.10, 11-11-1987; Ord. No. 201, § 2, 5-9-1990; Ord. No. 226, § 4, 2-9-1994; Ord. No. 287, § 1, 10-10-2007; Ord. No. 294, § 3, 11-12-2008; Ord. No. 295, 12-12-2008; Ord. No. 338, Pt. I, 6-13-2018)

Sec. 78-611. Accessory buildings other than single-family residential districts.

No accessory structure shall be erected in the front yard. In the case of lots with two front yards, no accessory structure shall be located in the required minimum setback of either front yard.

(Ord. No. 54A, § 16.11, 11-11-1987)

Sec. 78-612. Grades, elevation differentials and retaining walls.

- (a) The grading of all building lots shall be such to divert water away from buildings and prevent standing water and soil saturation detrimental to structures and lot use and surrounding property.
- (b) The elevation differential is defined as the difference between the elevation of the final ground level, after landscaping at the front building line, equidistant from the side building lines, and the elevations of the crown of the road, at a point equidistant from the side building lines, abutting the double lot front property line or lines in the case of lots with two front lot lines. If a sidewalk is in place, the elevation differential shall be based on the sidewalk elevation in lieu of the crown of road elevation.
- (c) The elevation differential for all buildings shall not be less than 15 inches nor more than 24 inches except as provided in subsection (e) of this section. A building under construction which has foundations in place shall be considered an existing building.
- (d) All applicants for building permits shall submit with the permit application, plans showing:
- (1) The proposed grading plan for the entire lot.
 - (2) The direction of flow of surface water off the lot.
 - (3) The gradient of all protective slopes around proposed buildings.
 - (4) The elevation differential of all proposed buildings and the elevation differential of all existing buildings within 100 feet.

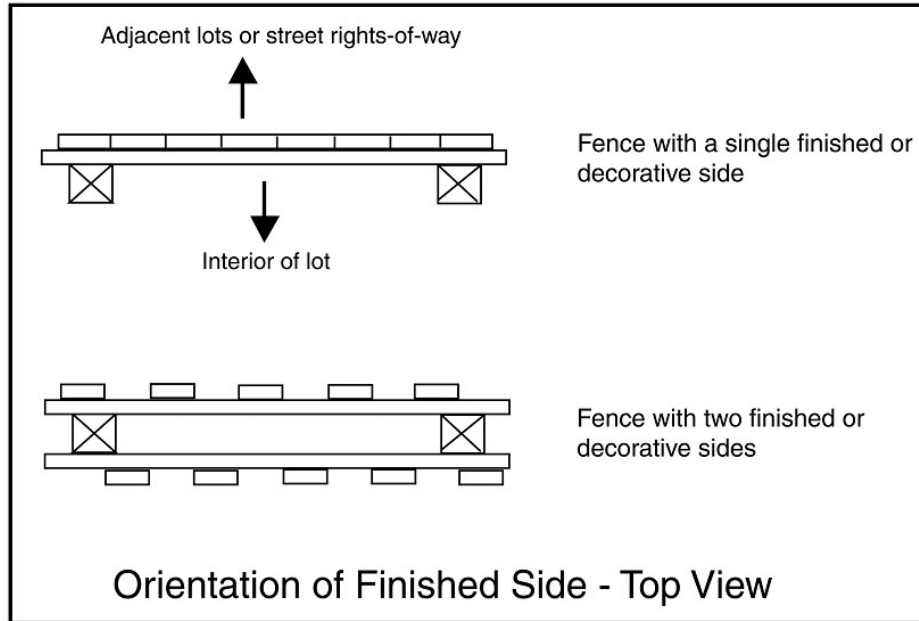
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- (e) Variances may be granted from the requirement of subsection (c) of this section by the zoning board of appeals if adequate provisions are made and approved by the city engineer to prevent runoff water from flowing onto adjacent property.
 - (f) Retaining walls in excess of one foot in height shall require a building permit. All retaining walls shall be designed and built so as to safely resist lateral pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in structurally sound, good and safe repair and shall not impair drainage or create negative impacts on any other lot.

(Ord. No. 54A, § 16.12, 11-11-1987)

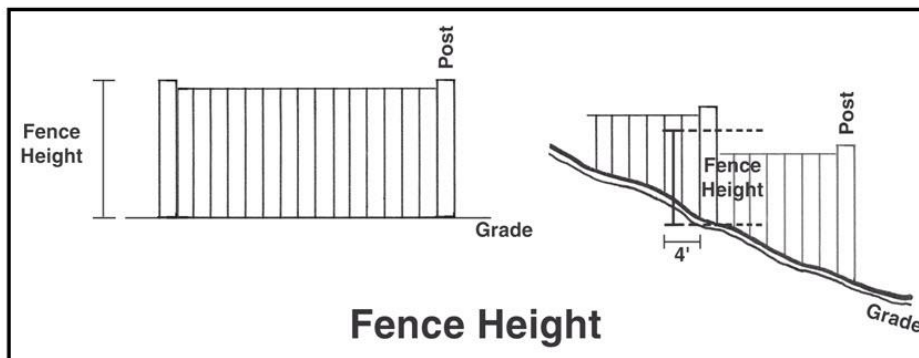
Sec. 78-613. Fences and screening.

(a) *General requirements.*

- (1) *Construction and maintenance.* Fences shall be securely constructed in conformance with this section and all applicable building codes and shall consist of materials that are found by the building official to be durable and weather-resistant. Masonry piers may be used as part of a fence installation with the approval of the building official. Fences shall be maintained in good order, painted, rust-proofed or otherwise protected against damage and decay, so as to present an orderly appearance. It shall be unlawful to erect a fence consisting of tires, vehicle parts, pallets, trash or any material capable of providing habitat for pests or vermin.
- (2) *Hazards.* Fences shall not be erected within public rights-of-way, or any corner clearance area as described in section 78-608 (obstruction to vision on corner lots).
- (3) *Location.* Fences shall be located completely within the boundaries of the lot to which they are associated.
- (4) *Site drainage and utilities.* Fences shall not be erected in a manner that obstructs the free flow of surface water or causes damage to underground utilities.
- (5) *Orientation of finished side.* Where a fence has a single finished or decorative side, it shall be oriented to face outward towards adjacent parcels or street rights-of-way (away from the interior of the lot to which the fence is associated). Finished side being the side of the fence opposite to the side that contains or from which can be seen supporting posts and/or rails and beams. If a fence is erected that the posts can be seen from both sides with the fence in between, both sides shall be considered to be finished. In case of a privacy fence being installed immediately adjacent to (in front of) a neighboring fence, the fence may be installed with the finished side facing inwards or towards the subject property except for those sections that will be in public view. Both of the examples given below are considered "privacy" fences and would not be allowed in side yard applications.



- (6) *Height.* Fence height shall be measured from the natural grade level to the highest point of the fence. Where the grade is not level, the maximum fence height shall be equal to the average fence height within four feet of any fence-post.



- (b) *Single-family residential districts.*

(1) *In general.*

- a. All fences in side yards shall be decorative in nature. Examples of a decorative fence include ornamental aluminum, wrought iron, wood, composite wood, or similar durable materials. All fences shall be of open design and shall not obscure more than 50 percent of the fence area, excluding posts.
- b. Where one side of a fence has more finished or decorative appearance than the other, the side with the more finished or decorative appearance shall face the road or adjacent lots.
- c. For purposes of this section, a rear yard fence may extend into the side yard only when no portion of the fence is located closer to the front lot line than the outermost rear corners of the principal building on each side, as visible from the public right-of-way, as determined by the building official.

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- (2) *Fences on non-lakefront properties.*
- a. *Location.* Fences may be constructed within a rear yard or side yard but are prohibited within the front yard. On a corner lot, the front yard or side yard abutting a street shall be considered as one continuous front yard for the purpose of this section.
 - b. *Height.* A fence in a rear yard may be a maximum of six feet in height, even when extending into the side yard as permitted in subsection (1)e., above. A fence in the side yard may be a maximum of four feet.
 - c. *Setback.* No fence shall be placed within three feet of a principal dwelling on an adjacent property or within two feet of a driveway on an adjacent property without written consent of said adjacent property owner.
- (3) *Fences on lakefront properties.*
- a. *Location.* On lots bordering upon a lake, river, or canal, fences are permitted in a side yard only.
 - b. *Height.* The maximum height shall be four feet.
- (4) *Double-frontage lots.* For purposes of this section, all lot lines of double frontage lots shall be considered front lot lines when adjacent to streets where existing buildings in the same block have frontage, and front yards shall be provided as required. Fences on such lots shall therefore be located only in a side yard.
- (5) *Non-conforming fences.* Existing non-conforming fences in single-family residential districts that extend into a front yard shall not be permitted to be replaced with a new fence. If such a fence is found to be a hazard, as determined by the building official, it shall be removed by the property owner within 30 days of notice.
- (c) *Multiple family residential district.* Fences in the R-3 multiple family residential district shall not exceed five feet in height above grade, and shall not be located in the front yard or in front of the front building line of the building(s).
- (d) *Public and institutional property.* Fences which enclose public or institutional property shall not exceed seven feet in height above grade, and shall not obstruct vision to an extent greater than 25 percent of their total areas. However, fences exceeding seven feet in height may be permitted if required for public safety and security purposes for an essential service facility, or as may be otherwise required by this section.
- (e) *Swimming pool fences.* Fences for swimming pools shall comply with all applicable swimming pool regulations, requirements of the State Construction Code, and as required per section 78-641(b) and (c). Swimming pool fences, including the gate, lock and fence, are subject to the approval of the building official.
- (f) *Storage area fences.* Fences are required in non-residential zoning districts for enclosing outside storage of goods, materials or equipment that are permitted by this chapter. Such fences shall not exceed six feet in height, shall be constructed of a decorative material in areas visible from public rights-of-way and are subject to review and approval by the building official.
- (g) *Prohibited fences.* The following fences are prohibited:
- (1) *Barbed-wire.* Barbed-wire, razor-wire or electrified fences, except where, for the purpose of ensuring public safety, the planning commission may approve such fences as part of an approved site plan.
 - (2) *Wire fences.* Wire fences, except where such fences are associated with a farm animal or agricultural use.
 - (3) Wire woven (chain link) fences are prohibited in single-family residential districts.

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- (h) *Permit required.* No person, firm or corporation shall construct or erect any fence, privacy screen or wall upon any land within the city without first having applied for and obtained a permit therefore from the city offices. A permit shall not be required for the following activities:
- (1) Repairs to an existing conforming fence with no structural changes.
 - (2) The installation of gates or a new section of fence up to eight feet in length, when an existing conforming fence has been damaged due to natural or other causes, provided that such work is in compliance with the provisions of this section and all applicable building codes.
 - (3) Planting of continuous hedgerows or similar landscape features.
- (i) *Application.* The following information shall be provided with any permit application for a fence:
- (1) *Plot plan and construction drawings.* A plot plan or lot survey shall be provided that includes the location of all existing and proposed fences, structures, easements and setback dimensions. An elevation sketch or photograph of the proposed fence shall also be provided, with appropriate dimensions noted.
 - (2) Written consent of all adjacent property owners if a fence or wall is proposed to be installed on a lot line.
- (j) *Removal of illegal or damaged fences.* Damaged or illegal fences shall be immediately repaired or removed by the property owner. Upon identification of a damaged or illegal fence, the building official shall order the property owner to remove such fences or make necessary repairs within 30 days. Upon failure of the property owner to take such actions within 30 days, the city may act to remove such fences at the expense of the property owner. The city may then place a lien on the property, adding necessary removal expenses to the tax bill for the property.
- (k) *Appeals.* Any appeals from the provisions of this section or a decision of the building official can be made to the zoning board of appeals and is subject to the standards listed in section 78-89.

(Ord. No. 54A, § 16-13, 11-11-87; Ord. of 12-26-89; Ord. No. 273, § 1, 5-10-2006; Ord. No. 298, § 1, 8-12-2009; Ord. No. 348, § 1, 2-12-2020)

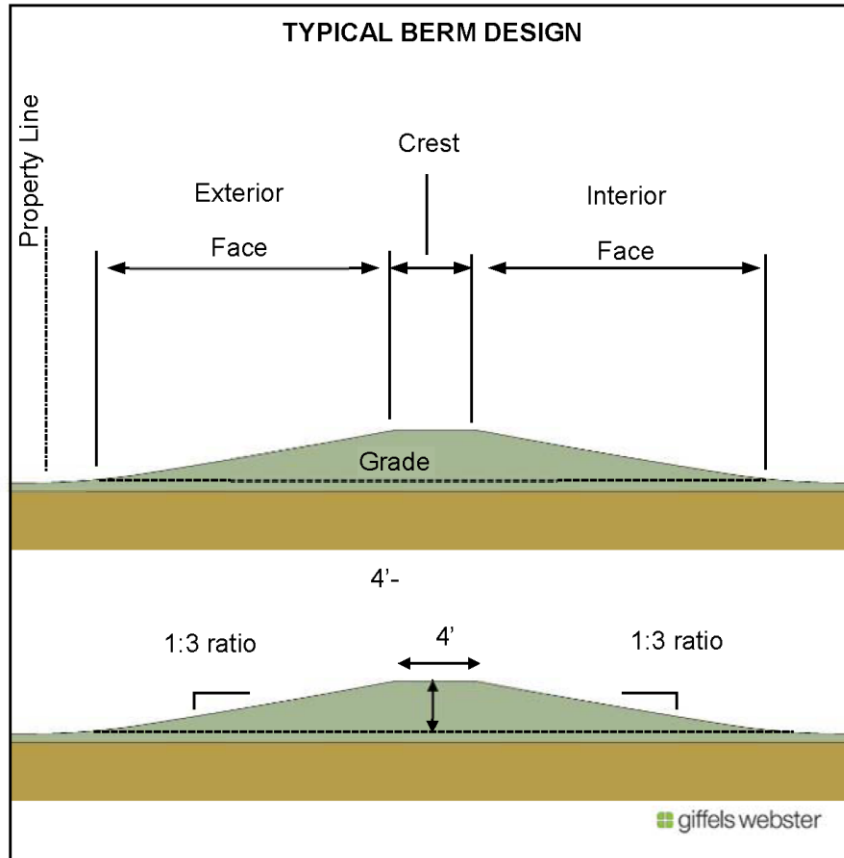
Sec. 78-614. Walls required on nonresidentially zoned or used property abutting public or residentially zoned or used lots.

Control bumpers, setbacks and appropriate landscaping are required for off-street parking areas which abut upon a street, alley, CS community service district or residential property. Lots which are utilized for nonresidential purposes, and not subject to the regulations of article V of this chapter, shall provide and maintain screening in accordance with the following regulations:

- (1) *Side.* Where the side lot line of property utilized for nonresidential purposes abuts public property or a single-family or multiple-family residential zone district in the same block, a decorative masonry or brick screen wall shall be provided at a height of six feet above the parking area surface grade along such side lot line; provided, however, such wall shall be reduced in height to three feet above grade within 25 feet of any street line. This subsection shall not apply to those portions of property along the side lot line which are occupied by the building wall of the permitted buildings.
- (2) *Rear.* Where the rear lot line of property utilized for nonresidential purposes abuts CS or a single-family or multiple-family residential district in the same block and wherein there is no alley, a decorative masonry or brick screen wall shall be provided at a height of six feet above the parking area surface grade along such rear lot line; provided, however, that such wall shall be reduced in height of three feet above grade within 25 feet of any street line. In the case where the rear lot line of property

utilized for nonresidential purposes abuts a CS district or a residential zone district in the same block across an alley, a wall shall be provided at a height of six feet along such rear lot line. This subsection shall not apply to those portions of the rear lot line abutting an alley which is occupied by the building wall of the permitted buildings.

- (3) *Properties abutting the Clinton River Trail.* Where any lot line of the property utilized for nonresidential purposes abuts the Clinton River Trail, the planning commission may permit a berm, in lieu of a wall, for screening purposes. The applicant shall demonstrate that a berm will sufficiently screen and buffer the proposed parking area from the trail. The following standards apply:
- a. Berm standards. Required berms shall be constructed as landscaped earth mounds with a crest area at least four feet in width. All faces of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other means acceptable to the building department. Whenever an earthen slope is provided, it shall be constructed with a slope not to exceed one foot of vertical rise to three feet of horizontal distance (1:3); the ratio shall be one foot of vertical rise to three feet of horizontal distance (1:3) for any side facing single-family residential.
 - b. Berm slopes shall be protected from erosion by sodding or seeding, as noted in subsection c., below. If slopes are seeded, they shall be protected, until the seed germinates, and a permanent lawn is established by a straw mulch, hydro-seeding or netting specifically designed to control erosion. The berm area shall be kept free from refuse and debris and shall be planted with shrubs, trees or lawn and shall be maintained in a healthy, growing condition.
 - c. The top of the berm shall be landscaped with two rows of evergreen trees, which shall be a minimum of six feet tall and provide a range of heights to create a natural appearance. Planting in each row shall be staggered so that an uninterrupted vegetative screen is created. For each 60 feet of buffer strip planting, at least two flowering shrubs shall be planted. The remaining ground surface area shall be seeded, sodded or planted with ground cover. Innovation and design of landscaping and berm placement is encouraged.



(Ord. No. 54A, § 16.14, 11-11-1987; Ord. No. 336 , Pt. I, 3-21-2018)

Sec. 78-615. Wall height.

Wherever in this chapter a wall is required, the wall shall be erected to a height not less than six feet and, in the case of screening a loading area, not more than eight feet as measured from grade.

(Ord. No. 54A, § 16.15, 11-11-1987)

Sec. 78-616. Wall, stone or brick facing.

- (a) Wherever in this chapter a wall is required, the wall shall be stone, brick, faced with brick or precast concrete of an ornamental design.
- (b) Whenever a wall is required to be constructed, such wall shall be constructed prior to the backfilling of any foundation or prior to any construction that extends above the foundation wall, whichever first occurs, in order to preserve the residential character and livability of the adjacent residential properties during the time of construction.

(Ord. No. 54A, § 16.16, 11-11-1987)

Sec. 78-617. Frontage.

No dwelling or building shall be erected on a lot which does not have continuous frontage for its full width upon a street or road either currently certified by the city or the county road commission or designated on a recorded subdivision existing on or prior to the effective date of the ordinance from which this chapter is derived. Where lots exist on curved streets or culs-de-sac (turnaround, dead-end streets), the required lot frontage shall not be less than two-thirds of the average lot width, provided that the side lot lines are straight. Multifamily developments or developments for offices, industries or commercial uses need not front each such structure upon such street or roads, provided that adequate vehicular access can be assured in the site plan submitted for approval by the planning commission.

(Ord. No. 54A, § 16.17, 11-11-1987)

Sec. 78-618. Dwelling in accessory building.

In all zoning districts, the use of any accessory building for the overnight housing of persons is expressly prohibited.

(Ord. No. 54A, § 16.18, 11-11-1987)

Sec. 78-619. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city, it being the intention of this section to exempt such essential services from the application of this chapter, except that all above-grade buildings pursuant to this chapter shall be subject to site plan review in accordance with this chapter.

(Ord. No. 54A, § 16.19, 11-11-1987)

Sec. 78-620. Automotive trailer camps or tourist cabins.

No automotive trailer camps or tourist cabins shall be established, and automobile trailers, recreational vehicles, boats and similar portable dwellings or tents shall not be permitted to be used or occupied as dwellings.

(Ord. No. 54A, § 16.20, 11-11-1987)

Cross reference(s)—Traffic and vehicles, ch. 66.

Sec. 78-621. Temporary and portable buildings, uses, structures and special events.

The zoning board of appeals may permit temporary buildings, structures and uses for a period not to exceed six months, provided that all requirements and conditions relative to the type of structure and use, and timing and arrangements for termination and removal are met. The board of appeals may require safeguards related to setbacks, screening, off-street parking considered necessary to protect the health, safety, welfare and comfort of inhabitants of the city. Further, the zoning board of appeals may require site plan approval by the planning commission and performance guarantee as conditions of approval. Mobile homes, mobile or temporary offices, trucks, truck trailers, vans or other passenger vehicles or trailers shall not be used for storage, warehousing, retail sales, service or offices, except by approval of the zoning board of appeals and subject to conditions imposed by the zoning board of appeals.

(Ord. No. 54A, § 16.21, 11-11-1987)

Sec. 78-622. Storage of obnoxious matter in open containers.

No garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground; and all containers shall be stored in such a way so as not to be visible from any street.

(Ord. No. 54A, § 16.22, 11-11-1987; Ord. No. 199, § 1, 1-10-1990)

Sec. 78-623. Soil removal or filling.

The use of land for quarry excavation, the removal or billing of topsoil, sand, gravel or other material from or on the land is not permitted in any zoning district, except under a building permit from the building official, who shall determine that such removal of material will not be above or below the normal grade as established from the nearest existing or proposed street, when such building grade has been established and approved by the building official and for which a temporary certificate may be issued in appropriate cases upon the filing of an application and a site plan, accompanied by a suitable agreement or bond under article II, division 7 of this chapter that such removal will not cause stagnant water to collect or leave the surface of the land at the expiration date of such permit, in an unsuitable condition or unfit for the growing of turf or for other land uses permitted in the district in which the removal or filling occurs. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the building official, and a building permit has been issued for such building development.

(Ord. No. 54A, § 16.23, 11-11-1987)

Sec. 78-624. Open storage or dumping on land.

The use of land for the open storage or collection or accumulation of lumber, excluding firewood less than two feet long, or human-made materials, or for the dumping or disposal of scrap metal, junk, junk cars, parts of automobiles, trucks and boats, tires, garbage, rubbish or other refuse or of ashes, slag or other wastes or by-products shall not be permitted in any zoning district.

(Ord. No. 54A, § 16.24, 11-11-1987)

Sec. 78-625. Governmental functions.

The city shall have the right to construct and maintain any building or structure required for the performance of its governmental or proprietary functions, provided that such building, structure or function shall conform to the use and procedural regulations, including site plan review, of the district in which it is located and of this chapter, and be constructed so as conform with the surrounding uses.

(Ord. No. 54A, § 16.25, 11-11-1987)

Sec. 78-626. Easements.

It shall be unlawful for any person to install, erect or cause or permit the installation of a permanent structure (garage, building or large tree) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use.

(Ord. No. 54A, § 16.26, 11-11-1987)

Sec. 78-627. Nuisance activities.

No activity or use shall be permitted on any property which by reason of the emission of odor, fumes, smoke, vibration, radiation, noise or disposal of waste is deleterious to other permitted activities in the zone district or is obnoxious or offensive to uses permitted in neighboring districts, or is harmful to the general health, safety or welfare of the community.

(Ord. No. 54A, § 16.27, 11-11-1987)

Cross reference(s)—Environment, ch. 30.

Sec. 78-628. Commercial vehicles in residential areas.

- (a) *Purpose.* The purpose of restrictions on commercial vehicles is to preserve the health, safety and general welfare of persons and property in residential areas designed and utilized for single-family residential development by regulating the parking of certain large commercial vehicles which frequently are impediments to the ingress and egress of emergency and fire protection vehicles and equipment, which are frequently unsafe when operated on residential streets and the noise, exhaust emissions and appearance of which tend to impair the health, safety and general welfare of the people of the city.
- (b) *Residential parking prohibited.* No commercial vehicle of any kind shall be parked in a residentially-zoned or used area. Provided, however, this subsection shall not apply to commercial vehicles temporarily parked (less than eight hours) in a residential area in conjunction with maintenance or service to a residential property.
- (c) *Presumption of ownership.* In any proceeding for violation of any parking provision of this section, the person to whom a commercial vehicle is registered, as determined from the registration plate displayed on such motor vehicle, shall be presumed in evidence to be the person who committed the violation charged.

(Ord. No. 54A, § 16.31, 11-11-1987)

Cross reference(s)—Businesses, ch. 18; traffic and vehicles, ch. 66.

Sec. 78-629. Regulated uses.

- (a) *Intent and rationale.*
 - (1) In the development and execution of this chapter and this section, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable, operations characteristics, particularly when several of them are concentrated under certain circumstances, thereby having deleterious effect upon adjacent areas. Special regulations of these uses is necessary to insure that these adverse effects will not contribute to the blighting, deteriorating and/or down-grading of the area, and that area adjacent thereto. These special regulations are itemized in this section. The city believes that control or regulation is for the purpose of preventing a concentration of these uses in any one area, i.e., not more than one such use within 1,000 feet of another such use.
- (b) *Itemization of regulated uses.* Uses subject to the controls set forth in this section shall be as follows, and are referred to herein as "regulated uses":
 - (1) Businesses which provide massage as a primary or accessory use including health clubs, tanning salons, gyms, and spas.
 - (2) Motorcycle sales and services;

(Supp. No. 18)

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- (3) Pawnshops;
 - (4) Pool and billiard halls;
 - (5) Sexually oriented businesses (as defined in this section);
 - (6) Tattoo establishments;
- (c) *Prohibition.* Unless and until approval is first sought and obtained hereunder, it shall be unlawful to hereafter establish any regulated use (as defined herein).
- (d) *Locational requirements for regulated uses:* The city council must find that there is not presently more than one such regulated use within 1,000 feet of the boundaries of the site of the proposed regulated uses, except that the planning commission may waive this locational provision for: tattoo establishments, pawnshops, pool or billiard halls, or massage businesses if the following findings are made:
- (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of the Section will be observed.
 - (2) That the proposed use will not enlarge or encourage the development of a skid-row area in which the homeless, unemployed, transient or others may loiter or congregate for no general purpose.
 - (3) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any plans for future development of the area.
 - (4) That all applicable regulations of this section will be observed.

The city council may not waive this location provision for sexually oriented businesses as defined by this chapter.

- (e) *Conditions of approval:* The planning commission may recommend that the city council impose such conditions or limitations upon the establishment, location, construction, maintenance or operation of the regulated use, as shall, in its judgment, be necessary for the protection of the public interest, except that any conditions imposed on sexually oriented business as defined in this section shall be limited to those conditions necessary to assure compliance with the standards and requirement in subsection (j) of this section. Any evidence and guarantee may be required as proof that the conditions stipulated in the connection therewith will be fulfilled.
- (f) *Time limits for review:* The following time limits shall apply to the review of an application by the planning commission and city council for special approval of a sexually oriented business as defined in this section.
- (1) The city shall publish notice of public hearing as required by section 78-173 of this chapter within 60 days of receiving a completed special approval and site plan application as required by section 78-176 of this chapter for a sexually oriented business as defined in this section.
 - (2) The planning commission shall rule on its recommendation regarding the special approval application for sexually oriented business at the next regularly scheduled meeting of the planning commission following the public hearing held to review the application.
 - (3) The recommendation of the planning commission shall be forwarded to the city council within 60 days of the meeting at which the planning commission issues its recommendation. The city council shall render its decision to grant or deny special approval of the sexually oriented business or to grant approval with conditions, as stipulated by the zoning ordinance [included in this volume as chapter 78] at this meeting.
 - (4) Failure of the city to act within the above specified time limits shall be deemed to constitute granting of special approval to the sexually oriented business.

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- (g) *Effect of denial:* No applicant for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions.
- (h) *Revocations:* In any case where a building permit for a regulated use is required and has not been obtained within six months after the granting of special approval by the city, the grant of special approval shall become null and void.
- (i) *Reconstruction of damaged regulated uses:* Nothing in this sections shall prevent the reconstruction, repairing or rebuilding and continued use of any building or structure, the use of which makes it subject to the contents of this Section, which is damaged by fire, collapse, explosion or act of God, provided that the expense of such reconstruction does not exceed 60 percent of the reconstruction cost of the building or structure at the time such damage occurred, provided that where the reconstruction repair or rebuilding exceeds the above-stated expense, the re-establishment of the use shall be subject to all provision of this section and further provided, that the re-established use complies with the off-street parking requirements of Division 6.
- (j) *Requirements for sexually oriented businesses:*
- (1) *Purpose and intent:* It is the purpose of this ordinance to regulate sexually oriented businesses to promote and protect the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent a concentration of sexually oriented businesses within the city. These regulations are intended to control the negative secondary impacts such businesses have been documented to have on the surrounding area and the community. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- (2) *Definitions:* The following definitions shall apply to sexually oriented businesses in this section:
- a. *Achromatic* means colorless or lacking in saturation or hue. The term includes but is not limited to grays, tans and light earth tones. The term does not include white, black or any bold coloration that attracts attention.
- b. *Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, internet, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images and where the images so displayed are distinguished or characterized by the depicting or describing of sexually explicit activities or specified anatomical areas.
- c. *Adult bookstore or adult video store* means a commercial establishment which offers for sale or rental for any form of consideration, occupying 15 percent or more of the floor area of the establishment, any one or more of the following:
1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video matter, or photographs, cassettes or video reproductions slides, or other visual representation which depict or describe sexually explicit activities or specified anatomical areas; or
 2. Instruments, devices, or paraphernalia which are designed for use in connection with sexually explicit activities.
- d. *Adult cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

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1. Persons who appear in a state of restricted nudity; or
 2. Live performances which are characterized by the partial exposure of specified anatomical areas; or
 3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of sexually explicit activities or specified anatomical areas.
- e. *Adult motel* means a hotel, motel or similar commercial establishment which:
1. Offer accommodations to the public for any form of consideration; provide patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of sexually explicit activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
 2. Permit patrons to be filmed or photographed performing sexually explicit activities or displaying specified anatomical areas for electronic transmission over the World Wide Web or similar types of distribution media; or
 3. Offer a sleeping room for rent for a period of time that is less than ten hours; or
 4. Allow a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.
- f. *Adult motion picture theater* means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of sexually explicit activities or specified anatomical areas.
- g. *Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by the performance of sexually explicit activities.
- h. *Escort* means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- i. *Escort agency* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.
- j. *Establishment* means and includes any of the following:
1. The opening or commencement of any sexually oriented business as a new business;
 2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 3. The addition of any sexually oriented business to any other existing sexually oriented business; or
 4. The location or relocation of any sexually oriented business.
- k. *Massage business* means any business which provide massage as a primary or accessory use including health clubs, tanning salons, gyms and spas.

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- l. *Nude model studio* means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
 - m. *Nudity or a state of nudity* means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast, as defined by MCL 41.181(3).
 - n. *Seminude* means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
 - o. *Sexual encounter center* means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration: Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude or permits patrons to display or to be filmed or photographed performing sexually explicit activities or displaying specified anatomical areas for electronic transmission over the World Wide Web or other similar types of distribution media.
 - p. *Sexually explicit activities* means and includes any of the following:
 - 1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - 3. Masturbation, actual or simulated; or excretory functions as part of or in connection with any of the activities set forth in 1. through 3. above;
 - 4. Any activity intended to arouse, appeal to or gratify a person's lust, passions or sexual desires.
 - q. *Sexually oriented business* means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or similar establishment, or any place that permits patrons to be filmed or photographed performing sexually explicit activities or displaying specified anatomical areas for electronic transmission over the World Wide Web, or other similar types of distribution media.
 - r. *Specified anatomical areas* means and includes any of the following:
 - 1. Less than completely and opaquely covered human genitals, pubic region or pubic hair; buttock; or female breast or breasts or any portion thereof that is situated below a point immediately above the top of the areola; or any combination of the foregoing; or
 - 2. Human genitals in a state of sexual arousal, even if opaquely and completely covered.
 - s. *Substantial enlargement of a sexually oriented business* means the increase in floor area occupied by the business by more than 10 percent, as the floor area exists on January 1, 2004.
 - t. *Transfer of ownership or control of a sexually oriented business* means and includes any of the following:
 - 1. The sale, lease, or sublease of the business;
 - 2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

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3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(3) *Classification:* Sexually oriented businesses are classified as follows:

- a. Adult arcades;
- b. Adult bookstores or adult video stores;
- c. Adult cabarets;
- d. Adult motels;
- e. Adult motion picture theaters;
- f. Adult theaters;
- g. Escort and escort agencies;
- h. Massage business;
- i. Nude model studios;
- j. Sexual encounter centers; and
- k. Other sexually oriented businesses, as determined by the city council.

(4) *Location of sexually oriented business.*

- a. A sexually oriented business site shall not be located closer than 1,000 feet to the property line of an existing sexually oriented business.
- b. A sexually oriented business site shall not be located closer than 250 feet from any of the following:
 1. Church;
 2. A public or private elementary or secondary school;
 3. A residential zoning district;
 4. A lot or parcel in residential use;
 5. A public park;
 6. A child care facility, nursery, or preschool;
- c. A person is in violation of this section if he/she causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.
- d. A person is in violation of this section if he/she causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the substantial enlargement of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- e. For purposes of subsection (j)(4)a above, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the site or property boundary in which each business is located.
- f. For the purposes of subsection (j)(4)b above, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property site

boundary of a sexually oriented business to the nearest property line of the premises of any use, district or right-of-way listed in subsection (j)(4)b above.

- g. For the purposes of measuring the required distances and separations in subsection (j)(4)a above, access easements or portions of the parcel that are exclusively used to provide access to the site of the sexually oriented business shall be excluded from the parcel boundary in determining whether the site complies with the required separation. The intent of this exclusion is to allow sexually oriented businesses to comply with the separation requirement from major thoroughfares by means of an access easement or access strip of land from the site to the thoroughfare.
 - h. Any business now classified as a sexually oriented business lawfully operating on January 1, 2004, that is in violation of subsections (j)(4)a or (j)(4)b above, shall be deemed a nonconforming use.
 - i. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to special approval and site plan approval of the sexually oriented business, of any use listed in subsection (j)(4)a above, within 1,000 feet of the sexually oriented business.
- (5) *Exterior display and signs.* A sexually oriented business is in violation of this section if:
- a. The merchandise or activities of the establishment are visible from any point outside the establishment; or
 - b. The exterior portions of the establishment or signs have any words, lettering, photographs, silhouettes, drawings or pictorial representations of any specified anatomical area or sexually explicit activity as defined in this section.
- (6) *License required to operate a sexually oriented business.* Special approval and site plan approval shall be granted on the condition that the operator or owner of a sexually oriented business obtains a license to operate the business as required by chapter 18, sections 18-31 through 18-111.
- (k) *Penalties and remedies*
- (1) *Enforcement:* A violation of the provisions of this section shall result, in addition to the remedies provided herein, in possible criminal violations consisting of a fine of \$500.00 or a jail term of 90 days, or both.
 - (2) *Injunction:* In addition to the provisions of this section, the city at its option may commence proceedings in the circuit court under the appropriate court rule or statute to enjoin any activity conducted by a sexually oriented business that is deemed to be in violation of these provisions.

(Ord. No. 54A, § 16.32, 11-11-1987; Ord. No. 266, § 7, 3-10-2004)

Cross reference(s)—Businesses, ch. 18.

Sec. 78-630. Home occupations.

Home occupations, as defined in this chapter, shall be permitted in all residential districts.

(Ord. No. 54A, § 16.33, 11-11-1987; Ord. No. 200, § 1, 3-14-1990)

Cross reference(s)—Businesses, ch. 18.

Sec. 78-631. Enclosure of roof appliances or accessories.

In all zone districts, roof appliances such as, but not limited to, cooling towers, air conditioners, heating apparatus, dust collectors, filters, transformers and any other such appliance or apparatus, other than flagpoles, chimneys for carrying products of combustion and radio antenna towers shall be enclosed with opaque screens not less in height than the height of the highest appliance, as measured from the plane of the roof surface upon which the screen device is mounted to the top of the highest appliance. However, if the screening device is mounted on the top of the parapet or other part of the building facade which extends above the roof surface, the height of the parapet or other part of the building facade extending above the roof surface and the screening device is equal to the height of the highest appliance, such walls may be lowered to permit passage of air for cross ventilation, but shall be adequate to totally screen such equipment from view. The design of the screening device shall be compatible with the architectural design of the building upon which it is located.

(Ord. No. 54A, § 16.34, 11-11-1987)

Sec. 78-632. Time limit for landscape requirements and plant materials, buffer strip standards and right-of-way planting.

- (a) *Generally.* Whenever landscaping treatment is required, it shall be in accordance with the specific use as mentioned in this section. All plant materials shall be installed within six months of the date of issuance of a temporary certificate of occupancy. In the instance where such completion is not possible, a cash bond, letter of credit or corporate surety bond in an amount equal to the estimated cost of the landscape plan or portion thereof will be deposited in accordance with article II, division 7 of this chapter.
- (b) *Buffer strip planting.* Whenever a buffer strip is required by this chapter or as a requirement of site plan or special approval, or permitted, it shall be installed so as to provide, within a reasonable time, an effective barrier to vision, light, physical encroachment and sound. Maintenance shall be required to ensure its permanent effectiveness. Specific planting requirements are:
 - (1) The planting area will be no less than 7.5 feet in width.
 - (2) A minimum of one evergreen tree shall be planted at 20-foot intervals, and shall have a minimum height of six feet at planting.
 - (3) A minimum of five grouped evergreen shrubs shall be placed between or around the spaced evergreens, at four-foot intervals with a minimum of three feet in height.
 - (4) Berms required shall be at least two feet in height and shall have a slope no greater than 1:2.5, i.e., one foot of vertical rise for each 2.5 feet of horizontal distance. The top of the berm shall be landscaped with two rows of evergreen trees. See subsection (b)(3) of this section. Planting in each row shall be staggered so that an uninterrupted vegetative screen is created.
 - (5) For each 60 feet of buffer strip planting, at least two spring flowering trees shall be planted. Each such tree shall be substituted for a required evergreen tree. The remaining ground surface area shall be seeded, sodded or planted with ground cover. Innovation and design of landscaping and berm placement is encouraged.
 - (6) The owner of landscaping required by this section shall perpetually maintain such landscaping in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. All diseased and/or dead material shall be removed within 30 days following city notification and shall be replaced within the next appropriate planting season or within one year, whichever comes first.

If the owner fails to maintain the landscape area in a neat and orderly manner, free from debris, the building official shall mail to the owner a written notice setting forth the manner in which there has been failure to maintain such landscaping and require that the deficiencies of maintenance be cured within 30 days from the date of such notice. If the deficiencies set forth in the notice shall not be cured within 30 days, or any extensions thereof granted by the city planning commission, the city shall have a right to enter upon such property and correct such deficiencies and the costs thereof shall be charged, assessed and collected pursuant to this Code.

- (7) In instances where healthy plant materials exist on a site prior to its development, the planning commission may adjust the application of the standards of this section to allow credit for such plant material if such an adjustment is in keeping with, and will preserve, the intent of this chapter.
- (c) *Plantings, soil and drainage requirements.* Whenever landscaping is required, the plant materials will be installed in fertile soil with good surface drainage and provided maintenance as required to ensure their health and permanence.

(Ord. No. 54A, § 16.35, 11-11-1987)

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

Sec. 78-633. Sidewalks and bikeways.

For all developments requiring site plan approval, either a new public sidewalk or bikeway, or the reconstruction of existing sidewalks or bikeways, shall be required to be constructed to city standards for the perimeter of the lot which abuts a major, intermediate or collector street as defined in the city master plan. New or reconstructed sidewalks or bikeways shall be aligned with existing or proposed sidewalks or bikeways.

(Ord. No. 54A, § 16.36, 11-11-1987)

Sec. 78-634. One single-family dwelling per lot.

Except in the instance of cluster developments or condominium developments where a site plan is approved by the planning commission and except for lots used for education or religious institutions, not more than one single-family dwelling shall be located on a lot as defined in this chapter, nor shall a single-family dwelling be located on the same lot with another principal building. This provision shall not prohibit the lawful division of land.

(Ord. No. 54A, § 16.37, 11-11-1987)

Sec. 78-635. Keeping of farm animals and other animals.

The keeping, raising or breeding of animals, poultry or livestock, including farm animals and nondomestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots, gerbils, hamsters, guinea pigs, turtles, fish, rabbits and similar animals commonly kept as pets), shall be prohibited, except as may be permitted by and under conditions of public safety, comfort, convenience and quiet use of property imposed by the zoning board of appeals.

(Ord. No. 54A, § 16.38, 11-11-1987)

Cross reference(s)—Animals generally, ch. 10.

Sec. 78-636. Dumpsters or outdoor trash receptacles.

- (a) Outdoor trash containers shall be permitted in all districts, except single-family residential, provided that they comply with the following requirements:
 - (1) Adequate vehicular access shall be provided to such containers for truck pickup, either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
 - (2) A solid ornamental wall or screening fence shall be provided around all sides of trash containers which shall be provided with a gate for access and be of such height as to completely screen such containers, the maximum height of which shall not exceed six feet.
 - (3) The trash containers, the screening wall or fence and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, wastepaper or other debris. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
 - (4) All dumpsters shall be constructed in compliance with all city, county and state health ordinances and statutes.
- (b) Temporary outdoor trash containers may be permitted in all districts as needed during construction in accordance with a validly issued building permit, provided that the building permit shall specify the type of trash containers to be used during construction, their proposed location and when they are proposed to be removed.

(Ord. No. 54A, § 16.39, 11-11-1987)

Cross reference(s)—Solid waste, ch. 54.

Sec. 78-637. Satellite antennas.

- (a) Satellite antennas shall be permitted as accessory structures in accordance with the provisions of this section.
- (b) No person shall install a satellite antenna greater than three feet in diameter, whether permanently mounted or portable, without having obtained a building and electrical permit.
- (c) Satellite antennas may be erected in any R-1 and R-2 zoning district if the following standards are met:
 - (1) It shall be ground mounted.
 - (2) The diameter shall not exceed ten feet.
 - (3) The height shall not exceed 12 feet.
 - (4) The satellite antenna shall be located only in the area between the rear of the principal structure and the rear property line. In the case of corner lots, it shall not be located in the exterior side setback. On lake lots, it shall be located in the front yard that is on the lake side.
 - (5) It shall not be placed closer to any lot line than its height.
 - (6) It shall be screened by evergreen plantings so as to be obscured, as much as possible, from off the lot on which it is located.
- (d) Satellite antennas may be erected in any R-3 zoning district in accordance with the standards of subsection (c) of this section, but they may be roof-mounted if they do not exceed the height limit of the district.

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- (e) In all zoning districts other than R-1, R-2 and R-3, satellite antennas may be erected if the following standards are met:
- (1) The diameter shall not exceed 12 feet.
 - (2) A ground-mounted satellite antenna shall comply with the setback requirements established for its zoning district, but shall not be located in the front yard.
 - (3) The height for a ground-mounted satellite antenna shall not exceed 25 feet.
 - (4) The height for a roof-mounted satellite antenna shall not exceed 15 feet, nor shall it exceed the height limit established within its zoning district.
- (f) Satellite antennas in any zoning district shall be installed and maintained in compliance with applicable building and electrical codes, and shall be subject to the following standards:
- (1) Not more than one satellite antenna greater than three feet in diameter shall be allowed on any lot unless shown on an approved site plan.
 - (2) Satellite antennas must be solid in color.
 - (3) Satellite antennas must be permanently mounted, except under the following circumstances:
 - a. The satellite antenna has been designed and sold as a portable antenna not intended for permanent installation, and the diameter of the satellite antenna does not exceed six feet. Portable satellite antennas shall meet the requirements of subsections (c)(3), (4) and (5) of this section.
 - b. Portable satellite antennas may be installed for not more than seven days in any 30-day period.
- (g) A variance may be granted by the zoning board of appeals from the provisions of this section in cases involving practical difficulties, where the evidence supports that the topographic features or special characteristics of the site create special conditions such that the strict application of this section will prevent the reception of usable satellite signals.

(Ord. No. 54A, § 16.40, 11-11-1987)

Sec. 78-638. Public utility facilities.

In all zoning districts, public utility facilities and uses, without storage yards, when operating requirements necessitate the locating of such facilities within the district in order to serve the immediate vicinity, shall be permitted subject to special approval by the planning commission (see article II, division 6 of this chapter) and after review and approval of the site plan and upon a finding by the planning commission that the use is compatible to the surrounding area and will not be injurious to the surrounding neighborhood and is not contrary to the spirit and purpose of this chapter.

(Ord. No. 54A, § 16.41, 11-11-1987)

Cross reference(s)—Utilities, ch. 70.

Sec. 78-639. Basement residences.

No certificate of occupancy shall be issued for a basement dwelling unit, and no residential occupant shall occupy a basement.

(Ord. No. 54A, § 16.43, 11-11-1987)

Sec. 78-640. Outdoor storage of recreation and other vehicles and equipment in single-family residential districts.

The outdoor storage or parking of any airplane, antique or racing automobile, boat, boat hoist or dock, float, trailer, trailer coach, camping trailer, motorized home, demountable travel equipment of the type adaptable to light duty trucks, and other equipment or vehicles of a similar nature, shall be prohibited for a period greater than forty-eight (48) hours in all single-family residential districts, except where expressly permitted by other provisions of this chapter, and unless the following minimum conditions are met:

- (1) All such vehicles or equipment shall be placed within a completely enclosed building or located behind the required front yard setback of the principal building, but no closer than three feet to any side or rear lot line.
- (2) Storage or parking shall be limited to a lot or parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment is owned by the occupant.
- (3) Trailer coaches, mobile homes and other vehicles or equipment designed or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities, or electricity, water or gas.
- (4) When placed on single-family residential lots, boat hoists and boat docks shall be placed only in the rear yard or behind the required front yard setback of the principle building. On lake lots, boat hoists and boat docks may be stored on the lake side without front yard setback restrictions.
- (5) Not more than two recreation vehicles per dwelling unit may be kept or stored outdoors at one time. Recreation vehicle size for recreation vehicles kept or stored outdoors may not exceed eight feet in width, ten feet in height or 32 feet in length.
- (6) Such vehicles so kept or stored shall be in good repair. Open storage of partially or disassembled component parts of such uses is prohibited.
- (7) On double frontage lots, no recreation or other vehicles or equipment shall be permitted in the required front yard setback portion of the designated rear yard of the double frontage lot.
- (8) The provisions of subsections (1) and (7) of this section notwithstanding, the storage of boats and boat trailers will be permitted on the driveway in the front yard setback from April 1 to October 31.

(Ord. No. 54A, § 16.44, 11-11-1987; Ord. No. 208, § 1, 9-12-1990; Ord. No. 276, § 1, 7-12-2006)

Cross reference(s)—Traffic and vehicles, ch. 66.

Sec. 78-641. Swimming pools.

- (a) *Permit application.* It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the city clerk and obtaining a permit thereof. Application for such permit shall show the name of the owner, a plot plan of the property showing the location or such swimming pool thereon and a detailed plan and specification for such swimming pool, which shall contain full information as to the type, height and location of fence surrounding such swimming pool and the number of gates therein.
- (b) *Location.* Out-of-door swimming pools may be erected in the rear yard, provided no part thereof shall approach nearer than ten feet from the side or rear lot lines. No such pool or part thereof shall be installed within 25 feet of a side street. On lake lots, such pools and required fencing may be erected in either front yard, but must be located behind the required minimum front yard setback as defined in section 78-296. The provisions of subsection (c) of this section notwithstanding, the required pool fence in the front yard must be

no more than six feet from the edge of the pool and not located within the minimum front or side yard setback. Permanent and portable swimming pools will be considered in the total lot coverage computation.

- (c) *Fencing.* The swimming pool shall be completely enclosed by a fence not less than four feet in height. The gates shall be of the self-closing, self-latching type, with a latch on the inside of the gate, not readily available for children to open. A fence which encloses the yard, as a whole, of the type referred to in this subsection, may be considered as complying with the requirements of this section. All gates must be locked when the residents are away from the house or when the pool is not in use. A pool cover or other protective device approved by the city manager with not less than the protection afforded by the enclosure, gate and latch described in this subsection may be used.
- (d) *Inspection.* The health department and the building official have the right, at any reasonable hour, to inspect any swimming pool for the purpose of determining that all provisions of this section are fulfilled and complied with. Before any swimming pool shall be used, a final inspection and approval must be had from both the building official and plumbing inspector.
- (e) *Conflict with other provisions.* This section, in no way, is intended to amend or alter any existing city ordinance, or state statute, provisions of which are covered in this section.
- (f) *Nuisance.* Any such outdoor swimming pool installed, operated or maintained in violation of provisions of this section shall constitute a nuisance, and the city may, in addition to penalties set forth in section 78-3, maintain any proper action for the abatement of such nuisance.

(Ord. No. 54A, § 16.45, 11-11-1987; Ord. No. 198, § 2, 12-13-1989; Ord. No. 251, § 2, 3-8-2000)

Charter reference(s)—Authority relative to fences, § 4.2(11).

Sec. 78-642. Driveways.

Any driveway, parking lot or parking pavement shall require a building permit and shall be constructed in accordance with city construction standards and specifications.

(Ord. No. 54A, § 16.46, 11-11-1987)

Sec. 78-643. Building permit for accessory buildings.

In all zoning districts, accessory buildings, structures and uses shall require a building permit, and shall be constructed in accordance with city construction standards and specifications.

(Ord. No. 54A, § 16.47, 11-11-1987)

Sec. 78-644. Architectural design guidelines.

Design standards to encourage and facilitate "eco-friendly building design" and a table to qualify the amount allowed for the various type of building materials, as hereinafter provided.

ORCHARD LAKE ROAD CORRIDOR OVERLAY DISTRICT
ARCHITECTURAL DESIGN CHECKLIST

Date/Revision Date of Site Plan	Times Reviewed	Project Name/Location
Reviewed By	Date	Application Number/Community

Applicant/Designer	Telephone Number - Applicant

Introduction. The architectural design guidelines are in the form of a point rating system. The applicant or representative should assess the front facade of the proposed building using this form.

Method of evaluation. The design standards are not intended to promote buildings that appear uniform and similar. Variety and creativity in design are encouraged. The standards are structured in a point rating system, with desirable architectural elements given positive points and undesirable elements given negative points.

The points assigned for each category are weighted according to its importance. The standards apply to all nonresidential building facades with the facade facing a public road, private road, or water body being more heavily weighted.

Buildings shall be judged by the following scale:

59 points or less = Unacceptable

60—69 = Passing

70—79 = Satisfactory

80—89 = Good

90—99 = Very good

100 or points = Excellent

The minimum acceptable score is:

60 points for M-1 district

80 points for C-2 district

90 points for C-1 and O-1 districts

In the case of remodeled buildings, the planning commission will receive recommendations from the city staff, and have the discretion to modify the minimum acceptable scores. A determination will be made on the acceptability of the proposed architectural improvements with due consideration given to existing building materials, layout and limitations imposed by them.

(1) *Building material.*

Objective: Select materials possessing durability and aesthetic appeal. Building materials - scoring method: For primary exterior material composing more than 60 percent of the facade (including window area), the point allocation for that material should be doubled. For example, for a building consisting primarily of brick (+ 16 points × 2 = +32 points) with split face block accents (+4 points), the total score would be 36 points. The score for each facade shall be averaged with the facade facing a public road, private road, or water body being double weighted.

Exterior Wall Material* (see table A)	I-1	C-2	C-1 O-1	Score
Brick masonry	+16	+16	+16	
Concrete slab (e.g., poured-in-place, tilt-up construction)	+10	+10	+4	
Concrete masonry units:				
Split face block	+4	+4	+2	
Scored block	+2	+2	+0	

Ground-face block	+2	+2	+0	
Smooth face block	-4	-4	-8	
Masonry composite material (i.e. HardiPlank siding, lap, board and batten, shake)	+10	+10	+10	
Metal siding:				
Standing seam panels	-12	-12	-12	
Aluminum siding	-20	-20	-20	
Architectural grade	+8	0	0	
Exterior insulation finish system (e.g., EFIS, "dryvit"), scoring depends on the location of the finish on the exterior wall as follows:				
8 or more feet above approved grade	+2	+2	+0	
4 to 8 feet above approved grade	-6	-6	-6	
Less than 4 feet above approved grade	-10	-10	-10	
Stone (e.g., limestone, granite)	+12	+12	+12	
Wood (lap, board and batten, shake)	0	+6	+6	
Vinyl	-6	-2	-0	
T-111 and other wood panel siding	-20	-20	-20	
Subtotal:				

(2) *Windows.*

Objective: Windows are the main element contributing to an inviting facade. They give visual interest to a facade. Provide a large quantity of attractive windows on a facade that fronts a street.

Characteristic	M-1	C-2	C-1 O-1	Score
A. Percentage of front facade composed of windows:				
More than 30%	+20	+20	+20	
20—29%	+10	+10	+10	
10—19%	-10	-10	-10	
Less than 10%	-20	-20	-20	
B. Window shapes				
Rectangular, including square	+4	+4	+4	
Palladian (rectangular window with a half-circular top)	+4	+4	+4	
Circular or octagonal other than decorative gable windows	-8	-8	-8	
Diamond	-8	-8	-8	
C. Proportions of window openings (width-to-height)				
Horizontal - more than 4:1 proportion (e.g., ribbon window)	+4	+2	+2	
Horizontal - 2:1 to 4:1 proportion	+4	+2	+2	
Horizontal - square to 2:1 proportion	+4	+2	+2	
Vertical - square to 1:2 proportion	+4	+4	+4	
Vertical - more than 1:2 proportion	-8	-8	-8	
D. Glazing				
Clear	+0	+4	+4	
Tinting - green, blue, bronze, smoke	+4	0	0	
Tinting - all other colors	-4	-4	-4	

Subtotal:				
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(3) *Architectural features.*

Objective: Include architectural features on the building facade that provide texture, rhythm, and ornament to a wall.

Description: There are two categories of architectural features. The first category consists of compositional elements, that is, architectural features that contribute to dividing the elevation into interesting parts. Horizontal compositional elements include a cornice and a base, which give the facade a top and a bottom. Vertical compositional elements include pilasters and columns, which give the facade a sense of rhythm. The second category includes decorative elements, which contribute to the visual appeal of the facade.

Architectural Features	M-1	C-2	C-1 O-1	Score
Compositional elements:				
Roof cornice	+4	+4	+4	
Contrasting base	+4	+4	+4	
Contrasting masonry courses, water table, or molding	+4	+4	+4	
Pilasters or columns	+4	+6	+6	
Corbeling	+4	+4	+4	
Contrasting band of color	+2	+2	+2	
Stone or ceramic accent tiles	+2	+2	+2	
Downspouts and gutters	-8	-12	-12	
Decorative elements:				
Wall clock	+4	+4	+4	
Decorative light fixtures	+4	+6	+6	
Door or window canopies - canvas or metal	+2	+2	+2	
Door or window canopies - vinyl	-8	-8	-8	
Signage integrated with the architecture	+4	+4	+4	
Signage that appears tacked onto building	-4	-4	-4	
Subtotal:				

(4) *Colors.*

Objective: Select natural and neutral colors that are harmonious with both the natural and manmade environment. Stronger colors can be used as accents to provide visual interest to the facade.

Characteristic	M-1	C-2	C-1 O-1	Score
Primary color (covers more than 60% of surface area):				
Neutral - earth tones (sand to brown), grays	+8	+8	+8	
Traditional (e.g., brick red)	+8	+8	+8	
Light, subdued hues (e.g., salmon)	+4	+4	+4	
White	0	0	0	
All other colors	-12	-12	-12	
Accent color:				
Accent color is compatible with primary color	+8	+8	+8	

Bright colors (e.g., purple, orange, bright pink, lime)	-10	-10	-10	
Fluorescent colors	-20	-20	-20	
Method of application:				
Color is natural to material	+4	+4	+4	
Color is pigmented within material	+2	+2	+2	
Color is painted onto material	0	0	0	
Subtotal:				

(5) *Building form.*

Objective: Provide an interesting form to a building through manipulation of the building massing.

This can be achieved through certain roof types, rooflines, and massing elements such as towers, cupolas, and stepping of the building form.

Characteristic	M-1	C-2	C-1 O-1	Score
Roof type:				
Pitched, e.g., gable, hip, shed (at least 4 inches of vertical rise per 1 foot of horizontal run)	+8	+8	+8	
Mock gable roof	+2	+2	+2	
Flat	0	0	0	
Mansard or mock mansard	-8	-8	-8	
Barrel (e.g. Quonset hut structure)	-16	-16	-16	
Standing seam metal roof	+2	+2	+2	
Dormer windows	0	+2	+2	
Vertical masses - tower, cupolas, chimneys	+4	+4	+4	
Curved or stepped walls	+2	+2	+2	
Wall projections (e.g., vestibules that project from the plane of the wall)	+2	+2	+2	
Subtotal:				

(6) *Composition.*

Objective: It is not sufficient to include the desired architectural elements on a facade, but to arrange them in a harmonious and balanced manner. The following category provides weight to the architectural composition of the building.

Characteristic	M-1	C-2	C-1 O-1	Score
The overall composition of the facade is judged on the relationship of all of the elements listed above, i.e., how they relate in proportion, scale, arrangement, and balance. The score is on a scale of 0 to 20.	+20 possible			
Subtotal:				

(7) *Eco-friendly building design.*

Objective: To encourage the use of eco-friendly or "green" building materials and design, which contribute to sustainable development and environmental preservation such as reduced ozone depletion, energy conservation, water conservation, reduced toxic waste emissions etc. The points in the following category will not count toward the total score, but will be considered

towards the overall rating of the building. Use of eco-friendly design and materials will provide weight in determining the overall architectural standard of the building, even if the points in some other criteria are not adequately met.

Characteristic	M-1	C-2	C-1 O-1
Use of green building materials such as bamboo, cork and reclaimed wood.	+20 possible		
Use of double glazed glass (conserves energy costs by up to 30%).			
Use of natural building finishes (paints made from clay, lime, marble, mineral pigments etc.)			
Use of other sustainable eco-friendly building materials and design. Please specify.			
Score:			

TOTAL SCORE: _____

TABLE A:

The following schedule regulating exterior building materials shall apply to all structures. Some materials are more suited for commercial and office developments while others work better in an industrial setting in terms of durability and functionality. Therefore, the percentages listed below are intended as a guideline while designing building architecture and not strict requirement. The schedule will work in conjunction with subsection (1) building materials of the architectural point rating system.

Maximum Permitted Percentage of Materials	100	75	50	25
Masonry/stone:				
Face (clay) brick	X			
Glazed brick	X			
Ceramic tile			X	
Split ribbed block (fluted block)				X
Granite		X		
Marble		X		
Limestone		X		
Masonry composite:				
Hardiplank siding	X			
Concrete:				
Precast (patterned)				X
Formed in place				X
Metals:				
Flat Sheets (aluminum, porcelain, stainless steel or other metal siding)			X	
Stranding seam				X
Ribbed panels				X
Vinyl:				
Vinyl siding				X
Glass:				
Tinted			X	
Reflective			X	
Glass block				X
Wood:				

Wood siding (not including T-111)		X		
Finishes:				
Cementitious (textured or patterned)			X	
Stucco				X
Cement plaster				X

(Ord. No. 292, § 1, 6-11-2008)

Sec. 78-645. Wireless communication facilities regulated.

- (a) *Purpose and intent.* It is the general purpose and intent of the city to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. It is the further purpose and intent of the city to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the city at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests and uphold the values of public health, safety and welfare.
- (b) *Definitions.* The following definitions shall apply in the interpretation of this section:
 - (1) *Wireless communication facilities* shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, antennas, microwave relay towers, telephone transmission equipment, building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities, ham, amateur radio facilities; satellite dishes; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.
 - (2) *Attached wireless communications facilities* shall mean wireless communication facilities (antennas and panels) that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
 - (3) *Wireless communication support structures* shall mean any and all structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which are not defined in subsection (b)(2) above as attached wireless communication facilities.
 - (4) *Collocation* shall mean the location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.
 - (5) *Planning official* shall mean the city manager or his or her designee.
 - (6) *Building official* shall mean the chief building official.
 - (7) *Backhaul network* shall mean the lines that connect a wireless communication provider's wireless communication facilities to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

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- (c) *Placement on city property.* Every effort must be made to locate wireless communication facilities on city hall and adjoining city owned property including the water tower.
- (1) Wireless communication facilities may be placed on city property following the guidelines set forth below.
 - (2) Engineering proof must be submitted proving that adequate signal coverage cannot be achieved by placing a facility on city owned property prior to a facility being proposed in another location.
 - (3) If after a review by the city's engineer, it is determined that a facility cannot be placed on city owned property, a proposal to place a facility on other property in the city may be submitted.
- (d) *Authorization.*
- (1) The planning official may permit an attached wireless communication facility as a permitted use in the C-1, C-2 and O-1 districts under any one of the following circumstances:
 - a. The facility and any accessory equipment shall be located within an existing building or structure of a principal permitted use, or attached to an existing building or structure of the principal permitted use.
 - b. The planning official finds that the facility is designed in such a manner that it is compatible with the character of existing building or structure. Any accessory building necessary for the enclosure of equipment shall be covered with the same or compatible building material as the principal building. The facility shall be attached to or be part of the structure in such a manner as to minimize its identity.
 - c. The facility is proposed to be collocated upon a wireless communication support structure which had been pre-approved for such collocation as part of an earlier approval by the city.
 - d. The facility is proposed to be attached to an existing utility pole or tower.
 - (2) Wireless communication facilities subject to the standards and conditions set forth below shall be authorized as special land uses to be approved by the city council following public hearing and recommendation by the planning commission, within the I-1 district or on land owned by the city located within the Clinton River Trail subject to the following conditions:
 - a. The base of the wireless communication facility shall have a minimum setback of 30 feet to any lot line located in a residential district
 - b. The base of the wireless communication facilities and any other structures connected therewith shall provide the minimum setback required by the district to any abutting C-1, C-2 or residential district; provided that the setback of the wireless communication facilities shall be not less than the height of the facility.
 - c. If located on the same zoning lot with another permitted use, such wireless communication facilities and any other structures connected therewith shall not be located in a front yard.
 - d. Exceptions to these conditions may be permitted by the city council where the council finds that circumstances of the site and in the surrounding area warrant different conditions.
 - e. Such wireless communications facilities shall further be subject to the conditions set forth in subsections (5), (6), (7), (8) and (9) below.
- (5) *General regulations; standards and conditions applicable to all facilities.* All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, and is other than a permitted use, it shall be constructed and maintained

with any additional conditions imposed by the findings of the planning commission and approved by the city council in its discretion:

- (1) Wireless communication facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
- (2) Wireless communication facilities shall be located and designed to be harmonious with the surrounding areas, and if it is a new wireless communication support structure, shall be located no less than ½ mile from existing wireless communication support structures. The distance requirements shall not apply to applicants who have demonstrated that collocation is not feasible.
- (3) Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
- (4) Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
- (5) The applicant shall demonstrate options for a creative wireless tower facility design such as a steeple, flagpole, etc. The proposed design shall be subject to review and recommendation by the planning commission and approval by the city council.
- (6) The following additional standards shall be met:
 - a. The maximum height of the new or modified wireless communication support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to collocate on the structure), but in no event shall the wireless communication support structure exceed 150 feet in height.
 - b. The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
 - c. The setback of the new or proposed wireless communication support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure, unless the structure is placed within the right-of-way itself.
 - d. There shall be unobstructed access to the wireless communication support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
 - e. The division of property (lot splits or subdividing) for the purpose of locating a wireless communication facility is prohibited.
 - f. Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
 - g. Before installing wireless communication support structures, the support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed

use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted. All applicants shall apply for and receive a permit from the building official prior to commencement of construction.

- h. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance to a reasonably prudent standard.
 - i. The use of high intensity (strobe) lighting on a wireless communication facility shall be prohibited, and the use of other lighting shall be prohibited absent a demonstrated need or required by state and/or federal authorities.
 - j. Fencing shall be installed enclosing the accessory support structures such as battery units. Such fence shall be six to eight feet high and constructed of decorative material. The planning commission may allow the use of chain link fence based upon the location, visibility and existing screening for the tower and equipment.
 - k. 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 wireless communication facility when it has been abandoned or is no longer needed, as provided in subsection (h) below. The type of security required shall be determined by the city council in its discretion in the form of a cash bond, irrevocable bank letter of credit, or a recordable agreement as hereinafter described. The amount of the cash bond or irrevocable bank letter of credit shall be an amount of no less of 125 percent of the estimated costs of removal. The irrevocable bank letter of credit shall be a banking institution which has an office within 50 miles of the city. The recordable agreement shall establish the obligations of the applicant and owner of the property to remove the facility in a timely manner as required under this section of the ordinance, with further provision that the applicant and owner shall be responsible for the payment of any and all costs and attorneys fees incurred by the city in securing removal, and that any removal costs and/or attorney fees incurred by the city will become a lien on the owner's property and enforceable against said landowner in a court of law of appropriate jurisdiction. If the applicant and/or owner refuses to pay said removal costs, said amount maybe placed on the tax roll of property and collected in the same manner as property taxes are collected for said property.
- (f) *Application requirements.*
- (1) A site plan prepared in accordance with section 78-144 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.
 - (2) The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement 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 unauthorized persons who may otherwise access facilities.
 - (3) The application shall include a signed certification by a state licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
 - (4) The application shall include a map showing existing and known proposed wireless communication facilities within the city, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the city in the location, and in the areas, which are

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- relevant in terms of potential collocation or in demonstrating the need for the proposed facility. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. MCL 15.243(1)(g). This chapter shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the city.
- (5) 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 facility is on the premises.
 - (6) A fee, established by resolution of the city council shall be paid with each application presented for approval of a wireless communication facility.
 - (7) The owner or duly authorized representative of all ownership interest in the land on which the wireless communication facility is proposed to be located shall sign the application.
 - (8) A copy of the application submitted to the FCC detailing technical parameters and/or a copy of the FCC authorization for the proposed facilities along with any notification submitted to the FAA.
- (g) *Collocation.* It is the city's policy to minimize the proliferation of new wireless telecommunication facility support structures in favor of collocation of such facilities on existing structures. No new wireless telecommunication facility support structures shall be constructed unless the applicant for the new structure demonstrates, and the planning commission finds, that collocation on an existing structure is not adequate or is not reasonably feasible. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the city.
- (h) *Removal.* A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
- (1) When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.
 - (2) Six months after new technology is available at reasonable cost as determined by the municipal legislative body, which permits the operation of the communication system without the requirement of the support structure.
 - (3) The situations in which removal of a facility is required, as set forth in subsection (h)(1) above, may be applied and limited to portions of a facility.
 - (4) Upon the occurrence of one or more of the events requiring removal, specified in sub-section a and b above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the planning official.
 - (5) If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, 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, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

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- (i) *Signs on towers/antennas/wireless communication support structures.* No signs shall be displayed on any cellular tower antennas or wireless communication support structure or facility without a submission of findings of the city planning commission and approval of the city council.

(Ord. No. 297, § 2, 5-13-2009)

Secs. 78-646—78-675. Reserved.

ARTICLE VII. SIGNS

DIVISION 1. GENERALLY

Sec. 78-676. Definitions.

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

Building frontage means the length of the portion of a building occupied by a single business facing a street abutting to the premises on which the business is located.

Business means any legal use of a building, other than for a religious institution, day care center, school, home occupation or residence, by a person. Although contained in the same building as another business and owned by the same person, an activity may be treated as a separate business if it is physically separated from, uses different personnel than, and provides different products or services than such other related business.

Maximum height shall be measured from grade or sidewalk to the highest edge of the sign surface or its projecting structure.

Minimum height shall be measured from grade or sidewalk to the lowest edge of the sign surface or its projecting structure.

Owner means a person and/or his legal successors.

Permanently anchored means that such sign structures are fixed or fastened in place so as to not be subject to locational change.

Premises means a lot in the same ownership or control which is not divided by a public street.

Sign means a name, message, identification, image, mural, description, display, light, balloon, banner or illustration which is affixed to, or painted, or otherwise located or set upon, or in, a building, bench, structure or piece of land and which directs attention to an object, product, place, activity, person, institution organization or business and which is visible from any public street, sidewalk, alley, park or public property. The definition includes interior and exterior signs but not signs primarily directed at persons within the buildings of the sign owners. The definition does not include goods displayed in a business window.

- (1) *Accessory sign* means a sign which pertains to the principal or accessory use of the premises upon which such sign is located.
- (2) *Banner sign* means a sign on paper, cloth, fabric or other flexible or combustible material of any kind, either with or without frames.
- (3) *Billboard sign* means a nonaccessory advertising sign upon which a display can be posted, painted or otherwise affixed in a manner which is readily changed.

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- (4) *Bulletin board* means a sign with temporary or replaceable letters or characters, used to announce dates of functions or activities.
 - (5) *Construction sign* means a sign advertising a project under development, erected for the period of construction, identifying its developers, contractors, engineers, brokers and architects.
 - (6) *Changeable message signs* means a sign or part of a sign which, by means of electronically illuminated characters, provides a varying message to the public.
 - (7) *Directional sign* means a sign, the primary purpose of which is to expedite the flow of vehicular and/or pedestrian traffic to, from and within a site.
 - (8) *Flag* means a banner of distinctive design used as a symbol of a nation, state or other governmental entity.
 - (9) *Grade* means the average elevation of an area within a radius (of the sign base) equal to two times the height of the sign.
 - (10) *Ground sign* means a sign, which is mounted permanently in the ground on a continuous base or monument. Ground signs shall also be referred to as monument signs.
 - a. Ground signs shall be integrated into the landscape and shall be compatible with the design and materials used for the structures on the site.
 - b. Ground signs shall be located on a masonry or approved building material base; the base shall have a minimum height of 18 inches and shall not exceed a height of 36 inches; the base, at a minimum shall be equal to the length of the sign; masonry or other decorative features enclosing the sides or top of the face of the sign shall not extend beyond the maximum allowable width and height of the sign.
 - c. *Contrast*. All lettering on cabinet-style ground signs shall contrast with the background on which they are located. The background on a cabinet-style ground sign shall be opaque with translucent lettering, to allow only the lettering or logos to be illuminated. Free-floating channel letters or other applied letters shall significantly contrast the background to which they are applied.
 - d. *Construction type*. Ground signs may be of a cabinet, internally-illuminated style; however:
 1. Only the lettering or trademarked logo shall be translucent.
 2. The background shall be of opaque material.
 - e. *Lighting*. Lighting provided to illuminate the ground sign can be internal or external. Any exterior light shall be directed at the sign only and shielded from adjacent areas.
 - (11) *Group identification sign* means a sign or entranceway structure listing the names and addresses only of the establishments occupying a development, subdivision or condominium. The erection of such identification signs is so intended to assist the public in locating establishments within its immediate area and shall be placed upon property within the development, subdivision or condominium.
 - (12) *Handicapped sign* means a sign limited to indicating that off-street parking is reserved for the physically handicapped, or a sign which is limited to indicating facilities for the physically handicapped.
 - (13) *Institutional sign* means a sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institutions, and the announcement of its services or activities.
 - (14) *Interior sign* means a sign which is visible from any public street, sidewalk, alley park or public property and located within a building.

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- (15) *Marquee sign* means a sign attached to or hung from a marquee, canopy or other covered structure projecting from and supported by the building.
 - (16) *Moving sign* means a sign that has motion either constantly or at intervals or that gives the impression of movement through intermittent, flashing, scintillating or varying intensities of illumination.
 - (17) *Nonaccessory advertising sign* means an off-premises sign, relating to a business activity, use or service not performed on the premises or to a product not fabricated, produced, handled or sold on the same premises upon which the sign is displayed; a political sign; a time/date/temperature sign.
 - (18) *Occupational sign* means a sign denoting only the name and profession of an occupant in a commercial building or public institutional building.
 - (19) *On-premises sign* means a sign which advertises only goods, services, facilities, events or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premises signs.
 - (20) *Outline tubing sign* means a sign arranged of exposed gaseous tubes that outline and call attention to certain features of an advertising device such as individual letters, figures, shapes or words, commonly referred to as a neon sign.
 - (21) *Parasite signs* means a sign that is intended to draw attention to any one or more of various services, items for sale, contests, etc., and is attached as an appendage to an accessory sign, sign support or any part of a principal building, accessory building or other structure located on a development site.
 - (22) *Political sign* means a sign relating to the election of a person to public office or relating to a political party or relating to an issue or a matter to be voted upon at an election.
 - (23) *Portable sign* means a sign or sign board which is freestanding and not permanently anchored or secured to either a building, structure or the ground; such as, but not limited to, so-called "A" frame, "T" shaped or inverted "T" shaped stands, or any sign attached to a trailer or other vehicle not accessory to the vehicle or its use, but used with the express intent of advertising.
 - (24) *Projecting sign* means a sign erected and attached at one end to a building, pole or other structure, or any part thereof, and extending beyond the attachment surface by more than 12 inches.
 - (25) *Real estate sign* means a sign advertising only that the property such sign is located upon is for sale, rent or lease and other information which is essential to the proposed real estate transition.
 - (26) *Roof sign* means a sign which is erected, constructed and maintained above the roof, roof line or parapet of a building or any portion thereof.
 - (27) *Temporary sign* means an information sign or banner, with or without a structural frame, intended for a limited period of display, including decorative displays for holidays or public demonstrations, not including accessory signs as defined under subsection (1) of this definition, or signs pertaining to sale, rent or lease of property.
 - (28) *Time/date/temperature sign* means a sign that displays only the current time and/or date and/or temperature.
 - (29) *Wall sign* means a sign attached to, painted on, inscribed or otherwise set upon the exterior wall or surface of any building, no portion of which projects more than 12 inches from the wall, and which may not project above the roof or parapet line. The "roof line" means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and the average height between eaves and ridge boards for gable, hip and gambrel roofs.

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- (30) *Window sign* means a sign, text, picture or combination placed inside or upon a window facing the outside, designed to communicate information about business activity and/or products located within the building, and intended to be seen from the exterior of the building.

Sign area means the entire area within a circle, triangle, rectangle or other geometric shape enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material graphic or color forming an integral part of the display or message, or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed, if no advertising matter is placed thereon.

Sign erector means any person engaged in the business of erecting, constructing, altering or removing signs on a contractual or hourly basis.

(Ord. No. 54A, § 17.02, 11-11-1987; Ord. No. 290, § 1, 6-11-2008; Ord. No. 291, § 1, 6-11-2008)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 78-677. Purpose and intent of article.

- (a) It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare and prevent wasteful use of natural resources in competition among businesses for attention.
- (b) In addition, it is the intent of this chapter to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the city.
- (c) It is further determined that signs which may lawfully be erected and maintained under the provisions of this chapter are consistent with customary usage.

(Ord. No. 54A, § 17.01, 11-11-1987)

Sec. 78-678. Measurement of sign area.

- (a) The total sign area is to be expressed in square feet and shall be computed as herein set forth in this section.
- (b) Single-face sign total area shall be computed as the number of square feet within lines drawn at the outer perimeter forming any single and/or combination of geometric shapes, such as a square, rectangle, triangle or circle encompassing the extreme limits of an individual letters, words, messages, representation, emblem or any similar figure, including open spaces, together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.
- (c) Double-face signs having two faces of equal size arranged and/or positioned back to back and parallel or with the faces at an included angle of not more than 30 degrees in the plan or vertical view; the area of the sign shall be computed as one-half the total area of the two faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.
- (d) When two single-face signs are arranged and/or positioned within 36 inches of each other, the area of the two signs shall be computed as one single-face sign and total area shall include the open space between the two separate faces.

(Ord. No. 54A, § 17.03, 11-11-1987)

Sec. 78-679. Compliance with article.

Except as otherwise provided in this article, signs shall be permitted in zoning districts according to this article.

(Ord. No. 54A, § 17.13, 11-11-1987)

Sec. 78-680. General provisions applicable to all zoning districts.

The following conditions shall apply to all signs erected or located in any zoning district:

- (1) *Sign location.*
 - a. No sign, except those established and maintained by the city, county, state or federal governments, shall be located in, project into or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this chapter.
 - b. No sign above a height of 30 inches shall be located within, project into or overhang the triangular area formed at the intersection of any two street right-of-way lines (existing or proposed) by a straight line drawn between such right-of-way lines at a distance along each line of 25 feet from their point of intersection, unless visual underclearance can be assured on the plans.
 - c. No sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than one foot, and shall not project above or beyond the highest point of the roof or parapet.
 - d. Construction signs advertising buildings or projects under construction may be erected and maintained for a period not to exceed the term of construction, and such sign shall be erected on the site of construction. Such sign shall advertise only the building or project under construction and information related thereto, such as its developers, contractors, engineers, brokers and architects.
 - e. No sign shall be permitted at any location which, in the sole discretion of the building official, creates any type of safety hazard or visual impediment to pedestrian or vehicular traffic.
- (2) *Sign height.* No sign, except as otherwise provided in this article, shall project above the maximum height limitation of six feet above grade.
- (3) *Liability insurance.* If the vertical distance of a sign above the street is greater than the horizontal distance from the sign to the street right-of-way line and is so located as to be able to fall or be pushed onto public property, then the owner of such sign shall keep in force a public liability insurance policy in the amount of \$100,000.00 for injury to one person and \$300,000.00 for injury to more than one person and property damage insurance in the amount of \$25,000.00 for damage to property. In lieu of an insurance policy as required in this subsection, an owner may present satisfactory proof to the city attorney that such owner is financially capable of self-insurance in the amounts set forth in this subsection.

(Ord. No. 54A, § 17.09, 11-11-1987; Ord. No. 291, § 1, 6-11-2008)

Sec. 78-681. Prohibited signs in all zoning districts.

The following signs are prohibited in all zoning districts, notwithstanding anything to the contrary in this article:

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- (1) Signs which incorporate in any manner or are illuminated by any flashing or moving lights other than those which convey noncommercial information which requires periodic change. This section does not prohibit barber poles which otherwise meet the provisions of this article.
 - (2) Exterior banners, pennants, spinners and streamers, other than a banner or pennant used as a permitted sign under provisions of this article.
 - (3) Exterior string lights used in connection with a commercial premises, other than holiday decorations.
 - (4) Any sign which has any visible motion other than permitted flags of governmental units or banners and other than for the conveyance of noncommercial information requiring periodic change.
 - (5) Any sign which is structurally or electrically unsafe.
 - (6) Any sign erected on a utility pole, directional signpost or landscaping, including trees. Prohibited signs shall not include street signs of any political subdivision or public transit agency of this state.
 - (7) Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is in business.
 - (8) Portable signs, and any freestanding exterior sign not permanently anchored or secured to either a building or the ground, except real estate "open house" signs.
 - (9) Signs displayed on any vehicle or trailer when the subject vehicle or trailer is parked in such a manner that the obvious intent is to attract attention to a business, service or commodity on the premises.
 - (10) Any sign structure or frame no longer supporting or containing a sign.
 - (11) Revolving signs.
 - (12) Roof-mounted signs, except those mounted upon a mansard facia which do not project above the highest point of the parapet.

(Ord. No. 54A, § 17.10, 11-11-1987)

Sec. 78-682. Permitted signs in all zoning districts.

Signs shall be permitted in each zoning district according to section 78-679 and subject to the following general provisions:

- (1) *Real estate signs.*
 - a. *Single-family and multiple-family residential real estate (no permit required):* One sign, with an area not in excess of six square feet, advertising the sale, rent and/or lease of a single-family or multiple-family structure or vacant property, placed adjacent to such a structure and upon the premises, shall be permitted. It shall have a maximum height of six feet from grade and shall be set back five feet from any public right-of-way.
 - b. *Nonresidential real estate:* One sign, with a total area not in excess of 12 square feet, advertising the sale, rent and/or lease of real estate other than single-family or multiple-family structures, is permitted pursuant to the issuance of a permit. It shall have a maximum height of six feet. It shall be set back 25 feet from any public right-of-way unless attached to a permanent building.
 - c. *Residential subdivision or condominium developments:* One temporary sign announcing the sale, rent and/or lease of real estate within a residential subdivision or residential condominium complex being sold by the subdivision or condominium developer or agent shall be permitted. Such sign shall be limited to an area of 32 square feet. Such signs shall have a maximum height of six feet and shall be set back a minimum of 25 feet from any public right-of-way.

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- d. *Removal:* All real estate signs shall be removed on or before five days after the sale, lease or rental of the premises, land parcel or residential subdivision/condominium. The date of the placement of a "sold" sign, or the date when a purchase agreement or similar document which limits the availability of the property has been executed by all parties of interest shall determine the beginning of the ten-day period.
- (2) *Construction signs.* Signs advertising buildings or projects under construction shall not exceed 15 square feet per 100 lineal feet of public street right-of-way frontage or fraction thereof, and shall not exceed 100 square feet in total area. Such signs shall have a maximum height of six feet and shall be setback at least 25 feet from any public right-of-way unless attached to a face of a building, construction fence or barricade and shall be removed upon completion of construction. No more than one construction sign is permitted per public right-of-way frontage, and placement shall be a minimum of 300 feet apart as measured along the right-of-way line.
- (3) *Directional signs.* Accessory directional signs may be permitted in all use districts to direct attention to the location of available services on a premises and shall not exceed a total of 20 square feet in area per premises. Such signs shall not exceed eight feet in height and shall be subject to all other provisions of this article.

(Ord. No. 54A, § 17.11, 11-11-1987; Ord. No. 291, § 1, 6-11-2008)

Sec. 78-683. District regulations.

(a) *Signs permitted in R-1 and R-2 districts.*

- (1) For each dwelling unit, one sign not exceeding two square feet in area indicating the address and names of the occupants.
- (2) One sign per premises pertaining to other than single-family residential uses may be permitted, subject to planning commission approval, not to exceed 20 square feet in area for one accessory sign or 36 square feet in area for one bulletin board sign.
- (3) One subdivision/condominium group identification entrance sign per vehicle entrance may be permitted on private property in compliance with the corner clearance provision and shall not exceed 25 square feet in area or a height of six feet above grade. The location and appearance of all group identification signs shall be subject to review and approval by the planning commission at the time of review and adequate provisions shall be made at that time to ensure continued maintenance of the sign. Any such group identification entrance signs proposed to be located on city or county right-of-way shall require the approval of the city council.

(b) *Signs permitted in R-3 and CS districts.*

- (1) Signs as permitted in subsection (a) of this section.
- (2) Accessory signs identifying community facilities or special uses within such developments shall not exceed a total of 15 square feet in area, or a height of six feet above grade, for each building or use and no such sign shall be located closer than 30 feet to any property line of an adjacent single-family district.

(c) *Signs permitted in the O-1 district.*

- (1) Total sign area shall not exceed ten percent of the area of the front facade of the building or a total area of 100 square feet, whichever is less.
- (2) No more than one ground sign, not to exceed six feet in height and 30 square feet in area per premises.
- (3) Interior signs are prohibited.

(d) *Signs permitted in the C-1, C-2 and I-I districts.*

- (1) Total sign area per business shall be limited to 120 square feet.
 - a. One wall sign per business, not exceeding two square feet of area for each one linear foot of building frontage, is permitted. In no event shall the total area of wall sign per business exceed 120 square feet.
 - b. One ground sign per business not to exceed six feet in height and not exceeding 30 square feet in area is permitted.
 - c. One temporary sign as defined in section 78-676 shall be permitted subject to the following conditions:
 1. The size of the sign shall be limited to two square feet for every one foot of lineal building frontage. The square footage of a temporary sign shall not be used as part of the 120 square footage total signage allowed in this section.
 2. No temporary sign shall be displayed for more than two weeks in any six-month period. The minimum amount of time that will be counted as a display time is one week. Any time a temporary sign is displayed less than one week, it will be counted as having been up for one week. Only one temporary sign may be displayed at a time, and in no case shall a business display a combination of temporary signs in excess of two weeks in a six-month period.
- (2) Where a lot has more than one business or where a group of businesses are arranged on a premises, the following limitation shall apply to signs:
 - a. Each business shall not be entitled to a separate ground sign. Only one ground sign per premises is permitted, except as otherwise set forth in this section.
 - b. When such a premises is located on a corner or has frontage on two major thoroughfares, two ground signs shall be permitted provided that only one ground sign is permitted for each major thoroughfare frontage. The total area of all ground signs shall not exceed 80 square feet in area. If a ground sign is designed and located such that its orientation is to two or more abutting streets, only one ground sign shall be permitted.
 - c. No ground sign shall exceed six feet in height or 30 square feet in area.
 - d. Each business may have one wall sign, not to exceed two square feet of area for each one linear foot of building frontage, provided that no business shall have a wall sign exceeding 120 square feet in area. The area of the ground signs permitted for the premises shall not be subtracted from the maximum wall sign area available for each business.
- (3) Additional window signage may be permitted, subject to the following conditions:
 - a. The total sign area must not exceed 15 percent of the available window area per business or 50 square feet per business, whichever is less.
 - b. The signs may be permanently affixed to the window such as gold leaf or decal application; or hung, mounted or displayed within 12 inches of the glass surface.
 - c. Window signs may not obstruct view into a store or place of business.
- (4) No premises may have more than one ground sign per street frontage. If a ground sign is designed and located such that its orientation is to two or more abutting streets, only one ground sign shall be permitted.

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- (5) Accessory signs may be located on public right-of-way subject to the approval of city council. Such signs shall not project over the roadway and shall not exceed 100 square feet per premises.
 - (6) Gasoline service stations shall be permitted signs on each pump island indicating the prices and types of gasoline and the type of service. The aggregate area of such signs shall not exceed 20 square feet per pump island. In no event shall the total area of all signs exceed 120 square feet.
 - (7) Theaters, except for adult-regulated uses, shall be permitted 100 square feet of sign area in addition to all other provisions.
 - (8) Signs on office uses shall be regulated by the provisions of subsection (c) of this section.
 - (9) Billboards.
 - a. In the study and preparation for billboard regulations in the city, the following considerations and conclusions have been drawn by the city: traffic volume on Orchard Lake Road would make this corridor the focus for billboard placement; Orchard Lake Road is a congested commercial corridor; commercial development on Orchard Lake Road has occurred with minimum setbacks from the road; heavy traffic volume and multiple curb cuts have contributed to the confusing and dangerous traffic situation; billboards of the typical side and/or height are out of proportion with the small scale of the city, and would detract from the community's residential image; and the aesthetic impact of billboards impresses heavily on the enjoyment and value of property and on the general welfare; billboards have the potential to hinder visibility of driveways, intersections and streets, particularly along the Orchard Lake Road commercial strip where traffic problems already exist; billboards on the smaller lots and parcels within the city would tend to obstruct motor vehicle sight distance and clear view and be detrimental to the appearance and other aesthetic objectives in the city; billboards tend to foster places which gather refuse and paper and places where the dumping of dirt, debris and filth occur; and the city finds that some authorization for billboards should be allowed, but only upon a limited basis as provided for in this chapter.
 - b. Billboards shall be subject to the following regulations, consistent with the considerations and conclusions set forth in subsection (d)(9)a of this section:
 1. A billboard shall be considered a principal permitted use of property.
 2. The area of a billboard shall not exceed 100 square feet, as measured at the highest and widest points of the sign.
 3. The height of a billboard shall be limited to a maximum of 20 feet.
 4. The setback of the billboard shall be equal to the zoning yard requirements for the district in which the billboard is to be situated.
 5. A billboard shall be situated on the property so as to:
 - i. Maximize motor vehicle sight distance, clear view and traffic safety in general, in relation to other vehicles, pedestrians and to other signage which is, or is anticipated to be, nearby.
 - ii. Minimize the destruction of trees, the visibility of the billboard and illuminations thereof by and from residences and any dangerous distractions and thus, hazard, of and to motorists, as determined in the discretion of the planning commission.
 6. A billboard shall not be materially incompatible with surrounding improvements, as determined in the reasonable discretion of the planning commission.

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7. A billboard may be illuminated, but shall not have moving parts and/or intermittently flashing illumination. An illuminated billboard shall be situated at least 500 feet from any residential zoning district or residential use, and the illumination shall be directed away from all residential use.
 8. A billboard shall have a minimum spacing of 1,000 feet from any other billboard.
 9. Billboards shall require site plan approval by the planning commission.

(10) Awnings.

- a. Awnings shall be made of materials that are sturdy, easily maintained, and resistant to the deteriorating effects of UV light. The colors of awning materials used shall be colorfast. Because a wide variety of materials are used in the awning industry, manufacturer specifications shall be submitted to determined, to the satisfaction of the city manager (or his/her designee), whether the proposed awning material achieves these objectives.
- b. Awnings shall be of a color and style compatible with the building as well as adjacent development. Generally, traditional styles are preferred.
 1. Solution-dyed, woven acrylic fabrics with UV and fungus inhibitors are permitted. Other fabric types, such as select vinyl laminates or cotton/synthetic blends, are subject to the review and approval of the city manager (or his/her designee).
 2. Awnings shall use primarily subdued colors; bold or bright colors shall be permitted only as accents.
- c. Illumination of awnings, internally or otherwise, is generally prohibited. Recessed down-lighting may be provided beneath awnings to illuminate the sidewalk below.
- d. Signage on awnings shall conform to the regulations of article VII, Signs. with the following additional standards:
 1. Signage permitted on an awning shall be limited to the name and/or address of the establishment. Advertising of products is prohibited.
 2. Signage on an awning shall be permanently fixed flat to the awning's surface and shall not extend vertically or horizontally beyond the limits of the awning.
 3. Lettering on an awning shall not exceed 18 inches in height.
 4. Signage on awnings shall count toward to total square footage of signs permitted in the zoning district.
 5. Signage on an awning shall be considered a wall sign for calculation purposes.
- e. Awnings shall be designed to provided at least eight feet of clearance, measured from the sidewalk to the lowest point of the awning.
- f. Awnings shall project outward from the building no farther than six feet or to within two feet of the curb, whichever is less. Awnings may project further than six feet to provide shade for outdoor seating associated with restaurants and cafes, provided that the awning does not project closer than two feet from the curb.
- g. All storefronts in an individual strip development shall employ awnings of compatible color, style and material.
- h. Awnings shall be maintained in good condition at all times. Faded, tattered, or otherwise worn-out awnings shall be replaced. Repainting of awnings shall be prohibited.

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- (e) *Signs permitted in the P district.* Ground signs indicating direction and listing the name of the operator and the enterprise it is intended to serve may be permitted at each entrance to the lot, provided such sign shall not exceed ten square feet in area, shall not project over any public property and shall be limited in overall height to three feet.

(Ord. No. 54A, § 17.12, 11-11-1987; Ord. No. 197, § 1, 10-11-1989; Ord. No. 201, § 3, 5-9-1990; Ord. No. 257, § 1, 5-9-2001; Ord. No. 290, § 1, 6-11-2008; Ord. No. 291, § 1, 6-11-2008; Ord. No. 304, §§ 1, 2, 5-18-2011)

Charter reference(s)—Authority to regulate billboards, § 4.2(7).

Secs. 78-684—78-705. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT¹⁷

Sec. 78-706. Compliance certificate.

- (a) *Compliance certification.* All signs shall be inspected at original installation and if found to be in full compliance with the provisions of this article, shall be issued a certificate of compliance.
- (b) *Inspections.* The building official shall cause existing signs to be inspected if deemed necessary by him to determine continuation of compliance with the provisions of this article.
- (c) *Concealed work.* In cases where fastenings are to be installed and enclosed in such a manner that the building official cannot easily remove material to see the fastenings and material used, the sign erector must advise the building official so that the inspection may be made before concealment.
- (d) *Removal of signs.* Should any sign be found unsafe, insecure, improperly maintained or constructed or not in accordance with the requirements of this article, the erector and/or owner shall be required to make any such sign safe, secure and otherwise in compliance with the requirements of this article within 30 days of notice. Failure to comply shall result in an order to remove the sign within 48 hours from the time of notification in writing to that effect from the building official.
- (e) *Exception.* Existing signs determined to be unsafe and an immediate hazard to health or safety shall be removed or repaired within 12 hours of notification.
- (f) *Exemptions.* Exempt signs as provided in subsection 78-707(g) shall not be issued a certificate of compliance.
- (g) *Responsibility of compliance.* The owner of any property on which a sign is placed and the person maintaining such sign are declared to be equally responsible for the erection, safety and condition of the sign and the area in the vicinity thereof, subject to provisions of division 3 of this article.

(Ord. No. 54A, § 17.08, 11-11-1987)

Sec. 78-707. Sign erection permits.

- (a) *Sign erection permit required; fee.* It shall be unlawful for any person to erect, reerect, alter or relocate any sign unless the planning commission, or its designee, shall have first reviewed and approved the sign application and a permit has been approved by the building official, except as provided in subsection (g) of this section. A permit fee is required in accordance with the schedule adopted by resolution of the city

¹⁷Cross reference(s)—Administration, ch. 2.

council. Any sign that makes use of electricity shall, in addition to a sign permit, require an electrical permit, regardless of size.

- (b) *Planning commission approval required.* A type of sign which is not explicitly defined section 78-676 must be approved by the planning commission before a permit shall be issued.
- (c) *Prerequisites for issuance.* Permits for the erection of signs shall only be issued to persons qualified to carry on such work under the provisions of this article.
- (d) *Sign erection permit expiration.* A sign permit shall become null and void if the work for which the permit was issued is not completed within 90 days of the date of issue.
- (e) *Sign erection permit applications.* Applications for sign permits shall be made upon forms provided by the building official for this purpose and shall contain the following information:
 - (1) Name, address and phone number of applicant.
 - (2) Location of the building, structure or lot on which the sign is to be attached or erected.
 - (3) Position of the sign on the building, structure or lot on which the sign is to be attached or erected.
 - (4) Position of the sign in relation to nearby buildings, structures, property lines and rights-of-way, existing or proposed.
 - (5) Twelve copies of the plans and specifications and method of construction and attachment to the building or in the ground.
 - (6) Copy of calculations, if deemed necessary by the building official, showing the structure is designed for dead load and wind pressure in accordance with the regulations adopted by the city.
 - (7) Name and address of the sign erector.
 - (8) Insurance policy and/or performance bond as required in this article.
 - (9) Such other information as the building official may require to show full compliance with this and all other applicable laws of the city and the state.
 - (10) When public safety so requires, the application containing the aforesaid material shall, in addition, bear the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
 - (11) Indicate the zoning district in which the sign is to be located.
- (f) *Servicing; changing of message.* No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.
- (g) *Exemptions.* No erection permit shall be required for signs enumerated below. Such exemptions, however, shall not be construed to relieve the owner of the sign from responsibility for its proper location, erection and maintenance.
 - (1) *Government signs.* Signs erected on a city, county, state or federal building or land which announce the name, occupancy and information of the use or admission to the premises.
 - (2) *Flags.* The flag of any governmental jurisdiction which is respectfully displayed; provided, however, that the number of flags on any premises shall be limited to one for each governmental jurisdiction wherein the premises is located.
 - (3) *Handicapped signs.*

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- (4) *Political signs.* Except for billboards, a political sign shall be solely for the purpose of or the expression of a political opinion, providing information relating to the election of a person to public office, or to a political party, or to a matter to be voted upon, and shall be permitted subject to the following conditions:
- a. Total area of political signs on any one premises shall not exceed 20 square feet. Political signs shall not be located in the road right-of-way, or attached to any utility pole, other sign, other sign parts or landscaping, including trees. Political signs shall be ground or wall signs. No ground sign shall be higher than four feet above grade.
 - b. Political signs shall be removed within seven calendar days after the election or event to which it relates. Signs that express a political opinion unrelated to a public election date are limited to a period of display not to exceed 30 days in one calendar year on any premises.
 - c. Such signs shall not be erected in such a manner that they will or reasonably may be expected to interfere with, obstruct, confuse or mislead traffic.
- (5) *Real estate signs.* Signs advertising premises for sale, rent and/or lease, when not more than six square feet in area for a single dwelling or building or vacant land.
- a. A nonaccessory real estate sign not to exceed four square feet in area for the purpose of directing to a premises which is for sale, lease or rent may be located on private property. The sign height shall not exceed six feet above grade.
 - b. Permission to locate subject signs shall be obtained from the owner or occupant of property on which the sign is located. Failure to comply with this condition shall be cause for immediate removal of such sign.
 - c. Such signs shall not be erected in such a manner that they will or reasonably may be expected to interfere with, obstruct, confuse or mislead traffic.
- (6) *Small signs including "garage sale" signs.* Any accessory sign, which is not more than six square feet in area, may be erected on a residential premises provided the total area of all such signs on one premises shall not exceed six square feet, and shall further be restricted as follows:
- a. A nonaccessory "garage sale" sign not to exceed four square feet in area for the purpose of directing to a garage, estate or similar sale, may be located on private property. The sign height shall not exceed six feet above grade.
 - b. Permission to locate subject signs shall be obtained from the owner or occupant of property on which the sign is located. Failure to comply with this condition shall be cause for immediate removal of such sign.
 - c. Such signs shall not be erected in such manner that they will or reasonably may be expected to interfere with, obstruct, confuse or mislead traffic.
 - d. Removal: All garage sale or similar signs are to be removed within 24 hours of the last day of said sale.
- (7) *Street signs.* Signs erected by the city, county, state or federal government for street direction or traffic control and information.
- (8) *Numerical address signs.*
- a. Single-family residential uses: Not to exceed six square feet.
 - b. Nonresidential: Not to exceed 30 square feet.

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- (9) *Temporary signs.* Temporary signs, banners or flags when in the nature of special decorative displays used for public demonstrations or promotions of civic welfare or charitable purposes on which there is no commercial advertising, provided the city is held harmless and blameless for any damage or injury resulting therefrom. Such signs shall not exceed six square feet in area, and shall be displayed for a period not to exceed 30 days in any six month period unless approved, for other periods, by the planning commission.
- (10) *Private traffic signs.* Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- (11) *Temporary interior signs.* Temporary interior window signs of a commercial nature not to exceed 90 days.
- (h) *Issuance.* Permits may be issued only to licensed persons in compliance with the following provisions. Any person before engaging or continuing in the business of erecting or repairing signs in the city shall apply for an annual sign erector's license subject to the following conditions:
- (1) *Insurance certificates.* Before a license is issued, the installing company shall submit for filing with the city clerk a valid certificate of insurance, approved by the city attorney, for public liability in the amount of \$100,000.00 for injuries to one person and \$300,000.00 for injury to more than one person, and property damage insurance in the amount of \$25,000.00 for damage to any property due to the actions of himself or any of his agents or employees. Such certificate shall provide for notification of the building official ten days prior to expiration of insurance.
 - (2) *Lapsing of insurance.* If at any time, the insurance of any sign erector is permitted to lapse, his license and right to obtain permits shall automatically be revoked.
 - (3) *Notification of change.* A sign erector shall notify the building official of any change in address, and if a firm or corporation, any change in ownership or management if other than that indicated on the insurance certificates.
- (i) *Revocation.* The license may be suspended or revoked as otherwise provided for in this article.
- (Ord. No. 54A, §§ 17.04, 17.05, 17.06, 11-11-1987; Ord. No. 197, § 1, 10-11-1989; Ord. No. 218, § 1, 6-12-1991; Ord. No. 251, § 3, 3-8-2000)

Secs. 78-708—78-730. Reserved.

DIVISION 3. CONSTRUCTION AND MAINTENANCE REQUIREMENTS

Sec. 78-731. Materials and design.

All signs shall be designed, constructed and maintained in conformity with the provisions for materials, loads and stresses of the latest adopted edition of the city building code and requirements of this article.

(Ord. No. 54A, § 17.07(a), 11-11-1987)

Sec. 78-732. Erector's imprint.

Signs which require a permit under this article must carry the identification and address of the sign erector, electrical voltage, when applicable, and date of erection in clearly legible letters, whether for the initial erection or rehangings of a sign.

(Ord. No. 54A, § 17.07(b), 11-11-1987)

Sec. 78-733. Fastenings.

All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use, and all bolts, cables and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the erector shall be repaired by the erector.

(Ord. No. 54A, § 17.07(c), 11-11-1987)

Sec. 78-734. Fire escapes.

No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.

(Ord. No. 54A, § 17.07(d), 11-11-1987)

Sec. 78-735. Support location.

No pole, cable or support of any nature shall be placed on any publicly owned property, street right-of-way or proposed street right-of-way.

(Ord. No. 54A, § 17.07(e), 11-11-1987)

Sec. 78-736. Changeable message signs.

The message change cycle of a changeable message sign shall be not less than ten seconds per message, except in a combined time/date and weather information where the change cycle shall not be less than two seconds.

(Ord. No. 54A, § 17.07(f), 11-11-1987)

Sec. 78-737. Flashing signs.

Flashing or intermittent illumination of signs shall be prohibited.

(Ord. No. 54A, § 17.07(g), 11-11-1987)

Sec. 78-738. Proximity to electrical conductors.

No sign shall be erected so that any part, including cables, guys, etc., will be within ten feet of any electrical conductor, electric light pole, street lamp, traffic light or other public utility pole or standard.

(Ord. No. 54A, § 17.07(h), 11-11-1987)

Sec. 78-739. Rehanging.

In case of rehanging or reerection of any sign, the new erector must place his identification, address and the date on the sign.

(Ord. No. 54A, § 17.07(i), 11-11-1987)

Sec. 78-740. Sanitation.

Property surrounding any ground sign shall be kept clean, sanitary and free from obnoxious and offensive substances, free from weeds, rubbish and flammable material.

(Ord. No. 54A, § 17.07(j), 11-11-1987)

Sec. 78-741. Illumination.

No sign, except neon tube signs, shall be externally illuminated by other than continuing white light using approved electrical devices and shall be installed in accordance with the requirements of the provisions of this article. In no case shall any open spark or flame be used for display purposes unless specifically approved by the building official.

(Ord. No. 54A, § 17.07(k), 11-11-1987)

Sec. 78-742. Shielding.

Any lighting for the illumination of signs shall be directed away from and shall be shielded from any adjacent lots and shall be so arranged as to not adversely affect driver visibility on adjacent public thoroughfares.

(Ord. No. 54A, § 17.07(l), 11-11-1987)

Sec. 78-743. Maintenance.

All signs shall be maintained in a condition of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired within ten days of written notification of the building official.

(Ord. No. 54A, § 17.07(m), 11-11-1987)

Sec. 78-744. Compliance with building code.

The construction and maintenance of signs shall be regulated by chapter 14, article II, unless the provisions of this article are more stringent.

(Ord. No. 54A, § 17.07(n), 11-11-1987)

Sec. 78-745. Nonconforming signs.

- (a) *Lawful existing signs.* Any sign lawfully existing at the time of this article which does not fully comply with all provisions shall be considered a legal nonconforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community, except as provided in this section.
- (b) *Continuance.* A nonconforming sign shall not be:
 - (1) Expanded or changed to another nonconforming sign.

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- (2) Relocated or structurally altered so as to prolong the life of the sign, or so as to change the shape, size, type, placement or design of the sign's structural parts.
 - (3) Repaired or reerected after being damaged if the repair or reerection of the sign would cost more than 50 percent of the cost of an identical new sign.
- (c) *Alteration or reconstruction.* No nonconforming sign shall be altered or reconstructed, unless the alteration or reconstruction is in compliance with the provisions of this article. For the purpose of this article only, the term "altered" or "reconstructed" shall not include normal maintenance, or repairing or changing of electrical wiring or electrical devices. Nonconforming signs and sign structure shall be removed or made to conform within 90 days of the termination of the use to which they are accessory.
- (d) *Intent.* It is the intent of this article to encourage eventual elimination of signs that, as a result of the adoption of this article, become nonconforming and to administer this article to realize the removal of nonconforming signs. If the owner of the premises on which a sign is located changes the location of a building, property line or sign, or changes the use of a building, nonconforming signs must be removed or made to conform to this article.
- (Ord. No. 54A, § 17.14, 11-11-1987)

Secs. 78-746—78-775. Reserved.

ARTICLE VIII. FLOODPLAINS

DIVISION 1. GENERALLY

Sec. 78-776. Definitions.

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

Area of special flood hazard means the land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equalled or exceeded in any given year.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard area means land which on the basis of available floodplain information is subject to a one percent or greater chance of flooding in any given year.

Flood hazard boundary map (FHBM) means an official map of the city, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as zone A.

Flood insurance rate map (FIRM) means an official map of the city, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

Flood insurance study means the official report provided by the Federal Insurance Administration. The report contains flood profiles, flood boundaries, flood insurance rate zones and the water surface elevation of the base flood.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of *Flood*).

Floodway means the channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood.

Harmful increase means an unnaturally high stage on a river, stream or lake which causes, or may cause, damage to property, threat to life, personal injury or damage to land or water resources.

Mobile home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

Structure means a walled and rooted building that is principally above ground, gas and liquid storage facility, as well as a mobile home.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds the current state equalized value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(Ord. No. 54A, § 18.02, 11-11-1987; Ord. No. 222, § 4, 7-14-1993)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 78-777. Purpose and intent of article.

- (a) It is the purpose of this article to significantly reduce hazards to persons and damage to property as a result of flood conditions in the city and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments, and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and redesigned at 44 FR 31177, May 31, 1979.
- (b) Further, the objectives of this article include:
 - (1) The protection of human life, health and property from the dangerous and damaging effects of flood condition;
 - (2) The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas;
 - (3) The prevention of private and public economic loss and social disruption as a result of flood conditions;

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- (4) The maintenance of stable development patterns not subject to the blighting influence of flood damage;
 - (5) To ensure that the public has access to information indicating the location of land areas subject to periodic flooding; and
 - (6) To preserve the ability of floodplains to carry and discharge a base flood.

(Ord. No. 54A, § 18.01, 11-11-1987)

Sec. 78-778. Delineation of the flood hazard overlay zone.

- (a) The flood hazard area zone shall overlay existing zoning districts delineated on the official city zoning map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the report entitled "The Flood Insurance Study for the City of Sylvan Lake," dated May 16, 1986, with accompanying flood insurance rate maps. The study and accompanying maps are adopted by reference, appended and declared to be a part of this chapter. The term "flood hazard area" used in this chapter shall mean the flood hazard area zone.
- (b) Where there are disputes as to the location of a flood hazard area zone boundary, the zoning board of appeals shall resolve the dispute in accord with section 78-805.
- (c) In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this article shall be necessary for all development occurring within the flood hazard area zone. Conflicts between the requirements of this article and other requirements of this chapter or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more stringent and would further the objectives of this to a greater extent than the requirements of this article. In such cases, the more stringent requirements shall be applied.

(Ord. No. 54A, § 18.03, 11-11-1987)

Sec. 78-779. Miscellaneous regulations.

- (a) When a lot is in a multiple residential zone district and a portion thereof is within the floodplain, the portion within the floodplain may be used to compute the permitted density of dwelling units to be constructed on the portion of the lot outside the floodplain, provided, however:
 - (1) The total number of permitted dwelling units outside the floodplain shall not exceed the number of dwelling units which would be permitted on the portion of the lot outside the floodplain by the multiple-family zone district permitting the number of dwelling units next highest in number to the district in which the lot is zoned.
 - (2) The total usable flood area of the dwelling units outside the floodplain shall not exceed 50 percent of the lot area outside of the floodplain.
- (b) When a lot is in a single-family residential zone district and a portion thereof is within the floodplain, the portion thereof within the floodplain may be used to compute the lot area requirements set forth in this article.
- (c) All lands included in such floodplain control district shall be subject to the restrictions imposed in this article, in addition to the restrictions imposed by other zoning districts in which such lands should be located.

(Ord. No. 54A, § 18.10, 11-11-1987)

Sec. 78-780. Disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this chapter shall not be considered a guarantee or warranty of safety from flood damage. This chapter does not imply that areas outside the flood hazard area will be free from flood damage. This chapter does not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter, this article or any administrative decision lawfully made thereunder.

(Ord. No. 54A, § 18.14, 11-11-1987)

Secs. 78-781—78-800. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT¹⁸

Sec. 78-801. Floodplain management administrative duties.

- (a) With regard to the National Flood Insurance Program, and the regulation of development within the flood hazard area zone as prescribed in this article, the duties of the zoning administrator shall include, but are not limited to:
 - (1) Notification to adjacent communities and the department of natural resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration.
 - (2) Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of floodproofed structures, the elevation to which the structure was floodproofed.
 - (3) Recording of all certificates of floodproofing and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts in excess of \$25.00 for \$100.00 of insurance coverage per year. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
- (b) All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the zoning administrator and shall be open for public inspection.
- (c) It shall be the responsibility of the zoning administrator to obtain and utilize the best available flood hazard data for purposes of administering this article in the absence of data from the Federal Insurance Administration.

(Ord. No. 54A, § 18.13, 11-11-1987)

¹⁸Cross reference(s)—Administration, ch. 2.

Sec. 78-802. Mapping disputes.

- (a) Where disputes arise as to the location of the flood hazard area boundary or the limits of flood risk zones A1-30, the zoning board of appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the zoning board of appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information shall be utilized.
- (b) Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the zoning board of appeals shall modify the boundary of the flood hazard area or the zones defining the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.
- (c) All parties to a map dispute may submit technical evidence to the zoning board of appeals.

(Ord. No. 54A, § 18.04, 11-11-1987)

Sec. 78-803. Standards for issuance of development permit.

Development, including the erection of structures and placement of mobile homes, within a flood hazard area shall not occur except upon issuance of a permit in accord with the requirements of subsection (b) of this section and the following standards:

- (1) The requirements of this article shall be met.
- (2) The requirements of the underlying zoning district and applicable general provisions of this chapter must be met.
- (3) All necessary development permits shall have been issued by appropriate local, state and federal authorities, including floodplain permit, approval or letter of no authority from the state department of natural resources. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

(Ord. No. 54A, § 18.05, 11-11-1987)

Sec. 78-804. Flood hazard area permit application information.

In addition to the information required with an application for a zoning compliance permit, special use permit or any other type of development permission required under this chapter, the following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard area zone:

- (1) The elevation in relation to mean sea level of the floor, including basement, of all structures;
- (2) Where floodproofing will be employed, the elevation in relation to mean sea level to which a structure will be floodproofed;
- (3) Where floodproofing will be employed, a certificate from a registered professional engineer or architect that the floodproofing criteria of this chapter will be met;
- (4) Where it can be determined that development is proposed within zones A1-30 on the FIRM, a certification as required by this article;

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- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
 - (6) Proof of development permission from appropriate local, state and federal agencies as required by subsection 78-803(a)(3), including a floodplain permit, approval or letter of no authority from the state department of natural resources;
 - (7) Base flood elevation data where the proposed development is subject to the land division act (MCL 560.101 et seq.), or greater than five acres in size; and
 - (8) Additional information which may be reasonably necessary to determine compliance with the provisions of this article.

(Ord. No. 54A, § 18.06, 11-11-1987)

Sec. 78-805. Flood area variances.

- (a) Variances from the provisions of this article shall only be granted by the zoning board of appeals upon a determination of compliance with the general standards for variances contained in this chapter and each of the following specific standards:
 - (1) A variance shall be granted only upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in flood heights in excess of that permitted in section 78-829, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing laws or ordinances.
 - (2) The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.
- (b) The city zoning board of appeals may attach conditions to the granting of a variance to ensure compliance with the standards contained in this chapter.
- (c) Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places without regard to the requirements of this article.

(Ord. No. 54A, § 18.12, 11-11-1987)

Sec. 78-806. Floodplain management provisions.

- (1) *Agency designated.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the city manager or designee of the City of Sylvan Lake is hereby designated as the enforcing agency to discharge the responsibility of the City of Sylvan Lake under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Sylvan Lake assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this section.

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- (2) *Code appendix enforced.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Sylvan Lake.
 - (3) *Designation of regulated floodprone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Flood Insurance Study, Oakland County, MI and dated September 29, 2006, and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 0364F and 0502F and dated September 29, 2006, are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Ord. No. 279, §§ 1—3, 9-20-2006)

Secs. 78-807—78-825. Reserved.

DIVISION 3. FLOOD HAZARD REDUCTION

Sec. 78-826. General standards for flood hazard reduction.

- (a) All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall be:
 - (1) Designed and anchored to prevent flotation, collapse or lateral movement of the structure;
 - (2) Constructed with materials and utility equipment resistant to flood damage; and
 - (3) Constructed by methods and practices that minimize flood damage.
- (b) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems.
- (c) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- (d) All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- (e) Adequate drainage shall be provided to reduce exposure to flood hazards.
- (f) Compliance with the standards of this article shall be certified by a registered professional engineer or architect.
- (g) Land shall not be divided in a manner creating parcels or lots which are in conformance with the requirements of this chapter.
- (h) The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood carrying capacity shall be maintained.
- (i) Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

(Ord. No. 54A, § 18.07, 11-11-1987)

Sec. 78-827. Specific base flood elevation standards.

- (a) On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area zone:
 - (1) All new construction and substantial improvements of residential structures shall have the lowest flood, including basement, elevated to one foot above the base flood level.
 - (2) All new construction and substantial improvements of nonresidential structures shall have either:
 - a. The lowest floor, including basement, elevated to one foot above the base floor level; or
 - b. Be constructed such that below one foot above base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic buoyancy.

A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied, and that the floodproofing 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. Such certification shall be submitted as provided in section 78-804 and shall indicate the elevation to which the structure is floodproofed.

- (b) The most recent base flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

(Ord. No. 54A, § 18.08, 11-11-1987)

Sec. 78-828. Mobile home standards.

- (a) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
 - (1) Over-the-top ties shall be provided at each of the four corners of the mobile homes, with two additional ties per side at intermediate locations, except that on mobile homes less than 50 feet in length one tie per side shall be required.
 - (2) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except that on mobile homes less than 50 feet in length, four ties per side shall be required.
 - (3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - (4) All additions to a mobile home shall be similarly anchored.
- (b) An evacuation plan indicating alternative vehicular access and escape routes shall be filed with the county division of medical services and disaster control.
- (c) Mobile homes within zones A1-30 on the Flood Insurance Rate map shall be located in accord with the following standards:
 - (1) All mobile homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be one foot above the base flood level.
 - (2) Adequate surface drainage away from all structures, and access for a mobile home hauler shall be provided.

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- (3) In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten feet apart and reinforcement shall be provided for piers more than six feet above ground level.
 - (4) In mobile home parks and mobile home subdivisions which exist at the time the ordinance from which this section is derived is adopted, where repair, reconstruction or improvements of streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, the standards in subsections (c)(1), (2) and (3) of this section shall be complied with.

(Ord. No. 54A, § 18.09, 11-11-1987)

Sec. 78-829. Floodway protection standards.

- (a) New construction, substantial improvements and all other development, including fill, shall be prohibited within zones numbers A1-30 on the FIRM, except where it is demonstrated to the zoning administrator that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with all applicable law shall be required, provided that the allowable increase shall not exceed one foot. Zones A1-30 on the FIRM shall be considered to be the floodway.
- (b) The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the floodway, except upon compliance with the provisions in this section.

(Ord. No. 54A, § 18.11, 11-11-1987)