

Chapter 44 ZONING¹

ARTICLE I. IN GENERAL

Sec. 44-1. Area of jurisdiction.

The provisions of this chapter apply to all development, public and private, throughout the city to the extent permitted by law.

(Ord. of 11-6-2017, § 1.2)

Sec. 44-2. Purpose.

The purpose of this chapter is to promote the public health, safety, and general welfare of the residents of the city. This chapter shall serve the general good of the community in accordance with the adopted city master plan and any additions and amendments as may be approved by the city.

(Ord. of 11-6-2017, § 1.3)

Sec. 44-3. 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:

Accessory use or structure means a use, building, or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use, building, or structure. Freestanding satellite dishes and antennas, solar panels, and wind generators shall be considered accessory structures.

Adult day care center means a facility, other than a private residence, in which one or more adults who are aged, mentally ill, developmentally disabled or physically handicapped are received for care and supervision for periods of less than 24 hours a day. The physical facility and operation of the center shall comply with all applicable federal, state, and local laws or regulations. An adult day care center does not include any establishment commonly described as an alcohol or a substance abuse rehabilitation center or a facility for persons released from or assigned to an adult correctional institution.

Adult day care home means a private home (that is the bona fide permanent residence of the operator of the adult day-care home) in which from one to six adults who are aged, mentally ill, developmentally disabled or physically handicapped are received for care and supervision for periods of less than 24 hours a day. The physical facility and operation of the home shall comply with all applicable federal, state and local laws or regulations. The term "adult day care home" does not include any establishment commonly described as an alcohol or a substance abuse rehabilitation center or a facility for persons released from or assigned to adult correctional institutions.

¹State law reference(s)—Michigan Zoning Enabling Act, MCL 125.3101 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.

Adult entertainment business means any adult bookstore, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, but not including those uses or activities, the regulation of which is preempted by state law.

Alterations, structural, means any change in a supporting member of a building or structure, such as a bearing wall, column, beam, or girder; any substantial change in the roof; or any addition to or diminution of a structure or building.

Awning means a retractable attachment to the exterior of a building over a public right-of-way.

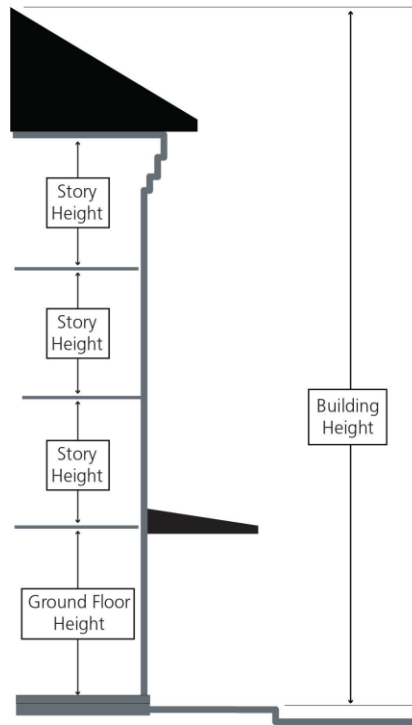
Basement means a portion of a building or a portion of a room located wholly or partially below grade but not including any part thereof not so located. The term "basement" shall not include an earth-bermed or earth-sheltered home.

Bed and breakfast means a use that is subordinate to the principal use of a dwelling unit as a single-family dwelling unit in which transient guests are provided a sleeping room in return for payment. A bed and breakfast operation shall meet all of the requirements in article IV of this chapter.

Building means anything that is constructed or erected having a roof supported by columns, walls or other supports that is used for the purpose of housing or storing persons, animals or personal property or for carrying on business activities or other similar uses.

Building envelope means the area formed by the front, side and rear building restriction or setback lines of a lot within which the principal buildings must be located.

Building height means a vertical distance measured from the established grade to the highest point of the roof surface of flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height shall be measured from the average ground level of the grade at the building wall facing the front yard.



Building setback means a horizontal measurement from the road right-of-way line to the nearest point of the foundation of the building or structure. Steps and unenclosed porches may be located within the building setback. Fully enclosed porches are considered as part of the building or structure and may not be located within the building setback.



Canopy means an attachment to the exterior of a building that is self-supporting and non-retractable which extends out from the building over a public right-of-way.

Childcare center means a facility, other than a private residence, receiving one or more children under 13 years of age for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. The term "childcare center" includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program or drop-in center. The term "childcare center" does not include any of the following:

- (1) A Sunday school, vacation bible school or a religious instructional class that is conducted by a religious organization where children are attending for not more than three hours per day for an indefinite period or for not more than eight hours per day for a period not to exceed four weeks during a 12-month period.
- (2) A facility operated by a religious organization where children are in the religious organization's care for not more than three hours while persons responsible for the children are attending religious services.
- (3) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
- (4) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- (5) A program that primarily provides therapeutic services to a child.

Commercial recreation means commercial establishments related to recreational activities, such as, but not limited to, billiard or pool halls, indoor theaters, bowling alleys, miniature golf courses, driving ranges, skating rinks and video arcades.

Counseling rooms means a use that is subordinate to the principal use of a dwelling as a single-family dwelling unit in which persons reside for more than seven days at a time on a non-transient basis in return for payment.

Dwelling means a building or part of a building, containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one or more families.

Dwelling, multifamily, means a building designed and used for occupancy by three or more families, living independent of each other.

Dwelling, single-family, means a building designed and used for occupancy by one family only.

Dwelling, two-family, means a building designed and used for occupancy by two families living independently of each other.

Family means one or more persons living together as a single, nonprofit housekeeping unit, organized as a single entity in which the members share common kitchen facilities in a domestic relationship based on consanguinity, marriage, adoption or other domestic bond. The term "family" does not include any society, association, organization or any other group whose domestic relationship is of a transitional or seasonal nature for an anticipated limited duration.

Family childcare home means a private home in which more than one but fewer than seven minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. The term "family childcare home" includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. The term "family childcare home" does not include an individual providing babysitting services for another individual. As used in this definition, the term "providing babysitting services" means caring for a child on behalf of the child's parent or guardian when the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would according to the Internal Revenue Code of 1986 obligate the child's parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services.

Floor area, gross, means the total floor area used for the main and accessory activities and storage areas of the building served.

Floor area, usable, means the total area of all the floors of the building used by the principal activities, measured from the exterior faces of the building. The areas used for storage, mechanical equipment, stairwell or otherwise not occupied by people shall be excluded from the usable floor area calculation.

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

Home occupation means an income-generating activity traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place that conforms to the provisions applicable to home occupations in section 44-257.

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

Lot means a piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory structures or utilized for a principal use and accessory uses, together with such open spaces as are required by this article. Lot area shall not include any part of a public right-of-way. (In the case of a site condominium subdivision, a site condominium building site shall be considered to be the equivalent of a "lot" for purposes of determining compliance with the applicable requirements of this chapter and with other applicable laws, ordinances or regulations.)

Lot, corner, means a lot that has a least two contiguous sides abutting upon two intersecting streets for their full length.

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

Lot line means the line that defines the boundaries of a lot or parcel of land.

Lot line, front, means, in the case of an interior lot, the line that separates the front yard from the street right-of-way line. In the case of a through lot, the lines separating the lot from each road right-of-way. In the case of a corner lot, the line separating the lot from the right-of-way on that side of the lot that has the narrowest street frontage.

Lot line, rear, means the lot line that is opposite the front line. In the case of a through lot, there shall be no rear lot line. In the case of a lot with side lot lines converging at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 20 feet long, lying farthest from the front lot line and wholly within the lot.

Lot line, side, means any lot line other than the front lot line or rear lot line.

Lot, through, means an interior lot having frontage on two streets that do not intersect at a point contiguous to such lot.

Marihuana. The term "marihuana" shall have the same definition as set forth in section 8-59.

Mobile home means a structure, transportable in one or more sections, that is built on a chassis and is designed to be used as a dwelling, with or without permanent foundation then connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems in the structure. The term "mobile home" does not include a recreational vehicle.

Mobile home park means a parcel or tract of land upon which three or more mobile homes are located on a continuous, non-recreational basis that is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for the occupancy of a mobile home.

Motel means a building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units that may or may not be independently accessible from the outside, with garage or parking space located on the lot, and designed for or occupied by automobile travelers. The term "motel" includes any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

Nonconforming lot means a lot that was platted or otherwise lawfully of record prior to the effective date of the ordinance from which this chapter is derived or of any amendment to this chapter but that, under the terms of this chapter as enacted or amended, does not comply with the area, depth or width requirements of its zoning district.

Nonconforming structure means a building or structure that was lawful prior to the effective date of the ordinance from which this chapter is derived or of any amendment to this chapter but that, under the terms of this chapter as enacted or amended, is no longer a permissible building or structure because of requirements regarding the height, yards, size, areas, coverage or other characteristics of the building or structure or its location on the property in question.

Nonconforming use means a use of land, a building, or a structure that was lawful prior to the effective date of the ordinance from which this chapter is derived or of any amendment to this chapter, but that is no longer a permissible use under the terms of this chapter as enacted or amended.

Outdoor sales means retail businesses whose principal activity is the sale or rental of merchandise in an outdoor setting, such as, but not limited to, farm implements, plants and trees, mobile homes, building supplies and vehicles.

Principal or main use means the primary or predominant use of a lot.

Public or institutional uses means churches, accredited public, parochial or private schools; trade schools or colleges; hospitals and nursing homes; parks and nonprofit recreational uses; libraries; government-owned facilities; cemeteries; and fire stations or similar uses providing service necessary to the community.

Salvage yards means where junk, waste or discarded or salvaged materials, including wrecked vehicles, used building materials, structural materials and equipment and other manufactured goods that are worn, deteriorated, or obsolete are bought, sold, exchanged, stored, baled, packed, disassembled or handled.

Sign means the use of any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to show an individual, firm, profession or business, and that are visible to the general public.

Sign, freestanding, means a sign that is not attached to a building or any architectural feature thereof and that is supported by uprights: braces, frames or some object on the ground.

Sign, temporary, means a freestanding sign that is designed and constructed in such a way as to be readily movable and that is not attached to the ground in a permanent fashion.

Site condominium subdivision means a plan or project consisting of two or more site condominium units established in compliance with the Condominium Act, MCL 55.101 et seq.

State-licensed residential facility (six or fewer persons) means a structure constructed for residential purposes that is licensed by the state pursuant to the Adult Foster Care Facility Licensing Act, MCL 400.701 et seq., or the Child Care Organizations Act, MCL 722.111, that provides resident services for six or fewer persons under 24-hour supervision or care for persons in need of that supervision or care. The term "state-licensed residential facility" does not include adult foster-care facilities licensed by a state agency for the care and treatment of persons released from or assigned to adult correctional institutions.

State-licensed residential facility (more than six persons) means an adult foster-care facility that is licensed by the state pursuant to the Adult Foster Care Facility Licensing Act MCL 400.701 et seq., or a child-care facility that is licensed by the state pursuant to the Child Care Organizations Act, MCL 722.111, that provides resident services for more than six persons under 24-hour supervision or care for persons in need of that supervision or care.

Street means a publicly owned and maintained right-of-way that affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, land, boulevard, highway, road, or other thoroughfares.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

Vehicle repair, major, means general repair, rebuilding, or reconditioning of engines or motor vehicles, collision service (including body repair and frame straightening), painting, upholstery or vehicle steam cleaning and undercoating as a business.

Vehicle repair, minor, means minor repairs, incidental replacement of parts or motor service to motor vehicles not exceeding two-ton capacity, but not including any repair or work included in the definition of "major vehicle repair."

Yard means a required open space unoccupied and unobstructed by any principal building or structure or portion thereof from 30 inches above the general ground level of the lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, front, means a yard extending across the full width of the lot the depth of which is the distance between the street right-of-way line and the nearest point of the main building. The depth of the front yard shall be measured perpendicular to a straight line drawn along the shortest distance between the right-of-way and the nearest point of the main building.

Yard, rear, means a yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and the nearest point of the main building.

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

(Ord. of 11-6-2017, art. 14)

Sec. 44-4. Interpretation and relationship to other regulations.

In interpreting and applying the provisions of this chapter, these provisions shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, restrictions established by other ordinances or statutes, or agreements between private parties. However, where this chapter imposes a greater restriction upon the use of buildings or lots or upon the height of buildings, or requires larger open spaces than are imposed or required by any other applicable rule, covenant or law, the provisions of this chapter shall govern. The city has no responsibility or authority for enforcing private agreements or covenants.

(Ord. of 11-6-2017, § 1.4)

Sec. 44-5. Conflict with state or federal regulations.

If the provisions of this chapter are inconsistent with those of the state or federal government, the more restrictive provisions will control, to the extent permitted by law.

(Ord. of 11-6-2017, § 1.5)

Sec. 44-6. Official zoning map.

The boundaries of the zoning districts established by this chapter are shown on a map designated as the official zoning map. The official zoning map, including all notations, references, data and other information shown therein, is adopted and made a part of this chapter as fully as if it were contained within the pages of this chapter.

- (1) *Location*. The official zoning map is filed in the office of the city clerk.
- (2) *Updates*. The planning commission is responsible for updating the official zoning map to reflect amendments adopted by the city council.
- (3) *Zoning district boundaries*. Where uncertainty exists with respect to the boundaries of the various districts, the following rules shall apply:
 - a. The district boundaries are public rights-of-way, including either streets, places or alleys unless otherwise shown; where the districts designated on the official zoning map are approximately

bounded by street, road, place or alley lines, the same shall be construed to be the boundary of the district.

- b. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines; where districts designated on the official zoning map are approximately bounded by lot lines, the same shall be construed to be the boundary of the districts, unless otherwise indicated on the official zoning map.
- c. Whenever any street, road, alley, place or other public way is officially vacated by the city or county or state road commission, the district adjoining each side thereof shall be automatically extended to the center of such vacation and all area included in the vacation shall thereafter be subject to all appropriate regulations of the extended districts.
- d. Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (3)a through c of this section, the zoning administrator shall interpret the boundaries.
- e. Any dispute in the determination of the zoning district boundaries shall be heard by the zoning board of appeals.

(Ord. of 11-6-2017, § 1.6)

Sec. 44-7. Nuisance per se.

Any building or structure that is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any term or provision of this chapter is declared to be a nuisance per se.

(Ord. of 11-6-2017, § 12.2; Res. No. 2019-27, 9-3-2019)

Secs. 44-8—44-32. Reserved.

ARTICLE II. ZONING DISTRICTS AND ZONING MAP

DIVISION 1. GENERALLY

Sec. 44-33. Relationship of city zoning regulations to community master plan.

This article is enacted to regulate the use of private and public property and structures with the purpose of protecting public health, safety and welfare. Standards and regulations within this article regulate the amount, type and use of a building allowable on a piece of land. This article is a tool used by the community to effectuate the recommendations of the community master plan, which is a guide for the long-term physical development of the city.

(Ord. of 11-6-2017, § 2.1)

Sec. 44-34. Districts established.

The city is divided into the following districts (see zoning map), which shall be known as:

R-1	Low-Density Residential
R-2	Medium-Density Residential
R-3	High-Density Residential
R-4	Mobile Home Park
C-1	Central Business
C-2	General Business
I-1	Light Industrial
I-2	General Industrial
PUD	Planned Unit Development
F-1	Floodplain Overlay
W-1	Wellhead Protection Overlay

(Ord. of 11-6-2017, § 2.2)

Sec. 44-35. Intent and purpose.

The intent and purpose of each zoning district are described in sections 44-36 through 44-43.

(Ord. of 11-6-2017, § 2.3)

Sec. 44-36. R-1 Low-Density Residential.

This district is intended for low-density, single-family dwellings and low intensity uses serving the majority of the single-family housing needs of the city. Two-family homes and other related uses may also be allowed under special conditions.



(Ord. of 11-6-2017, § 2.3.1)

Sec. 44-37. R-2 Medium-Density Residential.

This zoning district is intended for medium-density, single-family and two-family dwellings. Related residential activities may also be permitted under special conditions.



(Ord. of 11-6-2017, § 2.3.2)

Sec. 44-38. R-3 High-Density Residential.

This zoning district is intended for higher-density single-, two- and multiple-family residential dwellings and related uses.



(Ord. of 11-6-2017, § 2.3.3)

Sec. 44-39. R-4 Mobile Home Park.

This district is intended to accommodate the particular needs of mobile homes situated in mobile home parks. It is recognized that properly located mobile home parks can provide important alternate and affordable housing opportunities for city residents. All mobile home parks shall conform to the standards specified in Mobile Home Commission Act, MCL 125.2301 et seq., and the Mobile Home Parks and Seasonal Mobile Home Parks Health Standards, Mich. Admin. Code R 325.3311 et seq.



(Ord. of 11-6-2017, § 2.3.4)

Sec. 44-40. C-1 Central Business.

This zoning district is intended for retail businesses or service establishments that supply commodities or perform services that meet the daily needs of the residents with a minimal impact on adjacent residential development. This district should serve as the major commercial retail and service area of the city.



(Ord. of 11-6-2017, § 2.3.5)

Sec. 44-41. C-2 General Business.

This district is intended for more diversified and higher-intensity commercial land uses that would not be appropriate in the downtown area of the city due to possible objectionable conditions. This district is also appropriate for uses serving the motoring public. Increased setbacks and screening are required to protect neighboring land uses from any objectionable conditions.



(Ord. of 11-6-2017, § 2.3.6)

Sec. 44-42. I-1 Light Industrial.

This zoning district is intended for light industrial activities, such as compounding, assembling, or treating of articles or materials; light manufacturing; processing of raw materials; and other similar industrial uses. More intensive industrial uses, such as auto body repair and salvage yards, shall not be permitted. This district may also serve as a buffer between general industrial districts and residential areas of the city.



(Ord. of 11-6-2017, § 2.3.7)

Sec. 44-43. I-2 General Industrial.

This zoning district is intended for general industrial activities, such as the compounding, assembling, or treating of articles or materials; light manufacturing; processing of raw materials; and other similar industrial uses. This district is also intended to permit a planned business and service environment related to the airport and existing and proposed industrial uses.



(Ord. of 11-6-2017, § 2.3.8)

Secs. 44-44—44-74. Reserved.

DIVISION 2. OVERLAY DISTRICTS

Sec. 44-75. F-1 Floodplain Overlay.

It is the purpose of this district to protect the general public and all land in the city subject to flood losses, by minimizing such losses through restricting or prohibiting uses that are dangerous to resident's health, safety and property in times of flood or that cause excessive increases in flood flow heights or velocities. The floodplain overlay district shall apply to all land within the city shown as being within the 100-year floodplain on the flood insurance rate map (FIRM) of the National Flood Insurance Program and Federal Emergency Management Agency. While this overlay district is not shown on the official zoning map, property owners are responsible to determine if their property is located in a floodplain.

- (1) *Use standards.* Within the floodplain overlay district, except as otherwise required by state or federal laws or regulations, no use of land, building, or structure shall be made; no building or structure shall be erected, converted, or substantially improved or placed; and no land shall be filled unless:
 - a. The use in question is allowed in the applicable underlying zone district.
 - b. The use complies with all applicable construction requirements.
 - c. All necessary permits and approvals, as required by local, state, or federal laws and regulations, have been obtained for the use.
 - d. The use is approved as a special land use pursuant to the procedures and requirements of article IV of this chapter.
- (2) *Prohibited uses.* The following uses are prohibited in the floodplain overlay district:
 - a. A building or structure intended to be a permanent residence.
 - b. Landfills, dumps, or junkyards.
 - c. The storage or processing of materials that, in time of flooding, becomes buoyant, flammable, explosive, or otherwise injurious to public health.
 - d. On-site sewage disposal systems.

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- e. A new mobile home park or any extension to any existing mobile home park and all new mobile homes not in a mobile home park.
 - f. Any encroachment, excavation, dumping or backfilling that would cause any increase in the base flood level.
 - g. Enlargement of a building or structure to more than 25 percent of its square footage as it existed at the time of enactment of the ordinance from which this section is derived.
- (3) *Additional requirements.*
- a. Notwithstanding any provision of this section to the contrary, if a permit or approval from another local, state or federal body or agency cannot be issued prior to the issuance of a zoning permit by the city, a letter from the other agency or body indicating that the permit or approval will be issued contingent solely upon proof of zoning compliance shall be acceptable.
 - b. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
 - c. Land shall not be divided in a manner creating parcels or lots that cannot be used in conformance with the requirements of this section.
 - d. No structure, fill, excavation, or storage shall be permitted that, acting alone or in combination with existing or future uses, significantly and unduly affects the capacity of the floodway and, thereby, increases the height of the floodwaters.
 - e. Filling in the floodway may be permitted only after full compliance has been achieved, to the satisfaction of the planning commission, with the applicable provisions of MCL 324.3101 et seq., as amended, and all other applicable local, state, and federal laws and regulations. Any fill permitted shall be protected from erosion by riprap, vegetative cover, bulk heading or other approved means.
 - f. Prior to any alternation or relocation of a watercourse, notification shall be given to adjacent communities and the state department of natural resources, and evidence of such notification shall be submitted to the Federal Insurance Administration. Proper maintenance shall be provided within the altered or relocated watercourse so that the flood-carrying capacity is not diminished.
 - g. Structures shall be constructed and arranged on the building site so as to offer the minimum obstruction to the flow of floodwaters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flood flow and shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - h. Any excavation, fill extraction, grading or scarping shall require the prior approval and consent of the water resources commission of the state department of natural resources.
- (4) *Liability.* The degree of flood protection required by this section is considered the minimum necessary and reasonable for regulatory purposes. Larger floods may occur at any time, and excessive floodwater heights may be experienced due to manmade and natural causes, such as ice jams and accumulated debris in bridge openings. No representation is made by this section that areas outside the floodplain overlay district or uses permitted within the district shall remain free from flooding or flood damage. Under no circumstances shall the city or any officer or employee of the city be liable, to any degree, for any flooding or flood damage that might result from compliance with or reliance upon the provisions of this section or any decisions or administrative approvals lawfully granted under this chapter.

(Ord. of 11-6-2017, § 2.4.1)

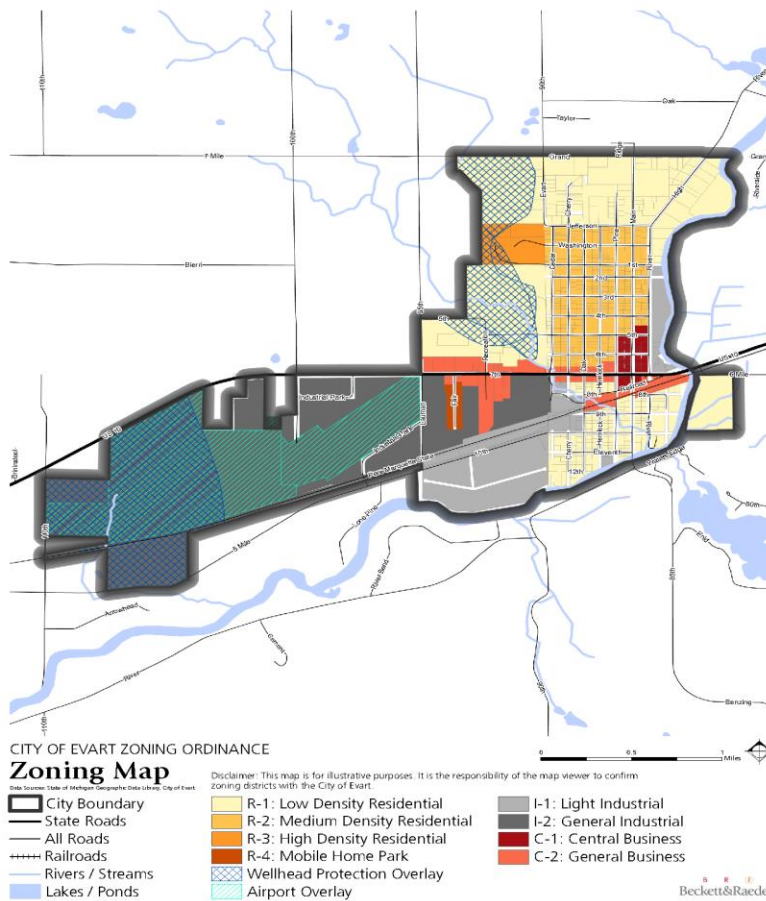
Sec. 44-76. W-1 Wellhead Protection Overlay.

- (a) *Intent.* It is the purpose of this district to protect the public water supply wells from contamination by land use activities occurring or which may occur within the delineated recharge areas for such wells. The wellhead protection overlay district shall apply to all land within the city wellhead protection area as mapped by the state department of environment, Great Lakes and energy. A WHPA is defined as the surface and subsurface areas surrounding a water well or well field, which supplies a public water system, and through which contaminants are reasonably likely to move toward and reach the water well or well field within a ten-year time-of-travel.
- (b) *Use standards.* The most significant sources of water supply contamination are landfills, surface impoundment areas, subsurface percolation from septic tanks and cesspools, open dumps, uncapped or improperly capped abandoned wells, injection wells and underground storage tanks. When considering approving new developments in the wellhead protection overlay district, the city will consider strategies for mitigating the following uses and associated activities that may have potential to contaminate the WHPA:
- (1) Manufacturing and industrial facilities;
 - (2) Utility companies;
 - (3) Abandoned wells;
 - (4) Registered storage tanks;
 - (5) Hazardous waste;
 - (6) Generators;
 - (7) Ground water discharges;
 - (8) Agricultural operations;
 - (9) Septic systems or dry wells.

(Ord. of 11-6-2017, § 2.4.2)

Sec. 44-77. Airport Overlay District.

The purpose of the airport overlay district is to provide an additional layer of development review for the area in and surrounding the Evert Municipal Airport. This overlay district is consistent with the Evert Municipal Airport Layout Plan, as approved by the state department of transportation in April 2017. All new development proposals should be compatible with airport uses and in compliance with the Evert Municipal Airport layout, as approved.



(Ord. of 11-6-2017, § 2.4.3)

Sec. 44-78. Properties with multiple zoning designations.

When an individual recorded parcel, which exists at the time of adoption of the ordinance from which this article is derived, has more than one zoning classification, the zoning designation which comprises the majority of the parcel area shall be applied to the entire parcel. In all other instances, interpretation of the boundaries of a zoning district shall be referred to the zoning board of appeals.

(Ord. of 11-6-2017, § 2.5)

Secs. 44-79—44-103. Reserved.

ARTICLE III. REGULATED USES AND DIMENSIONS

Sec. 44-104. Land use and zoning district table.

The use table in section 44-109 lists by land use type (i.e. residential, commercial, etc.) where a particular land use is allowed in a respective base zoning district.

(Ord. of 11-6-2017, § 3.1)

Sec. 44-105. Unlisted uses.

If an application is submitted for a use type that is not classified in the land use table in section 44-109, the planning commission is authorized to classify the new or unlisted use type into an existing land use category that most closely fits the new or unlisted use. If no similar use determination can be made, the planning commission may initiate an amendment to this chapter.

(Ord. of 11-6-2017, § 3.6)

Sec. 44-106. Land use type.

Land use types listed in the land use and base zoning district table are defined in section 44-3.

(Ord. of 11-6-2017, § 3.7)

Sec. 44-107. Compliance with district regulations.

Compliance with district regulations shall be required as follows:

- (1) No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered, nor shall any building or land be used, except for a purpose or use permitted in the district in which the building or land is located, nor in excess of the height and bulk limits established for such district.
- (2) No building or structure intended for a dwelling use shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the floor area regulations of the district in which it is located.
- (3) No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered except in conformity with the yard and lot area regulations and the off-street parking and loading regulations of the district in which such building is located.
- (4) The minimum yards, parking space and other open spaces, including lot area per family, required by this chapter for any building hereafter erected or structurally altered, shall not be encroached upon or considered open space or lot area requirement for any other building, nor shall any other lot area be reduced beyond the district requirements of this chapter.

- (5) Every building or structure hereafter erected or structurally altered shall be located on a lot as defined, and in no case shall there be more than one principal building on one lot, except as provided in parts of this article.

(Ord. of 11-6-2017, § 3.8)

Sec. 44-108. Uses contrary to law.

Uses for enterprises or purposes that are contrary to federal, state and city statutes, laws, or ordinances are prohibited.

(Ord. of 11-6-2017, § 3.9)

Sec. 44-109. Regulated uses.

Zoning Districts

Regulated Uses	R-1	R-2	R-3	R-4	C-1	C-2	I-1	I-2
<i>Principal</i>								
Single-family dwellings	P	P	P					
Two-family dwellings	S	P	P		S			
Multiple-family dwellings		S	P		S			
Mobile homes				P				
Family day care homes	P	P	P	P				
Home occupations	p*	p*	p*	p*				
State-licensed residential facilities (6 or fewer persons)	p*	p*	p*		p*	p*		
Adult day care homes	S	S	S	S		S		
Bed and breakfasts	S*	S*	S*					
Counseling rooms	S	S	S					
Group day care homes	S	S	S					
Public or institutional uses	S	S	S	S	S	S	S	S
State-licensed residential facilities (over 6 persons)	S*	S*	S*		S*			
Banks					P	P	P	
Dental/medical clinics					P	P		
Retail					P	P		
Offices					P	P		
Service establishments					P	P		
Restaurants					P	P	P	
Second floor residential units					P			
Car washes						P	P	P
Drive-through restaurants						S	S	S
Funeral homes	S	S	S			P		
Motels					S	P	P	
Gasoline service stations						S*	S*	S*
Veterinary clinics and groomers, no animals outdoors					P	P		
Adult entertainment businesses								S*
Childcare centers	S	S	S			S		

Outdoor sales						S*	S*		
Vehicle repair (major)							S	P	P
Research and development								P	P
Material processing and warehousing								S*	S*
Wholesale								P	P
Airports									S
Hotels							S	S	
Salvage yards								S	
Marihuana safety compliance facilities									S*
Marihuana processor facilities									S*
Marihuana secure transporters									S*
Marihuana grower facilities									S*
Marihuana provisioning centers									S*
Medical marijuana dispensary							S*		

If a land use is permitted by right in a zoning district, it is identified by the symbol "P."

The symbol "S" is noted if a land use is permitted after review and approval as a special land use in accordance with article IV of this chapter.

If a land use type is not allowed in a base zoning district, it is blank without a "P" or "S."

Land use types, denoted with an "*", are further regulated with site-specific standards as identified in article VII of this chapter, regarding general and specific standards.

(Ord. of 11-6-2017, §§ 3.2—3.5, 3.10; Ord. No. 2019-11, § 1, 10-21-2019)

Sec. 44-110. Schedule of dimensional requirements.

The regulations in this section specify parcel dimensions, setback requirements for parcels in each zoning district.

Dimensional Requirements

Zoning District	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Min. Front Yard (ft.)*	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Max. Height (ft.)	Min. Floor Area/Unit (sq. ft.)	Max. % Lot Coverage
R-1 Low-Density Residential	10,200	85	25	10	20	25	850	25
R-2 Medium-Density Residential							676	25
One-family dwelling	8,500	66	20	5	10	25		
Two-family dwelling	10,200	80	20	10	10	25		
R-3 High Density Residential							576	25

One-family dwelling	6,200	50	20	5	10	25		
Two-family dwelling	10,200	80	20	10	10	25		
Multifamily dwelling	10,200	100	30	20	20	30		
C-1 Central Business	N/A	N/A	0	0.5	10	42	N/A	N/A
C-2 General Business	N/A	N/A	N/A	25	10	42	N/A	N/A
I-1 Light Industrial	N/A	N/A	25	20	20	42	N/A	N/A
I-2 General Industrial	N/A	N/A	30	30	30	42	N/A	N/A

Reference Notes:

1. A lot that is platted or otherwise of record as of the effective date of the ordinance from which this article may be used as regulated in article V of this chapter.
2. Buildings on lots having frontage on two or more intersecting or non-intersecting streets shall comply with front yard requirements on all such streets.
3. The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, storage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances and communication and transmission antennas and towers that are controlled by the FCC.
4. Churches, agricultural buildings and indoor recreation buildings are permitted up to 42 ft. in height subject to planning commission approval.
5. A minimum of 3,500 square feet of land area shall be provided for each dwelling unit.
6. If the building is not structurally attached to an adjacent building or is not located immediately upon the property line, a side yard setback of ten feet shall be required.
7. If the side or rear yard abuts a property zoned residential, a 30-foot side or rear yard is required.
8. The minimum front yard setback shall be the distance indicated above or the average setback distance of block, whichever is less.

(Ord. of 11-6-2017, § 3.11)

Secs. 44-111—44-133. Reserved.

ARTICLE IV. SPECIAL LAND USES

Sec. 44-134. General provisions.

This article permits detailed review of certain types of land uses that, because of their characteristics, require a discretionary decision. Land uses requiring special considerations are listed in the remaining sections of this article. Each of these land uses shall require a special use permit. The general standards in this section must be met by all uses authorized by special use permit.

(Ord. of 11-6-2017, § 4.1)

Sec. 44-135. Permit procedures.

An application for a special use permit for any land use or structure permitted under this article shall be submitted and processed under the following procedures:

- (1) *Submission of application.* An application for a special use permit shall be submitted to the zoning administrator on a form established by the city. Each application shall be accompanied by the payment of a fee as established by the city council to cover costs of processing the application. No part of any fee is refundable.
- (2) *Information required.* Every application shall contain the following information:
 - a. The form supplied by the city zoning administrator filled out in full by the applicant, including a statement with supporting evidence showing that the requirements of section 44-346 are met.
 - b. Site plan application containing the information required by section 44-348.
- (3) *Planning commission review and hearing.* The zoning administrator shall review the application and determine whether it contains all of the required information. If the zoning administrator determines the application is not complete, he shall notify the applicant of what additional information is required. Once the zoning administrator determines the application is complete, he shall inform the planning commission, who shall set the date for a public hearing on the application. The city shall give notice of the public hearing pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 et seq. The planning commission may also keep the public hearing open for any additional planning commission meetings where the application is discussed. After the public hearing, and adequate review and study of the application, the city planning commission shall recommend a decision on the application, including the application for site plan approval, and forward its findings to the city council. If a separate document is not prepared, the planning commission's meeting minutes will serve as its findings.
- (4) *City council review and hearing.* The city council shall review the application, including the application for site plan approval, and the planning commission's recommendations, and shall decide whether to approve, approve with conditions, or deny the special use permit. The city council may also refer the application back to the planning commission for further consideration. The city council shall incorporate its final decision on a special use permit in a statement of findings and conclusions which specifies the basis for the decision and any conditions imposed. If a separate document is not prepared, the city council's meeting minutes (and, to the extent it concurs with the recommendations, the planning commission's meeting minutes) will serve as the city council's findings.
- (5) *Permit expiration.* A special use permit approved under this section shall be valid for a period of one year from the date of the approval of the application. If construction has not commenced and proceeded meaningfully toward completion by the end of this period, the zoning administrator shall notify the applicant in writing of the expiration of said permit. The planning commission may permit a one-year extension of the approval as a modification pursuant to section 44-470.

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- (6) *Revocation.* Pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 et seq., allowing for the placement of conditions on the approval of any special use permit, the city council shall have the authority to revoke any special use permit if it was granted in part because of a material misrepresentation by the applicant or an agent of the applicant; or the holder of the special use permit violates any term of the special use permit, including any condition, or any applicable requirement of this article. In either event, the city shall give written notice to the holder of the special use permit, by ordinary mail to the last address provided to the city by the holder of the special use permit. If the subject of the notice is a violation of a term or condition of the special use permit or the ordinance, the applicant shall have 30 days from the date of the notice to correct the violation, unless the time period is extended at the sole discretion of the city manager. If the violation is not corrected in time, or if the subject of the notice was a material misrepresentation by the applicant or its agent, the city council may revoke the special use permit with cause after a hearing. The city council shall establish notice requirements and such other conditions for the hearing as the city council deems appropriate, including, but not limited to, the subpoena of persons or documents. The holder of the special use permit shall reimburse the city for its costs, including expert consultant and attorney fees, associated with or resulting from a revocation proceeding. This subsection shall not prevent the city from seeking any appropriate relief in any other venue, including, but not limited to, civil infraction proceedings, criminal proceedings, or proceedings in civil court.
- (7) *Reapplication.* No application for a special use permit which has been denied wholly or in part by the city council shall be resubmitted until the expiration of one year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions.

(Ord. of 11-6-2017, § 4.1.1)

Sec. 44-136. General standards.

Before formulating recommendations for a special land use application, the planning commission shall require that the following general standards below and any specific standards for uses listed in sections 44-138 through 44-145 be satisfied. The planning commission shall review each application for the purpose of determining that each proposed use meets the following standards:

- (1) *Compatibility with the master plan.* The proposed special land use shall be compatible with and in accordance with the general goals and objectives of the city master plan and any associated sub-area and corridor plans.
- (2) *Compatibility with adjacent uses.* The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. In determining whether a special land use will be harmonious and not create a significant detrimental impact, as compared to the impacts of permitted uses, consideration shall be given to the degree of impact the special land use may have on adjacent property, as compared with the expected value to the city. The following types of impacts shall be considered:
 - a. Use activities, processes, materials, equipment or conditions of operation;
 - b. Vehicular circulation and parking areas;
 - c. Outdoor activity, storage and work areas;
 - d. Hours of operation;
 - e. Production of traffic, noise vibration, smoke, fumes, odors, dust, glare and light;
 - f. Impacts on adjacent property values; and

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- g. The relative ease by which the impacts above will be mitigated.
- (3) *Impact of traffic on the road network.* The location and design of the proposed special land use shall minimize the negative impact on the traffic network in consideration of items such as vehicle trip generation (i.e. volumes), types of traffic, access location and design, circulation and parking design, road capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points. Efforts shall be made to ensure that multiple transportation modes are safely and effectively accommodated in an effort to provide alternate modes of access and alleviate vehicular traffic congestion.
 - (4) *Impact on public services.* The proposed special land use shall be located where it can be adequately served by essential public facilities and services, such as highways, streets, pedestrian or bicycle facilities, police and fire protection, drainage systems, refuse disposal, water and sewage facilities and schools. Such services shall be provided and accommodated without excessive additional requirements at a public cost.
 - (5) *Compliance with city zoning regulations standards.* The proposed special land use shall be designed, constructed, operated and maintained to meet the stated intent of the zoning districts and shall comply with all applicable ordinance standards.
 - (6) *Impact on the overall environment.* The proposed special land use shall not have an unacceptable significant adverse effect on the quality of the natural environment in comparison to the impacts associated with typical permitted uses.
 - (7) *Licensing.* The application shall comply with all applicable licensing ordinances.
 - (8) *Additional provisions.* The planning commission may stipulate such additional conditions and safeguards deemed necessary for the general welfare for the protection of individual property rights, and for ensuring that the intent and objectives of this article will be observed. The breach of any condition, safeguard, or requirement shall automatically invalidate the granting of the special land use.
 - (9) *Special land use specific requirements.* The general standards and requirements of this section are basic to all uses authorized by special land use. The specific and detailed requirements must be met by those uses in addition to the foregoing general standards and requirements where applicable.

(Ord. of 11-6-2017, § 4.1.2)

Sec. 44-137. Specific standards.

In addition to meeting the general standards, the uses listed in sections 44-138 through 44-145 shall also meet the specific standards.

(Ord. of 11-6-2017, § 4.2)

Sec. 44-138. Adult entertainment businesses.

Special regulation is needed to ensure these uses are not concentrated in any one area, thus, preventing adverse effects upon the surrounding neighborhood, such as blight and urban deterioration, negative effects on economic development potential, social disorder and crime, negative effects on community standards for aesthetics, the reduction of property values, and the subsequent negative impact on the community tax base. The primary objective is to prevent a concentration of these uses by establishing spacing standards and, thus, ensuring disbursement of these uses throughout the community.

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- (1) Adult entertainment businesses shall not be approved if there is, already in existence, one or more adult entertainment businesses within 1,500 feet of the boundaries of the site of the proposed business.
 - (2) Adult entertainment businesses shall not be approved if the proposed location is within 1,000 feet of any residential district; 1,500 feet of any licensed day-care facility, adult foster-care home, senior citizens' center, park or church; or 2,650 feet from any K-12 school.

(Ord. of 11-6-2017, § 4.2.1)

Sec. 44-139. Bed and breakfasts.

- (a) *Defined.* As used in this section, a "bed and breakfast establishment" is a dwelling having one kitchen and used for the purpose of providing one meal daily, that being breakfast, and lodging for pay or compensation, of any kind, to persons other than members of the family occupying the dwelling
- (b) *Annual permit required; application and fee.* Each bed and breakfast establishment in the city shall apply annually for a permit. The application shall be made to the city manager and shall be accompanied by an annual fee of \$100.00.
- (c) *Inspections.* Bed and breakfast establishments shall allow reasonable inspections upon notice, by all building, fire and police officials of the city or their designees.
- (d) *Attendants to be on business premises.* A manager or agents shall be present on the premises of the bed and breakfast establishment at all times when guests are present.
- (e) *Permit revocation or nonrenewal.* A violation of any provision of this Code or other city ordinance, state statute, or other law or regulation, by the owner, manager, agents or guests of the bed and breakfast establishment, shall be considered grounds for non-renewal or cancellation of the permit authorized under this section.
- (f) *Additional regulations.*
 - (1) Kitchen facilities are allowed, as approved by the appropriate city, county and state agencies.
 - (2) Exterior solid waste facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.
 - (3) The dwelling unit in which the bed and breakfast operation takes place shall be the principal residence of the homeowner, who shall live on the premises while the operation is active.
 - (4) Meals may be served only to residents, employees, family members and overnight guests.

(Code 2009, §§ 808.02—808.06; Ord. of 11-6-2017, § 4.2.2)

Sec. 44-140. Outdoor sales.

- (a) No merchandise shall be located in the road right-of-way or within five feet of any adjacent lot line.
- (b) All structures shall be set back a minimum of 30 feet from any lot line in a residential district.
- (c) The planning commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

(Ord. of 11-6-2017, § 4.2.3)

Sec. 44-141. Gasoline service stations.

The following requirements for site development together with any other applicable requirements of this article shall be complied with for gasoline service stations:

- (1) *Enclosed building.* All accessory uses and services shall be conducted within a completely enclosed building.
- (2) *Minimum site size.* 15,000 square feet with a minimum lot width of 150 feet.
- (3) *Site location.* The proposed site shall have at least one property line on a major thoroughfare.
- (4) *Building setback.* Any buildings that are part of a gasoline service station shall be set back 40 feet from all street right-of-way lines and shall not be located closer than 25 feet to any property line in the residential zoning districts.
- (5) *Access drives.* No more than two driveway approaches shall be permitted directly from any other public street.
 - a. Driveway approach widths shall not exceed 35 feet measured at the property line.
 - b. Driveways shall be located as far from street intersections as practicable, but no less than 50 feet.
 - c. No driveway or curb cut for a driveway shall be located within 10 feet of an adjoining property line.
 - d. Any two driveways giving access to a single street shall be separated by an island with a minimum dimension of 20 feet.
- (6) *Curbing and paving.* A raised curb of at least six inches in height shall be erected along all of the street property lines, except at driveway approaches. The area used for servicing vehicles within the gasoline service station property lines shall be paved with a permanent surface of concrete or asphalt.

(Ord. of 11-6-2017, § 4.2.4)

Sec. 44-142. State-licensed residential facilities generally.

- (a) All dwelling units shall contain at least 350 square feet per unit.
- (b) Total coverage of all buildings, including dwelling units and related buildings shall not exceed 25 percent of the total site.
- (c) The maximum allowable density shall be 25 units per acre.
- (d) One parking space per dwelling unit shall be required, of which 25 percent shall be designated for non-resident (visitor) parking, plus an additional space per employee on the maximum working shift.
- (e) A minimum of 200 square feet of open space is required per dwelling unit. Open space shall not be occupied by principal buildings, accessory buildings, driveways, parking or loading space. Open space shall be available to all occupants of the development.

(Ord. of 11-6-2017, § 4.2.5)

Sec. 44-143. Additional requirements for state-licensed residential facilities (over six persons).

State-licensed residential facilities with over six persons may have two or more residential buildings of similar or differing character built upon one lot or parcel of land, when a site plan is submitted to and approved by the city council when the following requirements have been complied with:

- (1) Minimum lot size shall be two acres.
- (2) No facility shall be established on a lot or parcel having a width less than 150 feet; provided, however, that the average lot area per family or dwelling unit shall not be less than required for other residential development in the same zone.
- (3) Total coverage of all buildings, including dwelling units and related buildings shall not exceed 35 percent of the total site.
- (4) Maximum building height. The maximum height of buildings housing the principal use shall be governed by the requirements in the zoning district. Accessory buildings shall not exceed 15 feet in height.
- (5) Private streets. Private streets or private access drives may be permitted within group housing developments, provided that the following minimum requirements are met:
 - a. All streets, roadways, or private access drives meet all other private street requirements under the ordinance and shall be designed to at least the minimum design, construction, inspection, approval and maintenance requirements of the state department of transportation for private roads.
 - b. Satisfactory arrangements have been made with the planning commission regarding the maintenance and repair of streets, roadways or access drives.

(Ord. of 11-6-2017, § 4.2.6)

Sec. 44-144. Material processing and warehousing.

- (a) *Data required.* In addition to the information required by section 44-136, the applicant shall submit the following information to the city:
 - (1) A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, fire or safety hazards, or the emission of any active potentially harmful or obnoxious matter, or radiation or radioactive materials.
 - (2) Engineering and architectural plans. For the proposed handling of any excess traffic congestion, noise, glare, air pollution, water pollution, fire or safety hazards, or emission of potentially harmful or obnoxious matter, or radiation or radioactive materials.
 - (3) The proposed number of shifts to be worked and the maximum number of employees on each shift.
- (b) *Use requirements.*
 - (1) Enclosed buildings. All activities related to this use shall be carried out in completely enclosed buildings. Storage may be permitted out-of-doors by the city, provided that within 100 feet of the residential district, all storage shall be in completely enclosed buildings. All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates.
 - (2) Such fence or wall shall be at least six feet in height, but in no case shall the required fence be higher than eight feet. Such storage shall not be deemed to include the parking of licensed motor vehicles.

The city may approve a screening of plant materials and berming, provided the approved screening will have the immediate effect of screening the proposed use. Plans and specifications for such screening shall be a part of plans required under section 44-291.

- (3) Noise emanating from this use shall not exceed the level of ordinary conversation at the boundaries of the lot. Noise may equal but shall not exceed average street traffic noise.
- (4) This use shall conform to the following additional requirements:
 - a. Emit no obnoxious, toxic, or corrosive fumes or gases which are deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.
 - b. Emit no smoke, odorous gases, or other odorous matter in such quantities as to be offensive at or beyond any boundary of the use of the parcel.
 - c. Discharge into the air no dust or other particulate matter created by any industrial operation or emanating from any products stored prior or subsequent to processing.
 - d. Produce no heat or glare humanly perceptible at or beyond the lot boundaries.
 - e. Produce no physical vibrations humanly perceptible at or beyond the lot boundaries.
 - f. Discharge no radiation or radioactive materials that exceed quantities established by the Federal Bureau of Standards.
 - g. Does not include in the manufacturing process any production or storage of any material designed for use as an explosive, or in the use of any such material in production.
- (5) Yards for this use shall conform to the following requirements:
 - a. Except for landscaping and necessary drives and walks, the front yard shall remain clear, and shall not be used for parking, loading, or accessory structures. Side and rear yards, except for a strip along the lot boundary ten feet in width, may be used for parking and loading but not for storage. The side or rear yard may be eliminated where a railroad service to the site is obtained at that edge of the lot.
 - b. When the side or rear yard areas abut land within the residential zoning districts and when such yard areas are to be used for parking, loading, unloading, or servicing, then such side and rear yard areas shall be effectively screened by a solid, uniformly finished wall or fence. Such wall or fence shall be at least four feet in height, but in no case shall the fence or wall be lower than the enclosed parking, loading or servicing activity to be screened. The height and intent of such wall or fence shall be determined by the city on the basis of proposed side or rear yard usage.

(Ord. of 11-6-2017, § 4.2.7)

Sec. 44-145. Marihuana.

- (a) *Marihuana dispensary.* As regulated by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., a primary caregiver may operate a marihuana dispensary and provide marihuana to up to five qualified patients. The dispensary must comply with the provisions of article III of chapter 8 of this Code.
- (b) *Facilities permitted through special use permit.* As regulated by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., and the Marihuana Tracking Act, MCL 333.27901 et seq., following marihuana facilities are permitted through special use permit in the city:
 - (1) Marihuana safety compliance facilities;

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- (2) Marihuana processor facilities;
 - (3) Marihuana secure transporters;
 - (4) Marihuana grower facilities; and
 - (5) Marihuana provisioning centers.
- (c) *Location of facilities.* All marihuana grower facilities must be located within the I-2 General Industrial District. All other marihuana facilities must be located within the I-2 General Industrial District, or the C-2 General Business District, and must be in compliance with the provisions of chapter 8, article III, of this Code.
- (Ord. of 11-6-2017, § 4.2.8; Ord. No. 2018-2, § 1, 5-7-2018)

Sec. 44-146. Performance guarantee.

To ensure compliance with the ordinance and any conditions imposed, the city council may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the city covering the estimated cost of improvements be deposited with the city clerk to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the special use permit. The city shall not require the deposit of the performance guarantee until it is prepared to issue the permit. If requested by the holder of the special use permit, the city shall rebate any cash deposits in reasonable proportion to the ratio of work completed on the required improvements as work progresses. This section shall not apply to improvements for which a performance guarantee has been deposited under the Land Division Act, MCL 560.101 et seq.

(Ord. of 11-6-2017, § 4.3)

Sec. 44-147. Amendments and modifications.

- (a) The zoning administrator may authorize insignificant deviations in special use permits if the resulting use will still meet all applicable standards and requirements of this article. A deviation is insignificant if the zoning administrator determines it will result in no discernible changes to or impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements to the property.
- (b) The planning commission may permit minor modifications in special use permits if the resulting use will still meet all applicable standards and requirements of this article. The planning commission may decide minor modifications without a formal application, public hearing, or payment of an additional fee. For purposes of this section, minor modifications are those the zoning administrator determines have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- (c) All other requests for amendments to special use permits shall be processed in the same manner as new special use permit applications. The city may impose new conditions on the approval of an amendment request if such conditions are warranted under section 44-136. The holder of the special use permit may reject such additional conditions by withdrawing the request for an amendment and proceeding under the existing special use permit.
- (d) The holder of a special use permit may request changes under this section by making the request in writing to the zoning administrator. Approval of all changes must be given in writing.

(Ord. of 11-6-2017, § 4.4)

Secs. 44-148—44-177. Reserved.

ARTICLE V. LAND DEVELOPMENT OPTIONS

Sec. 44-178. Planned unit developments.

This article provides for planned unit developments to further the health, safety, and general welfare of city residents by permitting the city flexibility in the regulation of land development and encouraging innovation and variety in land use and design of projects. The standards of this article are intended to encourage and provide for a more efficient arrangement of land uses, buildings, circulation systems and infrastructure.

(Ord. of 11-6-2017, § 5.1)

Sec. 44-179. Eligibility.

- (a) *Generally.* An application for a planned unit development may be submitted on any parcel or contiguous parcels within the city where the site meets one or more of the following criteria:
- (1) Mixed or varied uses are proposed that cannot be achieved under a single zoning district;
 - (2) The site exhibits unusual topography or a unique setting within the community;
 - (3) Innovation and variety of design are proposed that are not achievable under the current zoning districts of this article;
 - (4) Additional amenities are made possible by and incorporated within the development;
 - (5) A substantial public benefit is proposed within or as a result of the project;
 - (6) A cross-jurisdictional development is proposed that warrants flexibility in terms of design and layout.

Approval will not be granted when the planned unit development is determined to be sought primarily to avoid the imposition of standards and requirements of existing zoning classifications rather than to achieve the objectives of this article.

- (b) *Minimum site size.* The site on which an application for planned unit development is proposed shall be self-contained and shall contain no less than five contiguous acres (exclusive of all existing public and private road rights-of-way on the perimeter of the site). Notwithstanding anything contained in the preceding sentence to the contrary, in the event that a planned unit development is proposed which lies partially within and partially outside the jurisdictional boundary of the city and that portion lying within the city is less than five acres in size, that portion lying within the city may, in the discretion of the planning commission, be combined with the acreage of those areas of the proposed planned unit development lying beyond the city's jurisdictional boundaries for purposes of establishing whether the five acre minimum has been met.
- (c) *Exceptions to site size.* To encourage flexibility and creativity consistent with the objectives of this chapter, the planning commission may approve projects of less than five acres. Such a deviation shall be approved through a finding of fact by the planning commission that the deviation meets the purpose of a planned unit development set forth in approval criteria. In granting such a deviation, the planning commission shall consider factors such as preservation of steep topography, soils unsuitable for development, surrounding land uses which may make the parcel unsuitable for traditional development, transfer of acreage or easements to the city or other appropriate organization for broadly beneficial public projects, or truly innovative design. Such a dimensional deviation is not subject to variance approval by the zoning board of appeals.

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- (d) *Site accessibility.* A planned unit development shall be directly accessible from a major thoroughfare. The city may authorize a project that does not have direct access to a major thoroughfare, provided appropriate findings of fact are made demonstrating that:
- (1) The project is directly accessible from a public road of suitable design and construction to handle any anticipated traffic that will be generated by the project;
 - (2) The anticipated traffic volumes are not reasonably expected to result in adverse impacts for those uses and properties along the public road system; and
 - (3) The efficiency and safety of the overall public road system will not be negatively impacted.
- (e) *Open space.* A planned unit development shall be designed to incorporate a minimum of 20 percent useable open space to supplement the residents of the PUD or city. These areas are anticipated to provide recreational opportunities such as parks, trails, playgrounds and other similar opportunities.

(Ord. of 11-6-2017, § 5.1.1)

Sec. 44-180. Preliminary review and decision.

- (a) *Generally.* Preliminary review shall establish proposed land uses, project density, site layout and design, proposed vehicular and pedestrian circulation patterns, natural resource protection areas, open space, land use buffers, grading, stormwater management patterns and site servicing. Final engineering is not required for preliminary review and decision.
- (b) *Completeness review.* The zoning administrator or planner of record shall conduct a completeness review.
- (c) *Planning commission.* The planning commission shall hold a public hearing on the development application. Following review and public hearing on the application, the planning commission shall make a preliminary recommendation to the city council on whether to approve or deny the request for preliminary planned unit development approval. Preliminary recommendation of a planned unit development shall specify all conditions that must be satisfied prior to submission of the planned unit development under final review and decision. Preliminary plans may not be changed or amended except as required by final engineering.
- (d) *City council.* Upon receipt of the planning commission's recommendation, the city council may hold a public hearing on the application for preliminary planned unit development approval and may specify additional conditions or requirements that shall be satisfied prior to submission of the planned unit development under final review and decision. Preliminary plans may not be changed or amended except as required by final engineering.

(Ord. of 11-6-2017, § 5.1.2)

Sec. 44-181. Final review and decision.

- (a) *Generally.* Final review shall address all conditions imposed by the planning commission or city council in the preliminary decision on the planned unit development. Applications for final review and decision shall not be considered until all conditions have been addressed.
- (b) *Completeness review.* The zoning administrator or planner of record shall conduct a completeness review to determine that all conditions of the preliminary decision have been addressed. No application shall be referred to the planning commission until this standard has been satisfied. The appellate agency for purposes of this completeness review is the planning commission. Upon certification by the zoning administrator or planner of record that all requirements of the preliminary recommendation have been satisfied, the application shall be referred to the planning commission for its final review and recommendation.

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- (c) *Planning commission.* The planning commission may hold a public hearing on such application for final review and decision. After review, the planning commission shall transmit its final recommendation to the city council to approve, approve with final conditions, or deny the request.
- (d) *City council.* The city council shall hold a public hearing on the application for final review and decision. Following review and public hearing, the city council shall deny, approve or approve with final conditions the request for final planned unit development approval. Approval of a planned unit development shall be incorporated in a report and decision order that shall include the decision, the basis for the decision and any final conditions imposed.
- (e) *Approval criteria.* In its review of an application the city shall, at a minimum, consider the criteria as follows:
- (1) *Scope of authority; uses.* A planned unit development may include any principal and other uses permitted by right, permitted under special condition or permitted by special use permit in the zoning district where the land is located. The city council may also authorize principal and other uses not permitted in the zoning district where the land is located, provided appropriate findings of fact are made demonstrating that:
 - a. The proposed uses, within the context of the overall development plan, are harmonious and compatible with the planned uses of the site and the surrounding area, as provided for within the master plan;
 - b. The proposed density is in accordance with the policies and objectives set out in the master plan; and
 - c. In areas where the surrounding lands have been substantially developed in accordance with a particular land use character, pattern and density, the planned unit development shall be consistent and compatible with that existing land use character, pattern and density.
 - (2) *Scope of authority; dimensional standards.* A planned unit development may alter and establish lot size limits, required facilities, buffers, open space areas, density limits, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, miscellaneous regulations and intensity limits where such regulations or changes are consistent with the intent of this section and the standards set forth herein.
 - (3) *Objectives.* The following objectives shall be considered in reviewing any application for a planned unit development:
 - a. To permit flexibility in the regulation of land development;
 - b. To encourage innovation in land use and variety in design, layout and type of structures constructed;
 - c. To achieve economy and efficiency in the use of land, natural resources, energy and the providing of public services and utilities;
 - d. To encourage useful open space; to provide improved housing, employment, and shopping opportunities particularly suited to the needs of the region;
 - e. To encourage the innovative use, re-use, and improvement of existing sites and buildings; and
 - f. To permit development in accordance with the policies and objectives of the master plan.
 - (4) *Criteria.* In order to foster the attractiveness of a planned unit development and its surrounding neighborhoods, preserve property values, provide an efficient road and utility network, ensure the movement of traffic, implement comprehensive planning, and better serve the public health, safety and general welfare, the following criteria apply to planned unit developments. These criteria shall

neither be regarded as inflexible requirements, nor are they intended to discourage creativity or innovation:

- a. The uses will be compatible with the natural environment, and with adjacent and surrounding land uses and properties, and will not have an adverse economic, social or environmental impact on adjacent and surrounding land uses and properties;
 - b. The uses will be compatible with the capacity of existing public services and facilities, or of planned and feasible future public services and facilities and such uses are consistent with the public health, safety and welfare of the city residents;
 - c. The uses and development are warranted by the design of additional amenities made possible with, and incorporated by, the development proposal;
 - d. Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil disturbance and removal;
 - e. Existing important natural, historical and architectural features within the development shall be preserved;
 - f. Proposed buildings shall be sited harmoniously to the terrain and to other buildings in the vicinity that have a visual relationship to the proposed buildings;
 - g. With respect to vehicular and pedestrian circulation and parking, special attention shall be given to the location and number of access points to public streets, minimizing potential motorized/non-motorized conflict points, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and the arrangement of parking areas that are safe and convenient and, insofar as is practicable, do not detract from the design of proposed structures and neighboring properties;
 - h. Landscaping is provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and, where applicable, to create a pleasant pedestrian scale outdoor environment;
 - i. The development consolidates and maximizes usable open space;
 - j. The benefits of the development are not achievable under any single zoning classification; and
 - k. The development is compatible with the intent and purpose of the adopted master plan.
- (f) *Amendments.* Amendments to an approved planned unit development shall be considered according to the review procedure under final review and decision.

(Ord. of 11-6-2017, § 5.1.3)

Sec. 44-182. Site condominium subdivisions.

This section requires preliminary review by the planning commission, followed by final review and approval by the city council, of site condominium subdivision site plans to ensure that site condominium projects comply with this chapter. Site condominium projects may be approved as provided by this section in any zoning district for the uses permitted by this chapter in the zoning district in which the project is located. All site condominium subdivisions shall comply with the following requirements and procedures:

- (1) Prior to final review and approval of a site condominium subdivision site plan by the city council, a preliminary site condominium subdivision site plan shall be reviewed by the planning commission in accordance with the procedures, standards, and requirements provided by this section.

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- (2) All site condominium subdivisions shall require site plan approval by the planning commission in accordance with article VIII of this chapter. To the extent not provided in connection with the site plan as required by article VIII of this chapter, the following documents and information shall also be included for site condominium subdivision site plan review:
- a. The documents and information required by MCL 559.166 of the Condominium Act, MCL 559.101 et seq., for condominium subdivision plans.
 - b. All information as required for preliminary and final plat review by the city subdivision regulations, as amended.
 - c. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
 - d. A storm drainage and a stormwater management plan, including all lines, swales, drains, basins and other facilities and easements granted for installation, repair and maintenance of all drainage facilities.
 - e. A utility plan showing all water and sewer lines and easements granted for installation, repair and maintenance of all utilities.
 - f. A narrative describing the overall objectives of the proposed site condominium project.
 - g. A narrative describing the proposed method of providing potable water supply waste disposal facilities, and public and private utilities.
 - h. Documented proof of review by the county or state road commission, the drain commissioner, the health department, the state department of transportation and the state department of natural resources.
- (3) The planning commission shall review the preliminary site condominium subdivision site plan in accordance with the standards and requirements contained in article VIII of this chapter and in accordance with the following additional standards and requirements:
- a. In its review of a site condominium site plan, the planning commission may consult with the ordinance enforcement officer, the city attorney, the city engineer, the city fire chief, the city planner or other appropriate officials and persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design or other aspects of the proposed project.
 - b. The building site for each site condominium unit shall comply with all applicable provisions of this article, including minimum lot area; minimum lot width; required front, side, and rear yards; and maximum building height for the district in which the property is located. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front side, and rear yards shall be determined by measuring the distance from the equivalent front, side or rear yard boundaries of the building site to the closest respective front side, or rear boundary of the building envelope.
 - c. The planning commission shall require that portions of the site plan, as relevant to the reviewing authority in question, be submitted to the applicable county health department, county road commission, county drain commission, state department of natural resources, state department of public health, and other appropriate state and county review and enforcement agencies having direct approval or permitting authority over any aspect of the proposed site condominium project.
 - d. All site condominium subdivisions shall meet the subdivision design layout standards and subdivision improvement requirements of the city subdivision regulations, as amended.

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- (4) After reviewing the preliminary site plan, the planning commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the site plan. The planning commission shall provide a copy of its written recommendations to the applicant and to the city council.
 - (5) After receiving the planning commission's recommendations on the preliminary site plan, the applicant shall submit, to the city council, a final site condominium subdivision plan that complies with the requirements of this section. The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the planning commission based on its prior review of the preliminary plan. If any of the planning commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify, in writing, which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the planning commission, the final plan shall otherwise be identical to the preliminary plan that was reviewed by the planning commission. Changes made to the plan, other than those necessary to incorporate the recommendations of the planning commission, shall be reviewed by the planning commission as provided by this article prior to approval of the plan by the city council.
 - (6) After receiving the planning commission's recommendations on the preliminary plan and a final site plan from the applicant, the city council shall proceed to review and may approve, deny, or approve with conditions the plan is accordance with the applicable standards provided by this section and article VIII of this chapter.
 - (7) The city clerk shall receive a copy of the recorded master deed for the project, if approved, as defined in MCL 559.108 of the Condominium Act, MCL 559.101 et seq. The master deed must ensure that the city will not be responsible for maintenance or liability of the non-dedicated portions of the site condominium subdivision, that snow removal will be provided, and that there is adequate access and turnaround for emergency vehicles. Responsibility for the maintenance to stormwater retention areas, drainage easement, drainage structures, lawn cutting and other general maintenance of common areas must be clearly stated.
 - (8) No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection, with a proposed site condominium project except in compliance with a final site plan as approved by the city council, including any conditions of approval and other applicable requirements of local, state or federal laws and regulations.
 - (9) No building or grading permits shall be issued by the city for a site condominium project until a final site plan has been approved by the city council, all conditions to commencement of construction imposed by the city council have been met, and all applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project. The code enforcement officer shall be furnished with two copies of all as-built drawings for review by the city engineer for compliance with all city ordinances prior to the issuance of any building permits. Fees for this review shall be established by resolution of the city council.
 - (10) Approval of a final site plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the city council in compliance with the procedures, standards and requirements of this section.
 - (11) Any change proposed in connection with a project for which a final site condominium subdivision site plan has previously been approved by the city council shall be subject to review as required for the original application as provided by this section.
 - (12) The approval of a site condominium subdivision site plan by the city council shall be effective for a period not to exceed one year unless construction of the project commences within that one-year

period and is diligently pursued to completion in accordance with the terms and conditions of the approval. This one-year period may be extended by the city council for additional periods of time as determined appropriate by the council if the extension is applied for by the applicant within the effective period of the approval.

(Ord. of 11-6-2017, § 5.2)

Secs. 44-183—44-202. Reserved.

ARTICLE VI. HISTORIC DISTRICT

Sec. 44-203. Purpose.

- (a) Historic preservation is declared to be a public purpose and the city council may regulate the construction, addition, alteration, repair, moving, excavation and demolition of resources in historic districts within the city limits. The purpose of this article is to:
- (1) Safeguard the heritage of the city by preserving districts which reflect elements of its history, architecture, archaeology, engineering or culture.
 - (2) Stabilize and improve property values in each district and surrounding areas.
 - (3) Foster civic beauty.
 - (4) Strengthen the local economy.
 - (5) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the city and of the state.
- (b) The city may, by ordinance, establish one or more historic districts. The historic districts shall be administered by the historic district commission and pursuant to this article.

(Ord. No. 2019-08, § 2, 7-1-2019)

Sec. 44-204. 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:

Alteration means work that changes the detail of a resource but does not change its basic size or shape.

Certificate of appropriateness means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

Commission means the historic district commission of the city.

Demolition means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

Demolition by neglect means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

Denial means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

Fire alarm system means a system designed to detect and annunciate the presence of fire or byproducts of fire. The term "fire alarm system" includes smoke alarms.

Historic district means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering or culture.

Historic preservation means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering or culture.

Historic resource means a publicly or privately-owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering or culture of the city, county or country.

Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under MCL 399.205(6).

Open space means undeveloped land, a naturally landscaped area, or a formal or manmade landscaped area that provides a connective link or buffer between other resources.

Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. The term "ordinary maintenance" does not constitute work for the purposes of this article.

Proposed historic district means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee, for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

Repair means to restore a decayed or damaged resource to good or sound condition by any process. For the purposes of this article, a repair that changes the external appearance of a resource constitutes work.

Resource means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features or open spaces located within a historic district.

Smoke alarm means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this article, the term "single-station alarm" means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. The term "multiple-station alarm" means two or more single-station alarms that are capable of interconnection such that actuation of one alarm causes all integrated separate audible alarms to operate.

Work means construction, addition, alteration, repair, moving, excavation or demolition.

(Ord. No. 2019-08, § 3, 7-1-2019)

Sec. 44-205. Historic district study committee and the study committee report.

Before establishing a historic district, the city council shall appoint a historic district study committee. A majority of the persons appointed to the study committee shall have a clearly demonstrated interest in or knowledge of historic preservation. The study committee shall contain representation of at least one member appointed from one or more duly organized local historic preservation organizations. The study committee shall do all the following:

- (1) Conduct a photographic inventory of resources within each proposed historic district following procedures established by the state historic preservation office.

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- (2) Conduct basic research of each proposed historic district and historic resources located within that district.
 - (3) Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR 60, and criteria established or approved by the state historic preservation office.
 - (4) Prepare a preliminary historic district study committee report that addresses at a minimum all the following:
 - a. The charge of the committee.
 - b. The composition of committee membership.
 - c. The historic districts studied.
 - d. The boundaries of each proposed historic district in writing and on maps.
 - e. The history of each proposed historic district.
 - f. The significance of each district as a whole as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.
 - g. Transmit copies of the preliminary report for review and recommendations to the local planning body, the state historic preservation office of the state historical center, the state historical commission and the state historic preservation review board.
 - h. Make copies of the preliminary report available to the public pursuant to MCL 399.203(4).
 - (5) Not less than 60 calendar days after the transmittal of the preliminary report, the historic district study committee shall hold a public hearing in compliance with the Open Meetings Act, MCL 15.261 et seq. Public notice of the time, date and place of the hearing shall be given in the manner required by the Open Meetings Act, MCL 15.261 et seq. Written notice shall be mailed by first class mail not less than 14 calendar days prior to the hearing to the owners of properties within the proposed historic district, as listed on the most current tax rolls. The report shall be made available to the public in compliance with the Freedom of Information Act, MCL 15.231 et seq.
 - (6) After the date of the public hearing, the committee and the city council have not more than one year, unless otherwise authorized by the city council, to take the following actions:
 - a. The committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the local planning body to the city council as to the establishment of a historic district. If the recommendation is to establish a historic district, the final report shall include a draft of the proposed ordinances.
 - b. After receiving a final report that recommends the establishment of a historic district, the city council, at its discretion, may introduce and pass or reject an ordinance. If the city council passes an ordinance establishing one or more historic districts, the city shall file a copy of the ordinances, including a legal description of the property located within the historic districts with the register of deeds. The city council shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.

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- (7) A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function of the historic district commission should be made available to the public in compliance with the Freedom of Information Act, MCL 15.231 et seq.

(Ord. No. 2019-08, § 4, 7-1-2019; Ord. No. 2020-3, § 2, 3-2-2020)

Sec. 44-206. Establishing additional, modifying, or eliminating historic districts.

- (a) The city council may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the city council shall follow the procedures as stated in MCL 399.203(1)—(3). To conduct these activities, the city council may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved. The committee shall consider any previously written committee reports pertinent to the proposed action.
- (b) In considering elimination of a historic district, a committee shall follow the procedures set forth in MCL 399.203(1)—(3) for the issuance of a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:
- (1) The historic district has lost those physical characteristics that enabled the establishment of the district.
 - (2) The historic district was not significant in the way previously defined.
 - (3) The historic district was established pursuant to defective procedures.

(Ord. No. 2019-08, § 5, 7-1-2019; Ord. No. 2020-3, § 3, 3-2-2020)

Sec. 44-207. The historic district commission.

- (a) The city council may establish by ordinance a commission to be called a historic district commission. The commission may be established at any time, but not later than the time the first historic district is established.
- (b) Each member of the commission shall reside within the city limits. The commission shall consist of five members. Members shall be appointed by the city council. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Members shall be appointed for a term of three years, except the initial appointments of three members for a term of two years and two members for a term of one year. Subsequent appointments shall be for three-year terms. Members shall be eligible for reappointment.
- (c) In the event of a vacancy on the commission, interim appointments shall be made by the city council within 60 calendar days to complete the unexpired term of such position. Two members shall be appointed from a list submitted by duly organized local historic preservation organizations. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the state.
- (d) The city council may prescribe powers and duties of the commission, in addition to those prescribed in this article, that foster historic preservation activities, projects, and programs in the local unit.

(Ord. No. 2019-08, § 6, 7-1-2019; Ord. No. 2020-3, § 4, 3-2-2020)

Sec. 44-208. Historic district commission meetings, recordkeeping and rules of procedure.

- (a) The historic district commission shall meet at least quarterly or more frequently at the call of the commission.
- (b) The business that the commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, MCL 15.261 et seq. Public notice of the date, time, and place of the meeting shall be given in the manner required by the Open Meetings Act, MCL 15.261 et seq. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the commission.
- (c) The commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of or retained by the commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, MCL 15.231 et seq.
- (d) The commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines to carry out its duties under this article.

(Ord. No. 2019-08, § 7, 7-1-2019)

Sec. 44-209. Delegation of minor classes of work.

The commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff, or to another delegated authority. The commission shall provide to its delegated authority specific written standards for issuing certificates of appropriateness under this subsection. The commission shall review the certificates of appropriateness issued by the delegate on at least a quarterly basis to determine whether the delegated responsibilities should be continued.

(Ord. No. 2019-08, § 8, 7-1-2019)

Sec. 44-210. Ordinary maintenance.

Nothing in this article shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the inspector of buildings or other duly delegated authority before the ordinance from which this article is derived was enacted.

(Ord. No. 2019-08, § 9, 7-1-2019)

Sec. 44-211. Review by the commission.

The commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the city council or unless interior work will cause visible change to the exterior of the resource. The commission shall not disapprove an application due to considerations not prescribed in MCL 399.205(3).

(Ord. No. 2019-08, § 10, 7-1-2019)

Sec. 44-212. Design review standards and guidelines.

- (a) In reviewing plans, the commission shall follow the United States Secretary of Interior's Standards for Rehabilitation and guidelines for rehabilitating historic buildings as set forth in 36 CFR part 67. Design review

and standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the Secretary of Interior's Standards and guidelines and are established or approved by the state historic preservation office.

- (b) In reviewing plans, the commission shall also consider all of the following:
- (1) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
 - (2) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
 - (3) The general compatibility of the design, arrangement, texture and materials proposed to be used.
 - (4) Other factors, such as aesthetic value, that the commission finds relevant.
 - (5) Whether the applicant has certified in the application that the property where the work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-Derossett-Hale Single State Construction Code Act, MCL 125.1501 to 125.1531.

(Ord. No. 2019-08, § 11, 7-1-2019; Ord. No. 2020-3, § 5, 3-2-2020)

Sec. 44-213. Permit applications.

- (a) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution or agency of government proposing to do that work shall file an application for a permit with the inspector of buildings.
- (b) Upon receipt of a complete application, the inspector of buildings shall immediately refer the application, along with all required supporting materials that make the application complete to the commission. A permit shall not be issued, and proposed work shall not proceed until the commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this article. A commission shall not issue a certificate of appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-Derossett-Hale Single State Construction Code Act, MCL 125.1501 to 125.1531.
- (c) The commission shall file certificates of appropriateness, notices to proceed and denials of applications for permits with the inspector of buildings. A permit shall not be issued until the commission has acted as prescribed by this article.
- (d) If an application is for work that will adversely affect the exterior of a resource the commission considers valuable to the city, the state, or the nation, and the commission determines that the alteration or loss of that resource will adversely affect the public purpose of the city, state or nation, the commission shall attempt to establish with the owner of the resource an economically feasible plan for the preservation of the resource.
- (e) The failure of the commission to act on an application within 60 calendar days after the date a complete application is filed with the commission, unless an extension is agreed upon in writing by the applicant and the commission, shall be considered to constitute approval.
- (f) The commission may charge a reasonable fee to process a permit application.

(Ord. No. 2019-08, § 12, 7-1-2019)

Sec. 44-214. Denials.

If a permit application is denied, the decision shall be binding on the inspector or other authority. A denial shall be accompanied by a written explanation by the commission of the reasons for denial and, if appropriate, a notice that an application may be re-submitted for commission review when the suggested changes have been made. The denial shall also include the notification of the applicant's right to appeal to the state historic preservation review board and to the circuit court.

(Ord. No. 2019-08, § 13, 7-1-2019)

Sec. 44-215. Notice to proceed.

Work within a historic district shall be permitted through the issuance of a notice to proceed by the commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:

- (1) The resource constitutes a hazard to the safety of the public or to the structure's occupants.
- (2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
- (3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
- (4) Retaining the resource is not in the interest of the majority of the community.

(Ord. No. 2019-08, § 14, 7-1-2019)

Sec. 44-216. Appeal of a commission decision.

- (a) An applicant aggrieved by a decision of the commission concerning a permit application may file an appeal with the state historic preservation review board. The appeal shall be filed within 60 calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The state historic preservation review board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the state historic preservation review board.
- (b) Any citizen or duly organized historic preservation organization in the city, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under this article may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board.

(Ord. No. 2019-08, § 15, 7-1-2019)

Sec. 44-217. Work without a permit.

- (a) When work has been done upon a resource without a permit, and the commission finds that the work does not qualify for a certificate of appropriateness, the commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness.
- (b) If the owner does not comply with the restoration or modification requirement within a reasonable time, the commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness.
- (c) If the owner does not comply or cannot comply with the order of the court, the commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner and may be levied by the city as a special assessment against the property.
- (d) When acting pursuant to an order of the circuit court, the commission or its agents may enter a property for purposes of this section.

(Ord. No. 2019-08, § 16, 7-1-2019)

Sec. 44-218. Demolition by neglect.

Upon a finding by the commission that a historic resource within a historic district or a proposed historic district subject to its review and approval is threatened with demolition by neglect, the commission may do either of the following:

- (1) Require the owner of the resource to repair all conditions contributing to demolition by neglect.
- (2) If the owner does not make repairs within a reasonable time, the commission or its agents may enter the property and make such repairs as necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner and may be levied by the city as a special assessment against the property. The commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

(Ord. No. 2019-08, § 17, 7-1-2019)

Sec. 44-219. Review of work in proposed districts.

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering or cultural significance of a proposed historic district, the city council may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the historic district commission as prescribed in section 44-213. The historic district commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the city council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(Ord. No. 2019-08, § 18, 7-1-2019)

Sec. 44-220. Emergency moratorium.

If the city council determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the city council may by resolution declare an emergency moratorium on all such work for a period not to exceed six months. The city council may extend the emergency moratorium for an additional period not to exceed six months, upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

(Ord. No. 2019-08, § 19, 7-1-2019)

Sec. 44-221. Penalties for violations.

- (a) A person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this act is responsible for a civil violation and may be fined up to \$500.00 per violation as provided in section 1-13.
- (b) A person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.

(Ord. No. 2019-08, § 20, 7-1-2019)

Sec. 44-222. Acceptance of gifts or grants.

The city council may accept state or federal grants for historic preservation purposes; may participate in state and federal programs that benefit historic preservation and may accept public or private gifts for historic preservation purposes. The city council may appoint the historic district commission to accept and administer grants, gifts, and program responsibilities.

(Ord. No. 2019-08, § 21, 7-1-2019)

Sec. 44-223. Acquisition of historic resources.

If all efforts by the commission to preserve a resource fail, or if it is determined by the city council that public ownership is most suitable, the city council, if considered to be the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the commission. The commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the city council. Upon recommendation of the commission, the city may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

(Ord. No. 2019-08, § 22, 7-1-2019)

Secs. 44-224—44-254. Reserved.

ARTICLE VII. STANDARDS

DIVISION 1. GENERALLY

Sec. 44-255. General standards.

The standards herein are generally applicable to all uses regardless of zoning district.

(Ord. of 11-6-2017, § 6.1)

Sec. 44-256. Accessory buildings or structures.

- (a) In any zoning district, an accessory building or structure may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply, in all respects, with the requirements of this article applicable to the permitted principal building.
- (b) Detached accessory buildings or structures shall not be located closer than five feet to the rear or side lot line. They shall not be located closer to the front lot line than the principal building is permitted.
- (c) The distance between a detached accessory building and any principal building shall not be less than ten feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two buildings is solidly covered by a breezeway, portico, covered colonnade, or similar architectural devise.
- (d) Detached accessory buildings in residential and commercial districts shall not exceed 25 feet in height.
- (e) An accessory building greater than 200 square feet shall require a land use permit.

(Ord. of 11-6-2017, § 6.1.1)

Sec. 44-257. Home occupation requirements.

All home occupations shall meet all of the following conditions:

- (1) The home occupation must be operated, in its entirety, within the principal dwelling or accessory building located upon the premises.
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
- (3) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one non-illuminated sign, not greater than four square feet in area, mounted flat against the wall of the principal building.
- (4) No radios, televisions, computers, or other equipment or process that creates noise, vibration, glare, fume, odors, or electrical interference detectable to the normal senses off the premises shall be used in such home occupation.

(Ord. of 11-6-2017, § 6.1.2)

Sec. 44-258. Essential services.

The erection, construction, alteration, or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication or supply systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility power and metering stations and other similar equipment and accessories in connection there with that are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission for the public health, safety, or general welfare is permitted in any zoning district.

(Ord. of 11-6-2017, § 6.1.3)

Sec. 44-259. Principal building on a lot.

In all R-1, R-2, and R-3 districts, no more than one principal single-family or two-family dwelling shall be placed on a lot.

(Ord. of 11-6-2017, § 6.1.4)

Sec. 44-260. Swimming pools.

Swimming pools may be installed in any district as an accessory use to any principal permitted use if the following conditions are met:

- (1) There shall be erected and maintained a good quality fence not less than four feet in height, with posts embedded in concrete at intervals of not more than eight feet, enclosing the entire portion of the premises upon which such pools shall be installed or entirely surrounding an area in which such pool is located.
- (2) Pools may be installed only in the side and rear yards of lots in residential districts.
- (3) Pools shall not be erected closer than ten feet from the rear and side property lines of the lot.
- (4) Pools may be installed in the front or the rear yard of lots occupied by motels or hotels.

(Ord. of 11-6-2017, § 6.1.5)

Sec. 44-261. Temporary structures incidental to construction work.

Temporary accessory structures for uses incidental to construction work may be authorized by permit from the code enforcement officer after issuance of a building permit for the proposed structure. The temporary permit shall specify the location of the temporary accessory structure and shall terminate 12 months after the date of its issuance. The code enforcement officer may renew the permit for one additional 12-month period if construction of the principal structure has been progressing in a reasonable manner.

(Ord. of 11-6-2017, § 6.1.6)

Secs. 44-262—44-285. Reserved.

DIVISION 2. SPECIFIC

Sec. 44-286. Specific standards.

The standards herein are intended to be applied to site plans for a specific zoning district.

(Ord. of 11-6-2017, § 6.2)

Sec. 44-287. Signs.

- (a) *Intent.* The intent of this section is to regulate commercial and noncommercial outdoor signs in a manner which:
 - (1) Recognizes the communication needs of both businesses and other parties;
 - (2) Protects property values and neighborhood character;
 - (3) Creates a more attractive business climate; promotes pedestrian and traffic safety by reducing sign distractions, obstructions and other hazards; and
 - (4) Promotes pleasing community environmental aesthetics.
- (b) *Compliance.* Compliance with this section does not relieve the applicant of the responsibility for compliance with other local, state or federal sign regulations, nor does the issuance of a zoning permit grant permission to the applicant to place signs on any property including road rights-of-way other than property owned or otherwise legally under the control of the applicant. The issuance of a zoning permit only assures the applicant that the sign meets the requirements of this section.
- (c) *Permit required.* Except as otherwise provided in this section, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered unless a zoning permit has been issued in accordance with the provisions of this article. Mere repainting or changing the message of a sign shall not in and of itself be considered a substantial alteration.
- (d) *Signs excluded from permit.* The following signs are permitted without a zoning permit but shall conform to the requirements set forth herein as well as all other applicable requirements of this article:
 - (1) One sign not exceeding six square feet in sign face area.
 - (2) Signs erected by or on behalf of or pursuant to the authorization of a governmental body or public utility company.
 - (3) Temporary signs for events or activities, not to exceed 24 square feet, may be displayed for seven days before and after an event.
 - (4) Street name signs located in accordance with state department of transportation standards at street intersections, not to exceed one square foot in sign face.
- (e) *Required conditions for all signs.* The following conditions shall apply to all signs erected or located in any district:
 - (1) All signs shall conform to all applicable codes and ordinances of the city and, where required, shall be approved by the code enforcement officer and a permit issued.
 - (2) Illumination of signs shall be directed or shaded downward, such that no direct ray from such illumination shall interfere with the vision of persons on the adjacent streets or of adjacent property owners and should conform with the Dark Sky Preserve laws, MCL 324.75101 et seq.

- (3) No sign, except those established and maintained by the city, county, state, or federal governments, shall be located in, projected into, or overhanging in a public right-of-way or dedicated public easement.
- (4) No sign otherwise permitted shall project above or beyond the maximum height limitation of the district in which it is located except that for a planned commercial or shopping center development involving five acres or more under one ownership, the board of appeals may modify the height limitation. The board shall, however, respect all yards and setbacks in modifying any height requirements.
- (5) All directional signs required for the purpose or orientation, when established by the city, county, state or federal government, shall be permitted in all districts.
- (6) Accessory signs shall be permitted in any district.
- (7) Non-accessory signs shall be permitted only in I-1 and I-2 districts or on vacant land in other zoning districts.
- (8) Signs located on the land or building intended to be rented, leased, or sold are permitted.
- (9) Freestanding accessory signs may be located in the required front yard except as otherwise provided herein.

(f) *District regulations for signs.* The following requirements shall apply to signs in the various districts as follows:

Sign Requirements Per District

Districts	Requirements
R-1 R-2, R-3, and R-4 districts	For each dwelling unit, one sign not to exceed two square feet in area.
	For structures other than dwelling units, one sign, not to exceed eight square feet in area or six feet in height.
R-3 and R-4 districts	Signs shall not be located closer than 100 feet to any property line in any adjacent single-family district.
C-1 district	No sign shall project beyond or overhaul 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.
	Freestanding signs shall not exceed 30 square feet in area and shall not exceed 15 feet in height.
	For each commercial building, one temporary sign for a length of time that shall not exceed seven calendar days per 30-calendar-day period, except that two temporary signs shall be permitted for each commercial building on corner lots.
	Freestanding accessory signs or advertising pylons shall not be placed closer than 100 feet to any adjacent residential district.
C-2 district	No sign shall project beyond or overhaul 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.
	Freestanding signs shall not exceed 70 square feet in area and shall not exceed 20 feet in height.
	For each commercial building, one temporary sign for a length of time that shall not exceed seven calendar days per 30-calendar-day period, except that two temporary signs shall be permitted for each commercial building on corner lots.
	Freestanding accessory signs or advertising pylons shall not be placed closer than 100 feet to any adjacent residential district.

I-1 and I-2 districts	Freestanding signs shall not exceed 100 square feet in area and shall not exceed 20 feet in height.
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(Ord. of 11-6-2017, § 6.2.1)

Sec. 44-288. Canopies and awnings.

The following conditions shall apply to all canopies and awnings located in the city:

- (1) Canopies and awnings made of cloth, plastic or similar material shall be maintained in good condition and not show evidence of excessive weathering, discoloration, ripping, tearing or holes. If any canopy or awning is not properly maintained, or constitutes a nuisance or safety hazard, it shall be removed or repaired upon written notification from the zoning administrator.
- (2) All canopies and awnings must have a clearance of not less than 7.5 feet over any public right-of-way at its lowest point. There shall be no vertical supports in contact with a public right-of-way. Canopies and awnings may extend no more than nine feet over a public right-of-way but in all cases must remain at least four feet back from the curb.
- (3) All non-residential canopies and awnings shall be subject to the provisions of article VIII of this chapter.
- (4) All retractable awnings shall have a mechanism for raising and securing the closed awning tightly against the face of the building.
- (5) Signage is allowed within the material of an awning or canopy.

(Ord. of 11-6-2017, § 6.2.2)

Sec. 44-289. Fences and walls.

Fences and walls shall be permitted, subject to the following conditions:

- (1) *Fences in all districts.*
 - a. All fences and walls shall be constructed of durable, weather-resistant, rustproof and easily maintained materials.
 - b. All fences shall be erected with all fence posts and supports on the interior side.
 - c. Under no circumstances shall a fence be constructed of materials, such as, but not limited to, pallets, tree trunks, trash, tires, junk, or other similar items.
 - d. Fences may be located on the property line but may not extend into the right-of-way.
 - e. Fence heights shall be measured from the surface of the ground immediately below the location of the fence.
 - f. All fences shall be such design and location that they do not obstruct the vision of motorists on adjacent roads or the vision of pedestrians or motorists leaving the premises.
 - g. Retaining walls are exempt from these fence and wall provisions.
- (2) *Fences in residential districts.*
 - a. Fences not greater than six feet in height are permitted in side or rear yards and shall not extend beyond the front of the principal structure or the required building setback, whichever is furthest from the road right-of-way.

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- b. Fences not more than four feet in height are permitted in the front yard if they are not more than 25 percent solid.
 - c. Fences not more than three feet in height are permitted in the front yard if they are more than 25 percent solid.
 - d. Fences shall not contain barbed wire, razor wire, spikes, or electric current.
- (3) *Fences in commercial and industrial districts.* A chain-link, protective fence not in excess of six feet in height is permitted in all yards. Any fence that exceeds that height must be permitted by the county or state building department.

(Ord. of 11-6-2017, § 6.2.3)

Sec. 44-290. Light and general industrial requirements.

- (a) *Fences, walls, and planted material.* A fence, wall, or planted material, as approved by the planning commission, shall be provided along all side and rear yards abutting a property line in any residential district.
- (b) *Uses and outdoor storage.* All uses and outdoor storage shall be conducted within a completely enclosed building or within an area enclosed on all sides by a fence or wall at least six feet in height. No uses or outdoor storage shall be located in the required front yard setback.
- (c) *Outdoor lighting.* All outdoor lighting shall be shielded to reduce glare and shall be arranged to reflect light away from all adjacent residential districts and dwellings.
- (d) *Ingress and egress areas.* The centerline of all ingress and egress areas (curb cuts) shall be at least 100 feet from the right-of-way of any intersecting street.
- (e) *Performance standards.* It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building, or equipment dangerous to human life or health or that produces irritants to the sensory perception greater than the measures herein established that are determined to be the maximum permissible hazards to humans or human activities.
 - (1) *Sound.* The intensity levels of sound created by any activity or operation or use of any land, building, or equipment shall be governed by the applicable city noise control regulations.
 - (2) *Vibration.* All machinery shall be mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 root-mean-square of one-inch root-mean-square measured at any lot line of its source.
 - (3) *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clean air or as to produce a public nuisance or hazard beyond lot lines, is prohibited.
 - (4) *Toxic gases.* The escape of or emission of any gas that is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated except as required in the provisions of essential services.
 - (5) *Glare and heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.
 - (6) *Light.* All lighting shall be arranged to reflect light away from adjoining properties in residential districts. There shall be no direct or sky-reflected glare exceeding 1½ footcandles or that would be damaging to the human eye, measured at the property line of the lot occupied by such use (except that

the regulation provided by this sentence shall not apply to lights used at the entrance or exit or service drives leading to a parking lot).

- (7) *Electromagnetic radiation.* The rules and regulations of the Federal Communications Commission as of the date of the adoption of the ordinance from which this article is derived, with respect to the propagation and dissemination of electromagnetic radiation, are made a part of this article and shall be on file in the office of the ordinance enforcement officer.
- (8) *Drifted and blown material.* The drifting or airborne transmission beyond the lot line of dust, particles or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.
- (9) *Radioactive materials.* Radioactive materials shall not be emitted so as to be unsafe to human health or life.

(Ord. of 11-6-2017, § 6.2.4)

Sec. 44-291. Landscaping and screening.

- (a) All uses with the required screening shall be screened by walls, fences, vegetation and berming or a combination of any of these as approved by the planning commission.
- (b) Fences and walls used for screening purposes shall meet the following conditions:
 - (1) Fences and walls shall have no openings for vehicular traffic or other purposes except as otherwise provided in this article and except such openings as may be approved by the planning commission.
 - (2) Fences and walls may not be constructed with openings that exceed 20 percent of the surface. The openings shall not reduce the obscuring effect and shall not reduce the minimum height requirement.
 - (3) The height of the required fence or wall shall be as follows (note: the county or state building department must approve fences over six feet):

Required Height of Fence or Wall

Use	Required Height
Buildings in commercial districts	3'
Buildings in industrial districts	6'
Multiple-family dwellings	3'
Outdoor storage areas	6'
Off-street parking area	3'
Loading and unloading areas	6'

- (c) Vegetation used for screening purposes shall meet the following conditions:
 - (1) Vegetation shall be comprised of one or more of the following upright conifers: blue, green, white or Serbian spruce, Douglas fir, Austrian pine, juniper, hemlock or cedar.
 - (2) Trees shall be planted 15 feet apart as measured from the center.
 - (3) Trees shall not be less than five feet in height at the time of planting.
 - (4) Existing plant material that complies with the standards of this section, as determined by the planning commission, shall be credited toward meeting the screening requirements.
 - (5) All required plants shall be maintained in a healthy, growing condition. Any required plants that are destroyed, removed, diseased, or die, shall be replaced within six months with plants that meet the

requirements of this section. Failure to maintain required plants in such a manner, including the removal and replacement of dead or diseased plant materials, shall constitute a violation of this section.

- (6) The plantings shall be maintained in a neat and attractive manner commensurate with the adjoining areas and shall maintain their density and screening effect throughout the calendar year.
- (d) Berming used for screening purposes shall meet the following conditions:
 - (1) Berms shall be at least four feet, six inches in height, constructed with one foot of rise for each three feet of horizontal rise.
 - (2) Berms shall be seeded with perennial rye and an appropriate grass seed and shall be covered with an organic mulch.
 - (3) Berms shall be landscaped with shrubbery and trees to enhance the screening effect and aesthetic appearance of the berm and shall be maintained in a neat and attractive manner.

(Ord. of 11-6-2017, § 6.2.5)

Sec. 44-292. Parking.

In all zoning districts, off-street parking and loading facilities for the parking of vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of the ordinance from which this article is derived shall be provided as prescribed in this section.

- (1) *Schedule of parking requirements.*
 - a. The code enforcement officer shall determine the minimum number of spaces required for accessory off-street parking by applying the schedule of parking requirements and any other applicable provisions of this article. Where the computation results in a fractional space, it shall be counted as one additional space required.
 - b. The planning commission may vary the parking requirements of this section where it finds that, due to the nature of the particular use, said requirements will result in an excess amount of parking related to the particular use.
 - c. Provision of common parking areas for several uses in the same vicinity is encouraged. In such cases, the total space requirements are the sum of the maximum individual requirements. In cases where the hours of operation are significantly different between two or more uses, a reduction in the total space requirements may be permitted by the planning commission.
 - d. In the instance of dual function of off-street parking spaces where the off-street parking is located on the same lot or an off-street parking lot connected by a common drive, the property owners at their discretion may utilize the shared parking standards defined in subsection (3) of this section.
 - e. The following table provides the specific off-street parking space requirements for each common land use. In cases of uses not specifically mentioned, the requirements of off-street parking spaces shall be in accord with the use which the zoning administrator and/or planning commission considers is similar in type. Parking standard publications from the American Planning Association may be consulted in making a determination. The term "GFA" refers to gross floor area.

Off-Street Parking Space Requirements

Uses	Minimum	Maximum	Measurement
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Residential			
Single-family dwelling	2	N/A	per unit
Multiple family dwelling	1.5	1.5	per unit
Non-residential			
Agriculture	Exempt		
Automobile sales and services	3.5	4	per 1,000 GFA
Consumer/personal services	2	3	per 1,000 GFA
Eating and drinking places	1	1	per 3 seats
Office uses	2.5	3	per 1,000 GFA
Places of assembly	1	1	per 3 seats or number by fire code
Commercial and retail businesses	2	3	per 1,000 GFA

(2) *Size of parking space.* Each off-street parking space shall have the following minimum requirements:

Off-Street Parking Space Size Requirements

Parking Pattern	Minimum Lane Width	Parking Space Width	Parking Space Length
Parallel parking	12'	7'	22'
30° to 53°	12'	8'6"	20'
54° to 75°	15'	8'6"	20'
75° to 90°	20'	9'	20'

(3) *Shared parking.* Shared parking, or effective parking, is allowed based on the following calculation which is based on the general type of land use or function of the property. The shared parking factor for two land use functions, when divided into the sum of the two amounts as listed on the required parking table below produces the effective parking needed. For example, residential parking is calculated at 12 spaces and retail parking is calculated at 32. Summed they equal 44. Using the shared parking table this amount is divided by 1.2 to derive an effective parking amount of 36.6 or 37 parking spaces.

Shared Parking Table

Function	Function			
	Residential	Lodging	Office	Retail
Residential	1.0	1.1	1.4	1.2
Lodging	1.1	1.0	1.7	1.3
Office	1.4	1.7	1.0	1.2
Retail/restaurant	1.2	1.3	1.2	1.0

(4) *Reduction of off-street automobile parking.*

- a. *Establishments not located along a designated public pathway.* For each one bicycle parking space the automobile parking can be reduced by one parking space.
- b. *Establishments located on a designated public pathway.* For each one bicycle parking space the automobile parking can be reduced by two parking spaces.
- c. *Establishments that connect to a designated public pathway.* For each one bicycle parking space the automobile parking can be reduced by two parking spaces.

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- (5) *Requirements of parking areas.* Every parking area containing six or more spaces shall require site plan review in accordance with article VIII of this chapter and shall be developed and maintained in accordance with the following requirements:
- a. Designed to provide adequate drainage.
 - b. Surfaced with concrete or asphalt pavement. Parking areas for outdoor recreational uses may be graveled.
 - c. Maintained in good condition and free of dust, trash and debris.
 - d. The parking area shall be provided with entrances and exits so located as to minimize traffic congestion.
 - e. Lighting facilities shall reflect the light away from adjoining properties.
 - f. No part of any parking area shall be closer than ten feet to the street right-of-way or closer than five feet to a lot line in any residential district.
 - g. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited except in the case of one-family dwellings.
 - h. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
 - i. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.
 - j. All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit two-way movement.
 - k. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet from adjacent property located in any single-family residential district.
- (6) *Off-street loading spaces.*
- a. The location of off-street loading spaces shall not have a disruptive effect on the safe and efficient flow of pedestrian and vehicular traffic within the site.
 - b. The location of off-street loading spaces shall be aesthetically and effectively screened from view from adjoining properties and from any street in a manner acceptable to the city.
 - c. To aid in its review, the city may require submittal of exterior building wall elevation drawings with respect to the location of loading and unloading area, trash receptacles, the corresponding elevations of adjoining property and streets and the means by which these facilities will be effectively screened from view.
 - d. The area required for loading and unloading shall be physically separated from the off-street parking requirements of this section and shall be laid out so that when in use, the loading and unloading area will not disrupt or diminish access to any off-street parking spaces or their corresponding vehicle maneuvering lanes or service drives.
 - e. For every building or addition to an existing building requiring the receipt or distribution in vehicles or materials or merchandise, an area adequate for maneuvering and ingress and egress for delivery vehicles and off-street loading spaces as follows shall be provided and maintained on the same lot:
 1. From zero to 1,400 square feet of floor area: none.

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2. From 1,401 to 20,000 square feet of gross floor area: one space.
 3. From 20,001 to 50,000 square feet of gross floor area: two spaces.
 4. One additional space for each additional 50,000 square feet of gross floor area or fraction thereof.
- f. Each such loading space shall be at least ten feet in width, 35 feet in length, and 14 feet in vertical height. No such space shall be located within the front setback area or closer than 25 feet to a lot line in any residential district.

(Ord. of 11-6-2017, § 6.2.6)

Sec. 44-293. Sidewalks.

- (a) All new developments shall include sidewalks serving the site and along the public right-of-way. All public sidewalks and pathways shall:
- (1) Comply with standards set forth in the Americans with Disabilities Act of 1990 (ADA), 42 USC 12101 et seq., as amended;
 - (2) Be no less than four feet wide;
 - (3) Create a complete linked network of walkways connecting all uses with parks and other areas.
- (b) In residential areas, sidewalks shall be separated from streets by planting strips a minimum of eight feet wide, planted with shade trees.

(Ord. of 11-6-2017, § 6.2.7)

Secs. 44-294—44-319. Reserved.

ARTICLE VIII. SITE PLAN REVIEW

DIVISION 1. GENERALLY

Sec. 44-320. Site plan review requirements.

This article governs the processes and standards for all uses and structures for which site plan approval is required under other provisions of this article. Site plans for special uses shall receive a recommendation from the city planning commission and a final decision by the city council. Site plans that are not related to special uses shall be processed by administrative review.

(Ord. of 11-6-2017, § 7.1)

Secs. 44-321—44-343. Reserved.

DIVISION 2. PROCEDURES

Sec. 44-344. Site plans for administrative review.

Site plans for uses that are permitted by right are processed by administrative review and shall follow the requirements outlined in section 44-346, except if the proposed site plan is within the floodplain overlay district or the wellhead protection overlay district. Under this exception the site plan shall be reviewed under section 44-345. Single-family residential developments and accessory buildings or structures do not require site plan review.

- (1) The administrative review committee shall consist of three members: the zoning administrator, chairperson of the planning commission or his designee, and a planning commissioner. The planning commission shall also select a member to be an alternate to the administrative review committee. The alternate shall attend if the chairperson or planning commission member cannot attend the review meeting.
- (2) The planning commission shall make these appointments to the administrative review committee at the same annual meeting where the planning commission elects its officers.

(Ord. of 11-6-2017, § 7.2.1)

Sec. 44-345. Site plans for special uses.

Site plans for special uses will be processed according to this article and any applicable procedures for special uses in article IV of this chapter, using the following procedures:

- (1) *Step one.* The zoning administrator shall review the application and determine whether it contains all of the required information. If the zoning administrator determines the application is not complete, he shall notify the applicant of what additional information is required.
- (2) *Step two.* Once the zoning administrator determines the application is complete, they shall schedule it for review by the planning commission.
- (3) *Step three.* After adequate review and study of the application, the planning commission shall make a decision on the application, including its findings and any conditions. If a separate document is not prepared, the planning commission's meeting minutes will serve as its findings.

(Ord. of 11-6-2017, § 7.2.2)

Sec. 44-346. Application requirements.

The required contents of an application for site plan approval are:

- (1) A site plan drawn to scale of one inch to 50 feet of all property showing the location of all abutting streets, the location of all existing and proposed structures and their uses, and the location and extent of all above and below ground development, both existing and proposed.
- (2) Elevations (front, side and rear) for all proposed structures.
- (3) All information required by any other provision of this article governing the land use or structure for which site plan approval is sought.
- (4) The site plan and supporting written documentation shall include the following:

Site Plan Requirements

Site Plan Item	Description	Shown on Site Plan	Written Documentation
1	A description of the environmental characteristics of the site prior to development, i.e.: topography, soils, vegetative cover, drainage, streams, creeks or ponds, as well as the delineation of these features on the site plan drawing.	X	X
2	Types of uses and other manmade facilities.		X
3	The number of people to be housed, employed, visitors or patrons and vehicular and pedestrian traffic.		X
4	Natural features which will be retained, removed or modified, including vegetation, drainage, hillsides, streams, wetlands, woodlands wildlife and water.	X	
5	The description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.		X
6	The method to be used to serve the development with water and sanitary sewer facilities.		X
7	The location, size and routing of water and sanitary sewer facilities.	X	
8	Plans for stormwater control and drainage, including measures to be used during construction.	X	
9	The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights.		X
10	An indication of how the proposed use conforms to existing and potential development patterns and any adverse effects.		X
11	The distance to groundwater as requested by the planning commission.	X	
12	The location and pavement width and right-of-way width of all abutting roads, streets, alleys or easements.	X	
13	Location of pedestrian and non-motorized facilities; if required.	X	
14	Name and address of persons responsible for preparation of site plan drawings and supporting documentation.	X	X
15	Sealed drawings from a licensed architect, engineer, or landscape architect.	X	

(Ord. of 11-6-2017, § 7.2.3)

Sec. 44-347. Standards for site plan review.

The city shall not approve a site plan unless it meets each of the following standards that are applicable to the use under consideration:

- (1) That the applicant may legally apply for site plan review.
- (2) That all required information has been provided.

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- (3) That the proposed development conforms to all regulations of the zoning district in which it is located and all other applicable standards and requirements of this article, including, but not limited to, all supplementary regulations.
 - (4) That the plan meets the requirements of the city for fire and police protection, water supply, sewage disposal or treatment, storm, drainage and other public facilities and services.
 - (5) That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is ensured.
 - (6) That natural resources will be preserved to a maximum feasible extent, and that areas to be left undisturbed during construction shall be so indicated on the site plan and at the site per se.
 - (7) That the proposed development property respects floodways and floodplains on or in the vicinity of the subject property.
 - (8) That the soil conditions are suitable for excavation and site preparation, and that organic, wet, or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.
 - (9) That the proposed development will not cause soil erosion or sedimentation problems.
 - (10) That the drainage plan for the proposed development is adequate to handle anticipated stormwater runoff and will not cause undue runoff onto neighboring property or overloading of water courses in the area.
 - (11) That grading or filling will not destroy the character of the property or the surrounding area and will not adversely affect the adjacent or neighboring properties.
 - (12) That structures, landscaping, landfills or other land uses will not disrupt air drainage systems necessary for agricultural uses.
 - (13) That phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage, or erosion control.
 - (14) That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems, and water and sewage facilities.
 - (15) That landscaping, fences or walls may be required when appropriate to meet the objectives of this chapter.
 - (16) That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
 - (17) That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.
 - (18) That outdoor storage of garbage and refuse is contained, screened from view, and located so as not be a nuisance to the subject property or neighboring properties.
 - (19) That the proposed site is in accord with the spirit and purpose of this chapter, and not inconsistent with, or contrary to, the objectives sought to be accomplished by this chapter and the principles of sound planning.

(Ord. of 11-6-2017, § 7.3)

Sec. 44-348. Approval and conditions.

- (a) A site plan shall be approved if it contains the information required by this article and is in compliance with this article and the conditions imposed under this chapter, other city planning documents, other applicable ordinances, and state and federal statutes.
- (b) Conditions. The zoning administrator or the planning commission may impose reasonable conditions on any site plan approval. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall be:
 - (1) Designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (2) Related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - (3) Necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this chapter for the land use or activity under consideration and be necessary to ensure compliance with those standards. The breach of any condition shall be grounds for revoking the site plan approval.

(Ord. of 11-6-2017, § 7.4)

Sec. 44-349. Expiration, reapplication, revocation, amendment and performance guarantees.

The provisions for expiration, reapplication, revocation, amendment and performance guarantees for a site plan approval shall be the same as the procedures for expiration, reapplication, revocation, amendment and performance guarantees for a special use. Those procedures are set forth in article IV of this chapter. However, the final decision on a major amendment to a site plan that is not related to a special use shall be made by the planning commission instead of the city council.

(Ord. of 11-6-2017, § 7.5)

Secs. 44-350—44-371. Reserved.

ARTICLE IX. NONCONFORMING USES, STRUCTURES AND LOTS

Sec. 44-372. Purpose and scope.

This article permits the lawful use of land or a structure to continue exactly as the use or structure existed at the time of the enactment or any amendment of this article, although the use or structure may not conform with the provisions of this article as enacted or amended. However, it is recognized that nonconforming uses and structures may adversely affect the value of nearby property and orderly development within the city or may otherwise be inconsistent with the purposes and intent of this chapter and with the public health, safety and general welfare. Accordingly, the gradual removal and elimination of nonconforming uses and structures is desirable. This article is intended to permit such uses and structures to continue only until they are removed,

subject to restrictions on enlargement, expansion or other change that would make them more permanent or that would increase their adverse impacts. Nonconforming uses and structures may be continued, resumed, restored, reconstructed, extended, enlarged or substituted only as provided by this article.

(Ord. of 11-6-2017, § 8.1)

Sec. 44-373. Nonconforming uses.

- (a) Except as otherwise expressly provided by this article, a nonconforming use, other than a single-family use of a single-family dwelling, may be continued, so long as it remains otherwise lawful, subject to the following provisions:
- (1) A nonconforming use shall not be enlarged, expanded, extended, or increased so as to occupy a greater area of land, building or structure than was occupied by the use on the effective date of adoption or amendment of the ordinance from which this article is derived.
 - (2) A nonconforming use may be conducted only on the portion of the lot or parcel occupied by the use on the effective date of adoption or amendment of the ordinance from which this article is derived and shall not be moved or relocated, in whole or in part, to any other portion of the lot or parcel or to any other location unless the use would then conform with the requirements of this article.
 - (3) A nonconforming use may be extended throughout any part of a building that was purposefully and uniquely arranged or designed for the nonconforming use at the time of adoption or amendment of the ordinance from which this article is derived, but no such use shall be extended to occupy any land outside the building.
 - (4) An existing building or structure devoted to a use not permitted in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered unless it is changed to a use permitted in the district in which it is located.
- (b) Except as otherwise expressly provided by this article, a nonconforming single-family use of a single-family dwelling may be continued, so long as it remains otherwise lawful, subject to the following provisions:
- (1) A single-family residential dwelling may be enlarged or extended up to an amount equal to 50 percent of the floor area of the dwelling as it existed when the residential use first became nonconforming under this article, provided that the dwelling shall continue to meet all applicable yard and setback requirements.
 - (2) Under no circumstances shall an enlargement or alteration of a single-family dwelling under single-family use extend beyond a neighboring property line.

(Ord. of 11-6-2017, § 8.2)

Sec. 44-374. Nonconforming structures.

Except as otherwise expressly provided by this article, a nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) A nonconforming structure shall not be enlarged, expanded, extended, or altered in a way that increases, to any degree, the extent of any existing nonconformance or that causes the structure to be more nonconforming, except as otherwise provided by this section. If approved by the planning commission as a special land use pursuant to the general standards and procedures specified in article IV of this chapter and based on a finding by the planning commission that there is a reasonable need

for the expansion requested and that adjacent property will not be adversely affected as a result of the expansion, a nonconforming structure may be enlarged or expanded as follows:

- a. A nonconforming structure may be enlarged beyond the required setback area, provided that the portion of the structure enlarged shall not be placed closer to the property line than the closest existing point of the structure to the property line.
 - b. A single-family residential dwelling unit that is nonconforming, solely by reason of its failure to meet applicable lot coverage requirements or because of its location on a nonconforming, substandard-sized lot, may be enlarged or extended up to an amount equal to 50 percent of the floor area of the dwelling as it existed when the dwelling first became nonconforming under this article, provided that the dwelling shall continue to meet all applicable yard and setback requirements.
 - c. Under no circumstances shall an enlargement or alteration of a nonconforming structure extend beyond a neighboring property line.
- (2) A nonconforming structure shall not be moved or relocated, in whole or in part to any portion of the lot or parcel (or to any other location) other than the portion of the lot or parcel occupied by the building or structure on the effective date of adoption or amendment of the ordinance from which this article is derived unless the building or structure thereafter fully complies with all applicable site development regulations as provided by this article.

(Ord. of 11-6-2017, § 8.3)

Sec. 44-375. Nonconforming lots.

Except as otherwise expressly provided by this article, a nonconforming lot may be used so long as it remains otherwise lawful, subject to the following provisions:

- (1) A nonconforming lot with a minimum lot area of 6,200 square feet may be used for a single-family residential dwelling unit if the dwelling unit and permitted accessory structures comply with all yard requirements for the zoning district in which the lot is located. In all other cases, the use of a nonconforming lot shall be permitted only if approved by the planning commission as a special land use pursuant to the general standards and procedures specified in article IV of this chapter and based on a finding by the planning commission that there is a reasonable need for the use of the lot requested and that adjacent property will not be adversely affected as a result of the use.
- (2) Where two or more nonconforming lots are adjacent to each other and in common ownership, the lots shall be combined, if possible, so that the lot created by this combination complies with the minimum requirements of this article.

(Ord. of 11-6-2017, § 8.4)

Sec. 44-376. Change of nonconforming use or structure.

- (a) A nonconforming use may be changed to another nonconforming use if approved by the planning commission as a special land use pursuant to the general standards and procedures specified in article IV of this chapter and if the planning commission finds that the new use could decrease the degree of nonconformance and would not adversely affect adjacent property.
- (b) A nonconforming use that is changed, in whole or in part, for any reason, to a conforming use (or to a more conforming use) shall, to that extent, thereafter continue to be used for a conforming use (or more conforming use) and shall not revert to its prior nonconforming status or to a less conforming use. Similarly,

a nonconforming structure that is changed, in whole or in part, for any reason, so as to conform (or more closely conform) with the applicable site development regulations shall to that extent thereafter continue to conform (or more closely conform) with those regulations and shall not revert to its prior non-conforming status or to a less conforming condition.

(Ord. of 11-6-2017, § 8.5)

Sec. 44-377. Abandonment.

Upon a finding based on reasonable evidence by the zoning board of appeals that there has been the intent and some act or omission on the part of the owner or holder of a nonconforming use or structure that clearly manifests the owner's or holder's voluntary decision to abandon the nonconforming use or structure, the nonconforming use or structure shall be deemed abandoned. The nonconforming use shall not thereafter be reestablished or recommenced, and any future use of the property shall fully conform with the provisions of this article.

(Ord. of 11-6-2017, § 8.6)

Sec. 44-378. Reestablishment of use or structure after damage, destruction, or removal.

- (a) A nonconforming use shall not be continued, reestablished or recommenced after damage, destruction or removal of the structure in which the nonconforming use is conducted (whether or not it is a nonconforming structure) if the estimated expense of repair or reconstruction of the structure, at the time of the damage, destruction or removal, exceeds 50 percent of the replacement value of the use or structure (exclusive of the value of foundations and the land), as determined by the ordinance enforcement officer.
- (b) A nonconforming structure shall not be continued, reestablished, or reconstructed in its nonconforming condition after damage, destruction, or removal of the structure if the estimated expense of repair or reconstruction of the structure, at the time of the damage, destruction, or removal, exceeds 50 percent of the replacement value of the structure (exclusive of the value of foundations and the land), as determined by the ordinance enforcement officer.
- (c) If a structure occupied by a nonconforming use or a nonconforming structure is damaged, destroyed, or removed to the extent that the estimated expense of repair or reconstruction of the structure exceeds 50 percent of the replacement value of the use or structure (exclusive of the value of foundations and the land), as provided by subsection (a) or (b) of this section, as applicable, the right to continue the nonconforming use or structure shall immediately terminate, and the property shall thereafter be used or occupied only in full compliance with the use and site development regulations provided by this article.

(Ord. of 11-6-2017, § 8.7)

Sec. 44-379. Repairs and maintenance.

- (a) Ordinary repairs and normal maintenance may be performed on any structure devoted, in whole or in part, to a nonconforming use or on any nonconforming structure, including repair or replacement of non-load bearing walls or partitions, fixtures, wiring, or plumbing, provided that the expense of such repairs and maintenance do not exceed, during any consecutive 12-month period, 50 percent of the replacement value of the use or structure (exclusive of the value of foundations and the land), as determined by the ordinance enforcement officer.
- (b) Any nonconforming structure or part thereof declared to be unsafe by an official charged with protecting the public safety may be strengthened or resorted for a safe condition. However, repairs, maintenance, or other

restoration of a nonconforming structure, as permitted by this section or any other provisions of this article, shall not cause the nonconforming use or structure to be enlarged, expanded, extended, increased, relocated, or charged to any degree as prohibited by this article.

(Ord. of 11-6-2017, § 8.8)

Sec. 44-380. Building or structure under construction.

This article shall not be deemed to require a change in the plans, construction, or designated use of any structure for which, prior to the effective date of adoption or amendment of the ordinance from which this article is derived, a building permit was obtained, actual construction was lawfully commenced on the site, and construction is thereafter completed within a 12-month period.

(Ord. of 11-6-2017, § 8.9)

Sec. 44-381. Change of ownership or occupation.

The ownership, occupation, or management of an existing nonconforming use or nonconforming structure may be changed; but the use or structure shall not be enlarged, expanded, extended, increased, relocated, or changed as otherwise prohibited by this article.

(Ord. of 11-6-2017, § 8.10)

Secs. 44-382—44-405. Reserved.

ARTICLE X. ZONING BOARD OF APPEALS

Sec. 44-406. Creation.

- (a) The legislative body may act as a board of appeals upon all questions arising under this chapter. In such an event, the legislative body may fix rules and regulations to govern its procedure sitting as a board of appeals.
- (b) In the event that the legislative body so desires; it may appoint a board of appeals consisting of not less than five members, each to be appointed for a term of three years. Appointments for the first year shall be for a period of one, two and three years, respectively, so as to provide for the appointment of an equal number each year, depending on the number of members. Each member thereafter shall hold office for the full three-year term.

(Ord. of 11-6-2017, § 9.1)

Sec. 44-407. Meetings.

Meetings of the board of appeals shall be held at the call of the chairperson and at such other times as the board, in its rules of procedures, may specify. The chairperson, or, in his absence, the acting chairperson, may administer oaths and may compel the attendance of witnesses. All meetings of the board of appeals shall be open to the public. The board shall maintain a record of its proceedings, which shall be filed in the office of the city clerk and which shall be a public record.

(Ord. of 11-6-2017, § 9.2)

Sec. 44-408. Jurisdiction and powers.

The board of appeals shall have all powers and jurisdiction granted by the Michigan Zoning Enabling Act, MCL 125.3101 et seq. The board of appeals shall have the following major responsibilities: interpretations, appeals and variances.

(Ord. of 11-6-2017, § 9.3)

Sec. 44-409. Decisions.

The concurring vote of a majority of the members of the board of appeals shall be necessary to make an interpretation or to reverse an order, requirement, decision, or determination of the administrative official or body or to decide in favor of the applicant any matter upon which they are required to pass under or to effect variation in this article.

(Ord. of 11-6-2017, § 9.4)

Sec. 44-410. Interpretation.

The board of appeals, when requested by an administrative official, the planning commission, the city, the county, or an individual, shall make an interpretation of this chapter wording and this chapter map. Such interpretation shall be made a part of the record and shall be forwarded to the ordinance enforcement officer, the city clerk, the building inspector, the planning commission, and the party seeking the interpretation.

(Ord. of 11-6-2017, § 9.5)

Sec. 44-411. Appeals.

- (a) The board of appeals shall hear and decide appeals from and shall review any order, requirements, decision, or determination made by an administrative official or body charged with the administration or enforcement of this article.
- (b) The board of appeals shall fix a reasonable time for hearing the appeal, shall give due notice as required in section 44-413, and shall decide the appeal within a reasonable time.
- (c) At the hearing, a party may appear in person or by agent or by attorney.
- (d) The board of appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination as, in its opinion, ought to be made in the premises and, to that end, shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance or a permit.

(Ord. of 11-6-2017, § 9.6)

Sec. 44-412. Variances.

- (a) The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, or to make any change in the terms of this Code, nor to allow a use not otherwise permitted in a zoning district, but does have power to act on those matters where this Code provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined in this section and laws of the state.

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- (b) The board shall have the power to grant a dimensional variance from the rules and provisions of this article if it finds, from reasonable evidence after a public hearing with notice given as required in section 44-413, that all of the following facts and conditions exist:
- (1) There are exceptional or extraordinary circumstances or conditions that apply to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district (i.e., exceptional narrowness, shallowness, or shape of the property; exceptional topographic conditions; or other extraordinary conditions or circumstances regarding the land, buildings or structures).
 - (2) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return if the variance is granted is not, by itself sufficient to support this finding.
 - (3) Authorizing the variance will not be of substantial detriment to adjacent property and will not impair the intent and purposes of this article or the public health, safety, and welfare.
 - (4) The condition or situation of the property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for the condition or situation.
 - (5) The undue hardship did not result from the actions of the applicant (i.e., the hardship was not self-created).
 - (6) The concurring vote of two-thirds of the members of the board shall be necessary to grant a dimensional variance.
- (c) The board of appeals may impose reasonable conditions upon the approval of a variance. The conditions may include, but are not limited to, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment, to conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
- (1) Be designed to protect natural resources and the health, safety, welfare, and social and economic well-being of those who will use the land under consideration: residents and landowners immediately adjacent to the parcel; or the community as a whole.
 - (2) Be related to the valid exercise of the police power.
 - (3) Be necessary to meet the intent and purpose of this chapter, related, to the standards established in the ordinance and be necessary to ensure compliance with those standards.

(Ord. of 11-6-2017, § 9.7)

Sec. 44-413. Public hearings.

The zoning board of appeals' process and procedures for conducting public hearings shall be governed by the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

(Ord. of 11-6-2017, § 9.8)

Secs. 44-414—44-439. Reserved.

ARTICLE XI. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 44-440. Zoning administrator.

A zoning administrator shall be appointed by and on such terms as determined by the city council. The zoning administrator is designated as the authorized city official to issue municipal civil infraction citations directing alleged violators of this chapter to appear in court.

(Ord. of 11-6-2017, § 10.1)

Sec. 44-441. Duties.

It shall be the duty of the zoning administrator to receive applications for zoning permits and issue or deny the same; to inspect buildings or structures in order to determine compliance with the zoning permits issued in compliance with this chapter, and to be in charge of the enforcement of this chapter. The city council may, in its discretion, instruct the zoning administrator to make efforts to obtain voluntary compliance with this chapter. The city council may instruct the zoning administrator in writing, to initiate a criminal complaint or other legal action. Under no circumstances is the zoning administrator permitted to make changes in this chapter or to vary its terms in carrying out the zoning administrator's duties.

(Ord. of 11-6-2017, § 10.2)

Secs. 44-442—44-465. Reserved.

DIVISION 2. ZONING PERMITS

Sec. 44-466. General compliance and approval requirements.

No person shall erect or move a structure to the extent of more than 100 square feet of floor area or to establish a new use or change in use for any parcel, without a zoning permit. The zoning administrator shall issue a zoning permit if the proposed structure or use is in compliance with the provisions of this article. The applicant shall furnish permits or approvals from the county or state health department, the county or state road commission, and the state department of natural resources, if required, before the zoning administrator may issue a permit. A copy of each zoning permit will be retained by the zoning administrator as a part of the permanent records of the city. The zoning administrator shall promptly inform the applicant of the denial of a zoning permit if the proposed structure or use does not comply with the provisions of this article.

(Ord. of 11-6-2017, § 10.3.1)

Sec. 44-467. Evidence of ownership.

All applications for zoning permits under the provisions of this article shall include the landowner's signature authorizing the application for the permit and be accompanied with proof of ownership of all property affected by the coverage of the permit. Proof of ownership shall be established by one of the following means:

- (1) Current title policy, or commitment, abstract or attorney's opinion of title;
- (2) For properties in residential districts, a certification of ownership by the owner or his agent, shall be deemed sufficient or such other evidence of ownership as the zoning administrator determines acceptable.

(Ord. of 11-6-2017, § 10.3.2)

Sec. 44-468. Property boundaries.

In cases where property boundaries are not clearly indicated by corner markers or other means, the zoning administrator may require, at the applicant's expense, the property to be located by a registered surveyor. In cases on properties located along a stream or shoreline, if there is any question of the location of the high-water mark, the zoning administrator may also require this level to be set and marked by a registered surveyor.

(Ord. of 11-6-2017, § 10.3.3)

Sec. 44-469. Supporting documentation.

In the event the zoning administrator feels additional information is required before determining the suitability of an application for a zoning permit, the zoning administrator may request that the applicant submit such additional information as surveys, deed descriptions, soil suitability tests, surfacewater disposal surveys, erosion control surveys, excavation disposal plans, easements and permits from other governmental agencies.

(Ord. of 11-6-2017, § 10.3.4)

Sec. 44-470. Voiding permit.

Any permit granted under this section shall become null and void after one year from the date of granting such permit unless the development proposed shall have passed its first county or state construction code inspection. Before voidance is actually declared, the zoning administrator shall notify the applicant of such voiding action by sending a notice by certified mail to the applicant at the address indicated on the permit application. The applicant shall have the option of extending the permit by a maximum of six months upon written notice to the zoning administrator. Said notice shall be filed no later than five working days following the expiration of the permit.

(Ord. of 11-6-2017, § 10.3.5)

Sec. 44-471. Inspection.

The developer of the property is solely responsible for meeting the conditions and terms of the zoning permit and this chapter.

(Ord. of 11-6-2017, § 10.3.6)

Sec. 44-472. Fees.

The fees for applications, permits and other requests shall be established by the city council. Fees must be paid before a zoning permit is issued.

(Ord. of 11-6-2017, § 10.4)

Secs. 44-473—44-497. Reserved.

ARTICLE XII. AMENDMENTS

Sec. 44-498. Request.

The city council shall grant a hearing on a proposed ordinance provision or revision to an interested property owner who requests a hearing by certified mail, addressed to the city clerk.

(Ord. of 11-6-2017, § 11.1)

Sec. 44-499. Procedure.

Except as set forth in this section, the procedure for the amendment of this chapter shall be as provided for by the Michigan Zoning Enabling Act, MCL 125.3101 et seq.

(Ord. of 11-6-2017, § 11.2)

Secs. 44-500—44-521. Reserved.

ARTICLE XIII. VIOLATIONS AND PENALTIES

Sec. 44-522. Penalties.

- (a) Any person who shall violate any provision of this chapter, or who fails to comply with any of the regulatory measures or conditions of the board of appeals adopted pursuant hereto, shall, upon conviction thereof, be fined not to exceed \$500.00 or may be imprisoned not to exceed 90 days, or may be both fined and imprisoned in the discretion of the court, and each day such violation continues shall be deemed a separate offense.
- (b) Any person who violates, disobeys, omits, neglects, refuses to comply with or resists the enforcement or any term or provision of this article or any amendment thereof shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00 or shall be imprisoned for not more than 90 days or both. Such fine and imprisonment is the discretion of the court. Each and every day during which any violation continues shall be deemed a separate offense. The duly authorized attorney for the city is empowered to prosecute such violations.

(Ord. of 11-6-2017, § 13.1; Res. No. 2019-27, 9-3-2019)

Sec. 44-523. Municipal civil infraction.

Any person, partnership, corporation, or association who creates or maintains a nuisance per se or who violates or fails to comply with any provision of this chapter or any permit issued pursuant to this article shall be responsible for a municipal civil infraction punishable as provided in section 1-13. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this article. Nothing in this section shall exempt the offender from compliance with the provisions of this chapter.

(Ord. of 11-6-2017, § 13.2)

Sec. 44-524. Nuisance abatement.

In addition to enforcing this chapter as a municipal civil infraction the city may initiate proceedings in the circuit court to abate or eliminate the nuisance per se or any other violation of this chapter.

(Ord. of 11-6-2017, § 13.3)