

## Chapter 32 ZONING<sup>1</sup>

### ARTICLE I. IN GENERAL

#### Sec. 32-1. Short title.

This chapter shall be known as the City of Zilwaukee Zoning Ordinance.

(Ord. No. 31, § 31.101, 4-24-2012)

#### Sec. 32-2. Purpose.

It is the general purpose of this chapter to provide for the establishment of districts or zones within which the use of land and structures may be restricted and regulated to:

- (1) Meet the needs of the city residents for food, fiber, energy, and other natural resources places of residence, recreation, industry, trade service, and other uses of land.
- (2) Ensure that uses of the land shall be situated in appropriate locations and relationships.
- (3) Limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities.
- (4) Facilitate adequate and efficient provisions for transportation systems, sewage disposal water, energy, education, recreation, and other public services and facility needs.
- (5) Promote public health, safety, and welfare and for those purposes may divide the city into districts of the number, shape and area considered best suited to carry out this section.
- (6) For each district or zone, regulations are imposed which designate the uses for which buildings or structures shall or shall not be erected or altered, and which designating the trades, industries, and other land uses or activities that shall be permitted or excluded or subjected to special regulations.

(Ord. No. 31, § 31.102, 4-24-2012)

#### Sec. 32-3. Generally

- (a) *Conflicts with other laws.* Whenever any provisions of this chapter impose requirements for lower heights of buildings or a less percentage of lots that may be occupied or required wider or larger courts or deeper yards than are imposed or required by existing provisions of law, or other ordinance of the city, the provisions of this chapter shall govern. Wherever provisions of any other ordinance or regulation of the city imposes requirements for lower height of buildings or less percentage of lots that may be occupied, or require wider or larger courts or deeper yards than are required by this chapter, the provisions of the other ordinance or regulation shall govern.

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<sup>1</sup>State law reference(s)—Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

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- (b) *Severability.* It is the legislative intent that this chapter be liberally construed and should any provision or section of this chapter be held unconstitutional or invalid such ruling shall not be construed as affecting the validity of remaining portions of the ordinance, it being the intent that this chapter shall stand, not withstanding the invalidity of any provision or section therein.
- (c) *Repeal.* The existing city zoning regulations, as amended, are hereby repealed. The adoption of the ordinance from which this chapter is derived, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of the prior ordinance, as amended, if the use is in violation of the provisions of this chapter.
- (d) *Effective date.* This chapter shall take immediate effect.

(Ord. No. 31, §§ 31.103—31.106, 4-24-2012)

### **Sec. 32-4. Rules applying to the text.**

For the purposes of this chapter, certain rules of construction apply to the text, as follows:

- (1) Terms used in the present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.
- (2) The term "person" includes a corporation or firm as well as an individual.
- (3) The term "lot" includes the term "plot," "tract," or "parcel."
- (4) The term "shall" is always mandatory and not discretionary; the term "may" is permissive.
- (5) The term "used" or "occupied," as applied to any land or structure, includes the term "intended, arrange or designed to be used or occupied."
- (6) Any word or term not herein defined shall be used with a meaning of common standard use.

(Ord. No. 31, § 31.201, 4-24-2012)

### **Sec. 32-5. Definitions.**

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

*Accessory use* means an accessory use is a use clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related.

*Accessory building* means a detached building which use is clearly incidental to, customarily found in connection with, and located on the same lot as the principle building.

*Adult entertainment activities* means any activity or live exhibition including the display, exhibition or viewing of materials describing or relating to human sex acts or by any emphasis on male or female genitals. The term "adult entertainment activities" includes massage parlors, theaters, model studios and all other forms of video and aural display.

*Adult bookstore* means an establishment having as a substantial or significant portion of its stock in trade books, magazines or other periodicals, video tapes, photographs or motion picture films which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material. (See *Specified sexual activities* and *Specified anatomical areas.*)

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*Adult mini-motion picture theater* means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observations by patrons therein.

*Adult motion picture theater* means an enclosed building or open air site used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or anatomical areas for observation by patrons therein.

*Adult related business* means any activity described in any of the remaining sections of this chapter and any other business having an employee or entertainer, in person or by motion picture, television, video tape, hologram, magazine or other type of image displaying and specified anatomical area or engaging in any specified sexual activity.

*Alley* means a service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

*Antenna* means the surface from which wireless radio signals are sent and received by a wireless service facility.

*Automobile carwash* means an establishment being housed in a building or portion thereof together with the necessary mechanical equipment used for washing automobiles and using production line methods.

*Automobile service station* means an establishment being housed in a building or portion thereof, together with necessary equipment used for the direct retail sale of gasoline or any other engine fuel, kerosene, or motor oil lubricants or grease and including the sale of minor accessories, and the servicing of and minor repair of automobiles.

*Automobile repair shop* means an establishment being housed in a building or portion thereof, together with the necessary equipment used for the general repair of automobiles, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service and painting or undercoating of automobiles.

*Basement* means a story having part but not more than one half of its height above finished grade. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or is used for business or dwelling purposes.

*Berm* means an earthen mound designed to provide visual interest on a site or screen undesirable views, reduce noise, or fulfill other such purposes.

*Building* means any structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, intended primarily for the shelter, support, or enclosure of persons, animals, or property of any kind. A building does not include tents or trailer coaches.

*Building, height of,* means the vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for gable, hip, and gambrel roofs. See appendix 1 in section 32-537(b).

*Building, front line of,* means the line that coincides with the face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches but does not include steps. Said line shall be parallel to the front lot line and measured as a straight line between the intersecting points with the side yard.

*Building lines* means a line defining the minimum front side or rear yard requirements outside of which no building or structure may be located.

*Building principal* means a building in which is conducted the main or principal use of the lot on which is located.

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*Building setback* means the distance between the street right-of-way or front lot line and the front line of a building or any projection of the building, excluding uncovered steps.

*Bulk station* means a place where crude petroleum, gasoline naphtha, benzene, benzol, kerosene, or any other liquid, except such as will stand a test of 150 degrees Fahrenheit, closed cup tester, are stored for wholesale purposes only, where the aggregate capacity of all storage tanks is more than 6,000 gallons.

*Business* means a use designated and intended to generate revenue, an occupation, trade or profession.

*Clinic* means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professionals.

*Clubs* means an organization catering exclusively to members and their guest, or premises, or premises and buildings for recreational, artistic, political, or social purposes, which are not conducted primarily for gain and which do not provide merchandise, vending, or commercial activities; except as required incidentally for membership and purpose of such club.

*Commerce (commercial)* means occupation of buying and selling. See *Trade*.

*Common land* means a parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development.

*Communication tower* means any ground-mounted pole, spire, structure or combination thereof, including supporting lines, braces, wires, cables, masts, intended primarily for the purposes of mounting an antenna or similar apparatus above ground.

*Courts* means open unoccupied spaces other than yards on the same lot with a building.

*Courts, inner*, means an open, unoccupied space not extending to the street or front, or rear yard.

*Courts, outer*, means an open, unoccupied space opening upon a street, alley, yard or setback.

*Convalescent nursing home* means a building wherein infirmed or incapacitate persons are furnished shelter, care, food, lodging, and needed attention for a compensation.

*Coverage, lot*, means percent of the plot or lot covered by the building area.

*Cul-de-sac* means a street with only one outlet having sufficient space at the closed end to provide vehicular turning area.

*District* means any section within the community for which the regulations contained within this chapter are the same.

*Dormitory* means a residence hall, which is used for sleeping quarters or entire buildings primarily providing sleeping and residential quarters for large numbers of people, often boarding school, college or university students.

*Drive-in* means a business establishment so developed that its retail or service character is dependent on providing a drive-way approach or parking space for motor vehicles so as to serve patrons while in the motor vehicle, or within a building on the same premises and devoted to the same purpose as the drive-in service.

*Dwelling* means a house or building, or portion thereof, which is occupied wholly as the home, residence, or sleeping place by one or more human beings, either permanently or transiently, but in no case shall an automobile chassis, recreational vehicle, basement, accessory building, temporary building, tent or portable building, motel or automobile court, roominghouse or boardinghouse, hotel, or hospital be considered as a dwelling, so long as these are used for the purposes described in this chapter. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this chapter and shall comply with the provisions hereof relative to dwellings.

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*Dwelling types.* For the purpose of this chapter, dwellings are separated into the following categories and herewith defined accordingly:

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

*Multiple-dwelling* means a building or portion thereof containing three or more dwelling units living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, but not including boardinghouses or tourist houses.

*Single-family dwelling* means a detached building containing one dwelling unit and so designed to provide living, cooking, and kitchen accommodations for one family only.

- (1) It complies with the minimum floor area requirements of this Code for the zone in which it is located.
- (2) It has a minimum dimension across every front, side, and rear elevation of 25 feet and complies in all respects with the city building regulations, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction which are different than those imposed by the city building regulations, then and in that event such federal or state standard or regulations shall apply.
- (3) It is firmly attached to a permanent foundation constructed on the site in accordance with the city building regulations and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building regulations for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the state mobile home commission and shall have a perimeter wall as required herein.
- (4) In the event that a dwelling is a mobile home, as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- (5) The dwelling is connected to the public sewer and water supply when required or to such private facilities approved by the local health department.
- (6) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (7) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the building inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the zoning board of appeals within a period of 15 days from the receipt of notice of said zoning inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of the term "dwelling," as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within the neighborhood of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

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- (8) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
  - (9) The dwelling complies with all pertinent building and fire regulations; and all dwellings shall meet or exceed all applicable roof snow load and strength requirements. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the mobile home construction and safety standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
  - (10) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinances of the city pertaining to such parks.
  - (11) All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable city building regulations and requirements.

*Two-family dwelling* means a building containing two dwelling units each provided with separate facilities for each family for living accommodations.

*Dwelling unit* means any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence, or sleeping place of one family, either permanently or transiently, but in no case shall a travel trailer, mobile home, motor home automobile chassis, tent or other portable building be considered a dwelling in a single-family, two-family, or multiple-family residential area. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.

*Family.*

- (1) The term "family" includes the following:
  - a. One or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, and occupying the whole or part of a dwelling unit as a single housekeeping unit. The term "family" shall be deemed to include domestic servants, gratuitous guests, and not more than four foster or boarded children who are sponsored or whose room and board is paid by a recognized childcare agency or organization. The term "family" shall also be deemed to include not more than six persons occupying the dwelling unit and living together as a single nonprofit housekeeping unit, if said occupants are handicapped persons as defined in title VIII of the Civil Rights Act of 1968, 42 USC 2000e et seq., as amended by the Fair Housing Amendment Act of 1988.
  - b. A group of not more than three persons, who need not be related by bonds of consanguinity, marriage, or legal adoption, living together as a single housekeeping unit, as distinguished from individuals occupying a hotel, club, boardinghouse, roominghouse, fraternity or sorority house. The group living in the dwelling unit must occupy such dwelling unit in the same manner as a dwelling occupied by the term "family" as defined in subsection (a) of this definition.
- (2) An affirmative finding that any one or more of the following criteria exists shall create a rebuttable presumption that the group occupying the dwelling unit is not a family:
  - a. Bedroom doors that can be locked on the exterior and interior sides of the door;
  - b. More than one mailbox provided per group;
  - c. Bedroom doors designated by number or letter.

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*Farm* means a tract of land which is directly devoted to agricultural purposes provided further farms may be considered as including establishments operated as greenhouses, nurseries, orchards, kennels, quarries or gravel or sand pits shall not be considered farms hereunder unless combined with a bonafide farm operation on the same contiguous tract of land of not less than ten acres.

*Fence* means a permanent or temporary barrier enclosing or bordering a plot of land or portion thereof composed of suitable manmade materials for the purpose of preventing or controlling entrance or to confine within or to make a boundary. A wall would also be considered a fence for purposes of this chapter.

- (1) *Closed construction fence.* A fence in which the ratio of the closed portion to the open portion is more than one to one per foot.
- (2) *Hedge.* A series of bushes, shrubs or evergreen trees planted or grown in a compact and continuous line.
- (3) *Open construction fences.* A fence in which the ratio of the open portion to the closed portion is at least one to one per foot.

*Garage, private,* means a private garage is a building used for the storage of motor vehicles and containing no public repair or service facilities, see graphics in section 32-537 and refer to section 32-33.

*Gypsum and lime processing activities* means any activity involving the processing of gypsum or lime for sale as an agricultural soil amendment and an industrial filler and whereby raw material is completely processed to produce a number of end products including the capture of the dust as a saleable product.

*Home occupation* means any business carried on by one or more members of a family residing on the premises, providing it:

- (1) Be operated in its entirety within the principal dwelling or accessory structure;
- (2) Does not have a separate entrance from outside the building;
- (3) Is not involved alteration or construction not customarily found in dwelling or accessory structures;
- (4) Does not use any mechanical equipment except that which is used normally for purely domestic or household purposes or for agricultural purposes if the home occupation is located in the A-1 zoning district;
- (5) Does not use more than 25 percent of the total actual floor area of the dwelling;
- (6) Does not display, or create outside the structure any external evidence of the operation of the home occupation, including additional traffic, except for one unanimated, non-illuminated, wall sign having an area of not more than two square feet.
- (7) Does not employ any persons other than family members residing on the premises.

*Home-sectional or component* means several building components meeting the state construction code factory fabricated, and transported to the home site where they are put on a permanent foundation and joined to make a complete house.

*Junk/salvage yard* means a licensed open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. The term "junk/salvage yard" includes automobile wrecking yards, and two or more inoperative, unlicensed vehicles located on a single lot. Operations with the characteristics of salvage yards that are called recycling centers, junkyards, scrap yards, etc., shall be considered as salvage yards.

*Kennel* means any facility, on a single parcel, where more than three dogs or three cats or other household pets, over four months old are kept, housed or boarded for a fee, or where such animals are kept for breeding purposes.

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*Loading/space berth* means an off-street space at least ten feet wide, 25 feet long and 15 feet high; either within a building or outside on the same lot, provided maintained and available for the loading or unloading of goods or merchandise and having direct and unobstructed access to a street or alley.

*Lot* means a parcel of land occupied or intended for occupancy by a main building and accessory building thereto, together with such open spaces as are required under the provisions of this chapter. Every lot shall abut upon and have permanent access to a public street.

*Lot area* means the total horizontal area within the lot lines of the lot.

*Lot: corner, interior and through.*

*Corner lot* means a lot which has at least two contiguous sides abutting upon a street for their full length, and provided two sides intersect at an angle of not more than 135 degrees.

*Interior lot* means a lot other than corner lot.

*Through lot* means an interior lot having frontage on two streets which do not intersect at a point contiguous to such lot.

*Lot lines* means the lines abutting a lot as defined as follows:

*Lot line, front,* means that line separating the lot from the street right-of way. In the case of a corner lot or through lot, the lines separating the lot from each street.

*Lot line, rear,* means lot line which is opposite the front lot line. In the case of a corner lot, the rear lot line may be opposite either front lot line, but there shall only be one rear lot line. In the case of a lot with side lot lines converging at the rear, the 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. See section 32-537(b).

*Lot line, side,* means any lot line that is not a front lot line or not a rear lot line.

*Lot width of* means the distance from one side lot line to the other side lot line, measured parallel to the front lot line at the minimum setback.

*Lot of record* means a parcel of land, the dimensions of which are shown on a document or map recorded with the county register of deeds.

*Mobile home park* means a parcel of land 20 acres or more, intended and designed to accommodate 60 or more mobile homes for residential use, which is offered to the public for that use along with any structure, facility, area or equipment permitted and incidental to the residential use. Referred to also a park.

*Mobile home space* means a plot or parcel of land within the mobile home park designed to accommodate one mobile home.

*Mobile home stand* means that part of a mobile home space which has been reserved for the placement of the mobile home, appurtenant structures, or additions.

*Mobile homes* means a detached single-family dwelling unit with all of the following characteristics:

- (1) Designed for long-term occupancy.
- (2) Containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside system.
- (3) Designed to be transported after fabrication on its own wheels or on flatbed or other trailers on detachable wheels.
- (4) Arriving at site to be occupied as a dwelling unit complete, meeting minimum square footage requirements of 1,100 square feet, and including appliances and furniture and ready for occupancy except for minor incidental location operations.



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- (5) Not having a shingled overhanging roof.

*Modular home* means a fabricated, transportable building unit designed to be incorporated at a building site into a structure on a permanent foundation to be used for residential uses with a minimum width and length of 25 feet, have a shingled overhanging roof and be certified by the state.

*Motel* means a building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile facilities. The term "motel" includes buildings designed as auto courts, tourist courts, motor courts, motor hotels, and similar appellations which are designed as integrated units of individual rooms under common ownership. For the purposes of this chapter, the terms "motel" and "hotel" shall have the same meaning.

*Nonconforming use* means a building, structure, or use of land existing at the time of enactment of the ordinance from which this chapter is derived, and which does not conform to the regulations of the district or zone in which it is situated.

*Open space* means any unoccupied space open to the sky on the same lot with a building. See *Courts*.

*Parking space* means an off-street space of at least 180 square feet exclusive of necessary drive-ways, aisles or maneuvering areas suitable to accommodate one motor vehicle and having direct unobstructed access to a street or alley.

*Parking, shared*, means any public or private area, outside of a building or structure, designed for and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets that is used by more than one residential development, business or industry.

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

*Processing, limited manufacturing, 1 district*, means a series of operations usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner. The term "limited manufacturing processing" includes such products as bakery goods, candy, pharmaceuticals, toiletries, food products, hardware and cutlery, tool and die, garage products and sheet metal products. The term "limited manufacturing processing" also includes processing of semi-finished or previously prepared materials such as bone, hair, fur, leather or feathers, fiber, plastics, glass or cellophane, wood, paper, cork, sheet metal or wire, tobacco, rubber, precious or semi-precious stones, and similar articles or products which are previously prepared or semi-finished.

*Processing, intensive manufacturing, 2 district*, means a series of operations usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner. Processing includes material, goods, foodstuffs and other semi-finished products from raw materials. Processing may include the chemical transformation of materials or substances into new products or the blending or combination of gases and liquids. The term "processing" also may be applied to specific industrial or manufacturing operations.

*Public utility* means any person, firm, corporation, municipal department or board fully authorized to furnish to the public electricity, gas, steam, telephone, telegraph, transportation of water service.

*Recreation facility* means a nonmotorized recreation facility that utilizes environmental or natural resource conditions as a basis for recreation.

*Recreational vehicle* means a recreational vehicle includes motor homes, travel trailers, snowmobiles on trailers, boats, and similar related type units.

*Right-of-way* means a street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles.

*Roadside stand* means a structure erected on a farm adjacent to a public road for the sale of chiefly products produced on the farm, provided such shall not constitute a commercial district, nor be deemed a commercial activity.

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*Sand packaging activities* means any activity whereby dried sand is placed in packaging for sale, the sand not being dried on the same property.

*Satellite dish* means any antenna in the shape of a shallow dish, of any size, and appurtenant equipment, used for the receptions of communications (television and otherwise) from orbiting satellites and ground transmitters.

*Service-essential* means the construction, alteration or maintenance by private companies or public departments or agencies of the various transmissions, distribution or disposal systems that are essential for the preservation of the public health, safety or general welfare such as gas, electricity, telephone, water and sewer. Also, this term includes all poles, wires, mains, drains, sewers, pipes cables traffic signals, hydrants and other similar equipment or accessories reasonable necessary to provide adequate service of said companies or agencies; but the term shall not include buildings or utility substations.

*Sign* means a name identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land and which is intended to direct attention to an object, product, place, activity, person, institution, organization or business. The term "sign" does not include a sign located completely within an enclosed building. For the purpose of this chapter the following sign or sign related terms are defined:

*Area, or surface area, of sign* means that area per face enclosed by one outline, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display.

*Billboard sign* means a freestanding outdoor sign which advertises something not located on the immediate premises.

*Construction signs* means signs which identify architects, engineers, contractors and other individuals or firms involved with a construction project, but not including advertisement of any product. These include signs announcing the character of the building enterprise or the purpose for which the building is intended.

*Electric sign* means any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

*Electronic message board* means changeable copy signs in which the copy consists of an array of lights activated and deactivated simultaneously with a frequency of message change of not less than 20 seconds. Signs displaying time and temperature only may change messages with a frequency of no less than five seconds.

*Entrance/exit* means signs directing traffic movement to or from a parcel.

*Freestanding sign* means a sign which is affixed to a permanent foundation, but not attached to the building proper. (Also *Ground mounted sign*.)

*Ground level* means the elevation to be used for computing the height of signs. Defined as the roadway centerline grade elevation at its intersection with the centerline of the driveway serving the parcel which is located nearest to the sign location.

*High profile sign* means a freestanding identity sign intended to announce the existence of a business located near an expressway interchange to travelers on the expressway so they may react in time to exit safely.

*Identity sign* means a sign that identifies the business, owner, or resident and/or the street address and which sets forth no other advertisement.

*Illuminated sign* means a sign that provides artificial light directly or through any transparent or translucent material.

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*Institutional bulletin board* means a structure containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institution and the announcement of its services or activities.

*Integral sign* means names of buildings or farm, date of erection, monumental citations, commemorative tablets and the like when made an integral part of the walls of the structure (or roof for farm buildings).

*Joint sign* means a sign which gives direction and identification to a group of adjacent businesses whether or not under single management.

*Land development project signs, temporary*, means signs pertaining to the sale, lease, rent or development of a subdivision, planned shopping center, office building, industrial park or similar land parcel.

*Location* means a lot, premises, building, wall or any place whatsoever upon which a sign is located.

*Marquee* means an identification sign attached to or made a part of a marquee, canopy, or awning projecting from and supported by the building.

*Off-premises sign* means a sign which advertises an activity, business, product or service not sold or conducted on the parcel on which the sign is located.

*Political campaign signs* means signs announcing candidates for public political office and other data pertinent to an upcoming election.

*Private traffic direction* means signs directing traffic movement or giving instructions, located within a parcel.

*Projecting sign* means a sign, other than a wall sign, which projects 18 inches or more from and is supported by a wall of a building or structure.

*Projection* means the distance by which a sign extends over public property or beyond the building line.

*Property rental signs* means signs on the premises announcing rooms, apartment or house for rent, not to exceed four square feet.

*Public signs* means signs of a governmental nature and in the public interest, erected by, or on the order of, a public officer in the performance of his public duty.

*Real estate signs* means signs advertising the sale, rental or lease of the premises or part of the premises on which they are displayed.

*Roof sign* means any sign erected, constructed, and maintained wholly upon or over the roof of any building.

*Roofline* means either the high point of the roof or the top of the parapet, whichever forms the top line of the building silhouette and where a building has several roof levels, this roof or parapet shall be the one belonging to the portion of the building on whose wall the sign is located.

*Setback* means a distance measured from the outer boundary of a parcel in which erection of a sign is not permitted.

- (1) A front setback is measured from the edge of the right of way of any abutting roadway.
- (2) A rear setback is measured from the property line opposite the road way.
- (3) A side setback is measured from any other abutting property line.
- (4) Corner lots shall require two front setbacks, but only one rear setback.

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*Size of sign* means the size of a sign is computed as the product of its height and its width expressed in square feet. A sign shall be considered to have not more than two sides, i.e., a three-sided sign equals two signs.

*Special purpose signs* means any other temporary signs.

*Street banners* means fabric signs, suspended across public streets advertising a public entertainment or event. The location and contents of each street banner must be specially approved by the county road commission or state department of transportation.

*Temporary sign* means a display, informational sign, banner, or other advertising device intended for a limited period of display, including any sign which can be physically lifted, pulled, carried or wheeled from one location to another.

*Wall sign, flat,* means one affixed directly to or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less the 18 inches at all points.

*Roof, types of,* means gable or hip, flat, mansard, gambrel. See section 32-537(a).

*Site, area,* means the total area within the property lines excluding street rights-of-way and easements.

*Site plan* means documents and drawings are required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes. Conditions of the ordinance for site plan submittal must be complied with.

*Special use.* The term "special use" applied to a use which may be permitted by the application for an issuance of a special use permit by the specified procedures and requirements, as outlined in cited sections must be complied with prior to final issuance of said permit.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock, female breast below a point immediately above the top of the areola.
- (2) Human genitals in a discernable turgid state, even if completely and opaquely covered.

*Specified sexual activities* means:

- (1) Human genitals in a state of stimulation or arousal.
- (2) Acts of human or animal masturbation, sexual intercourse (homosexual or heterosexual), or sodomy.
- (3) Fondling of or erotic touching of human genitals, pubic region, buttock or female breast.
- (4) Bestiality.
- (5) Fellatio and cunnilingus.
- (6) Human excretory function.

*Story, height of,* means the vertical distance from the top surface of one floor to the top surface of the next above. The height of the topmost story is the distance from the top surface of the floor to the top surface of the ceiling joists.

*Storage* means outside storage, inside storage, warehousing.

- (1) Outside storage includes the storage of materials, items, products (raw or finished) in an open yard without full protection from the weather.
- (2) Inside storage includes the storage of materials, items, products (raw or finished) completely enclosed by a building on all four sides with a roof.

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(3) Warehousing is the use of a commercial building for storage of goods.

*Street* means a public thoroughfare which affords the principal means of access to abutting property.

*Street functional classification* means functional classification is the process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide. Three basic groups include: arterial for primary mobility; collectors for both mobility and land access and locals for primarily land access.

- (1) *Principal arterial*. Serves the major centers of activity of the region, the highest traffic volume corridors, and the longest trip desires.
- (2) *Minor arterial*. Interconnects with an augments the principal arterial system and provides service to trips of moderate length at somewhat lower level of travel mobility than principal arterial.
- (3) *Collectors*. Collector system provides both land access service and for local traffic movements within residential neighborhoods, commercial areas and industrial areas.
- (4) *Locals*. Serves as direct land access and access to higher systems.

*Street line* means the legal line of demarcation between a street right-of-way line for service, benefit or enjoyment.

*Use* means the employment or occupation of a building structure or land for service, benefit or enjoyment.

*Variance* means a modification of the literal provisions of this chapter granted when strict enforcement thereof would cause undue hardship owing to circumstances unique to the specific property on which the modification is granted by the board of appeals on zoning.

*Warehousing* means storehouse for goods or merchandise.

*Yard* means an open space on the same lot with a building, which may not be occupied by buildings, structures or parking areas, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line (property line) and the building the line.

*Yard, front*, means a yard extending across the front of a lot between the side lot lines and measured between the front line of the lot and the nearest point of the main building. See appendix 2.

*Yard, rear*, means an open space on the same lot with a main building unoccupied except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building. See section 32-537(b).

*Yard required, how measured*, means the open space between the lot line and the setback line.

*Yard, side*, means an open, unoccupied space on the same lot with the building, situated between the principal building and the side line of the lot and extending from the front yard to the rear yard. See section 32-537(b).

(Ord. No. 31, § 31.202, 4-24-2012; Amend. of 11-7-2016 )

**Secs. 32-6—32-28. Reserved.**

## **ARTICLE II. REQUIREMENTS**

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## Sec. 32-29. Nonconforming uses.

It is the intent of this article to permit the continuance of a lawful use of any building, structure or use of any part thereof and shall be used, altered, constructed or reconstructed in conformity with the provisions of this article and further it is hereby declared that the existence of nonconforming uses is contrary to the best interests of the general public and further it is hereby declared to be the policy of this community as expressed in this article to discontinue nonconforming uses in the course of time as circumstances permit, having full regard for the rights of all parties concerned.

- (1) *Elimination of nonconforming uses.*
  - a. In accordance with the applicable state and local missive legislation, the city through its agents may acquire properties on which nonconforming buildings or uses are located, by condemnation or other means, and may remove such uses or structures. The resultant property may be leased or sold for a conforming use or may be used by the city for a public use. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.
  - b. Whenever a nonconforming use has been discontinued for 24 consecutive months, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provisions of this article.
- (2) *Nonconforming uses of land.* The nonconforming uses of land existing at the effective date of the ordinance from which this article is derived where no building is located may be continued, provided dimensional requirements are complied with, and further provided that no buildings are to be constructed after the effective date of the ordinance from which this article is derive, except that will conform to district requirements within which the use is located, and further provided all other pertinent requirements of this section are compiled with.
- (3) *Nonconforming signs.* Signs existing at the time of the enactment of the ordinance from which this article is derived and not conforming to its provisions, but which were constructed in compliance with previous regulations shall be regarded as nonconforming signs which may be continued as properly regarded and maintained as provided in this Code and continue to be in conformance with other ordinances of this municipality. Nonconforming signs which are structurally altered, relocated, or replaced shall comply immediately with all provisions of this Code.
- (4) *Illegal nonconforming uses.* Nonconforming uses of buildings or land existing at the effective date of the ordinance from which this article is derived established without a building permit or not shown on the tax records as a nonconforming use prior to the last official assessment roll, or those nonconforming uses which cannot be proved conclusively as existing prior to the effective date of the ordinance from which this article is derived shall be declared illegal nonconforming uses and shall be discontinued.
- (5) *Reconstruction and restoration.* Any lawful nonconforming use damaged by fire, explosion, or act of God, or by other causes may be restored, rebuilt, or repaired, provided that such restoration does not exceed its state equalized assessed value as determined by the assessing officer, exclusive of foundations, and provided that said use by the same or more nearly conforming with the provision of the district in which it is located.
- (6) *Repair of nonconforming buildings.* Nothing in this article shall prohibit the repair, improvement, or modernization of a lawful nonconforming building to correct deterioration, obsolescence, depreciation, and wear, provided that such repair does not exceed an aggregate cost thereby increasing the assessed value by more than 30 percent as determined by the assessing officer unless the subject building is

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changed by such repair to a conforming use. No repair may enlarge or structurally alter the structure in such a way as to increase the nonconformity.

- (7) *Changing uses.* If no structural alterations are made, the board of appeals may authorize a change from one nonconforming use to another nonconforming use, provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.
- (8) *Prior construction approval.* Nothing in this article shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of the ordinance from which this article is derived provided that construction is commenced within 30 days after the date of issuance of the permit and that the entire building shall have been completed according to plans filed with the permit application within one year after the issuance of the building permit.
- (9) *Districts changes.* Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this section shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

(Ord. No. 31, § 31.301, 4-24-2012)

State law reference(s)—Nonconforming uses or structures, MCL 125.3208.

### **Sec. 32-30. Supplementary use regulations.**

- (a) *Prior building permits.* Any building permit issued prior to the effective date of the ordinance from which this article is derived shall be valid, even though not conforming to the provisions of this article, provided that construction is commenced within 90 days after the date of permit application and completed within one year after the issuance of the building permit.
- (b) *Access to a street.* Any lot of record created after the effective date of the ordinance from which this article is derived shall have frontage on a public street, except as may be approved as a planned unit development in accordance with the provisions of this article or the Plat Act of 1967.
- (c) *Rear dwelling prohibited.* No building in the rear of and on the same lot with a principal building shall be used for residential purposes except for watchmen, caretakers, and domestic employees whose employment functions are related to the function of the principal building: provided that all other requirements of this article are satisfied.
- (d) *Use of structure for temporary dwelling.* No structure shall be used for dwelling purposes that does not meet the minimum standards as defined in this article and the requirements of the building code. No temporary structure whether of a fixed or portable construction shall be erected for any length of time unless authorized by the issuance, by the board of zoning appeals, of a temporary permit as provided in article VII of this chapter.
- (e) *Mobile home dwellings.* No person, or entity, shall use, occupy or permit the use or occupation of a mobile home as a dwelling within the city in an area not designated as a mobile home park, unless:
  - (1) A permit for the placement thereof has been obtained from the city official authorized by the city council to issue the same. All applications for said permit shall be accompanied by a nonrefundable fee. That said fee may be changed or altered by the resolution of the city council so as to cover the cost of all expenses of the city in connection with inspection made, or hearings held, and investigations made.

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- (2) Said mobile home, the placement thereof, and the premises upon which it shall be located shall meet all requirements of this article relative to use, size of premises, floor area, setback, side lot and rear lot requirements specified for the particular zoning district in which said premises is located. Further, a mobile home occupied as a dwelling shall have a minimum width across any front, side, or rear elevation of 25 feet. Where a mobile home dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed under the state construction code, then federal or state standard or regulation shall apply.
  - (3) Said mobile home shall be connected to potable water and sanitary sewerage disposal facilities approved by the health agency having jurisdiction. If public water or sanitary sewerage disposal facilities are available to said premises, said mobile home shall be connected thereto.
  - (4) Said mobile home shall be firmly attached to a permanent foundation constructed on the site in accordance with state construction code and shall have a wall of the same perimeter dimensions of the dwellings. In the event that the mobile home is used as a dwelling such mobile home dwelling shall be installed pursuant to the manufacturer's set up instructions and shall be secured to premises by an anchoring system or device complying with the rules and regulations of the state mobile home commission, and shall have perimeter wall as required above. The mobile home shall be so placed and situated that the wheels shall be removed and the underside or chassis of said mobile home shall be completely enclosed and connected to foundation so that the towing mechanism, undercarriage or chassis are not exposed to view.
  - (5) Said mobile home shall meet or exceed all roof snow load and strength requirements imposed by the United States Department of Housing and Urban Development Mobile Home Construction and Safety Standards.
  - (6) If placed within a flood zone, said mobile home shall meet all requirements for construction of dwelling onsite within said zone.
  - (7) Said mobile home dwelling shall contain no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
  - (8) As to a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the mobile home construction and safety standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
  - (9) Said mobile home dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling: shall have not less than two exterior doors with the second one being either the rear or side of the mobile home dwelling: shall have steps connected to the said exterior door areas or to porches connected to said door areas where differences in elevation require the same.
  - (10) The compatibility of design and appearance shall be determined in the first instance by the city zoning administrator upon review of the plans submitted for a particular mobile home dwelling, subject to appeal by an aggrieved party to an appeals board. The membership of the appeal board shall be the same membership as the zoning board of appeals under this article. The appeal, if taken, must be taken within 15 days from the receipt of notice of city zoning administrator's decision. Any determination of compatibility shall be based upon the standards set forth herein, as well as the character, design, and appearance of one or more residential dwellings other than the mobile home parks within 2,000 feet of the subject mobile home dwelling where such area is developed with dwellings to the extent of not



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less than 20 percent of the lots situated within said area; or, where said area is not so developed, by the character, design, and appearance of one or more residential dwellings located outside of mobile home parks throughout the city. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard design home.

- (11) The foregoing provisions shall not apply to a mobile home located in a licensed mobile home park except to the extent required by a state or federal law or otherwise specifically required in article VII of this chapter pertaining to such parks.
  - (12) In connection with the application to permit the occupation of a mobile home as dwelling, the construction specifications of the mobile home proposed to be occupied as a dwelling shall be supplied along with whatever other information and documents may be required, as the city may from time to time determine are needed or necessary to enable the appropriate officials to assure compliance with this article.
  - (13) The term "mobile home" does not include motor homes, campers, recreational vehicles (whether licensed or not as motor vehicles) or other transportable structures designed for temporary use which are not designed for permanent residence and connection to sanitary sewage, electrical power, and potable water supplies.
- (f) *Required water supply and sanitary sewerage facilities.* After the effective date of the ordinance from which this article is derived, no structure shall be erected, altered or moved upon a lot or premises and used in whole or in part for a dwelling, business, industrial or recreational purpose unless it shall be provided with a safe sanitary and potable water supply and with a safe and effective means of collection treatment, and disposal of human excreta and domestic, commercial and industrial waste. All such installations and facilities shall conform with the minimum requirements of the county health department and applicable state regulations.
- (g) *One dwelling per lot.* Only one single-family detached dwelling will be allowed to be erected on a lot.
- (h) *Fences, walls and screens.*
- (1) *Fences in front yard areas.* Fences which are located in the required front yard area shall not exceed a height of four feet and must be of open construction.
  - (2) *Fences in rear yard areas.* Fences which are located in the rear yard shall not exceed a height of six feet and may be of open or closed construction.
  - (3) *Fences on corner lots.*
    - a. Fences constructed or installed on corner lots or parcels having a side yard abutting upon a street may be erected to a height of six feet above ground level but shall not extend beyond the side yard building line in the side yard area adjacent to the street side of the building thereon.
    - b. Fences located in the street side yard area on corner lots, between the dwelling and the street property line, shall not exceed a height of four feet, and must be open construction, except that a fence six feet in height construction may be erected in the street side yard area where a corner lot shares a common rear lot line with the rear adjacent property owner.
  - (4) *Fences located in interior side yard areas.* Fences constructed or erected in the interior yard area may be erected to a height of six feet above ground level and may be of open or closed construction except that when an abutting dwelling has a door or window (except basement window) located less than five feet from the fence, said fence shall be reduced to four feet in height if it is of closed construction.

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- (5) *Exceptions.* The height restrictions of this article shall not apply to schools, public or private, or to public recreation areas, or to public utility installations where higher fences are required for the safety and protection of the public.
- (6) *Unobstructed site.*
- a. *Unobstructed site distance.* No fence, structure, hedge or planting shall be erected, established or maintained on any lot which will obstruct the view of drivers in vehicles approaching an intersection of two streets or the intersection of a street and an alley (see diagram in section 32-537(c)). Fences or plantings located in the triangular areas described below shall not be permitted to obstruct cross-visibility between a height of 30 inches and eight feet above grade.
- b. *Unobstructed sight area.* The unobstructed triangular area is described as follows:
1. The area formed at the corner, intersection of two streets bounded by the curb lines extended to the point of the intersection and by a base line intersecting each curb 60 feet from said point of intersection. Where no curb exists, the edge of the roadway shall be considered a curb within the meaning of this section (see section 32-537(c));
  2. The area formed at the corner, intersection of the public right-of-way and a driveway, the two sides of the triangular area being ten feet in length measured along the right-of-way line and the edge of the driveway, and the third side being a line connecting these two sides (see section 32-537(d)).
- (7) *Use of abutting properties.* No fence shall be erected where it would prevent or unreasonably obstruct the use of adjacent property, nor shall a fence be erected where it would obstruct or prevent the continued safe use of an existing driveway or other means of access to adjacent property. In enforcing this provision, the zoning administrator may require a fence to be set back a minimum distance from a driveway or property line.
- (8) *Barbed wire.* The placement of barbed wire is regulated as follows:
- a. *Industrial districts.* For industrial properties, barbed wire must be at least six feet above grade. Barbed wire is not allowed on properties used for residential purposes in industrial districts.
- b. *Business districts.* For business properties where outdoor storage is allowed, barbed wire may be approved by the board of appeals on zoning as a special exception when there are unique and exceptional circumstances. If approved by the board of appeals on zoning, the barbed wire must be at least six feet above grade. Barbed wire is not allowed on properties used for residential purposes in business districts.
- c. *Public utility installations.* Barbed wire may be placed on fences surrounding a public utility installation in any zoning district, provided the barbed wire is placed not less than six feet above grade.
- (9) *Electric fences.* Electric fences may be approved in industrial zones by the board of appeals on zoning as a special exception when there are unique and exceptional circumstances.
- (10) *Materials.* Fences shall consist of materials commonly used in conventional fence construction, such as wood, metal or vinyl. For fences located on a parcel which is zoned for business or commercial purposes, if because of design or construction, one side of the fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot.
- A fence permit issued by the city building inspector is required for both residential and commercial fences.
- (11) *Maintenance.* All fences shall be maintained in a good structural condition at all times.

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- (i) *Inoperative or dismantled cars, trucks or buses.* The storage of dismantled, wrecked and/or unlicensed vehicles within any district is expressly prohibited unless contained within a licensed junk yard or an enclosed structure or provided said storage does not exceed one week.
  - (j) *Space used once.* Any yard or other open space provided about any building or structure for the purpose of complying with the provisions of this article shall not again be used as a yard or other required open space for another building or structure existing or intended to exist at the same time as such building or structure. Use exceptions: Nothing in the article shall be construed to prohibit the following accessory or incidental uses:
    - (1) The renting of rooms to not more than two nontransient persons in a dwelling unit which is otherwise occupied in a manner permitted in the district in which it is located.
    - (2) Customary refreshment and service uses and buildings in any public park or recreational area incidental to the recreational use of such area.
    - (3) Essential services as defined in section 32-5.
    - (4) Garden, garden ornaments and usual landscape features within required yard space.
    - (5) Fences within required yard space provided the standards cited in subsection (h) of this section are met.
    - (6) Retaining walls and public playgrounds.
    - (7) Off-street parking for motor vehicles as specified in article III of this chapter.
    - (8) Home occupation as specified in R district regulations and section 32-5.
    - (9) Use of a premises as a voting place in connection with local, state or national elections.
  - (k) *Parking of recreational equipment.* The parking of recreational equipment including travel trailers, trailers, campers, boats and similar recreational equipment is prohibited within the required front yard areas of any R district.
    - (1) A total of three but not more than one of each of the units mentioned in this subsection may be stored or parked outside on a residentially zoned lot except that with regard to snowmobiles or personal watercraft up to four units may be parked outside provided the ownership of said units is that of the lot owner, tenant, or lessee.
    - (2) The units mentioned in this subsection when stored outside shall be located a minimum of five feet to the rear of the front building line.
    - (3) The combined area covered by outside storage of said units, dwelling, accessory buildings, swimming pools shall not exceed 40 percent of the total area of the lot.
  - (l) *Heavy vehicles.* Storage or overnight parking of trucks in excess of four tons gross weight rated capacity is prohibited within any "R" district.
  - (m) *Prohibited uses.* Any use not specifically permitted as defined in a zoning district established by this article is hereby specifically prohibited from that district.
  - (n) *Rummage sale.* Allow the sale of a non-perishable merchandise, household goods, domestic items or other articles, except in any "R" district, unless the sale is temporary. Such a sale shall not continue for a period exceeding one week from date of commencement and may not commence again for a period of 45 days from the last date of prior sale at that location with no more than three such sales in a calendar year. No items available during sales may be openly displayed when sales are not in progress. (This provision shall be enforced by the police department.)
  - (o) *Swimming pool fencing.* All swimming pools shall have a barrier as required by the state construction code.

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(Ord. No. 31, § 31.302, 4-24-2012; Amend. of 1-4-2016 ; Amend of 11-7-2016 )

### **Sec. 32-31. Supplementary yard regulations.**

(a) *Permitted yard encroachments.*

- (1) Paved terraces, patios, and uncovered porches shall not be subject to yard requirements, provided:
  - a. The paved area is unroofed and without walls or other forms of solid continuous enclosure that link the paved area to the principal building.
  - b. The highest finished elevation of the paved area is not over 30 inches above the average surrounding finished grade area.
  - c. No portion of any paved area is closer than five feet from any lot line nor projects into any front yard setback area. Such paved areas may have noncontinuous windbreaks or walls not over six feet high and not enclosing more than one-half the perimeter of the paved area.
- (2) Unenclosed porches, roofed or unroofed, may project into a required side or rear yard area a distance not to exceed eight feet provided:
  - a. The porch is unenclosed and no higher than one story and is erected on supporting piers.
  - b. The porch shall not be closer than eight feet to any side or rear lot line except for lots or parcels less than 65 feet wide, then the porch cannot be closer than four feet to any side lot line.
- (3) Enclosed porches shall be considered an integral part of the building and shall be subject to all yard and area dimensional requirements established for principal buildings.
- (4) Special structural elements such as cornices, sills, chimneys, gutters and similar structural features may project into any yard up to a maximum of 2½ feet.
- (5) Fire escapes, outside stairways and balconies, if of open construction, may project into yard areas up to a maximum of five feet.
- (6) Signs may encroach into yard areas but no sign or portion, thereof, shall be closer to any lot line or street right-of-way than ten feet.

(b) *Yard exceptions.* In cases where less than the full required future right-of-way width of a street has been deeded or dedicated, the building setback on any properties abutting thereon which have not provided for sufficient street area by deed or dedication shall be measured from the future required right-of-way line. The required street width shall be determined by the standards set forth and adopted by the planning commission.

(c) *Minimum side yard requirements.* Lots or parcels less than 65 feet in width and existing prior to adoption of the ordinance from which this article is derived may have a minimum side yard of four feet provided they shall have total side yards of 12 feet. Corner lots 65 feet or less in width shall conform to the street side setbacks required but the side yard opposite the street side may be four feet.

(Ord. No. 31, § 31.303, 4-24-2012)

### **Sec. 32-32. Supplementary height requirements.**

(a) *Permitted exceptions for communications towers and structural appurtenances.* The following kinds of communications towers and structural appurtenances shall be permitted to exceed the height limitations for authorized uses:

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(Supp. No. 8)

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- (1) Ornamental in purpose, such as church steeples, belfries, cupolas, domes, ornamental towers and flag poles; provided that such structural elements do not exceed 20 percent of the gross roof area.
  - (2) Communications towers and appurtenances to mechanical or structural functions, such as chimneys and smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, radio or television towers, aerials and fire and base towers; provided the total height of the structure or the building and appurtenance is 175 feet or less measured from the ground. The foregoing permitted exceptions shall not be for human occupancy or dwelling.
- (b) *Permitted exceptions, conservation-greenbelt and agricultural districts.*
- (1) No exceptions are permitted for residential structures.
  - (2) Structures for agricultural operations are permitted up to 75 feet.
  - (3) Other nonresidential permitted structures may be erected to a height in excess of that specified; provided each front, side and rear yard minimum is increased one foot for each one foot of additional height above the district requirements.
- (c) *Permitted exceptions, residential districts.*
- (1) No other exceptions are permitted for residential structures. Antennas and flag poles are allowed, but not to exceed the height of 45 feet from the ground.
  - (2) Principal hospital and church structures may be permitted to exceed height limitations with a maximum total height limit of 75 feet provided each front, side and rear yard is increased by one foot for each one foot of additional height above the district maximum requirement.
- (d) *Permitted exception, business and industrial districts.* In any business or industrial district any principal structure may be erected at a height in excess of that specified for the district, provided each front, side and rear yard minimum is increased one foot for each one foot of additional height above the district maximum requirement.

(Ord. No. 31, § 31.304, 4-24-2012)

### **Sec. 32-33. Accessory buildings.**

- (a) *Required yards.*
- (1) In a front yard. No accessory building (attached or detached) shall project into any required front yard.
  - (2) In a rear yard. No accessory building, including attached or detached garages, shall be closer than five feet to the rear lot line and not closer to the side lot line than the permitted distance for principal buildings within that district.
  - (3) In a side yard. No accessory building, including garages shall be erected closer to any side lot line than the permitted distance within that district for principal building except in a residential district, where an accessory building is located ten feet or more to the rear of the principal building, then the accessory building shall be no closer than eight feet to the side lot line (see exception section 31-31(c)).
  - (4) On a corner lot. No accessory building shall be closer to the side street lot line than the side yard setbacks of the principal building on the lot. Where the rear line of a corner lot coincides with the side line of an adjoining lot in a residential district, an accessory building shall not be closer than eight feet to the common lot line.
  - (5) Accessory buildings are not allowed on vacant lots in an R district.

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- (6) The total number of detached accessory buildings may not exceed two, excluding the garage associated with the principal dwelling.
  - (7) In any R district detached accessory buildings shall comply with the following regulations:
    - a. They shall not be used in any part for dwelling purposes.
    - b. They shall not be more than one story of 15 feet measured from the average grade around the structure to a point midway between the highest point of the roof and the lowest point of the roof to the average height of the building (see section 32-537(a)).
    - c. The total area of detached accessory buildings shall not occupy more than 30 percent of the required rear yard area.
    - d. Accessory buildings shall not be larger than 1,200 square feet.
    - e. Exception: On lots that exceed the minimum lot size by 100 percent accessory building size may be increased to 1,600 square feet.
    - f. The foregoing building dimensions may be increased by one percent for each 100 square feet that the building site surpasses the minimum lot size, but not to exceed 100 percent.
    - g. They shall be constructed of materials similar to that of the principle building.
    - h. All walls shall be vertical and accessory buildings shall be designed typical of residential accessory building construction or as determined appropriate by the city planning commission.
  - (8) In any R district private garages shall comply with the following regulations:
    - a. They may not be located entirely in front of the dwelling.
    - b. In no case shall the entrance to a garage be less than 25 feet from a street right-of-way.
    - c. May not exceed a three-place garage and contain no public repair or service facilities.
- (b) *Antennas.* All antennas shall be required to have the same yard setbacks as accessory buildings.
- (c) *Swimming pools, ponds, and fountains.* All swimming pools, ponds, or fountains which are regulated by the state construction code shall be located in the rear yard or interior side yard and further shall comply with the setback requirements for accessory buildings. Any pond which requires a permit from the state department of environmental quality shall be subject to the site plan review and special land use procedures contained in this ordinance and shall be reviewed and approved by the city planning commission prior to commencement of construction.

(Ord. No. 31, § 31.305, 4-24-2012)

### **Sec. 32-34. District boundary exception.**

Where a district boundary line, as established by this article, when adopted or subsequently amended, divides a lot in single and separate ownership a use permitted in the less restricted portion of said lot may be extended to the entire lot, subject to the following conditions:

- (1) That one-half or more of the area of said lot shall be in the less restrictive district.
- (2) That any part of a less restricted use extended beyond a district boundary under the terms of this section shall be housed entirely within an enclosed building and such building shall conform to any applicable yard and area requirements in the more restrictive district. Restrictiveness by district proceeding from most restrictive to least restrictive is herein established as follows: EA-1 R-1, R-2, R-3, B-1, B-2, B-3, M-1 and M-2.

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(Ord. No. 31, § 31.306, 4-24-2012)

**Sec. 32-35. Approval of plats.**

No proposed plat of new or redesigned subdivision shall hereinafter be approved by either the local governing body or its agents unless the lots within the plat equal or exceed the minimum size and width requirements of this article and all other applicable codes or ordinances.

(Ord. No. 31, § 31.307, 4-24-2012)

**Sec. 32-36. Zoning of plats.**

All plats shall be subject to the provisions of the district within which they are located pertinent to allowed uses and further required zoning district change which may be necessary to accommodate proposed use or uses shall be made according to amendment procedures prescribed by this article.

(Ord. No. 31, § 31.308, 4-24-2012)

**Sec. 32-37. Public sanitary sewer connection.**

When public sewer is available or becomes available in the street, connection to the public sewer system shall be made within 90 days.

(Ord. No. 31, § 31.309, 4-24-2012)

**Sec. 32-38. Density computation.**

Should density computation be required for a land development project, except as specified for planned unit developments and mobile home parks, the following criteria shall be applied:

- (1) *Site acreage computation.* In arriving at a gross acreage figure, the following lands shall not be considered as part of the gross acreage in computing the maximum number of lots and/or dwelling units that may be created: Land utilized by public utilities as easements for major facilities such as electric transmission lines, sewer lines, water mains, or other similar lands which are not available to the owner because of such easement.
- (2) *Maximum number of lots and/or dwelling units.* After the total gross area available for development has been determined by the above procedure, the maximum number of lots and/or dwelling units that may be approved shall be computed by subtracting from the total gross area available a fixed percentage of said total for street right-of-way purposes, and dividing the remaining net area available by the minimum lot area requirement of the zoning district in which the planned development is located. The fixed percentages for street right-of-way purposes to be subtracted from the total gross area available for development shall be determined according to the following schedule:

District Use	Percent of Project Area
R-1 and R-2 (single-family detached)	25
R-2 and R-3 (single-family attached, two-family and multifamily)	20
These percentages shall apply regardless of the amount of land actually required for street right-of-way.	

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(Ord. No. 31, § 31.310, 4-24-2012)

**Sec. 32-39. Issuance of "building permit" per approved site plan.**

- (a) *Submission of site plan.* No building permit shall be issued until the applicant has submitted an approved site plan as required by this section of this article.
- (b) *Situations requiring a site plan review.*
  - (1) The proposed use is allowed by special use permit.
  - (2) The proposed use or redevelopment is in an R-3, TRB-1, B-1, B-2, B-3, M-1, M-2 zone.
  - (3) Any adjoining parcel is in a more restrictive zoning district.
  - (4) The proposed project will have more than two tenant users (dwelling units, offices, stores or other uses).
  - (5) The proposed project is located in an industrial redevelopment district, a downtown development authority district, or a tax increment financing district.
  - (6) The proposed project will require 50 or more parking spaces.
  - (7) The project site is larger than three acres.
  - (8) The use is a commercial or industrial use and is a new development.
- (c) *Site plan review process.*
  - (1) *Application deadlines.* If a rezoning application requires a site plan review by the planning commission, a complete application package must be received at least 30 days before the date of a planning commission meeting in order to be reviewed at said meeting. If a site plan review is being conducted for a special use permit or subdivision plat, the application for the site plan must be received at least 30 days before the date of the planning commission.
  - (2) *Application material.* Applications requiring site plan review, must be accompanied by a fee as established by this article and by at least four copies of a plan which meets the following requirements. The application will not be reviewed until the complete application package has been submitted, including the fee.
  - (3) *Site plan requirements.* Note that any proposed construction, landscaping, retention of natural features or other property conditions depicted in the plan submission will be relied upon by the planning commission in its review. Therefore, these conditions become requirements for approval of the site plan. Failure to abide by such conditions or the alteration of site conditions in a way other than that which is approved on the site plan constitutes a violation of the terms of the zoning permit issued pursuant to site plan approval. Enforcement provisions in section 32-533 apply. Site plan approval is not effective until a state DEQ floodplain permit is granted and filed with the building inspector.
  - (4) *Scale.* The site plan must be drawn to a consistent scale of a size adequate to show necessary details as required by the planning commission.
  - (5) *Identification.* The applicant's name, address and telephone number and the name and address of the firm or firms responsible for preparation of the site plan must be included. If the applicant does not own the property, the owner must be identified and must sign a statement certifying that the applicant is acting in the owner's behalf or has a legitimate purchase option on the property.
  - (6) *Property information.* The site plan must accurately depict the subject property and land adjacent to and across any thoroughfare from it, including all existing and proposed easements or rights of way.

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- Zoning of the site, and of adjacent properties, must be identified. A legal description and computation of the area of the property must accompany the site plan.
- (7) *Site features.* The site plan should depict existing environmental conditions, including the locations of wooded areas or isolated trees over six inches in diameter, topography, drainage features, wetlands, and existing structures, including those proposed for removal, and other significant conditions. The approximate location and use of structures and the location of the nearest driveways on adjacent or opposing parcels should be shown.
  - (8) *Transportation features.* The site plan must show the location and surface type of all existing and proposed public roads, access drives, internal vehicle circulation areas, parking lots (including number and location of handicapped parking spaces), sidewalks, loading areas or docks, truck bays, and refuse pickup stations.
  - (9) *Utilities.* The site plan must show the location and size of all existing and proposed public utilities. Waterline information shall include locations of existing and proposed fire hydrants and valves. Sanitary sewer information shall include location of any pumping stations and approximate location of manholes. The site plan must also include any existing or proposed private utilities, such as natural gas, electricity, telephone and cable television. All drainage structures and systems must be shown, along with flood plain information.
  - (10) *Structures.* The site plan must show the location and dimensions, including height, of all proposed buildings, accessory structures and related features. For multifamily housing developments, the number of units in each building must be identified. Schematic plans and elevations of all structures must be included. The site plan should also show the location, arrangement, dimensions and type of proposed signs, lighting, landscaping, fences, and decorative walls.
  - (11) *Supplementary material.* The site plan shall be complemented by any additional information which, in the zoning administrator's discretion, is important for the site plan review process. This could include, but not be limited to, an assessment of the proposed project's impact on environmental, historic, social or economic conditions; traffic studies; proposed measures to control or mitigate such impacts as noise, smoke, particulate, vibration, odors, or fire hazards.
- (d) *Staff review of site plan.*
- (1) *Persons involved.* Before the site plan is reviewed by the planning commission, the city building inspector, superintendent of public works, police chief and fire chief, or their alternates, shall be given an opportunity to review and comment upon it. In addition, the zoning administrator may submit the site plan to any other government department or utility that he believes would have an interest in some aspect of the proposed project. Staff members wishing to comment upon the site plan must transmit their comments in writing to the zoning administrator at least 14 days before the planning commission meeting at which the site plan is to be reviewed. After receiving any staff comments, the zoning administrator shall make recommendations to the planning commission regarding the site plan.
  - (2) *Standard to be used.* Reviewers shall address the consideration identified by the review standards. If a site plan review is being conducted for proposed special use permit, the additional special use permit review standards listed for the particular use and zoning district shall be considered also.
- (e) *Planning commission review of site plan.*
- (1) The planning commission shall address the site plan review at a public meeting. The findings of a staff review of the site plan and any public comments shall be taken into consideration by the planning commission, but are not binding upon it in any way. General guidelines to use in the deliberation process include the following:

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- a. Safe and convenient vehicular access to and from the proposed use without interference with surrounding transportation patterns and safe internal circulation.
  - b. Provisions of bicycle and/or pedestrian access if appropriate.
  - c. Impact of structures, fencing, lighting and landscaping on adjacent land uses and properties.
  - d. Appropriate consideration of environmental concerns including natural resources, air quality, noise levels, rubbish disposal and storm runoff.
  - e. Continuance of established area patterns of landscaping, setbacks, structural materials and street furniture.
- (2) In the interest of providing a timely response to the applicant, the planning commission will take one of the following actions at the meeting during which the site plan review is conducted:
- a. *Approval.* An affirmative vote of the majority of planning commission members present at the meeting is necessary to approve a site plan. Once approved, the site plan becomes a condition of any zoning permit that may be granted for the proposed project.
  - b. *Conditional approval.* The planning commission may elect to attach conditions to its approval of a site plan. Conditions must be imposed to promote the health, safety and welfare of the citizens of the city or required by provisions of local, state or federal laws. These conditions, together with the regulatory authority and reasoning which justifies them, must be identified in the motion for site plan approval and communicated to the applicant in writing. The conditions shall become a part of the site plan, as inseparably as if they were part of the applicant's original submission and shall be reflected in any zoning permit granted for the project. Approval of any proposed site plan which must also receive approvals from other public agencies shall be conditioned upon granting of said other approvals. This shall include any variances which must be issued by the city zoning board of appeals. Approval of a variance for conditions which differ from those depicted on the site plan or specified in a conditional approval does not require an additional site plan approval by the planning commission as long as the previously established conditions have been met.
  - c. *Denial with explanation.* Failure to comply with one or more of the review standards listed is the only justification for denial of a site plan. The vote of a majority of planning commission members present at the meeting in which the site plan is reviewed is required to deny it. The motion to deny must state which of the review standards was not met by the site plan, and how the plan failed to meet the standard. The motion to deny may also suggest methods by which the shortcoming might be corrected. The applicant shall be notified in writing of the planning commission's denial of the site plan, with the full text of the motion to deny reproduced in the communication.
  - d. *Table to specified meeting.* The planning commission may choose to delay its decision for any reason by tabling the action to another meeting. This meeting must be called in compliance with the Open Meetings Act. The date, time and place of said meeting must be identified in the motion to table and clearly stated for the benefit of persons in attendance at the meeting where the tabling motion is made.
  - e. *Deviations from approved site plan.*
    - 1. It is recognized that unforeseen circumstances can necessitate changes in a project during its development. Therefore, minor deviations from an approved site plan are permitted if the zoning administrator determines that all site plan review standards have been complied with. these deviations shall be documented.

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2. However, if the zoning administrator finds that a deviation from the approved site plan does not comply with the review standards, he shall immediately notify the permit holder, the city building inspector, and the planning commission in writing that the site plan approval has been suspended. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop work order should be issued by the building inspector, affecting that portion of the project which is not in compliance with the site plan review standards.
  3. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the review standards and/or the approved site plan, or of restarting the site plan review process. When the issue has been resolved, the zoning administrator shall send a written notice to the permit holder, the building inspector and the planning commission that the project's site plan has again been approved.
  4. This provision should not be construed to prohibit phased development of a project, provided that each phase complies with the requirements of the review standards and with the approved site plan.
  5. If any deviations from an approved site plan are made, an as built version of the site plan shall be provided to the zoning administrator before the building inspector issues final approval for the project and before any performance guarantee attached to the zoning permit may be fully refunded.
- f. *Record be maintained.* The record relating to any approved site plan shall be maintained by the zoning administrator together with the records pertaining to the zoning permit for said project. This record shall include an official copy of the final site plan as it was approved by the planning commission, dated and signed by the permit holder, the planning commission chairperson and zoning administrator. The record shall also include documentation of any conditions attached to the site plan approval and evidence of the satisfaction of same. It shall also include documentation of any allowed deviations from the approved site plan, dated and signed by the permit holder and the zoning administrator.
- g. *Site plan review standards.* All site plan reviews shall use only the following set of standards to judge whether the site plan should be approved or denied. No off-site improvements can be required as conditions for site plan approval, unless the applicant had volunteered to construct such improvements as documented by his original site plan drawing. However, if the lack of such off-site improvements will create unacceptable conditions, said lack is sufficient justification for denial of a site plan.
1. *District regulations.* The project must comply with the applicable district regulations regarding use, dimensions, off-street parking and any other aspects. (When the site plan review is being conducted as part of the consideration process for a special use permit or a planned unit development, the use of the site will be addressed after the site plan review. therefore, it must be presumed for this purpose that the use of the site will conform to the district regulations.)
  2. *Supplementary regulations.* The project must comply with any and all of the supplementary regulations which may apply to it.
  3. *Special use standards.* If the site plan review is being conducted for a proposed special use permit, any special use standards relating to the proposed use will apply.
  4. *Transportation.* Transportation facilities serving the parcel must be sufficient to provide safe and efficient access to the parcel and circulation within it. Consideration shall be given

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to road rights of way, surface type, number of lanes, driveway design and location, vehicular circulation within the parcel, parking, snow removal from transportation facilities, public transit, pedestrian circulation, emergency vehicle access, and accessibility for handicapped persons. When the adequacy of public road service to the parcel is in question and the development is on a road which is under the jurisdiction of another entity, the input of the road authority shall be sought.

5. *Utilities.* Public utilities, including water and sewer, must be adequate to serve the proposed use, or sufficient provisions shall be made to provide these services on the site. Private utility services, including electricity, telephone, natural gas, and cable television, must also be sufficient to serve the needs of the project. When the adequacy of any public utility service to the site is in question, the input of the appropriate public utility provider shall be sought.
6. *Stormwater management.* The proposed project must make provisions for on-site detention of storm water runoff to accommodate the ten-year storm event, and drainage provisions to accommodate the 100-year storm event. In all cases, post development discharge rates should not exceed predevelopment discharge rates or increase downstream drainage. Drainage solutions using natural features should be utilized whenever possible.

The site plan should include structural and nonstructural detention and/or drainage features, including plans of all parking lots, storm sewers, and discharge calculations pre and post development. All site plans may be reviewed and approved by an engineer and must meet the standards of all departments of the city and of all other impacted public officials.

7. *Fire protection.* The proposed project must comply with applicable fire safety regulations. Also, current city fire department personnel and equipment must be sufficient to serve the project. Finally, location, number, and capacity of fire hydrants must be adequate to serve fire suppression needs and must receive fire chief approval.
8. *Environment.* Natural features of the landscape should be retained wherever practical to furnish a buffer between the project and adjoining property or to help control erosion, contain storm water runoff, absorb noise, deflect wind currents, reduce glare, or otherwise benefit the general health, safety or appearance of the neighborhood. Any buildings, fences, lighting, vegetation, or other features that are introduced into the landscape should be designed to complement the site's surrounding environment and enhance the positive features of the project. The site plan should be developed with the goal of controlling any negative impacts the project may have, such as noise, smoke, vibration, odor, glare, heat or dust so that they will not be discernible beyond the property boundaries. Further, projects shall fully adhere to applicable environmental regulations promulgated by the state department of natural resources, county health department or other agencies.
9. *Consistency with ordinance intent.* The site plan should be generally consistent with the purpose and objectives of this article, and with the purpose of the zoning district in which the subject parcel is located.

(Ord. No. 31, § 31.311, 4-24-2012)

### **Sec. 32-40. Buffering and berms.**

- (a) *Buffering regulations.* The intent and purposed of buffering is to protect residential uses from the negative impacts associated with nonresidential uses where residential and nonresidential uses abut. These negative

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impacts include noise, debris, odors, dust, dirt, traffic, soil erosion, rain water runoff and in some cases visible aspects of the abutting use. The buffer zone is also intended to prevent and improve blight in both residential and commercial areas by encouraging improvements to uses that abut residential districts. Buffering requirements shall be determined at the time of site plan review. If a berm is constructed as part of buffering, the following standards shall apply.

(b) *Minimum standards for berms.*

- (1) Berms shall be constructed so as to maintain a side slope not to exceed one-foot rise to three-foot run ratio.
- (2) Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition. Additional landscaping must be used within any areas that do not have a berm six feet high.
- (3) Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.
- (4) If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.

Residential construction of berms must be approved by the building inspector and do not require a site plan.

(Ord. No. 31, § 31.311, 4-24-2012)

### **Sec. 32-41. Grading and filling of land.**

(a) *New construction.*

- (1) Upon application for a building permit the applicant shall submit a grading plan which indicates the slope of the grade from the subject property to the abutting properties. It shall also indicate the amount of fill to be placed on the site. The grading plan shall be approved by the building inspector prior to the placement of any fill material on the site. The building inspector may require the installation of a drainage system along abutting property lines if deemed necessary by the building inspector.
- (2) Upon completion of the project the area of the new construction shall be planted with grass and made erosion resistant. This planting shall be done within six months of commencement of construction.

(b) *Landscaping or grading.* The placement of fill material for landscaping or grading shall be approved by the building inspector prior to the placement of any material.

(c) *Berms.*

- (1) Subsection (b) of this section applies to berms.
- (2) In regards to height and location of berms section 32-30(h) shall apply.

(d) *Excavation, removal, filling prohibited; exceptions.* The use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish, or other wastes or by-products is not permitted in any zoning district except under a certificate from, and under the supervision of, the zoning administrator in accordance with a topographic plan, submitted by the freeholder owner of the property concerned. The topographic plan shall be drawn at a scale of not less than 50 feet equals one inch and shall show existing and proposed grades and topographic features and such other data as may from time to time be required by the zoning administrator. This regulation does not apply to normal soil removal for basement or foundation work when a building permit has previously been duly issued by the building

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inspector, or to minor grade adjustments incidental to uses which do not alter natural drainage patterns or cause or increase runoff onto adjacent properties.

- (e) *Danger or menace to public health, safety or welfare prohibited.* The construction, maintenance or existence within the city of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells, or of any excavations, holes or pits which constitute or are reasonably likely to constitute a danger or menace to public health, safety or welfare, are hereby prohibited; provided, however, this section shall not prevent any excavation under a permit issued pursuant to this article or the building regulations, where such excavations are properly protected and warning signs posted in such manner as may be approved by the zoning administrator.

(Ord. No. 31, § 31.312, 4-24-2012)

**Secs. 32-42—32-70. Reserved.**

**ARTICLE III. GENERAL OFF-STREET PARKING AND LOADING**

**Sec. 32-71. Purpose and intent.**

It is the purpose and intent of this article that off-street parking and loading areas be provided and adequately maintained in every zoning district for the purposes of promoting safe and efficient storage of motor vehicles; to avoid unnecessary congestion and interference with public use of streets; and to provide for sound and stable environmental conditions and the prevention of future blighted areas.

(Ord. No. 31, § 31.401, 4-24-2012)

**Sec. 32-72. Off-street parking and loading requirements.**

- (a) In all zoning districts, off-street parking and loading requirements shall be provided in amounts not less than those specified in the table of off-street parking.
- (b) Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed as determined by the zoning administrator.
- (c) Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.
- (d) For the purposes of determining off-street parking and loading requirements, the number of occupants of a building shall be determined by the building inspector in accordance with the state construction code and said occupant load shall be used in those cases which require an occupant load determination to be made.
- (e) In the case of mixed uses, where each occupies at least 20 percent of the floor area of a building and the operating schedules of any two such uses vary by a total of three hours in a typical day, the parking requirement for the building, as determined using the table, may be reduced by ten percent.
- (f) Joint provision of off-street parking where two or more abutting parcels in and commercial or industrial zoning district provide paved drives and sidewalks between parking areas, allowing travel between parcels without use of a public street, the number of parking spaces required for each parcel may be reduced by ten percent, in addition to reductions allowed by other provisions of the section.

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- (g) It shall be unlawful to use any of the off-street parking or loading areas established to meet the requirements of this article for any purpose other than the parking of licensed vehicles or the loading or unloading of necessary service trucks.
  - (h) Parking and loading setback areas shall conform to 20-foot front yard and street side yard requirements and off-street parking shall be no closer to any principal building than five feet. Bumper guards or curbs shall be installed to prevent yard encroachment. Exceptions:
    - (1) Shared parking;
    - (2) One- and two-family dwellings.
  - (i) Parking and loading areas may be extended to the property line except as herein above specified by subsection (h) of this section and as specified under section 32-73(c).
  - (j) All required parking facilities shall be on the same or adjacent property of the business it serves. Joint use of off-street parking area may be authorized when the parking requirements for a group of uses outlined in section 32-74, are complied with.

(Ord. No. 31, § 31.402, 4-24-2012)

### **Sec. 32-73. Site development and construction requirements.**

- (a) *Area requirement.* Three hundred square feet of lot area shall be deemed a parking space for one motor vehicle including an access aisle, except that 180 square feet of lot area which has direct means of ingress and egress from an alley or street may also be deemed a parking space.
- (b) *Fractional units.* In computing units or measurements to determine the number of required spaces, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one space.
- (c) *Loading spaces.* Loading spaces shall not be construed as supplying an off-street parking space.
- (d) *Location of spaces.* The off-street parking facilities required for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve and shall consist of a parking strip, parking apron or garage. A parking strip or driveway shall be located such that it leads to at least one parking space in a yard other than the required front or street side yard. Additional spaces may be located in the required front or street side yard provided the space is not located in a space bound by the front building line, the side building line nearest the parking strip or driveway and the front lot line or on corner lots the space bound by the front lot line, the street side yard lot line. Off-street parking facilities required for all other uses shall be located on the lot or on property within 400 feet of any entrance to the building such parking is intended to serve, measured between such entrance and the nearest point of such required parking are.
- (e) *Surfacing.*
  - (1) Off-street parking and loading areas, including access drives, for all uses shall be surfaced with either:
    - a. Six inches of Portland cement concrete; or
    - b. Two inches of asphaltic concrete laid over a base of crushed stone with a compacted thickness of six inches and shall be graded and drained to dispose of all surface water on the property.
  - (2) Exception. Subsections (e)(1)a and b of this section for single-family dwellings parking spaces, strips or aprons shall be surfaced with asphalt, concrete or six inches of stone mix or gravel. Gravel and stone mix surfaces shall be maintained such that the parking space, strip or apron is free from ruts or holes. If stone mix or gravel is used the parking area must be clearly defined by use of side borders of landscape

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ties, treated wood, brick concrete or other similar border materials. All parking spaces, strips or aprons that are not in compliance with this section must be brought into compliance by June 1, 2011.

- (f) *Consent for use.* It shall be unlawful for any person, firm, or corporation to park any motor vehicle on any private property, or use said private property as parking space, without the express or implied consent, authorization, or ratification of the owner, holder, occupant, lessee, agent or trustee of such property.
- (g) *Landscaped areas within parking lots.*
  - (1) All off-street parking lots of more than 40 spaces shall incorporate and provide protected landscaped areas located within the parking lot. The ratio of landscaped area to number of parking spaces shall be 100 square feet for each 20 parking spaces. The minimum size for an interior parking lot landscaped island shall be 100 square feet. Required parking lot setback areas shall not satisfy the requirement for interior landscaping. Applicants are encouraged to locate landscaped islands adjacent to end parking stalls to protect end vehicles and improve sight distance.
  - (2) In all landscaped areas, at least one evergreen tree with a minimum height of four feet or one deciduous tree with a minimum caliper of three inches shall be provided for every 200 square feet of parking lot landscaping required. The landscaping shall be provided with a variety of plant materials including trees of a selected variety and size as may be practical for planting and architectural effect. When parking lot landscaping is provided in one or more end islands, the maximum mature height of shrubs and similar species shall be 30 inches and the minimum canopy height of deciduous trees shall be eight feet, in order to provide clear sight distance.
  - (3) In order to delineate on-site circulation; ensure adequate sight distance at the intersection of parking aisles, ring roads and private roads, protect vehicles at the end of parking bays, and define the geometry of internal intersections, end islands (painted or landscaped/curbed) shall be required at the end of all off-street parking spaces adjacent to an aisle or road. At a minimum, one landscaped island shall be provided for every two painted islands.
- (h) Where the required parking area of three spaces or more is within 40 feet of an adjoining residential district or lot, said parking area shall be no closer to any side or rear property line than ten feet and within said ten-foot strip, either of the following shall be established:
  - (1) A planting strip five feet in width approved by the building inspector. Said planting strip shall not be less than five feet in height and shall consist of a sufficiently dense material to screen the parking and shall be adequately maintained.
  - (2) A solid masonry wall or uniformly treated wood fence not less than five feet in height.
  - (3) Said wall or planting strip shall be as such length of the parking area.
  - (4) Off-street parking areas shall be lighted when provided for all uses, except single-family and two-family duplexes, in accordance with a plan approved by the planning commission and as specified in section 32-77.
  - (5) Parking as specified and/or provided in any residential district shall not be allowed to encroach into the front yard area.

(Ord. No. 31, § 31.403, 4-24-2012)

### **Sec. 32-74. Off-street waiting spaces for drive through facilities.**

An off-street waiting space is defined as an area ten feet wide by 24 feet long and shall not include the use of any public space, street, alley, or sidewalk. On the same premises with every building, structure or part thereof erected and occupied for the purpose of serving customers in their automobiles by means of a service window or



similar arrangement where the automobile engine is not turned off, there shall be provided off-street waiting spaces in accordance with the following:

Use Served by Drive-Through Lane	Minimum Stacking Requirements by Lane
Carwash (coin operated)	Three vehicles in advance of the washing beyond storage for 1½; vehicles beyond the washing bay as a drying vacuum area.
Carwash (tunnel wash)	Four times the maximum capacity of the auto wash in advance of the tunnel and three vehicles beyond the tunnel for drying areas.
Preschool child care (day nursery) and day care centers	One vehicle per 15 children inclusive of the vehicle at the drop-off point. No parking area or maneuvering lanes shall be permitted between the drop-off point and the principal entrance to the building.
Convenience market	Three vehicles per lane inclusive of the vehicle at the window.
Dry cleaners	Four vehicles per lane inclusive of the vehicle at the window.
Financial institution	Six vehicles per lane inclusive of the vehicle at the window.
Quick oil change	Four vehicles per lane inclusive of the vehicle being served.
Restaurant	The distance between the order board and the pick-up window shall store four vehicles, and storage shall be provided for four vehicles in advance of the menu board (not including the vehicles at the pick-up window and menu board).
Other uses	For uses not listed above, the planning commission shall make the determination of minimum required vehicle stacking spaces at the time of the site plan review.

(Ord. No. 31, § 31.404, 4-24-2012)

**Sec. 32-75. Off-street parking requirements.**

Use		
Residential, one-family and two-family		Two parking spaces for each dwelling unit.
Residential, multiple-family		Two for each dwelling unit.
Mobile home parks		1½ for each mobile home unit.
Boardinghouse		One for each sleeping room.
Senior citizen housing		One for every two dwelling units.
Institutional:		
	Churches, temples, and synagogues or buildings of similar use with fixed seats	One for each three seats based on the maximum seating capacity in the main place of assembly therein.
	Hospitals	One for each three patient beds, plus one space for each staff or visiting doctor plus one for each employee including nurses on maximum working shift.
	Convalescent homes and nursing homes	One space for each four beds, plus one space for each employee, including nurses on a maximum working shift.
	Preschool child care (day nursery) and day care centers	One for each 350 square feet of floor space plus one for each employee, plus three spaces for the loading and unloading of children.
	Elementary schools and junior high schools	One for each teacher and administrator, in addition to the requirements for the auditorium.
	Senior high schools and colleges	One for each four persons of legal capacity as established by the state construction code.

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	Lodge halls, meeting halls and community centers or buildings of similar use without fixed seats	One for each four persons of legal capacity as established by the state construction code.
	Libraries, museums, and post office buildings	One for each 300 square feet of gross floor area, plus space for each employee employed therein.
	Public office building not elsewhere specified	One for each 300 square feet of gross floor area, plus one space for each employee employed therein.
	Private golf clubs, swimming pool, tennis clubs or other similar uses	One for each two-member families or individual.
	Golf courses open to the general public, except miniature or "par-3" courses	Six for each one-golf hole and one for each employee.
	Theaters and auditoriums	One for each four seats, plus one for each employee on maximum working shift.
	Stadium, sports arena, or similar place of outdoor assembly	One for each three seats or six feet of benches, and one for each employee on a maximum working shift.
Business and commercial		
	Auto wash	One for each employee. In addition adequate waiting space for autos shall be provided on the premises to accommodate 50 percent of the hourly rate of capacity.
	Beauty parlor or barbershop	Three spaces for each of the first two beauty or barber chairs and 1½; for each additional chair.
	Bowling alleys	Four for each one bowling lane, plus one for each employee on a maximum working shift.
	Assembly halls, without fixed seats for commercial recreation including dance halls, pool or billiard parlors, skating rinks and exhibition halls or buildings for similar uses	One for each 50 square feet of gross floor used for permitted use.
	Establishments for sale and consumption on premises of beverages, food or refreshments	One for each 100 square feet of usable floor space, except as otherwise specified herein plus one for each employee on maximum working shift.
	Drive-in restaurants or similar drive-in uses for the sales of beverages, food or refreshments	One for each 15 square feet of floor area plus one for each employee on maximum working shift.
	Furniture and appliances, house-hold equipment, repair shops, show-room of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses	One for each 800 square feet of usable floor area use in processing, one additional space shall be provided for each person employed therein on a maximum working shift.
	Automobile service stations	Two for each lubrication stall, rack, or pit; and one for each gasoline pump plus one for each employee on maximum working shift.
	Laundromats and coin operated dry cleaners	One for each two washing machines.
	Miniature or par-3 golf courses	Three for each one hole plus one for each employee.
	Mortuary establishment	One for each 100 square feet of usable floor space, plus one for each employee on maximum working shift.

	Motel, hotel or other commercial lodging establishment	One for each one occupancy unit, plus one for each employee on maximum working shift plus extra spaces for dining rooms, ballrooms, or meeting rooms as above where the capacity of such areas exceeds the number of beds in the building.
	Motor vehicle sales and service establishment	One for each 300 square feet of usable floor space or sales room and one for each one auto service stall in the service room.
	Retail stores except as specified herein	One for each 300 feet of feet of usable floor space, plus one for each employee on maximum working shift.
	Quick oil change	One for each employee on a maximum shift plus one for each change bay.
Offices		
	Banks	One or each three 300 square feet of usable floor space plus one for each employee on maximum working shift.
	Business offices or professional offices of lawyers, architects, engineers, planners, accountant or other similar professions	One for each 300 square feet of usable floor space.
	Professional offices of doctors, dentists or similar professional	Five spaces per 1,000 square feet of gross floor area or one space per 200 square feet of gross floor area.
Industrial		
	Industrial or research establishment including manufacturing, testing laboratory, creameries, bottling works, printing, plumbing or electrical workshops	Five plus one for each employee on maximum working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
	Wholesale establishments and warehouses	Five plus one for every employee in the largest working shift, or one for every 1,600 square feet of usable floor space, whichever is greater.
	Wholesale and retail lumber and building product sales and display	One space for ever eight hundred square feet of useable floor area plus one for each employee.

(Ord. No. 31, § 31.405, 4-24-2012)

**Sec. 32-76. Approval for construction.**

No parking lot shall be constructed unless in conformance with the provisions of this article and an approved site plan. No parking lot construction shall proceed without the specific authorization of the building inspector.

(Ord. No. 31, § 31.406, 4-24-2012)

**Sec. 32-77. Lighting.**

Parking area and other exterior onsite lighting fixtures shall not exceed a height of 12 feet when located within 200 feet of a residential district, and further may not exceed a height of 16 feet unless otherwise permitted by the planning commission. Exterior lighting shall be so arranged so that it is deflected away from adjacent residential districts and adjacent streets.

(Ord. No. 31, § 31.407, 4-24-2012)

**Sec. 32-78. Off-street parking layout and design.**

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

Parking Pattern	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)	Total Width of One Tier of Spaces Plus Maneuvering Lane (feet)	Total Width of Two Tiers of Space Plus Maneuvering Lane (feet)
0;deg; parallel parking	12	8	23	20	28
45;deg;	12	9	18.5	33	47
60;deg;	16	9	18.5	35	54
90;deg;	26	9	18.5	44.5	63

(Ord. No. 31, § 31.408, 4-24-2012)

**Sec. 32-79. Off-street loading requirements.**

- (a) On the same premises with every building, structure or part thereof erected and occupied for industrial establishments, storage, goods display, department store, hotel, high rise apartment building, market, hospital, laundry, dry cleaning, or other uses similarly involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot, or within such building or structure, adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys.
- (b) Such loading and unloading space, unless otherwise adequately provided for, shall be an area 12 feet by 50 feet, and 15 feet height clearance, according to the following schedule:

Gross Floor Area (in square feet)	Loading and Unloading Spaces Required in Terms of Square Feet of Gross Floor Area	
	Commercial	Industrial
0—5,000	None	None
5,001—20,000	1	1 + 1/5,000 in excess of 5,000
20,001—50,000	1 + 1/20,000 in excess of 20,000	3 + 1/15,000 in excess of 20,000
50,001—100,000	1 + 1/20,000 in excess of 20,000	5 + 1/10,000 in excess of 50,000
100,001—300,000	5 + 1/100,000 in excess of 100,000	10 + 1/100,000 in excess of 100,000
300,001—500,000	10 + 1/100,000 in excess of 300,000	10 + 1/100,000 in excess of 300,000
Over 500,000	12 + 1/250,000 in excess of 500,000	14 + 1/150,000 in excess of 500,000

(Ord. No. 31, § 31.409, 4-24-2012)

**Secs. 32-80—32-101. Reserved.**

## **ARTICLE IV. SIGN REGULATIONS BY DISTRICT<sup>2</sup>**

### **Sec. 32-102. Intent and purpose.**

The sign regulations as herein set forth are intended to control the size, location, character and other pertinent features of all exterior signs. The purpose of this section is to regulate all exterior signs so as to protect health, safety and morals and to promote the public welfare.

(Ord. No. 31, § 31.501, 4-24-2012)

### **Sec. 32-103. General.**

- (a) The following sign regulations by zone are intended to include every zone in the community. The zones are as defined by this article and the official zoning map. Only signs as described herein and as may be described under temporary signs and exceptions will be permitted in each particular zone. No sign shall be erected or placed without first obtaining a permit from the zoning administrator. See section 32-536 for fees.
- (b) If any zone is omitted from this article, or if a new zone is created after the enactment of the ordinance from which this article is derived, no signs shall be permitted therein until this article shall be amended to include this zone.

(Ord. No. 31, § 31.502, 4-24-2012)

### **Sec. 32-104. Illumination.**

- (a) Signs in residential districts may be illuminated with not more than 200 watts of nonflashing white light. Such lights must be shielded so that they illuminate only the surface of the sign.
- (b) No sign shall have blinking, flashing, rotating or fluttering illumination.
- (c) No sign shall be illuminated in a manner which changes light intensity, brightness or color.
- (d) No sign shall have colored lights which may be confused with or construed as traffic control devices or emergency vehicles.
- (e) No sign shall be illuminated in such manner that the direct or reflected light from the sign creates a traffic hazard for motor vehicle operators on public thoroughfares.
- (f) Electronic message boards. A sign or portion thereof that is an electronic message board shall not be greater than 24 square feet in area and shall comply with the following regulations:
  - (1) If signs are determined to be a nuisance or traffic hazard, the maximum brightness for the sign shall be reduced so not to exceed an illumination of 5,000 NITS (candelas per square meter) during daylight hours or 1,000 NITS (candelas per square meter) during the period from sunset to sunrise, as measured from a sign face at maximum brightness.

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<sup>2</sup>State law reference(s)—Highway advertising act, MCL 252.301 et seq.

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- (2) Each electronic message board shall have a dimmer control to produce a distinct illumination change from a higher illumination level to a lower one for the period of time from sunset to sunrise. Each sign must appropriately adjust display brightness to conform with applicable brightness specifications as ambient light levels change at each such sign location due to sunrise, sunset, prevailing weather conditions or otherwise.

- (3) No additional electronic message board is permitted on the building if it is visible from a public road.

(Ord. No. 31, § 31.503, 4-24-2012)

### **Sec. 32-105. Nonconforming signs.**

- (a) Signs lawfully erected prior to the effective date of this article which do not meet the standards thereof may be maintained except as hereafter provided.
- (b) No nonconforming signs shall:
  - (1) Be changed to another nonconforming sign;
  - (2) Have any changes made in the message displayed unless the sign is specifically designed for periodic change of message;
  - (3) Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, or design of the sign unless such change renders the sign conforming.
- (c) If the owner of a sign or the premises on which a sign is located changes the location of a building, property line or sign or changes the use of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this article.

(Ord. No. 31, § 31.504, 4-24-2012)

### **Sec. 32-106. Signs for nonconforming uses.**

- (a) Onsite signs for any building or land use not conforming to the zoning provisions for the district in which it is located shall not exceed the following size limitations, whichever results in the larger sign area:
  - (1) One-half square foot of sign area for each lineal foot of building frontage or one-fourth square foot of sign area for each lineal foot of lot frontage, whichever is greater, not to exceed a maximum of 25 square feet in area; or
  - (2) The maximum sign area permitted for the zoning district in which the sign is located.
- (b) Off-site signs shall comply with all the provisions of the district in which the nonconforming use is located.

(Ord. No. 31, § 31.505, 4-24-2012)

### **Sec. 32-107. Off-site signs.**

Off-site signs are permitted only in the B-3, M-1, or M-2 zoning districts and are subject to the following provisions:

- (1) The sign may not be larger than 750 square feet in area.
- (2) The height of the sign may not be taller than what is necessary base on the elevation of the road, structures located in the area, and other natural features. Maximum height of the sign shall be determined by the planning commission based on evidence presented by the developer of the sign.

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- (3) The construction of new off-site signs shall be subject to site plan approval by the planning commission.
  - (4) Off-site signs that are not regulated by the state shall be subject to a 1,000-foot spacing requirement, i.e., no off-site sign shall be closer than 1,000 feet to another off-site sign.
  - (5) Off-site signs shall not be located in any required yard space.

(Ord. No. 31, § 31.506, 4-24-2012)

### **Sec. 32-108. Auxiliary parking lot signs.**

- (a) An auxiliary parking lot in conjunction with an adjacent use may have one onsite identification sign per adjacent street. Each such sign shall not exceed foursquare feet in area.
- (b) The area of signs indicating an entrance or exit shall not exceed four square feet in area.
- (c) The area of signs indicating other parking instructions or traffic direction information shall not exceed three square feet in area.
- (d) Such signs may be located anywhere within the limits of the premises subject to the height restriction of the zoning district in which located.

(Ord. No. 31, § 31.507, 4-24-2012)

### **Sec. 32-109. Public signs.**

Public signs are exempted from the provisions of this article.

(Ord. No. 31, § 31.508, 4-24-2012)

### **Sec. 32-110. Temporary signs.**

The following signs shall be permitted anywhere within the city and shall conform with all yard and height requirements herein.

- (1) *Construction sign.* Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and sign announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, to a maximum area of 20 square feet for each firm. The signs shall be confined to the site of the construction and shall be removed within 14 days of the beginning of the intended use of the project.
- (2) *Real estate signs.* Real estate signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed, up to a total area of 12 square feet. Such signs shall be removed within 14 days of the sale, rental or lease.
- (3) *Political campaign signs.* Political campaign signs announcing the candidates seeking public political office and other data pertinent thereto, up to an area of 32 square feet for each premises. These signs shall be confined within private property and removed within 14 days after the election for which they were made.
- (4) *Street banners.* Street banners advertising a public entertainment or event, if specially approved by the local legislative board and only for location designated by the legislative body during and for 14 days before and seven days after the event.

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- (5) *Show window signs.* Show window signs in a window display of merchandise when incorporated with such a display. They need not be related in content with the display.

(Ord. No. 31, § 31.509, 4-24-2012)

### **Sec. 32-111. Special purpose temporary signs.**

Special purpose temporary signs shall be allowed in any zoning district, providing that each such sign shall require a permit and be subject to the following restrictions:

- (1) *Time limit.* A special purpose temporary sign may be displayed for no more than the number of days specified below, commencing on the issue date of the permit. At the conclusion of the permit period, the special purpose temporary sign must be removed from the parcel or stored indoors.
  - a. *Residential properties.*
    - 1. Special purpose temporary sign permits shall be valid for a period of three consecutive days and no more than three special purpose temporary signs shall be allowed per residential parcel per calendar year.
    - 2. Exception. A sign advertising a compliant yard or garage sale is exempt from this provision, and such signs may be displayed as long as the sale is in compliance with other provisions of this section.
  - b. *Nonresidential properties.* Special purpose temporary signs may be placed on a parcel for no more than 30 days in a calendar year and no more than four special purpose temporary sign permits shall be issued per parcel per calendar year.
- (2) *Size.* A special purpose temporary sign shall be no larger than 32 square feet.
- (3) *Location.* A special purpose temporary sign is subject to the height and setback restrictions for signs in the zoning district in which it is placed. No off-site special purpose temporary signs are allowed.
- (4) *Illumination.* Illumination of special purpose temporary signs is permitted but only in accordance with section 32-104.
- (5) *Permits.* A permit fee, see section 32-536, shall be charged, except for residential parcels, each time such sign is placed on the parcel.
- (6) *Tagging.* All special purpose temporary signs shall display a tag, in a place conspicuous to inspectors, indicating the name of the permit holder, the permit number, the date the permit was issued and when it expires, said tag to be provided by the city.

(Ord. No. 31, § 31.510, 4-24-2012)

### **Sec. 32-112. Signs in AE-1.**

- (a) In any AE-1 district only the following onsite signs may be displayed either flatly against the surface of the building involved or at least ten feet from any street lot line:
  - (1) Any sign permitted in R-1A districts as permitted therein;
  - (2) One identification sign each for all other permitted uses, excluding home occupations, not to exceed four square feet in area except as otherwise specifically provided;
  - (3) One identification sign for each recreational facility not to exceed 20 square feet in area.

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- (b) Unless otherwise provided, any sign permitted may be illuminated in accordance with section 32-104.
  - (c) The height restriction on signs in AE-1 districts shall be the same as specified for R-1A districts.
- (Ord. No. 31, § 31.511, 4-24-2012)

**Sec. 32-113. Signs in R1-A.**

- (a) In any R-1 district, only the following onsite signs may be displayed either flatly against the surface of the building involved or at least ten feet from any street lot line:
    - (1) Signs indicating the names and addresses of the occupants not to exceed a total of two square feet;
    - (2) One temporary announcement sign or permanent bulletin board, with changeable copy, not to exceed 32 square feet in area and one identification sign not to exceed ten square feet in area except for residential uses;
    - (3) One identification sign for each permitted use after special approval, not to exceed four square feet in area.
  - (b) Unless otherwise provided, any sign permitted may be illuminated in accordance with section 32-104.
  - (c) No sign displayed flatly against the surface of a building shall project above the roofline of the associated structure. No other sign shall extend more than six feet above the average grade at the base of the sign.
- (Ord. No. 31, § 31.512, 4-24-2012)

**Sec. 32-114. Signs in R1-B.**

All signs permitted in an R1-A district shall be permitted the R1-B district.

(Ord. No. 31, § 31.513, 4-24-2012)

**Sec. 32-115. Signs in R-2.**

- (a) In any R-2 district, only the following onsite signs may be displayed either flatly against the surface of the building involved or at least ten feet from any street lot line:
    - (1) Any sign permitted in R-1 and R-1A districts as permitted therein;
    - (2) Any sign for a permitted use or permitted use after special approval other than a residential use not to exceed 32 square feet in area.
  - (b) Unless otherwise provided, any sign permitted may be illuminated in accordance with section 32-104.
  - (c) The maximum height of signs in R-2 districts shall be the same as specified for R-1 districts.
- (Ord. No. 31, § 31.514, 4-24-2012)

**Sec. 32-116. Signs in R-3.**

- (a) In any R-3 district, only the following onsite signs may be displayed either flatly against the surface of the building involved or at least ten feet from any street lot line:
  - (1) Any sign permitted in AE1, R1-A, R-1B or R-2 districts as permitted therein;

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- (2) Any sign for a permitted use or permitted use after special approval other than a residential use not to exceed 32 square feet in area.
  - (b) Unless otherwise provided, any sign permitted may be illuminated in accordance with section 32-104.
  - (c) The maximum height of signs in R-2 districts shall be the same as specified for R-1 districts.
- (Ord. No. 31, § 31.515, 4-24-2012)

**Sec. 32-117. Signs in TRB-1.**

- (a) In any TRB-1 district only the following onsite signs may be displayed either flatly against the surface of the associated building or at least ten feet from any street lot line:
    - (1) Any sign permitted in AE-1, R1-A, R1-B, or R-2 districts as permitted therein;
    - (2) One identification sign for each permitted use or permitted use after special approval not to exceed one-half square foot in area for each lineal foot of building frontage or one-fourth square foot in area for each lineal foot of lot frontage, whichever is greater. However, no sign shall exceed a maximum of 25 square feet in area.
  - (b) Unless otherwise provided, any sign permitted may be illuminated in accordance with section 32-104.
  - (c) The height restriction on signs in TRB-1 districts shall be the same as specified for R-1 districts.
- (Ord. No. 31, § 31.516, 4-24-2012)

**Sec. 32-118. Signs in B-1.**

- (a) In any B-1 district, only the following onsite identification signs may be displayed provided no portion of such sign is located nearer than nine feet from any street lot line unless otherwise provided:
    - (1) Any sign permitted in AE-1, R1-A, R1-B, or R-2, or TRB1-1 districts as permitted therein except as modified in this section with regard to setback;
    - (2) Signs facing the front lot line whose area does not exceed 1½ square feet for each lineal foot of building frontage or one-half square foot for each lineal foot of lot frontage, whichever is greater;
    - (3) Signs located on corner lots facing other than the front lot line whose area does not exceed 50 percent of 1½ square feet for each lineal foot of building length along the respective lot line or 50 percent of one-half square foot for each lineal foot of lot length along the respective lot line, whichever is greater;
    - (4) Signs on the vertical faces of marquees provided that no such sign shall project above or below the marquee if the marquee is located over the required yard area or public right-of-way;
    - (5) Signs attached to the building or erected separately subject to the setback requirements of this section;
  - (b) Any sign permitted may be illuminated in accordance with section 32-104.
  - (c) No sign displayed on, attached to, or over a building shall project above the eave line of the associated structure. No other sign shall extend more than 20 feet above the average grade at the base of the sign.
  - (d) The total area of all signs permitted for any property use, including corner lots, shall not exceed 200 square feet.
- (Ord. No. 31, § 31.517, 4-24-2012)

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**Sec. 32-119. Signs in B-2.**

- (a) In any B-2 district, only the following onsite identification signs may be displayed provided no portion of such sign is located nearer than nine feet from any street lot line unless otherwise provided:
- (1) Any sign permitted in AE-1, R1-A, R1-B, or R-2, TRB1-1, or B-1 districts as permitted therein except as modified in this section with regard to setback;
  - (2) Signs facing the front lot line whose area does not exceed three square feet for each lineal foot of building frontage or one square foot for each lineal foot of lot frontage, whichever is greater;
  - (3) Signs located on corner lots facing other than the front lot line whose area does not exceed 50 percent of three square feet for each lineal foot of building length along the respective lot line or 50 percent of one square foot for each lineal foot of lot length along the respective lot line, whichever is greater;
  - (4) Signs on the vertical faces of marquees provided that no such sign shall project above or below the marquee if the marquee is located over the required yard area or public right-of-way;
  - (5) Signs attached to the building or erected separately subject to the setback requirements of this section;
  - (6) Any sign permitted may be illuminated in accordance with section 32-104.
  - (7) No sign displayed on, attached to, or over a building shall project above the eave line of the associated structure. No other sign shall extend more than 20 feet above the average grade at the base of the sign.
  - (8) The total area of all signs permitted for any property use, including corner lots, shall not exceed 200 square feet.

(Ord. No. 31, § 31.518, 4-24-2012)

**Sec. 32-120. Signs in B-3.**

Any sign permitted to be displayed in AE-1, R1-A, R1-B, or R-2, TRB1-1, B-1, or B-2 shall be permitted in the B-3 district.

(Ord. No. 31, § 31.519, 4-24-2012)

**Sec. 32-121. Signs in M-1 and M-2 district.**

Any sign permitted to be displayed in AE-1, R1-A, R1-B, or R-2, TRB1-1, B-1, B-2, or B-3 district shall be permitted in the M-1 and M-2 districts.

(Ord. No. 31, § 31.520, 4-24-2012)

**Sec. 32-122. Signs adjacent to freeway.**

For those uses located within a B-3, M-1 or M-2, those uses that wish to create visibility from the freeway may erect signs to a height and location as approved by the city planning commission.

(Ord. No. 31, § 31.521, 4-24-2012)

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**Sec. 32-123. Maintenance of signs.**

- (a) Any sign erected, altered, or converted subsequent to the passage of this article and in violation of any of the provisions thereof is hereby declared to be a civil infraction.
- (b) All signs existing at the time of passage of this article shall be maintained such that they do not pose a public health and safety risk. Maintenance shall occur as needed and the building inspector shall make all determinations as it relates to signage that is not being property maintained.

(Ord. No. 31, § 31.522, 4-24-2012)

**Secs. 32-124—32-144. Reserved.**

***ARTICLE V. LAND USE DISTRICTS***

***DIVISION 1. GENERALLY***

**Sec. 32-145. Division of the city.**

For the purposes of this article, the city, excepting street and alleys, is divided into the following zone districts:

AE-1	Agricultural-Environmental
R-1A	Suburban Low Density (One-Family)
R-1B	Urban Low Density (One-Family)
R-2	Medium Density (Duplexes/Fourplexes)
R-3	High Density (Apartments/Duplexes)
B-1	Office Business
B-2	Neighborhood Business
B-3	Highway Business
M-1	Limited Manufacturing
M-2	Intensive Manufacturing
TRB-1	Transitional Residential/Business
RU	Riverfront Uses

(Ord. No. 31, § 31.601, 4-24-2012)

**Secs. 32-146—32-173. Reserved.**

***DIVISION 2. AE-1 AGRICULTURAL-ENVIRONMENTAL RESOURCE DISTRICT<sup>3</sup>***

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<sup>3</sup>State law reference(s)—Michigan right to farm act, MCL 286.471 et seq.

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**Sec. 32-174. Intent and purpose.**

The intent of this district is to provide for orderly continuation and protection of agricultural lands in the city, until such time as logical development patterns result in rezoning of properties in the district and also to provide for protection of lands that are particularly vulnerable to environmental conditions including Saginaw River Floodway, recreational activities or similar sensitive lands. The purpose is to permit and protect these nonurban uses from adverse impacts and to provide for orderly growth within environmental limits.

(Ord. No. 31, § 31.701, 4-24-2012)

**Sec. 32-175. Uses permitted by right.**

The following uses are permitted by right within an agricultural-environmental resource district: single-family dwelling:

- (1) General farming and forestry including field crop and fruit farming, truck gardening, horticulture, aviaries hatcheries, apiaries, greenhouses, tree nurseries and similar agricultural enterprises.
- (2) Specialized farming including the raising and keeping of small animals and livestock.
- (3) Kennels.
- (4) Public and private parks and recreation facilities that utilize environmental or natural resource conditions as a basis for recreation.
- (5) Customary accessory use to any of the permitted uses as defined in section 32-2.
- (6) Customary home occupations.
- (7) Signs as provided in article IV of this chapter.

(Ord. No. 31, § 31.702, 4-24-2012)

**Sec. 32-176. Dimensional requirements.**

(a) *Minimum lot size.*

- (1) Each lot shall contain a minimum of two acres of land area.
- (2) Each lot shall have a minimum width of 100 feet at the front building line.

(b) *Minimum yard requirements.*

- (1) Each lot shall have minimum front yard of 60 feet.
- (2) Each lot shall have a minimum side yard of 20 feet for each side yard.
- (3) Each lot shall have a minimum rear yard of 40 feet.
- (4) In the case of a corner lot, the side yard on the street side shall not be less than 60 feet, and the remaining side yard shall have minimum yard of 20 feet.

(c) *Minimum floor area per dwelling unit.* Each dwelling unit shall have a minimum floor area of 1,100 square feet.

(d) *Maximum building height.*

- (1) 2½ stories or 35 feet.

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(2) Exceptions. (Refer to section 32-32).

(Ord. No. 31, § 31.703, 4-24-2012)

**Secs. 32-177—32-205. Reserved.**

*DIVISION 3. R-1A SUBURBAN LOW DENSITY RESIDENTIAL DISTRICT*

**Sec. 32-206. Intent and purpose.**

The intent of this district is to provide a restricted setting for contemporary single-family dwellings in a suburban setting. The purpose is to provide a low-density neighborhood with a limited range of residential supporting activities.

(Ord. No. 31, § 31.801, 4-24-2012)

**Sec. 32-207. Uses permitted by right.**

The following uses are permitted by right within a suburban residential district:

- (1) Field and orchard agricultural crops.
- (2) Single-family dwelling.
- (3) Public parks, playgrounds and recreation facilities.
- (4) Libraries and public office buildings.
- (5) Essential public utility services excluding buildings, but including pumping stations and small private utility regulating devices.
- (6) Customary home occupation uses in accordance with section 32-5.
- (7) Customary accessory uses in accordance with section 32-33.

(Ord. No. 31, § 31.802, 4-24-2012)

**Sec. 32-208. Uses permitted by special land use permit.**

The following uses may be permitted by issuance of special land use permit following the procedures outlined in article VI of this chapter, and providing all of the conditions cited herein are met:

- (1) Schools, churches, temples and synagogue providing all of the following conditions are met:
  - a. The site consists of at least 2½ acres (108,900 square feet) and has at least 170 feet of frontage.
  - b. The site is located on a collector or arterial street as defined in the city's comprehensive development plan or can have such access with less than 200 feet of local streets being used.
  - c. Structures do not exceed 35 percent of total lot area.
- (2) Public utility service buildings or regulator station providing all of the following conditions are met:
  - a. That all equipment is housed in a structure of at least 200 square feet and that the structure is finished in the same type of materials found in single-family dwellings; or providing that all

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equipment is confined to an area of not more than 2,500 square feet that is fenced with a six-foot high fence or wall and is screened by suitable plant material of the type found in most homes in the city.

- b. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions result.
  - c. All dimensional requirements, yard requirements and other district requirement for R-1A districts are met.
- (3) Two-family dwellings provided all of the following conditions are met:
- a. Such dwellings are located on collector or arterial streets as defined in the city's comprehensive development plan; or
  - b. Provided, in this zone such dwelling sites shall not be allowed within a 400-foot radius of each other.
- (4) Private recreation facilities provided all of the following conditions are met:
- a. The site is minimum of one acre in area.
  - b. The facility utilizes primarily outdoor recreation activities and has no single structure or building exceeding 2,500 square feet in area.
  - c. Not more than 35 percent of the land area is covered by recreational uses, and that all other yard and dimensional requirements of R-1A districts are met.

(Ord. No. 31, § 31.803, 4-24-2012)

### **Sec. 32-209. Dimensional requirements.**

(a) *Minimum lot size.*

- (1) Each lot shall contain a minimum of 10,000 square feet.
- (2) Each lot shall have a minimum width of 85 feet at the front building line.

(b) *Minimum yard requirements.*

- (1) Each lot shall have minimum front yard of 25 feet.
- (2) Each lot shall have a minimum side yard of eight feet and a total side yard of 20 feet.
- (3) Each lot shall have a minimum rear yard of 35 feet.
- (4) In the case of a corner lot, the yards on the street sides shall not be less than 25 feet, and any remaining yards shall not be less than eight feet.
- (5) Exception, see section 32-31.

(c) *Minimum floor area per dwelling unit.*

- (1) Each single-family dwelling structure shall have a minimum finished living area of 1,100 square feet, with a minimum of 800 square feet on the ground floor for units or more than one story.
- (2) Each two-family dwelling structure shall have a minimum finished living area of 1,000 square feet per unit.

(d) *Maximum building height.* 2½ stories or 35 feet.

(Ord. No. 31, § 31.804, 4-24-2012)

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**Secs. 32-210—32-226. Reserved.**

*DIVISION 4. R-1B URBAN LOW DENSITY RESIDENTIAL DISTRICT*

**Sec. 32-227. Intent and purpose.**

The intent of this district is to maintain and provide for orderly new development in those established areas of the city in which there are smaller lots platted. The purpose is to protect those areas from adverse uses and to provide for compatible new residential developments

(Ord. No. 31, § 31.901, 4-24-2012)

**Sec. 32-228. Uses permitted by right.**

The following uses are permitted by right within the urban low density residential district:

- (1) Single-family dwellings.
- (2) Public parks, playgrounds and recreation facilities.
- (3) Libraries and public office buildings.
- (4) Essential public utility services excluding buildings, but including water pumping station and small private utility regulating devices.
- (5) Customary home operation uses in accordance with section 32-5.
- (6) Customary accessory uses in accordance with section 32-33.

(Ord. No. 31, § 31.902, 4-24-2012)

**Sec. 32-229. Uses permitted by special land use permit.**

The following uses may be permitted by issuance of a special land use permit following the procedures outlined in article VI of this chapter, and providing all of the conditions cited herein are met:

- (1) Schools, churches, temples and synagogues providing all of the following conditions are met:
  - a. The site consists of at least 2½ acres (108,900 square feet) and has at least 170 feet of frontage.
  - b. The site is located on a collector or arterial street as defined in the city master plan or can have such access with less than 200 feet of local streets being used.
  - c. Structures do not exceed 35 percent of total lot area.
- (2) Public utility service building or regulator station providing all of the following conditions are met:
  - a. That all equipment is housed in a structure of at least 200 square feet and that the structure is finished in the same type of materials found in single-family dwellings; or providing that all equipment is confined to an area of not more than 2,500 square feet that is fenced with a six-foot fence or wall and is screened by suitable plant material as determined by the city planning commission.
  - b. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions result.



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- c. All dimensional requirements and other district requirements for R-1B districts are met.
  - (3) Two-family dwellings provided:
    - a. Such dwellings are located on collector or arterial streets as defined in the city master plan; or
    - b. In this zone such dwelling sites shall not be allowed within a 400-foot radius of each other.
  - (4) Private recreation facilities provided all of the following conditions are met:
    - a. The site is minimum of one acre in area.
    - b. The facility utilizes primarily outdoor recreation activities and has no single structure or building exceeding 2,500 square feet in area.
    - c. Not more than 35 percent of the land area is covered by recreational uses, and that all other yard dimensional requirements of R-1B districts are met.

(Ord. No. 31, § 31.903, 4-24-2012)

**Sec. 32-230. Dimensional requirements.**

- (a) *Minimum lot size.*
  - (1) Each lot shall contain a minimum area of 7,200 square feet.
  - (2) Each lot shall have a minimum width of 55 feet at the front building line.
- (b) *Minimum yard requirements.*
  - (1) Each lot shall have a minimum front yard of 25 feet.
  - (2) Each lot shall have a minimum side yard of eight feet and a total side yard of 20 feet.
  - (3) Each lot shall have a minimum rear yard of 25 feet.
  - (4) In the case of a corner lot, the yards on the street sides shall not be less than 25 feet, and the remaining yards shall not be less than eight feet.
  - (5) Exception, see section 32-31.
- (c) *Minimum floor area per dwelling unit.*
  - (1) Each single-family dwelling structure shall have a minimum finished living area of 1,100 square feet in total and 800 square feet on the ground floor for units of more than story.
  - (2) Each two-family dwelling structure shall have a minimum finished living area of 800 square feet per unit.
- (d) *Maximum building height.* Two stories or 30 feet.

(Ord. No. 31, § 31.904, 4-24-2012)

**Secs. 32-231—32-253. Reserved.**

*DIVISION 5. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT*

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**Sec. 32-254. Intent and purpose.**

This district is intended to provide a more diverse residential living environment for medium density dwelling styles including one-, two-, three- and four-family dwellings. It is the express purpose of this district to promote creativity, innovation and variety in housing layout, style design and cost while maintaining a quality residential environment.

(Ord. No. 31, § 31.1001, 4-24-2012)

**Sec. 32-255. Uses permitted by right.**

The following uses are permitted by right within a medium density residential district:

- (1) Single-family dwelling.
- (2) Two-, three- and four-family dwelling structures.
- (3) Public parks, playgrounds and recreation facilities.
- (4) Libraries and public office buildings.
- (5) Essential public utility services excluding buildings, but including pumping stations and small private utility regulating devices.
- (6) Customary home occupation uses in accordance with section 32-5.
- (7) Customary accessory uses in accordance with section 32-33.

(Ord. No. 31, § 31.1002, 4-24-2012)

**Sec. 32-256. Uses permitted by special land use permit.**

The following uses may be permitted by issuance of a special land use permit following the procedures outline in article VI of this chapter, and providing all of the conditions cited herein are met:

- (1) Townhouses, condominiums, apartments, zero lot line structures, clusters and other innovative housing providing all of the following conditions are met:
  - a. That such developments have access directly onto a street identified as a collector or arterial in the city master plan.
  - b. That the overall density of the project does not exceed eight units per gross acre and that the project site or lot includes at least two acres.
  - c. That no structures exceeds 2½ stories or 35 feet in height.
  - d. That there shall be a minimum yard of 35 feet from any structure in the district to any adjacent R-1A or R-1B zoning district.
  - e. That no more than 35 percent of the lot or project site may be covered by all buildings.
  - f. That a site plan is approved pursuant to section 32-39.
- (2) Funeral homes and mortuaries providing all of the following conditions are met:
  - a. That such land use has direct access onto a street identified as a collector or arterial in the city master plan.

- b. That structures do not exceed two stories or 30 feet in height.
  - c. That there shall be a minimum yard of 35 feet from any structure to any adjacent R-1A or R-1B zoning district.
  - d. That a site plan is approved pursuant to section 32-39.
- (3) Schools, churches, temples, synagogues and cemeteries providing all of the following conditions are met:
- a. The site consists of at least 2½ acres (108,900 square feet) and has at least 170 feet of frontage.
  - b. The site is located on a collector or arterial street as defined in the city master plan or can have such access with less than 200 feet of local streets being used.
  - c. Structures do not exceed 35 percent of total lot area.
- (4) Institutional uses for medical, health, religious, educational and social purposes providing all of the following conditions are met:
- a. That such uses do not include institutions for the mentally challenged, drug or alcoholic patients or jails, prisons or other correctional institutions.
  - b. That the institution be located on a collector or arterial street as identified in the city master plan.
  - c. That the site includes at least two acres and is not bounded by an R-1A or R-1B district on more than two sides.
  - d. That there shall be a minimum yard of 40 feet from any structure to any adjacent R-1A or R-1B district, and this may be increased up to 60 feet for structures more than 30 feet in height.
  - e. That no structure exceeds three stories or 42 feet in height.
  - f. That a site plan is approved pursuant to section 32-39.

(Ord. No. 31, § 31.1003, 4-24-2012)

**Sec. 32-257. Dimensional requirements.**

(a) *Minimum lot size.* Each lot shall consist a minimum lot size as follows:

	Square Feet	Minimum Lot Width (feet)
One- and two-family structures	10,000	85
Three-family structures	14,000	120
Four-family structures	18,000	140
All other uses by right	10,000	85
Special land uses	As specified	As specified

(b) *Minimum yard requirements.*

- (1) Each lot shall have a minimum front yard of 30 feet.
- (2) Each lot shall have a minimum side yard of ten feet on each lot unless otherwise specified herein.
- (3) Each lot shall have a minimum rear yard of 35 feet.

- (4) In the case of a corner lot, the yards on the street sides shall not be less than 30 feet and any remaining yards shall not be less than ten feet.
- (5) Exception, see section 32-31.
- (c) *Minimum floor area per dwelling unit.*
  - (1) Each single-family dwelling structure shall have a minimum finished living area of 1,100 square feet with a minimum of 800 square feet on the ground floor for units or more than one story.
  - (2) Each two-, three- and four-family dwelling structure shall have a minimum finished living area of 800 square feet for each dwelling unit.
  - (3) For multifamily units under a special land use permit, the following minimum finished living areas apply:

0 bedroom (efficiency)	400 square feet	
1 bedroom	550 square feet	
2 bedroom	800 square feet	
3 bedroom	950 square feet	
4 bedroom	1,050 square feet	

- (d) *Maximum building height.* 2½ stories or 35 feet.
- (e) *Exceptions.* The dimensional requirements in this section shall not apply if a creative or unique residential site plan per section 32-39 is developed to accommodate natural site features, communal open space or economies in development providing:
  - (1) Each lot in such a site plan which abuts property that is already developed with conventional dimensional requirements shall have a side or rear yard not less than the required side or rear yard on the abutting property.
  - (2) Under no conditions shall the total number of dwelling units under such a site plan exceed eight units per gross acre.
  - (3) Such a development shall provide for a resulting common area equal to any land saved by revised dimensional requirements. This common land shall be used for recreational, scenic gardening or other common purpose and may be dedicated to the city by mutual agreement.
  - (4) Such a creative or unique residential site plan shall require a minimum site of five acres unless a smaller site can show exceptionally unique and applicable physical features.

(Ord. No. 31, § 31.1004, 4-24-2012)

**Secs. 32-258—32-277. Reserved.**

*DIVISION 6. R-3 HIGH DENSITY RESIDENTIAL DISTRICT*

**Sec. 32-278. Intent and purpose.**

The intent of this district is to provide for the highest density residential development in the city including up to 12 units per acre and to permit other compatible, low intensity uses. The purpose of this district is to provide

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alternative housing styles for residents who do not prefer traditional single-unit dwellings and also to function as a buffer between low density residential uses and nonresidential uses.

(Ord. No. 31, § 31.1101, 4-24-2012)

**Sec. 32-279. Uses permitted by right.**

The following uses are permitted by right within a high density residential district:

- (1) The single-family dwelling.
- (2) Two-, three- and four-family dwelling structures.
- (3) Townhouses, condominiums, apartments and other high density residential uses.
- (4) Day nurseries for care of children.
- (5) Public parks, playgrounds and recreation facilities.
- (6) Libraries or cemeteries.
- (7) Essential public utility services building or regulator stations.
- (8) Customary home occupation uses in accordance with section 32-5.
- (9) Customary accessory uses in accordance with section 32-33.

(Ord. No. 31, § 31.1102, 4-24-2012)

**Sec. 32-280. Uses permitted by special land use permit.**

The following uses may be permitted with the issuance of a special land use permit pursuant to the procedures outlined in article VI of this chapter, and providing all of the conditions cited herein are met:

- (1) Schools, churches, temples, synagogues and nursing homes providing all of the following conditions are met:
  - a. The site consists of at least 2½ acres (108,900 square feet) and has at least 170 feet of frontage.
  - b. The site is located on a collector or arterial street as defined in the city master plan or can have such access with less than 200 feet of local streets being used.
  - c. Structures do not exceed 35 percent of total lot area.
- (2) Funeral homes and mortuaries providing all of the following conditions are met:
  - a. That such land use has direct access onto a street identified as a collector arterial in the city comprehensive development plan and is located at an intersection.
  - b. That structure do not exceed two stories or 30 feet in height.
  - c. That there shall a minimum yard of 35 feet from any structure to any adjacent R-1A or R-1B zoning district.
  - d. That a site plan is approved pursuant to section 32-39.
- (3) Institutional uses for medical, health, religious, educational and social purposes providing all of the following conditions are met:
  - a. That such uses do not include institutions such as jails, or prisons or other correctional institutions or as otherwise determined by the planning commission.

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- b. That the scale of such institutions does not adversely affect public utilities or require excessive public services.
  - c. That the institution would be located on a collector or arterial street as identified in the city master plan.
  - d. That the site includes at least two acres and is not bounded by an R-1A or R-1B district on more than two sides.
  - e. That there shall be minimum yard of 40 feet from any structure to any adjacent R-1A or R-1B district, and this may be increased up to 60 feet for structure, more than 30 feet in height.
  - f. That no structure exceeds three stories for 42 feet in height.
  - g. That a site plan is approved pursuant to section 32-39.
- (4) Professional offices for financial real estate insurance, medicine, law design and administrative functions providing all of the following conditions are met:
- a. That such land use has direct access onto a street identified as a collector or arterial in the city master plan.
  - b. That no more than one building for such use in constructed and that said building shall not exceed 3,500 square feet.
  - c. That the building has the same architectural qualities (scale, shape, materials) as surrounding multifamily uses.
  - d. That the structure does not exceed two stories or 30 feet in height.
  - e. That a site plan is approved pursuant to section 31-39.
- (5) Medium rise apartment structures providing all of the following conditions are met:
- a. That the proposed structure shall not exceed eight stories in height.
  - b. That city staff personnel have reviewed the propose use and find no significant limitations, problems or additional city services, facilities or utility burden will result from the structure.
  - c. That the project has direct access onto a street identified as a collector or arterial in the city master plan.
  - d. That all yard set backs adjacent to any other residential district be at a distance equal to 15 feet for each story of height.
  - e. That a site plan is approved pursuant to section 32-39.
- (6) Mobile home park providing all of the following conditions are met:
- a. That the proposed site shall have a minimum of 20 acres.
  - b. That the site is in a location designated as suitable for a mobile home park in the city master plan.
  - c. That the gross density of the site shall not exceed eight units per acre.
  - d. That any retail or service care providing neighborhood services or trade for the park shall not exceed two acres and shall not be visible from adjacent areas.
  - e. That a minimum landscaped yard of 20 feet shall be maintained on all common boundaries with other residential districts.
  - f. That a site plan is approved pursuant to section 32-39.

(Ord. No. 31, § 31.1103, 4-24-2012)

**Sec. 32-281. Dimensional requirements.**

(a) *Minimum lot size.*

(1) Each lot shall contain minimum lot dimensions as follows:

	Lot Area In Square Feet	Minimum Lot Width
One- and two-family structures	10,000	85
Three-family structures	14,000	120
Four-family structures	18,000	140
Multiple-family structures	20,000	150
All other uses by right	10,000	85
Special land uses	15,000	100

(2) The overall density for any residential development may not exceed 12 residential-dwelling units per acre.

(b) *Minimum yard requirements.*

(1) Each lot shall have a minimum front yard of 35 feet.

(2) Each lot shall have a minimum dimension on all side yards of 15 feet each.

(3) Each lot shall have a minimum rear yard of 35 feet.

(4) In case of a corner lot, the yards on the street sides shall not be less than 35 feet and any remaining yards shall not be less than 15 feet.

(c) *Minimum floor area per dwelling unit.*

(1) Each single-family dwelling structure shall have a minimum finished living area of 1,100 square feet, with a minimum of 800 square feet on the ground floor for units or more than one story.

(2) Each two-, three- and four-family dwelling structure shall have a minimum finished living area of 800 square feet for each dwelling unit.

(3) For multifamily units under a special land use permit, the following minimum finished living area apply:

0 bedroom (efficiency)	400 square feet	
1 bedroom	550 square feet	
2 bedroom	800 square feet	
3 bedroom	950 square feet	
4 bedroom	1050 square feet	

(d) *Maximum building height.* 2½ stories or 35 feet in height.

(Ord. No. 31, § 31.1104, 4-24-2012)

**Secs. 32-282—32-310. Reserved.**

*DIVISION 7. TRB-1 TRANSITION RESIDENTIAL/BUSINESS DISTRICT*

(Supp. No. 8)

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**Sec. 32-311. Intent and purpose.**

The intent of this district is to provide for protection of existing residential uses in established areas of the city where there are both residential and business uses or potential and where ultimate transition to all business uses is anticipated. These districts are to be located only on arterial streets as defined in the city community master plan. The purpose of the district is to maintain a stable and sound residential neighborhood while permitting an orderly replacement of residential uses with business uses.

(Ord. No. 31, § 31.1201, 4-24-2012)

**Sec. 32-312. Use permitted by right.**

The following uses are permitted by right within a transition residential/business district:

- (1) Single-family dwelling.
- (2) Two-family dwelling.
- (3) Professional office-business uses including medicine, law, design, finance, real estate, insurance and general administrative and management office functions.
- (4) Personal service establishments such as barber, beauty, dry cleaners, shoe repair, photography and similar uses.
- (5) Funeral homes and mortuaries.
- (6) Retail establishments including sale of foods, convenience stores, drug stores, hardware or variety stores or other small, neighborhood-oriented retail stores providing:
  - a. Proposed use may not open before 6:00 a.m. nor remain open past 9:00 p.m. unless proposed use has a business only use on both sides, in which case it may remain open until 11:00 p.m. weekdays and 12:00 a.m. on Friday and Saturday evenings.
  - b. Proposed use would not emit noise, odor, air pollution, lighting or other distractions not typical of a residential unit.
  - c. Only one non-moving, non-illuminated freestanding sign not higher than 12 feet is permissible. Said sign shall not exceed 12 square feet in area on each of the two back-to-back faces.
  - d. The building may not exceed 35 percent coverage of the lot, a minimum ten-foot lawn or landscaped area must be maintained on the front and rear yards and minimum of six feet of lawn or landscaped area on either side, except when contiguous to an adjacent business use, not side yard shall be required.
- (7) Home occupations.
- (8) Accessory uses in accordance with section 32-33.

(Ord. No. 31, § 31.1202, 4-24-2012)

**Sec. 32-313. Uses permitted by special land use permit.**

The following uses may be permitted by issuance of a special land use permit following the procedures outlined in chapter 19, and providing all of the conditions cited herein are met: Churches, temples and synagogues providing all of the following conditions are met:



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- (1) The site consists of at least 2½ acres (108,900 square feet) and has at least 170 feet of frontage.
  - (2) The site is located on a collector or arterial street as defined in the city community master plan or can have such access with less than 200 feet of local streets being used.
  - (3) Structures do not exceed 35 percent of total lot area.

(Ord. No. 31, § 31.1203, 4-24-2012)

**Sec. 32-314. Dimensional requirements.**

- (a) *Minimum lot size.* Each lot shall contain a minimum of 7,200 square feet of land area.
- (b) *Minimum yard requirements.*
  - (1) Each lot shall have a minimum front yard of 30 feet.
  - (2) Each lot shall have a minimum side yard of eight feet for each side yard.
  - (3) Each lot shall have minimum rear yard of 30 feet.
  - (4) In the case of a corner lot, the yards on the street sides shall not be less than 30 feet, and the remaining yards shall not be less than eight feet.
  - (5) Exception, see section 32-31.
- (c) *Minimum floor area per dwelling unit.* Each dwelling unit shall have a minimum floor area of 1,100 square feet.
- (d) *Maximum building height.* 2½ stories or 35 feet.

(Ord. No. 31, § 31.1204, 4-24-2012)

**Secs. 32-315—32-331. Reserved.**

*DIVISION 8. B-1 PROFESSIONAL OFFICE BUSINESS*

**Sec. 32-332. Intent and purpose.**

The purpose of this district is to accommodate office uses, office sales uses, business services and certain personal services. The district is intended as a transition area between residential areas and more intensive business development and is intended principally for day-time business activities that are compatible with adjacent residential districts in the city.

(Ord. No. 31, § 31.1301, 4-24-2012)

**Sec. 32-333. Uses permitted by right.**

The following are the principal permitted uses by right within a B-1 district:

- (1) Professional offices for practice of medicine, dentistry, law, engineering and architectural design, accounting, advertising, brokerage and other related professional services.

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- (2) Financial, real estate and management offices including banks, credit unions, saving and loan institutions, real estate offices, abstract and title offices, business consulting and management offices and similar office functions including provisions for drive-in facilities for such uses.
  - (3) General office buildings for executive, administrative, clerical and stenographic services, drafting, office supplies and equipment, sales and service, and other complimentary retail uses that do not exceed twenty percent of the gross floor area.
  - (4) Personal service establishments, and adequate indoor equipment storage for businesses, which perform services on or off the premises, such as barbershops or beauty shops, repair shops for shoes, radio, television, jewelry, self-service laundries, photographic studios, appliance repair, delivery, janitorial, and any other related on or off premise services.
  - (5) Publicly-owned office and meeting buildings, exchanges and public utility offices, but not including storage yards, substations or regulator stations.
  - (6) Commercial schools including art, business, music, dance, professional and trade.
  - (7) Funeral homes, and mortuaries.
  - (8) Churches, temples and synagogues including related day schools and housing for religious personnel.

(Ord. No. 31, § 31.1302, 4-24-2012)

### **Sec. 32-334. Uses permitted by special land use permit.**

The following uses of land and buildings may be permitted in the B-1 districts by the application for issuance of a special land use permit when all the provisional requirements specified in article VI of this chapter, together with all applicable standards cited are met:

- (1) Office-business retail uses providing the following standards are met:
  - a. The proposed use is located on a street or road designated as an arterial or collector in the community's master plan.
  - b. The use does not include more than 10,000 gross square feet of sales and service area.
  - c. The proposed use would not be located adjacent to R-1A or R-1B residential districts.
  - d. The proposed land use is designed, constructed, operated and maintained in harmony with adjacent land uses and zoning districts.
- (2) Restaurants and dining establishments providing the following standards are met:
  - a. Drive-in, drive-through, take-out or other forms of off-premises dining are prohibited.
  - b. Dancing or nightclub entertainment is prohibited.
  - c. The proposed land use is designed, constructed, operated and maintained in harmony with adjacent land uses or zoning districts.
- (3) Townhouses, apartments and condominiums not exceeding eight units per acre providing the following standards are met:
  - a. That such land use has direct access onto a street identified as a collector or arterial in the city master plan and is located at an intersection.
  - b. That structures do not exceed two stories or 30 feet in height.

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- c. That there shall be a minimum yard of 35 feet from any structure to any adjacent R-1 or R-1B zoning districts.
  - d. That a site plan is approved pursuant to section 32-39.
- (4) Day care centers with no age limitations.

(Ord. No. 31, § 31.1303, 4-24-2012)

**Sec. 32-335. Dimensional requirements.**

- (a) *Minimum lot size.*
  - (1) Each lot shall contain a minimum of 14,000 square feet.
  - (2) Each lot shall be minimum of 100 feet in width at the front building line.
- (b) *Minimum yard requirements.*
  - (1) Each lot shall have a minimum front yard of 40 feet of which at least 20 feet must be greenbelt.
  - (2) Each lot shall have a minimum side yard of 12 feet for each side yard.
  - (3) Each lot shall have a minimum rear yard of 30 feet.
  - (4) In the case of a corner lot, the yards on the street sides shall not be less than 40 feet and the remaining yards shall not be less than 12 feet.
  - (5) Exception, see section 32-31.
- (c) *Maximum building height.*
  - (1) Three stories or 40 feet.
  - (2) Exceptions (refer to section 32-32).
- (d) *Maximum lot coverage.* A maximum of 35 percent of the lot may be covered by all buildings.
- (e) *Off-street parking requirements.* Requirements for an allowed use shall be determined from the schedule of parking requirements in article III of this chapter (refer to section 32-74).
- (f) *Loading requirements.*
  - (1) Any use engaged in the sale of merchandise including prepared foods and beverages shall provide at least one standard loading space regardless of floor area and at least one standard loading space for each 6,000 square feet or major fraction thereof of gross floor area involved in the use. All office buildings of over two stories shall provide one loading space.
  - (2) Supplementary regulations are contained in article III of this chapter, section 32-73.

(Ord. No. 31, § 31.1304, 4-24-2012)

**Secs. 32-336—32-358. Reserved.**

*DIVISION 9. B-2 NEIGHBORHOOD BUSINESS*

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### **Sec. 32-359. Intent and purpose.**

The B-2 district's purpose is to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. Business activities in this district are intended to be freestanding, small-scale, neighborhood-oriented business with restrictive site development, limited hours of operation and maximum compatibility with adjacent residence.

(Ord. No. 31, § 31.1401, 4-24-2012)

### **Sec. 32-360. Uses permitted by right.**

The following are the principal permitted uses by right within a B-2 district and all the uses must be conducted wholly in a permanent, fully enclosed building (except required off-street parking and loading). Due to the proximity to residential areas, such businesses that are permitted by right may not open prior to 6:00 a.m. or stay open past 11:00 p.m. Sunday through Thursday or 12:00 a.m. on Friday or Saturday, for uses permitted by special land use, the permitted hours of operation shall be determined by the city planning commission:

- (1) All uses permitted by right and by special land use in B-1 districts.
- (2) Retail food establishments, which supply groceries, fruits vegetables, meats, dairy products, baked goods confections, or similar commodities for consumption off the premises. Foodstuffs may be prepared or manufactured on the premises as an accessory activity if the sale of the product is limited to the retail store.
- (3) Other retail business such as drug, variety, dry goods, clothing, notions, music, books, hardware or furniture stores which supply commodities on the premises.
- (4) Temporary outdoor uses, such as displays, Christmas trees sale lots, revival tent, or other quasi-civic activities may be permitted on a temporary basis without a public hearing by the board of zoning appeals, provided that such permit shall not be issued for more than 30 days in any one year and that said use can be adequately shown not to be injurious or detrimental to properties in the immediate vicinity.
- (5) Day nurseries.
- (6) Recreational vehicle sales and service establishments, sporting goods stores, bait and tackle shops, marinas and other similar uses as determined by the planning commission.
  - a. All service and display is conducted entirely within an enclosed building.
  - b. Outside storage of new (exception: customers vehicles awaiting service may be stored for not more than two months) recreational vehicle units provided the unties are stored in an area which is completely screened from abutting properties by means of a fence which is a minimum of six feet in height and a maximum of eight feet in height and solid in construction. The storage may not exceed the height of the fence. The storage area may not exceed 33 percent of the area of the lot.
  - c. Sales do not include motor homes, travel trailers, or boats greater than 12 feet in length. If sales of units greater than 12 feet in length are conducted the use must be located on a site which contains at least two acres and the units, if parked outside, must be located on a hard surfaced parking lot constructed in accordance with article III of this chapter.
  - d. Service work equipment which produces noise which can be heard by abutting property owners shall not be conducted before 8:00 a.m. nor after 6:00 p.m. This shall include the starting of

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recreational vehicles which produce excessive noise which can be heard by abutting property owners.

(Ord. No. 31, § 31.1402, 4-24-2012)

### **Sec. 32-361. Uses permitted by special land use permit.**

The following uses of land and building may be permitted in the B-2 districts by the application for issuance of a special land use permit when all the procedural requirements specified in article VI of this chapter, together with the applicable standards cited below are met:

- (1) Restaurants and dining establishments providing the following standards are met:
  - a. Provided no drive or exterior service window is utilized.
  - b. The proposed use is designed, constructed, operated and maintained in harmony with adjacent land uses or zoning districts.
- (2) Restaurants, clubs and other drinking establishments which provide food or drink for consumption and may also provide dancing and entertainment, excluding adult entertainment facilities.

(Ord. No. 31, § 31.1403, 4-24-2012)

### **Sec. 32-362. Dimensional requirements.**

- (a) *Minimum lot size.*
  - (1) Each lot shall contain a minimum of 14,000 square feet.
  - (2) Each lot shall be a minimum of 100 feet in width at the front building line.
- (b) *Minimum yard requirements.*
  - (1) Each lot shall have minimum front yard of 30 feet not more than ten feet of which may be used for parking.
  - (2) Side yards shall be minimum of 15 feet except on that side of the lot abutting upon a residential or agricultural district, in which case there shall be a side yard of not less than 20 feet and further in the case of a corner lot any side yard on the street side shall be a minimum of 30 feet.
  - (3) Side yards are not required if a proposed structure will connect with an adjacent commercial structure to form one commercial structure with combined access and parking and if there is combined parking lot with no more than two ingress/egress locations. Each lot shall have a rear yard of 30 feet.
  - (4) Supplementary regulations are contained in section 32-71.
- (c) *Maximum building height.* The maximum building height shall be three stories or 40 feet.
- (d) *Off-street parking requirements.* Requirements for an allowed use shall be determined from the schedule of parking requirements in article III of this chapter (refer to section 32-72).
- (e) *Loading requirements.* Any use engaged in the sale of merchandise, including prepared foods and beverages shall provide at least one standard loading space regardless of floor area and at least one standard loading space for each 6,000 square feet or major fraction thereof of gross floor area involved in the use.

(Ord. No. 31, § 31.1404, 4-24-2012)

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**Secs. 32-363—32-382. Reserved.**

*DIVISION 10. B-3 INTENSIVE HIGHWAY BUSINESS*

**Sec. 32-383. Intent and purpose.**

The purpose of B-3 business districts is to serve community and highway business that are freestanding or in small shopping centers and serve principally auto-oriented traffic including drive-in, drive-through, take-out, pick-up and other forms of in-vehicle service. The intent is to provide for retail businesses, personal and business service establishments and small warehouses developed along major arterial roads in a fashion that minimizes traffic congestion, traffic conflicts and hazards and promotes attractive site development.

(Ord. No. 31, § 31.1501, 4-24-2012)

**Sec. 32-384. Uses permitted by right.**

The following are the principal permitted uses by right within a B-3 district.

- (1) All uses permitted by right in B-1 or B-2 business districts.
- (2) All uses permitted by special land use permit in B-1 or B-2 business districts.
- (3) Drive-in, drive-through, take-out, pick-up and other forms of in-vehicle retail or service establishments including restaurants, financial institutions, dry cleaning businesses and similar facilities.
- (4) Automobile service and repair stations provided all other provisions and requirements of this article are met.
  - a. *Purpose-effect.* In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automobile service stations, and to regulate and control the adverse effects which these and other problems incidental to the automobile service station may exercise upon adjacent and surrounding areas, the following regulations and requirements are provided for automobile service stations located in any zone. All automobile service stations erected after the effective date of the article in districts permitting such use shall comply with all requirements of this section. No automobile service station existing on the effective date of this article shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this section than existed on the effective date of the article.
  - b. *Minimum area and frontage.* An automobile service station shall be located on a lot having a frontage along the principal street of not less than 120 feet, and having a minimum area of not less than 14,400 square feet.
  - c. *Setbacks.* An automobile service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than 40 feet from any street lot line, and not less than 25 feet.
  - d. *Driveways.* All driveways providing ingress to or egress from an automobile service station shall be not more than 30 feet wide at the property line. No more than one curb opening shall be permitted for each 50 feet of frontage or major fraction thereof along any street. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line, as measured

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along the property line. No driveway shall be located nearer than 30 feet, as measured along the property line, to any other driveway giving access to or from the same automobile service station.

- e. *Raised curb.* A raised curb six inches in height shall be erected along all street lot lines, except for driveway openings.
  - f. *Paved areas.* The entire parking area shall be paved with a permanent surface of concrete or asphaltic concrete and shall be graded and drained. Any unpaved area of the site shall be landscaped with lawn or other horticultural materials, maintained in a neat and orderly fashion at all times, and separated from the paved area by a raised curb or other equivalent barrier.
  - g. *Equipment location.* All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 15 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right-of-way.
  - h. *Number of pumps.* An automobile service station located on a lot having an area of 14,400 square feet shall include not more than four double gasoline pumps or eight single gasoline pumps and two enclosed stalls for servicing, lubricating, greasing, and/or washing motor vehicles. An additional two gasoline pumps and/or one enclosed stall may be included with the provision of each additional 2,000 square feet of lot area.
  - i. *Walls.* Where an automobile service station adjoins property located in any residential zone, a solid masonry wall five feet in height shall be erected and maintained along the interior lot line or if separated from the residential zone by an alley, then along the alley lot line. In addition, all trash areas for used tires, auto parts and other items shall be enclosed on all sides by the five-foot masonry wall except for access gates or doors. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall. The masonry wall may be required by the building inspector where the service station adjoins a non-residential use such as a professional office building, clinic, day nursery or landscaped area of other non-residential uses. Walls may be gradually reduced in height (e.g., stepped down) within 25 feet of any street right-of-way line. No wall may exceed four feet in height in any yard abutting a street.
  - j. *Lighting.* All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.
  - k. *Location near certain premises prohibited.* No automobile service station or public garage shall be located nearer than 100 feet as measured from any point on the property line to any school, playground, church, hospital or other such uses where large numbers of people congregate.
  - l. *Outdoor storage and vehicle rentals.* Outdoor storage or parking of vehicles or trailers other than private passenger automobiles shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., except that equipment rental operations shall be permitted if incidental to the automobile service station and if restricted to travel trailers or campers of under 21 feet overall length, car-top carriers, and similar auto accessories and are within fenced enclosures observing the same setbacks as required for buildings in the zoning district wherein the automobile service station is located, and their storage area does not exceed 20 percent of the area of the service station site. Rentals shall be limited to trucks not exceeding 30 feet in length and trailers not larger than tandem axle utility trailers not intended to carry heavy construction equipment.
- (5) Automobile carwash provided that the following site development requirements are complied with.
- a. *Special minimum yard space and lot width requirements.* Minimum front yard setback of 40 feet for all structures.

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- b. *Special screening requirements.* Five-foot high solid masonry wall, fence, or planting screen along any interior lot line adjacent to a residential zone excepting the portion adjacent to the front or street side yards required therein. The height of said screen shall be reduced to four feet whenever it is within ten feet of any window or door openings which provide light or air in adjoining residential or business buildings.
  - c. *Other requirements.*
    - 1. A vehicle waiting area shall be provided on the lot which will accommodate vehicles. In determining the number of vehicle waiting spaces available to meet minimum code requirements, the number of vehicles normally accommodated within the building can be counted, but in no case shall there be less than three automobiles per stall for manual or self-service establishments, and 15 automobiles per stall for automatic establishments. Said vehicle waiting area, including entrance and exit drives, shall be improved to comply with article III of this chapter.
    - 2. Adequate provision shall be made to keep all water from washing operations on the premises. Where mechanical or manual drying is not done, a mechanical device shall be provided to insure that each vehicle shall wait on the premises a minimum of 90 seconds following the end of the washing operation.
- (6) Temporary outdoor uses, such as displays, Christmas tree sales lots, revival tents, or other quasi-civic activities may be permitted on a temporary basis by the zoning administrator without a public hearing by the board of zoning appeals, provided that such permit shall not be issued for more than 30 days in any one year and that said use can be adequately shown not to be injurious or detrimental to properties in the immediate vicinity.
- (7) Commercial recreation facilities such as indoor theaters, bowling alleys, indoor skating rinks or similar uses, provided that all such uses will be conducted wholly within a fully enclosed building and that such building shall have yard setbacks of at least 100 feet from any abutting residential district boundaries.
- (8) Restaurants, clubs and other drinking establishments which provide food or drink for consumption and may also provide dancing and entertainment, excluding adult entertainment facilities.
- (9) Motel and hotel, provided the following conditions are met:
- a. Minimum floor area of 250 square feet per guest unit shall be provided.
  - b. Minimum lot area of 40,000 square feet is required together with a minimum lot width of 150 feet, plus there shall be no less than 400 square feet of lot area for each guest.
  - c. Maximum lot coverage including all buildings, both principal and accessory shall be 40 percent.
  - d. Minimum yard dimensions require all buildings to be set back no less than 40 feet from any street property line and no less than 30 feet from any side or rear property line, except that the side yard for a corner lot, which is adjacent to the street shall be no less than 40 feet.
- (10) Veterinary hospitals, clinics, and kennel provided the following conditions are met:
- a. The site is not located adjacent to a residentially used or zoned property.
  - b. All animals are to be housed in a completely enclosed building.
  - c. Any outdoor yard areas which are used for animal runs shall be completely enclosed with a solid fence or wall six feet in height.
  - d. The site shall be at least two acres in size.
- (11) Lawn care businesses provided the following conditions are met:



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- a. All equipment is to be stored in a completely enclosed building.
  - b. All vehicles shall be parked on improved areas in accordance with article III of this chapter.
  - c. All vehicles and trailers shall be licensed and insured.

(Ord. No. 31, § 31.1502, 4-24-2012)

**Sec. 32-385. Uses permitted by special land use permit.**

The following uses of land and structures may be permitted by the issuance of a special land use permit when the standards, as outlined, are met:

- (1) Small warehouse and distribution facilities providing:
  - a. The gross area used principally for storage, warehousing or distribution does not exceed 5,000 square feet.
  - b. The site is not adjacent to an existing residential development or an R-1A or R-1B, R-2 or R-3 zoning district.
  - c. The proposed use is designed, constructed, operated and maintained in harmony with adjacent land uses or zoning districts.
- (2) New or used automobile showrooms, dealerships and sales lots provided:
  - a. No temporary structures for sales or servicing are included.
  - b. All car sales and parking areas are properly drained and surfaced within the provisions of this article.
  - c. The site layout, setbacks, structures and overall appearance and function of the proposed sales lot are compatible with adjacent land uses.
  - d. The site is not adjacent to an existing residential area.
  - e. Each lot shall have a rear yard of 30 feet.
  - f. All state rules and regulations shall be complied with as they pertain to vehicle sales licenses.
- (3) Adult entertainment activities as defined in section 32-5 providing:
  - a. Such use shall not be located within 3,000 feet of a church, school or public office or any other adult entertainment activity.
  - b. Such use shall not be adjacent to or within 1,000 feet of any R district.
- (4) All communications towers providing:
  - a. Such tower sites shall not be allowed within a 1,000-foot radius of each other.
  - b. The provision of sections 32-32 and 32-386 are met.
- (5) Personal storage units provided that:
  - a. If adjacent to a residentially zoned or used property a solid fence shall be placed between the storage and residential uses. The type and height of the fence shall be determined by the city planning commission.
  - b. All site lighting shall be directed such that it is not directed toward the street or surrounding properties.

- c. Off-street parking and loading areas shall be provided as directed by the zoning administrator but shall include at least two parking spaces for employees.
  - d. Landscaping shall be provided to enhance the appearance of the site and approved by the city planning commission.
  - e. All storage shall be completely within an enclosed building.
- (6) Wholesale/retail lumber and building product sales buildings and yards, which may include some product assembly within an enclosed building.
- a. Such site shall be located on not less than five acres.
  - b. All storage shall be located within a building which has at least three sides and located on the parcel such that the visibility of the contents of such buildings from abutting properties and the street is minimized, this shall be determined by the planning commission.
  - c. All access drives, loading areas, and parking shall be hard surfaced.
  - d. Is not adjacent to residentially used or zoned property.
  - e. All storage/loading yards shall be enclosed with a six-foot tall solid construction fence.

(Ord. No. 31, § 31.1503, 4-24-2012)

**Sec. 32-386. Dimensional requirements.**

- (a) *Minimum lot size.*
  - (1) Each lot shall contain a minimum of 15,000 square feet.
  - (2) Each lot shall be a minimum of 100 feet in width at the front building line.
- (b) *Minimum yard requirements.*
  - (1) Each lot shall have a minimum front yard of 40 feet and said yard, except for necessary drives or walks, shall remain clear except that ten feet may be used for parking.
  - (2) Side yards shall be ten feet except on that side or those sides of the lot abutting upon a residential or agricultural district, in which case there shall be a side yard of not less than 30 feet. Side yards are not required if a proposed structure will connect with an adjacent commercial structure to form one commercial structure with combined access and parking and if there is a combined parking lot with no more than two ingress/egress locations.
  - (3) Each lot shall have a minimum rear yard of 30 feet.
  - (4) In the case of a corner lot, the yards on the street sides shall not be less than 40 feet and any remaining yards shall not be less than ten feet.
- (c) *Maximum building height.* The maximum building height shall be three stories or 40 feet.
- (d) *Off-street parking requirements.* Requirements for an allowed use shall be determined from the schedule of parking requirements.
- (e) *Loading requirements.*
  - (1) The required number of standard berths for B-3 retail business used and wholesale or processing uses shall be provided in amounts not less than shown in the following schedule:

Square Feet	Berths
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0—6,000	1
6,001—35,000	2
35,001—75,000	3
75,001—150,000	4
Each Additional 100,000	1 additional

- (2) Supplementary regulations are contained in section 32-73.
- (3) The site layout, setbacks, structures and overall appearance and function of the use shall be compatible with adjacent uses.

(Ord. No. 31, § 31.1504, 4-24-2012)

**Secs. 32-387—32-415. Reserved.**

*DIVISION 11. M-1 INDUSTRIAL (LIMITED MANUFACTURING)*

**Sec. 32-416. Intent and purpose.**

This district is intended for light industrial uses with few, if any, nuisance characteristics, but also permits commercial establishments not engaged in retail sales, and service establishments which are of a type not generally requiring the customer to call at the place of business. The M-1 district is designed to permit manufacturing, processing, assembling, packaging, or treatment of products from previously prepared materials. It is also intended to prohibit residential uses, and intensive retail enterprise as being incompatible with the primary industrial and related uses permitted. However, under special use provision certain retail and wholesale activities may be permitted. It is the purpose of these regulations to promote sound industrial areas within the community which are also protected from incompatible uses.

(Ord. No. 31, § 31.1601, 4-24-2012)

**Sec. 32-417. Uses permitted by right.**

The following are the principal permitted uses by right within an M-1 district:

- (1) Production, processing, assembling, packaging or treatment of such products as: bakery goods, candy, pharmaceutical, toiletries, food products, hardware and cutlery, tool and die, garage products, and sheet metal products.
- (2) Production, processing, assembling, packaging or treatment of articles or products from the following previously prepared or semi-finished materials: bone, hair, fur leather or feathers, fibers, plastics, glass or cellophane, wood, paper or cork, sheet metal or wire, tobacco, rubber, precious or semi-precious stones, and similar articles or products which are previously prepared or semi-finished.
- (3) Manufacturing of pottery and ceramics.
- (4) Manufacturing of musical instruments, toys, novelties or small molded products.
- (5) Manufacturing and assembly of electronic instruments and equipment and electrical appliances and devices.
- (6) Laboratories including experimental, film, and testing.

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- (7) Trade, skills or industrial schools and veterinary hospitals or clinics.
  - (8) Public utility installations and buildings including power, fuel, communications, and water treatment.
  - (9) Accessory uses clearly subordinate to the main use of the lot or building such as:
    - a. Uses which can meet the requirements as herein specified, or as defined in section 32-5.
    - b. Restaurant or cafeteria facilities for employees.
    - c. Caretaker's residence if situated upon a portion of the lot complying with all the requirements of the R-1 residential districts.
    - d. Office building associated with a manufacturing facility.

(Ord. No. 31, § 31.1602, 4-24-2012)

### **Sec. 32-418. Uses permitted by special land use permit.**

The following uses of land and buildings may be permitted in the M-1 district by the issuance of a special land use permit when all the provisional requirements specified in article VI of this chapter together with all applicable standards cited in article VI of this chapter are met. Also, provided the proposed use is designed, constructed, operated and maintained in harmony with adjacent land uses or zoning districts and complies with section 32-419:

- (1) Restaurants, taverns and other eating establishments.
- (2) Warehousing and wholesale distribution of non-perishable goods.
- (3) Machine shops.
- (4) Any manufacturing, processing, testing or assembling of other semi-finished products from raw materials not specifically listed in section 32-417.
- (5) Companies dealing in technological development.
- (6) Computer aided design and/or manufacturing.
- (7) Technical services industries such as engineering.
- (8) Research and development.
- (9) All communications towers providing:
  - a. Such tower sites shall not be allowed within a 1,000-foot radius of each other.
  - b. The provisions of sections 32-32 and 32-386 are met.
- (10) Open air business uses such as retail sales of plant materials, sale of lawn furniture, playground equipment and garden supplies.

(Ord. No. 31, § 31.1603, 4-24-2012)

### **Sec. 32-419. General use requirements.**

- (a) Storage activities in this district shall be carried on in completely enclosed buildings.
- (b) Retail sales and residential dwellings are expressly prohibited.
- (c) Uses in this district shall conform to the following standards:

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- (1) Emit no obnoxious, toxic or corrosive fumes or gases which are harmful to the public health, safety or general welfare; except those produced by internal combustion engines under design operation conditions.
  - (2) 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.
  - (3) Produce no heat or glare to such an extent as to be detrimental to the health, safety, and general welfare at or beyond the lot boundaries.
  - (4) Produce no physical vibrations to such an extent as to be determined detrimental to the health, safety, and general welfare at or beyond the lot boundaries.
  - (5) Not include in the manufacturing process any production or storage of any material designed for use as an explosive, or use of any such material in production.
  - (6) Conform to all local, state and applicable federal pollution control standards, including noise, air and water quality requirements.
  - (7) Emit no noise that is offensive or inappropriate for the permitted use to such an extent that it is deemed detrimental to the health, safety and general welfare at or beyond the lot boundaries.

(Ord. No. 31, § 31.1604, 4-24-2012)

### **Sec. 32-420. Dimensional requirements.**

(a) *Minimum lot size.*

- (1) Each lot shall contain a minimum of 12,000 square feet of area.
- (2) Each lot shall have a minimum frontage of 100 feet.

(b) *Minimum yard requirements.*

- (1) All structures are required to have a minimum front yard or setback of not less than 40 feet from the front property line. Side and rear yards shall be ten percent of the lot width and depth, respectively, but need not exceed 40 feet each. Where a lot in this district abuts a lot in any residential district, no building in the M-1 district shall be closer than 100 feet to the property line of such residential lot. Except for landscape improvements and necessary drives and walks, the front yard shall remain clear, and shall not be used for parking, loading, storage 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 the edge of the lot.
- (2) Structures and solid fences or walls shall be no closer to the lot boundary than a distance equal to twice their height but not to exceed 40 feet. This provision shall not apply to main buildings 15 feet or less in height, nor to accessory structures, fences or walls ten feet or less in height.
- (3) When the side or rear yard areas abut land within a residential district 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.

- (c) *Corner lots.* In the case of a corner lot, the yards on the street sides shall not be less than 40 feet and any remaining yards shall not be less than ten percent of the width or depth respectively but not to exceed 40 feet each.

(d) *Maximum building height.*

- (1) Buildings shall not exceed 3½ stories in height or 45 feet provided any buildings within 75 feet of a residential district shall not exceed 2½ stories or 35 feet.
- (2) Exceptions (refer to section 32-32).

(e) *Maximum lot coverage.* There is no maximum lot coverage requirement for M-1 districts.

(f) *Minimum off-street parking.*

- (1) Requirements for an allowed use shall be determined from the schedule of parking requirements in article III of this chapter (refer to section 32-74).
- (2) Industrial or manufacturing uses and warehouse operations shall provide loading areas in amounts not less than shown on the following schedule:

Square Feet	Berths
0—10,000	1
10,001—20,000	2
20,001—50,000	3
50,001—100,000	4
Each additional 100,000	1 Additional

- (3) The required number of standard berths for retail business uses shall be provided in amounts not less than shown in the following schedule.

Square Feet	Berths
0—10,000	None
10,001—35,000	1
35,001—75,000	2
75,001—15,0000	3
Each additional 100,000	1 Additional

- (4) Supplementary regulations are contained in section 32-73.

(Ord. No. 31, § 31.1605, 4-24-2012)

**Secs. 32-421—32-438. Reserved.**

***DIVISION 12. M-2 INDUSTRIAL (INTENSIVE MANUFACTURING)***

**Sec. 32-439. Intent and purpose.**

This district is intended for intensive industrial uses but also permits light industrial and commercial establishments not engaged in retail sales and service establishments which are of a type not generally requiring the customer to call at the place of business. The M-2 district is designed to permit the manufacturing, processing, or assembling of semi-finished or finished products from raw material as previously prepared and intensive retail enterprise as being incompatible with the primary industrial and related uses permitted. It is the purpose of these

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regulations to promote sound industrial areas within the community which are also protected from incompatible uses.

(Ord. No. 31, § 31.1701, 4-24-2012)

**Sec. 32-440. Uses permitted by right.**

The following are the principal permitted uses by right within an M-2 district.

- (1) Uses permitted by "right" or by special land use permit within an M-1 district.
- (2) Heating and electrical power generating plants.
- (3) Any manufacturing, processing, testing, assembling, storage and distribution of material, goods, foodstuffs and other semi-finished products from raw materials.
- (4) Metals processing and production such as foundries, casting plants, smelting plants and other similar production or processes.
- (5) Truck terminals and contractors' establishments.
- (6) Warehouse and storage buildings and yards, and wholesaling.
- (7) Incinerators and resource recovery facilities.
- (8) Sewage treatment and disposal installation

(Ord. No. 31, § 31.1702, 4-24-2012)

**Sec. 32-441. Uses permitted by special land use permit.**

The following uses of land and buildings may be permitted in the M-2 district by the application for issuance of a special land use permit when all the procedural requirements specified in article VI of this chapter together with all applicable standards cited below are met:

- (1) Hazardous materials disposal or reprocessing plants.
  - a. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.
  - b. All uses shall be enclosed by a fence six feet or more in height for the entire periphery of the property. Fences shall be adequate to prevent trespass.
  - c. All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned so that they shall be in a condition of being entirely lacking in hazards, inconspicuous and blended with the general surrounding ground form.
  - d. The planning commission shall establish routes for truck movement in and out of the development.
  - e. All permitted installation shall be maintained in a neat, orderly condition so as to prevent injury to any single property, and individual, or to the community in general.
- (2) Junkyards provided the following standards are met:
  - a. The site shall be minimum of five acres in size.

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- b. An opaque fence or wall at least eight feet in height shall be provided around the entire site and shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
  - c. There shall be no stacking of material above the height of the fence or wall, except for movable equipment used on the site.
  - d. No equipment, materials, signs, or lighting shall be used or stored outside the fence area.
  - e. All fenced-in areas shall be at least 50 feet from any front street or property line. Such front yard setback shall be planted with trees, grass, and shrubs to minimize the appearance of installation.
- (3) All communications towers providing:
- a. Such tower sites shall not be allowed within a 1,000-foot radius of each other.
  - b. The provisions of sections 32-32 and 32-386 are met.

(Ord. No. 31, § 31.1703, 4-24-2012)

### **Sec. 32-442. General use requirements.**

- (a) *Enclosed buildings.* Activities in this district shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors provided that within 300 feet of any other district said storage shall be in completely enclosed buildings. All outdoor storage shall be effectively screened by a solid uniformly finished wall or fenced with a solid entrance and exit gate, which fence or wall shall be at least four feet in height, but in no case shall the fence be lower than the enclosed storage, up to a maximum height of eight feet. Such storage shall be deemed to include the parking of licensed motor vehicles over 1½ tons rated capacity.
- (b) *Retail sales.* Retail sales expressly prohibited except as may in this article be specifically allowed.
- (c) *Standards.* Uses in this district shall conform to the following standards:
  - (1) Emit no obnoxious, toxic or corrosive fumes or gases which are harmful to the public health, safety or general welfare, except those produced in internal combustion engines under design operating conditions.
  - (2) 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.
  - (3) Produce no heat or glare to such an extent to be detrimental to the health, safety, and general welfare at or beyond the lot boundaries.
  - (4) Produce no physical vibrations to such an extent to be determined detrimental to the health, safety and general welfare at or beyond the lot boundaries.
  - (5) Does not include in the manufacturing process any production or storage of any material designed for use as an explosive, nor in the use of any such material in production.
  - (6) Shall conform to all local, state and applicable federal pollution control standards, including noise, air, and water quality requirements.

(Ord. No. 31, § 31.1704, 4-24-2012)

### **Sec. 32-443. Dimensional requirements.**

- (a) *Minimum lot size.*
  - (1) Each lot shall contain a minimum of 15,000 square feet of area.

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(Supp. No. 8)

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(2) Each lot shall have minimum frontage of 125 feet.

(b) *Minimum yard requirements.*

(1) All structures are required to have a minimum front yard of setback of not less than 40 feet from the front property line. Side and rear yards shall be ten percent of the lot width and depth, respectively, but need not exceed 40 feet each. Where a lot in this district abuts a lot in any residential district, no building in the M-1 district shall be closer than 100 feet to the property line of such residential district lot.

(2) Except to landscape improvements and necessary drives and walks, the front yard shall remain clear, and shall not be used for parking, loading, storage, 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 the edge of the lot.

(3) Structures and solid fences or walls shall be no closer to the lot boundary than a distance equal to twice their height. This provision shall not apply to main buildings 15 feet or less in height, nor to accessory structures, fences, or wall ten feet or less in height.

(4) When the side or rear yard areas abut land within a residential district 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.

(5) In the case of a corner lot, the yards on the street sides shall not be less than 40 feet and any remaining yards shall not be less than ten percent of the width or depth respectively but not to exceed 40 feet each.

(c) *Maximum building height.*

(1) Building shall not exceed five stories in height or 70 feet provided any building within 100 feet of a residential district shall not exceed 3½ stories or 45 feet.

(2) Exceptions (refer to section 32-32).

(d) *Maximum lot coverage.* There is no maximum lot coverage requirement for M-2 districts.

(e) *Minimum off-street parking.* Requirements for an allowed use shall be determined from the schedule of parking requirements in article III of this chapter (refer to section 32-64).

(f) *Minimum off-street loading area for M-2 uses.*

(1) Industrial or manufacturing uses and warehouse operations shall provide loading areas in amounts not less than shown in the following schedule:

Square Feet	Berths
0—10,000	1
10,001—20,000	2
20,001—50,000	3
50,001—100,000	4
Each additional 100,000	1 Additional

(Ord. No. 31, § 31.1705, 4-24-2012)

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**Secs. 32-444—32-469. Reserved.**

*DIVISION 13. RIVERFRONT USES (RU)*

**Sec. 32-470. Intent and purpose.**

The riverfront district as identified on the city zoning map is an area of the city intended for new commercial, office, residential, park, recreation and marina development. Industrial and converted multifamily residential uses will be phased out over time and will be treated as nonconforming uses and subject to regulations governing such uses.

(Ord. No. 31, § 31.1801, 4-24-2012)

**Sec. 32-471. Uses permitted by right.**

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

- (1) All principal permitted uses in the B-1 and B-2 business districts;
- (2) Marinas;
- (3) Parks, recreational, and water oriented recreational uses;
- (4) Accessory uses clearly incidental to the uses in subsections (1) through (3) of this section.

(Ord. No. 31, § 31.1802, 4-24-2012)

**Sec. 32-472. Uses permitted by special land use permit.**

The following uses are permitted by a special land use permit:

- (1) Single-family attached townhouses and condominiums;
- (2) Loft-style apartments above lower floor commercial;
- (3) In-fill construction or rehabilitated buildings.

(Ord. No. 31, § 31.1803, 4-24-2012)

**Sec. 32-473. General use requirements.**

The planning commission shall place emphasis on the following in review of requests for approval in the riverfront district:

- (1) Create high quality commercial, residential and recreational development that improves linkages to the waterfront;
- (2) Create a high level of pedestrian-oriented street level activity;
- (3) Renovate all existing buildings;
- (4) Develop appropriate infill buildings on vacant sites;

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- (5) Effectively screen parking for key sight lines through landscaping, decorative fencing or placement of parking behind buildings.

(Ord. No. 31, § 31.1804, 4-24-2012)

**Sec. 32-474. Dimensional requirements.**

All dimensional requirements shall be the same as that is required in the B-2 zoning district.

(Ord. No. 31, § 31.1805, 4-24-2012)

**Secs. 32-475—32-501. Reserved.**

**ARTICLE VI. SPECIAL LAND USE PERMIT REQUIREMENTS<sup>4</sup>**

**Sec. 32-502. Intent and purpose.**

- (a) It is the intent of this section to provide a set of procedures for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole.
- (b) It is the expressed purpose of the regulations and standards herein, to allow, on one hand, practical latitude for the investor or developer, but at the same time maintain adequate provision for the protection of the health, safety, convenience and general welfare of the community.
- (c) The requirements of this article together with previous references in other articles of this chapter, designate the requirements, procedures and standards which must be met before special land use permit can be issued.

(Ord. No. 31, § 31.1901, 4-24-2012)

**Sec. 32-503. Permit procedures.**

The application for a special land use permit shall be submitted and processed under the following procedures:

- (1) *Submission of application.* An application shall be submitted through the zoning administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the local city council. In the event the allowance of a desired use requires both rezoning and special use permit, both requests may be submitted jointly, subject to the following:
  - a. The ordinance procedures for each shall be followed as specified.
  - b. All applicable standards and specifications required by the ordinance shall be observed.
- (2) *Date required.*
  - a. Site plan pursuant to section 32-39 portraying the total property involved showing the location of all abutting streets, the location of all existing and proposed structures and uses of the property

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<sup>4</sup>State law reference(s)—Special land uses, MCL 125.3502 et seq.

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and any natural or manmade features with affect the property together with indication of abutting uses.

- b. Preliminary plans and specifications of the proposed development.
- (3) *Planning commission review and hearing.* The application, together with all required data shall be transmitted to the planning commission for review. After review and study of any application and related material, the planning commission shall hold a public hearing after at least one publication in a newspaper of general circulation in the community. Notice procedure under section 32-534(c)(3) shall be followed. Such notice shall indicate the place, time and purpose of the hearing.
- (4) *Permit expiration.* A special land use permit issued pursuant to this article shall be valid for one year from the date of issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one period, the zoning administrator shall notify the applicant in writing of the expiration of said permit. Once a special land use is constructed, annual renewal of such permit shall not be required.
- (5) *Revocation.* The planning commission shall have the authority to revoke any special land use permit after it has been proved that the holder of permit has failed to comply with any of the applicable requirements in article VII of this chapter, or other applicable sections.
- (6) *Reapplication.* No application for a special land use permit which has been denied wholly or in part by the planning commission shall be resubmitted until the expiration of the year or more from the date of such denial, except on the grounds of newly discovered evidence or proof or change of conditions.

(Ord. No. 31, § 31.1902, 4-24-2012)

### **Sec. 32-504. Permit standards.**

Before formulating recommendations on a special land use permit application, the planning commission shall establish that the following general standards, as well as specific standards, shall be satisfied:

- (1) *General standards.* Before formulating recommendations on a special land use permit application, the planning commission shall establish that the following general standards, as well as specific standards, shall be satisfied:
- a. Be designed, constructed, operated and maintained so as to be harmonious and, appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
  - b. Not be hazardous or disturbing to existing or intended uses in the same general area and will be in improvement to property in the immediate vicinity and to the community as a whole.
  - c. Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
  - d. Not create excessive additional requirements at public cost for public facilities and services.
  - e. Not involved uses, activities, processes, materials, and equipment or conditions of operations that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare, or odors.
  - f. Be consistent with the intent and purpose of the zoning district in which it is propose to locate such use.
- (2) *Conditions and safeguards.* The planning commission may stipulate such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights,

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and for insuring that the intent and objective of this article will be observed. The breach of any condition, safeguard, or requirements shall automatically invalidate the permit granted.

- (3) *Specific requirements.* The general standards and requirements of this section are basic to all uses authorized by special use permit. The specific and detailed requirements set forth in the sections related to particular uses and are requirements which must be met by those requirements where applicable.
- (4) *Permitted uses.* Uses permitted by special land use permit shall be those uses listed as allowed by special use permit in each district.

(Ord. No. 31, § 31.1903, 4-24-2012)

**Secs. 32-505—32-531. Reserved.**

**ARTICLE VII. ADMINISTRATION**

**Sec. 32-532. General administration.**

The provisions of this article shall be administered by the planning commission, the board of zoning appeals, and the city council in conformance with applicable state enabling legislation.

- (1) *Responsibility.* The city council with recommendation of the planning commission shall employ a zoning administrator to act as its officer to effect proper and adequate administration of this article. The city council may designate the building inspector, city manager or other administrative officer, as the zoning administrator. The term of employment, compensation, and any other conditions of employment shall be established by the city council. For the purpose of this article, the zoning administrator shall have the power of a police officer.
- (2) *Duties of zoning administrator.*
  - a. All applications for permits or certificates shall be submitted to the zoning administrator who may issue certificates of occupancy or sign permits when all applicable provisions of this article have been met. The zoning administrator shall be empowered to make inspections of buildings or premises to carry out his duties in the enforcement of this article.
  - b. The zoning administrator shall record all nonconforming uses existing at the effective date of the ordinance from which this article is derived for the purpose of carrying out the provisions of section 32-29.
  - c. Under no circumstances is the zoning administrator permitted to make changes in this article nor to vary the terms of this article in carrying out his duties.
- (3) *Sign permit.* Prior to the construction, erection or structural alteration of a sign, a permit shall be obtained from the zoning administrator. Application shall be on a standard prepared form obtained from the zoning administrator.
- (4) *Certificate of occupancy.* A certificate of occupancy shall be obtained from the zoning administrator for any of the following:
  - a. Occupancy and use of vacant land (including parking lot construction) or of a building hereafter erected or structurally altered.

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- b. Change in the use of land or building, except to another use which represents a continuation of a use under a previous certificate of occupancy.
  - c. Any change in use or enlargement of a nonconforming use or building.
- (5) *Application for certificate of occupancy.*
- a. *Application.* In all cases where a building permit is required, written application for a certificate of occupancy shall be made coincident with the application for such building permit, and in all cases shall be made not less than ten days prior to the time when a new, changed or enlarged use of building, structure or premise is intended to begin.
  - b. *Information required.* Application for certificate of occupancy shall be accompanied by a plat, in duplicate and drawn to scale, showing the exact dimension of the premises to which the certificate of occupancy is to apply; the lines of all lots or parcels under separate ownership contained therein; the width and alignment of all abutting streets, alleys, easement of access and public open spaces; the size, position and height of all buildings or structures erected or altered thereon; and such other information as may be deemed necessary by the zoning administrator for the proper enforcement of this article.
  - c. *Accessory building or structures.* When an accessory building or structure is erected at the same time as the principal building or structures on a lot shown on the application thereof, shall not require a separate certificate of occupancy.
  - d. *Record of application.* A record of all such application for certificate of occupancy shall be kept on file by the zoning administrator. Whenever the building, structure, premise and uses thereof as set forth on the application are in conformity with the provisions of this Code and other applicable regulations.

(Ord. No. 31, § 31.2001, 4-24-2012)

### **Sec. 32-533. Enforcement.**

Unless specified otherwise, the zoning administrator shall enforce the provisions of this article.

- (1) *Violation and penalties.* Violations of any provisions of this article are declared to be a civil infraction. Any and all building or land use activities considered possible violations of the provisions of this article observed by or communicated to an official or employee shall be reported to the zoning administrator.
  - a. *Inspection of violation.* The zoning administrator shall inspect each alleged violation or violations he observes or is aware of and shall order correction in writing, of all conditions found to be in violation of this article.
  - b. *Penalties.* Every person, whether as principal agent, servant, employee or otherwise including the owners of any building, structure or premise or part thereof where any violation of this article shall exist or shall be created; who shall violate or refuse to comply with any of the provisions of this Code shall be guilty of a civil infraction; for each and every day the violation continues beyond the permissible grace period, a separate offense shall be declared.
  - c. *Cumulative rights and remedies.* The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.
- (2) *Conflicting regulations.* In the interpretation, application and enforcement of the provisions of this article, whenever any of the provisions or limitations imposed or required by this article are more stringent than any other law or ordinance, then the provisions of this article shall govern, provided also

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that whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this article, then the provisions of such other law or ordinance shall govern.

- (3) *Building permit requirement.* No structure unless exempted shall be built without the acquisition of a building permit. No permit shall be issued until such time as all the provisions of this article have been complied with.

(Ord. No. 31, § 31.2002, 4-24-2012)

### **Sec. 32-534. Amendment.**

- (a) *City council may amend.* The city council may amend the regulations and provisions stated in the text of this article and the boundaries of zoning districts shown on the zoning district map may be amended, supplement, or changed by ordinance the city council in accordance with the applicable zoning enabling legislation of the state.
- (b) *Initiation of amendments.* Proposals for amendments, supplements, or changes may be initiated by the city council of its own action, by the planning commission or by petition of one or more owners, or their agents, of property to be affected by the proposed amendment.
- (c) *Amendment procedures.*
- (1) *Petition to city council.* Each petition by one or more owners, or their agents, for an amendment shall be submitted upon an application of standard form to the city clerk. See fee schedule section 32-536. The clerk shall transmit the application to the planning commission for recommendation action.
- (2) *Recommendation.* The planning commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the likely effect of such proposal upon the development plan for the community. The planning commission may recommend any additions or modifications to the original amendment petition.
- (3) *Public hearing.* Before deliberation on any proposal the planning commission shall conduct at least one public hearing, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the community, the notice to be printed not less 15 days before the date of such hearing. Not less than 15 days' notice of the time and place of such hearing shall also be given to each public utility company servicing the community, and which has registered its name and mailing address for the purpose of receiving such notice, and to each railroad company servicing the community and to each railroad within the zone affected. The notice shall include the places and times at which the tentative text and/or map amendment to the zoning ordinance may be examined. Letters of notice shall also be mailed at least 15 days prior to the hearing to all property owners of record within 300 feet of a requested rezoning and to the owners of the subject property.
- (4) *City council.*
- a. Upon receipt of the planning commission's recommendation, the city council shall review said recommendations. If the city council shall deem that any amendments, changes, additions, or departures are advisable to the proposed ordinance amendment recommended by the planning commission, it shall refer the same back to the planning commission for a report thereon within a time specified by the city council.
- b. After receiving the proposed amendment recommendations heretofore specified, the city council shall grant a hearing on the proposed amendment to any property owner who has filed a written request to be so heard and shall request the planning commission to attend such hearing.
- c. Thereafter, the city council may deny, or adopt the amendment with or without any changes.

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- (5) *Resubmittal.* No application for a rezoning which has been denied by the city council shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the city council to be valid.

(Ord. No. 31, § 31.2003, 4-24-2012)

State law reference(s)—Amendment of zoning ordinance, MCL 125.3403.

### **Sec. 32-535. Board of zoning appeals.**

(a) *Creation and membership.*

- (1) Establishment: By state enabling legislation.
- (2) Membership, terms office: By state enabling legislation.

(b) *Organization and procedures.*

- (1) *Rules of procedure.* The board of zoning appeals shall adopt its own rules of procedure as may be necessary to conduct its meeting and carry out its function. The board shall choose its chairperson, and in his absence, an acting chairperson.
- (2) *Meeting.* Meeting shall be held at the call of the chairperson and at such times as the board of zoning appeals may determine. All meetings by the board of zoning appeals shall be open to the public. The board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance.
- (3) *Records.* Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the city clerk and shall be made available to the general public.
- (4) *Counsel.* The city attorney shall act as legal counsel for the board of zoning appeals and shall be present at all meetings upon request by the board of zoning appeals.
- (5) *Hearings.*
  - a. When a notice of appeal has been filed in proper form with the board of zoning appeals, the board shall immediately place the said request for appeal on the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served, personally or by mail, addressed to the parties making the request for appeal, at least five days prior to the date of the scheduled hearing. All notices shall be sent to the addressee stated on the application.
  - b. Any person may appear and testify at the hearings, either in person or by duly authorized agent or attorney. The board of zoning appeals may recess such hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment of the board hearing, no further notice shall be required. The board shall give due notice to all property owners within 300 feet of the property affected, said notice being given at least five days before the hearing date.
- (6) *Decisions.* The board of zoning appeals shall return a decision upon each case within 30 days after a request or appeal has been filed unless a further time is agreed upon with the parties concerned. Any decision of the board of zoning appeals shall take effect immediately.
- (7) *Majority vote.* The concurring vote of a majority of the members of the board of zoning appeals shall be necessary to reverse any order requirement, decision, or determination of the zoning administrator



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or to decide in favor of the applicant on any matter upon which they are required to pass under this article or to effect any variation in the article.

(c) *Appeals.*

- (1) *Filing of appeals.* Appeals to the board of zoning appeals may be made by any person aggrieved, or by any officers, department, or board of the city government. Any appeal from the ruling of the zoning administrator concerning the enforcement of the provisions of this article may be made to the board of zoning appeals within ten days after the date of the mailing of the zoning administrator's decision. Such appeal shall be filed with the zoning administrator and shall specify the grounds for the appeal. The zoning administrator shall immediately transmit to the secretary of the board of appeals papers constituting the record upon which the action appealed from was taken.
- (2) *Stay.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of zoning appeals after the notice of appeal has been filed with him that by reason of fact stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by restraining order, which may be granted by the board of zoning appeals or, on application, by a court or record.
- (3) *Fees.* A fee as established by the city council shall be paid to the zoning administrator at the time of filing application with the board of zoning appeals. The purpose of such fee is to cover, in part, the necessary advertisement, investigations, and other expenses incurred by the board of zoning appeals in connection with the appeal.

(d) *Duties and powers.* The board of zoning appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this article, but does have power to act on those matters where this article provides for an administrative review, interpretation, variance exception, or special approval permit as defined in this section.

- (1) *Review.* The board of zoning appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit decision or refusal made by the zoning administrator or by any other official in administering or enforcing any provisions of this article.
- (2) *Interpretation.* The board of zoning appeals shall have the power to:
  - a. Interpret, upon request, the provision of this article in such a way as to carry out the intent and purpose of the article.
  - b. Determine the precise location of the boundary lines between zoning districts.
  - c. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
  - d. Determine the off-street parking and loading space requirements of any use not specifically mentioned in section 32-74.
- (3) *Dimensional variances.* The board of zoning appeals shall have the power to authorize, upon an appeal specific variance from such requirements as lot regulations, yard and depth regulations, and off-street parking and loading space requirements, provided all of the basic conditions listed herein and any one of the special conditions listed in subsection (d)(5) of this section can be satisfied.
- (4) *Basic conditions.* That any variance granted from this article:
  - a. Will not be contrary to the public interest or to the intent and purpose of this article.

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- b. Shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a conditional use permit is required.
  - c. Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
  - d. Is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such condition reasonably practical.
  - e. Will relate only to property that is under control of the applicant.
  - f. In the case of a detached garage that is the only garage on the parcel, the maximum height of the structure may be increased to complement the architectural character of the principle dwelling.
- (5) *Special conditions.* When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one of the following special conditions can be clearly demonstrated:
- a. Where there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this article. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
  - b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of the ordinance from which this article is derived.
  - c. Where such variations is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- (6) *Rules.* The following rules shall be applied in the granting of variances:
- a. The board of zoning appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objective and purposes of this article. The breach of any such condition shall automatically invalidate the permit granted.
  - b. Each variance granted under the provisions of this article shall become null and void unless:
    - 1. The construction authorized by such variance or permit has been commenced within six months after the granting of the variance.
    - 2. The occupancy of land, premises, or building authorized by the variance has taken place within one year after the granting of the variance.
  - c. No application for a variance which has been denied wholly or in part by the board of zoning appeals shall be resubmitted for a period of year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the board to be valid.
- (7) *Temporary permits.* Temporary permits for temporary structures, such as a garage, partial structure, cellar or basement to be used for dwelling purposes, including mobile homes or house travel trailer, not located in a licensed mobile home park subject to the following procedures and limitations:
- a. An application for a permit for the erection or movement of a temporary structure for dwelling purposes, including trailer coaches, shall be made to the board of zoning appeals on a special form used exclusively for that purpose. The applicant shall submit along with the application the written consent of 50 percent of the owner of all dwelling within 300 feet of proposed site.

- b. The board of zoning appeals shall give due notice to the applicant and to all property owners within 300 of the property affected at least five days before the hearing will be held on such application.
- c. A temporary permit shall not be granted unless the board of zoning appeals finds adequate evidence that the proposed location of the use will not be detrimental to property in the immediate vicinity; and that any on-site water supply and sanitary facilities have been approved by the county health department.
- d. The board of zoning appeals may impose any reasonable conditions in addition to the district requirements in which the use is proposed, including setbacks, land coverage, off-street parking, landscaping and other requirements deemed necessary to protect adjoining properties and the public welfare. The violation of any such condition shall automatically invalidate the permit.
- e. Unique and temporary conditions shall exist which justify the need for a trailer coach on a given lot or parcel such as dwelling for seasonal farm labor, aged family members, domestic employees or similar dwelling needs of a temporary nature that relate to the use of the principal dwelling on the property in question.
- f. The permit issued shall clearly set forth the conditions under which the permit is granted and shall state that the proposed temporary dwelling structure is to be vacated upon expiration of a specific time limit not to exceed 12 months. No permit shall be transferable to any other owner or occupant. The permit may be renewed in the case of trailer coaches if the conditions of subsection (d)(7)a through e of this section can be met again.

(8) *Bond for compliance; bond authorized.* In authorizing any variance, or in granting any conditional, or special approval permits, the board of zoning appeals may require that a bond of ample sum, but not exceed \$5,000.00, be furnished to ensure compliance with requirements, specifications, and conditions imposed with the grant of variance.

(Ord. No. 31, § 31.2004, 4-24-2012)

State law reference(s)—Zoning board of appeals, MCL 125.3601 et seq.

**Sec. 32-536. Fees.**

The following fees shall apply for the following requests according to the requirements in this article. All fees shall be paid to the city prior the processing of any request.

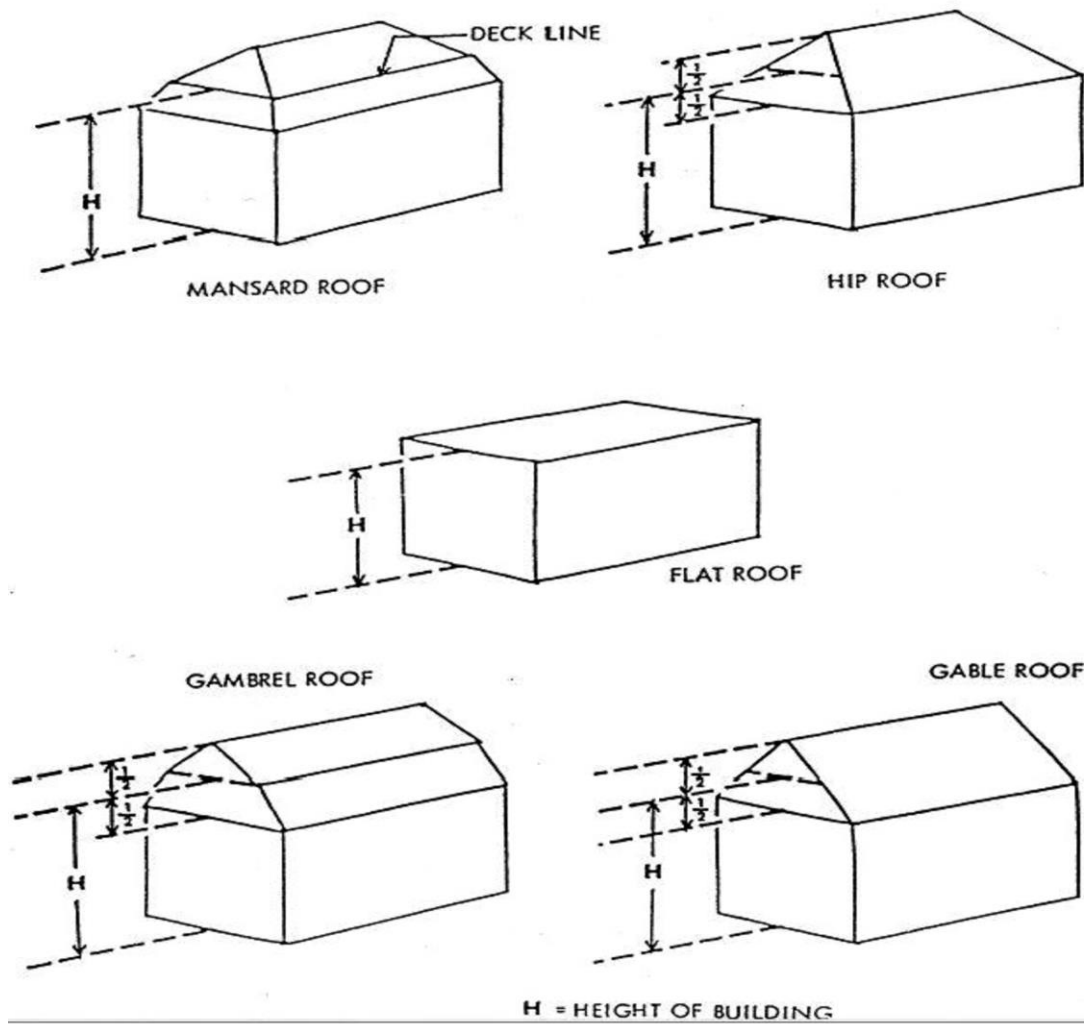
Signs	\$ 25.00	
Site plan review	\$200.00	
Variance:		
Residential	\$ 75.00	
Commercial	\$200.00	
Petition for rezoning or text amendment	\$200.00	

(Ord. No. 31, § 31.2005, 4-24-2012)

**Sec. 32-537. Appendices.**

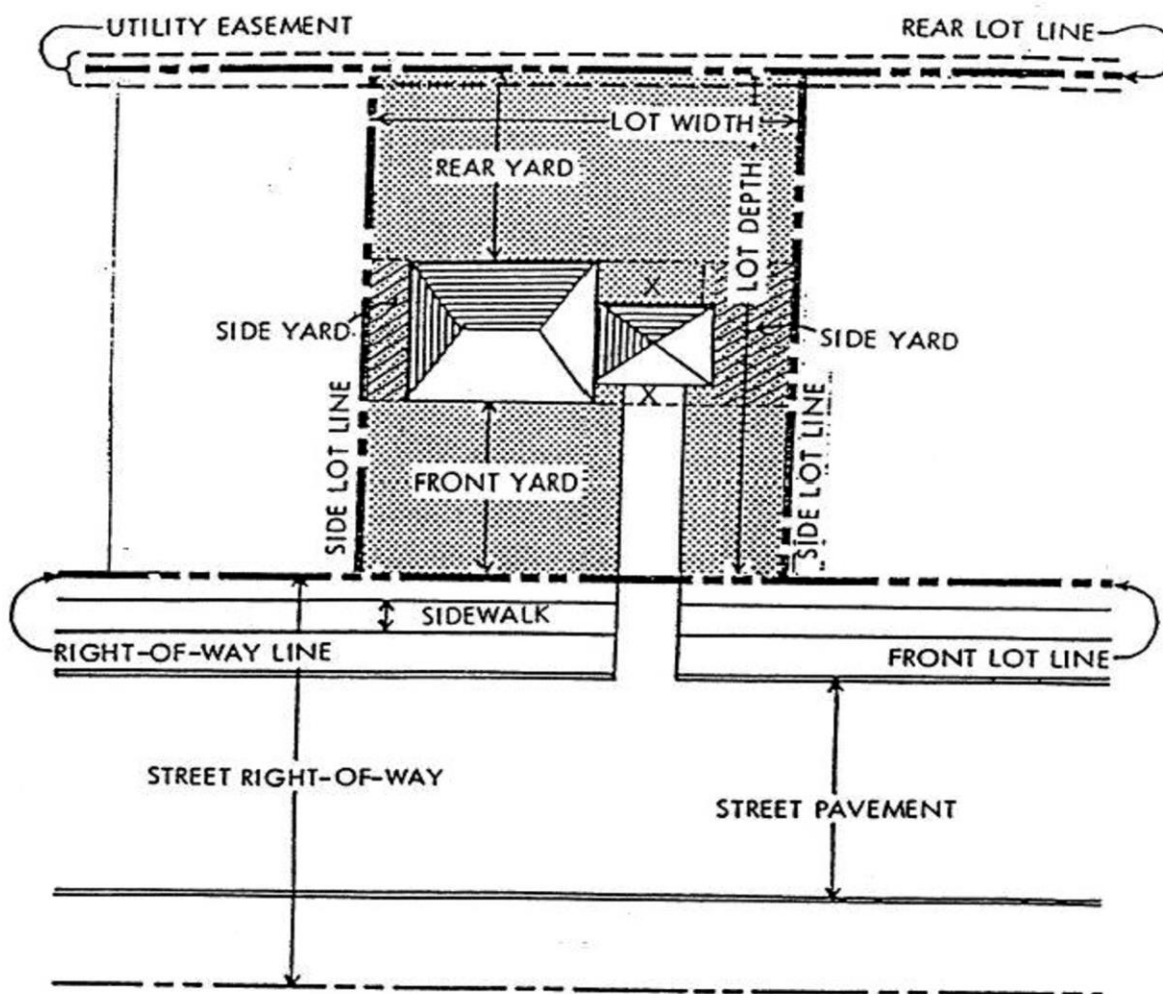
(a) *Appendix 1.*

# Appendix 1



(b) Appendix 2.

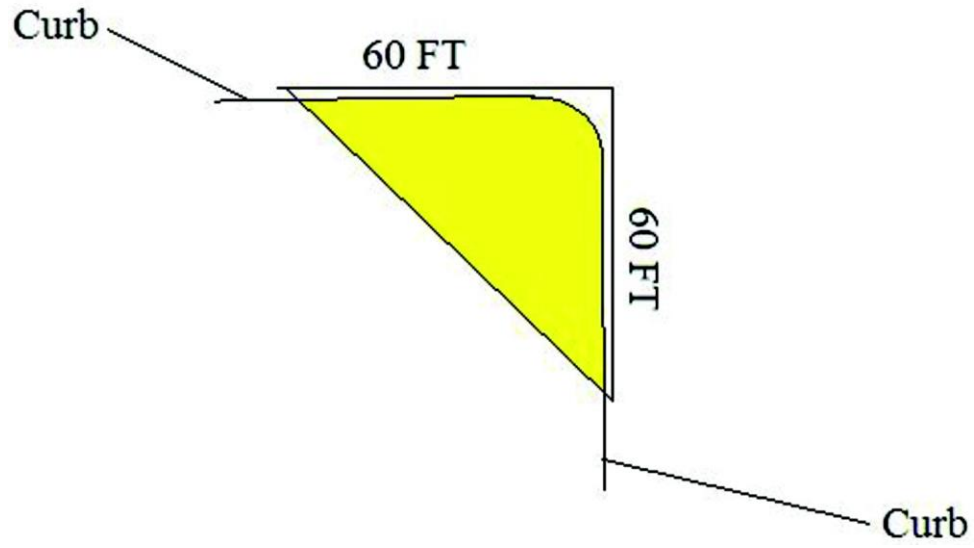
# Appendix 2



(c) Appendix 3.

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# Appendix 3



(d) *Appendix 4.*

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# Appendix 4

