Chapter 50 ZONING[1]

ARTICLE I. IN GENERAL

Sec. 50-1. Citation.

This article shall be known and may be cited as the "City of Algonac Zoning Ordinance."

(Ord. No. 96-5, § 100, 3-5-1996)

Sec. 50-2. Construction of language.

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

(1) The particular shall control the general.

(2) In the case of any difference of meaning or implication between the text of this article and any caption or illustration, the text shall control.

(3) The term "shall" is always mandatory and not discretionary. The term "may" is permissive.

(4) Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(5) A "building" or "structure" includes any part thereof.

(6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" or "occupied for."

(7) The term "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.

(8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either…or," the conjunction shall be interpreted as follows:

a. "And" indicates that all the connected items, conditions, provisions or events shall apply.

b. "Or" indicates that the connected item, conditions, provisions or events may apply singly or in any combination.

c. "Either…or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

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

(Ord. No. 96-5, § 200, 3-5-1996)

[1]State law reference(s)—Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

Sec. 50-3. 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 or*accessory* means a use which is clearly incidental to, customarily found in connection with, and located on the same zoning lot unless otherwise specified as the principal use to which it is related. When the term "accessory" is used in this text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following:

(1) Residential accommodations for servants and/or caretakers.

(2) Outdoor swimming pools, hot tubs and saunas for the use of occupants of a residence or their guests.

(3) Domestic or agricultural storage in a barn, shed, tool room or similar accessory building or other structure.

(4) A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays.

(5) Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.

(6) Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.

(7) Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.

(8) Uses clearly incidental to a main use, such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.

(9) Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.

(10) Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

(11) Common household gardening in a residential district when located only in the rear yard and/or nonrequired side yard areas.

(12) Solar panel, wind generators, television reception antenna and air conditioning units.

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

Alterations means any change, addition or modification in construction or type of occupancy, or in the structural members of a building such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Amusement device means any machine or device which, upon the insertion of a coin, currency, slug, token, plate or disc, operates or may be operated as a game or contest of skill or amusement when the element of skill in such operation predominates over chance or luck. The term "amusement device" includes mechanical, electrical, or electronic video games, mechanical grabbing devices pinball games, mechanical, electrical, or electronic baseball, football, basketball, hockey and similar sports-type games, mechanical, electrical, or electronic card games, shooting games, target games, or any other machine, device or apparatus which may be used as a game of skill and wherein the player initiates, employs or directs any force generated by such machine.

Apartment, efficiency, means a dwelling unit consisting of not more than one room in addition to kitchen, dining and necessary sanitary facilities.

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

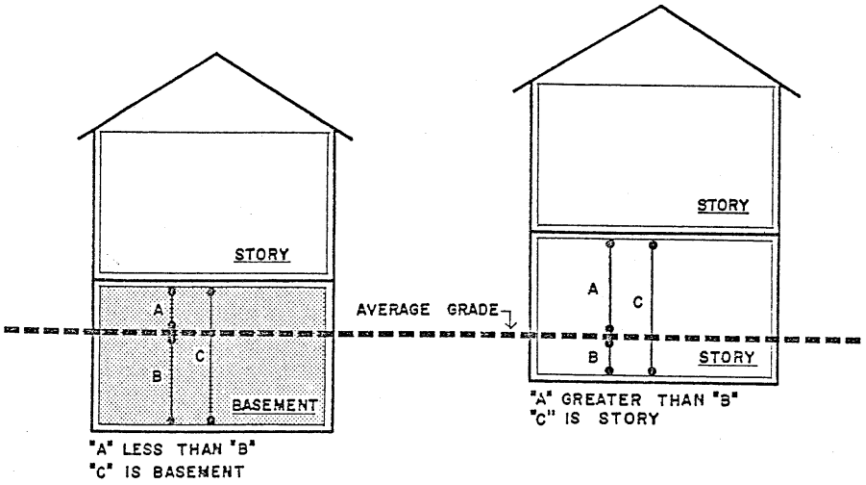
Arcade means any place open to the public in which four or more amusement devices are located for public use.

Architectural features means steps, window sills, belt courses, brick and/or wrought iron wing walls, chimneys, architraves, pediments.

Automobile repair, major, means the general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; and painting of automobiles.

Automobile repair, minor, means repairs other than major repair including engine tune up, muffler shops, shock absorber replacement shops, undercoating shops and tire stores.

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



BASEMENT AND STORY

Bed and breakfast means a use which is subordinate to the principal use of a dwelling unit, and a use in which transient guests are provided sleeping room and board for payment.

Berm, obscuring, means an earthen mound of definite height and location to serve as an obscuring device in carrying out the requirements of this chapter.

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

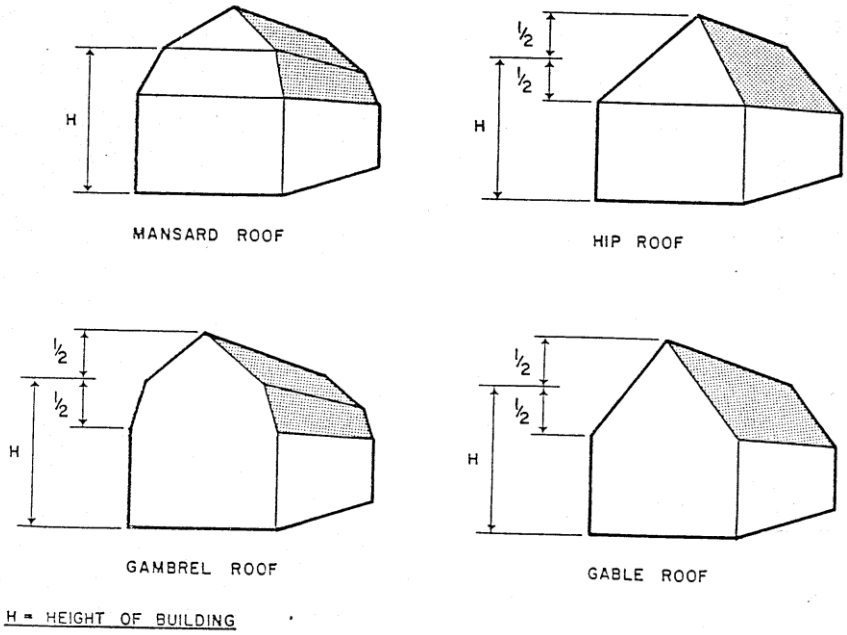
Board means the zoning board of appeals as established under this chapter.

Boardinghouse, roominghouse or lodginghouse means a building containing a single-dwelling unit and guestrooms providing lodging with or without meals, for compensation on a weekly, daily or monthly basis.

Boat or*vessel* means every description of watercraft used or capable of being used as a means of transportation on water.

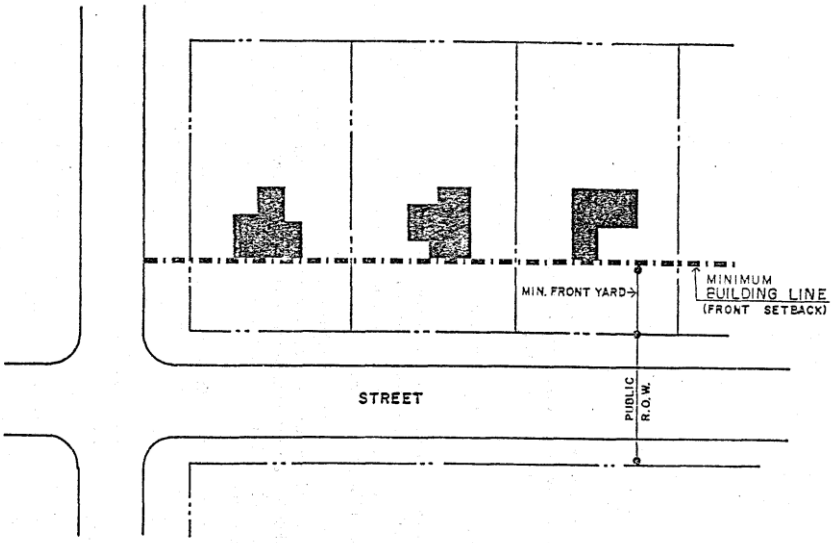
Building means any structures, either temporary or permanent, having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" includes tents, awnings or vehicles situated on private property and used for such purposes.

Building height means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall (see illustration "building height")



BUILDING HEIGHT

Building line means a line formed by the face of the building and, for the purposes of this article, the same as a front setback line (see illustration "building line").



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

Child care center means a group facility for more than six children which gives care to children away from their homes.

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

Collector street (secondary thoroughfare) means a street used primarily to carry traffic from minor (local) streets to major thoroughfares.

Condominium subdivision plan means the site, survey and utility plans; floor plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land.

Condominium subdivision (site condominium) means a method of subdivision where land ownership of sites is regulated by the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) as opposed to the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.). The term "condominium subdivision" shall be equivalent to the term "subdivision" as used in this chapter and the subdivision regulations in chapter 22.

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

Day care home for elderly adults means a one-family dwelling which receives not more than six elderly or infirmed adults for care during the day.

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

District means a portion of the incorporated area of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

Drive-in means an establishment where food, frozen desserts or beverages are sold to the customers in a ready-to-consume state and where the customer consumes food, frozen dessert or beverages in an automobile parked upon the premises or at other facilities provided for customers which are located outside the building.

Drive-through means an establishment so developed that some portion of its retail or service character is dependent upon providing a driveway approach and staging area specifically designed for motor vehicles so as to serve patrons while in their motor vehicles, rather than within a building or structure, for carrying out and consumption or use after the vehicle is removed from the premises.

Dwelling, multiple-family, means a building or a portion thereof designed exclusively for occupancy by three or more families living independently of each other.

Dwelling, one-family, means a building designed for and occupied exclusively by one family.

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

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

Dwelling unit, site-built, means a dwelling unit which is substantially built, constructed, assembled and finished on the premises which is intended to serve as its final location. Site-built dwelling units shall include

dwelling units constructed of precut materials and panelized wall, roof and floor sections when such sections require substantial assembly and finishing on the premises which is intended to serve as its final location.

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

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants in connection herewith, but not including buildings which are necessary for the furnishing of adequate service to the city by such utilities or municipal departments for the general health, safety or welfare. Wireless communication towers, devices and facilities are not defined as an essential service.

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

Family means one or more persons related by blood, marriage, civil union, or adoption; or a group of not more than four persons who need not be so related and who are living together in a dwelling unit and maintaining a common household.

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

Farm.

(1) The term "farm" means all of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five acres or more in area; provided further, farms may be considered as including establishments operated as bona fide green-houses, nurseries, orchards, chicken hatcheries, poultry farms and apiaries; but establishments keeping or operating fur-bearing animals, riding or boarding stables, commercial dog kennels, stone quarries or gravel sand pits shall not be considered farms hereunder unless combined with bona fide farm operations on the same continuous tract of land of not less than 20 acres.

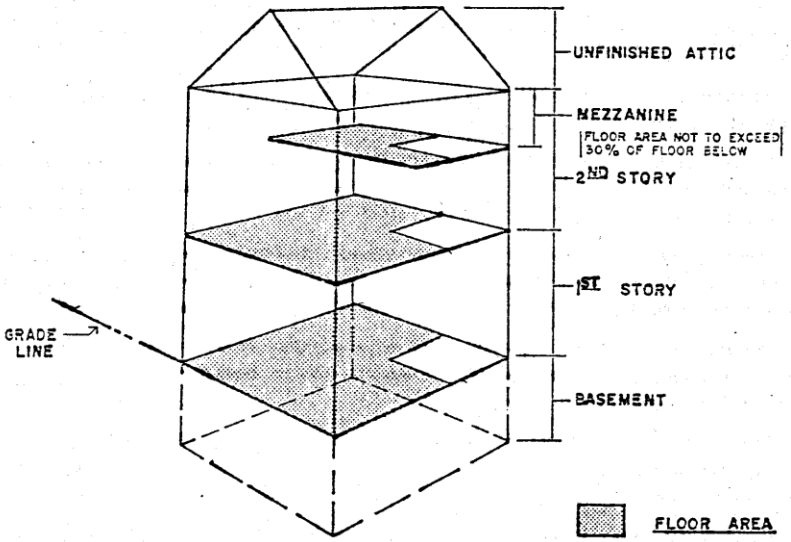
(2) No farms shall be operated as piggeries or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises for at least a period of one year immediately prior thereto and for the use and consumption by persons residing on the premises.

Fence means a manmade structure or plant materials installed for the purpose of or to have the effect of enclosing or screening an area.

Fence, ornamental, means a manmade structure, the surface area of which is more than 75 percent open, to include plant materials not exceeding three feet six inches in height. Ornamental fences shall not be of chainlink or wire construction.

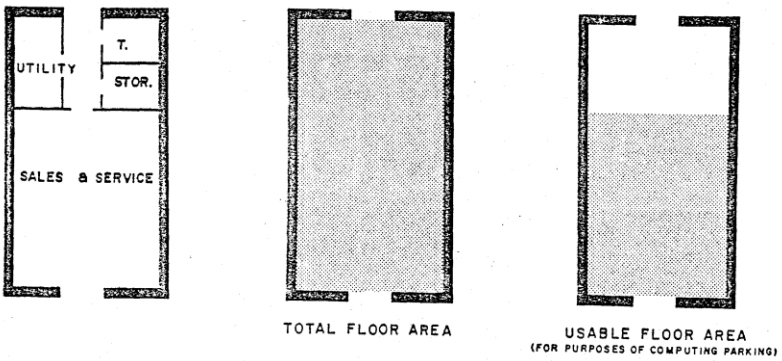
Filling means the depositing or dumping of any matter onto or into the ground, except common household gardening and ground care.

Floor area, residential, means for the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches (see illustration "basic structural terms").



BASIC STRUCTURAL TERMS

Floor area, usable (for purposes of computing parking lot), means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.



FLOOR AREA

Garage sale means any sale of tangible personal property of any description whatsoever, which is advertised by any means whereby the public is, or can be made, aware of such, and includes all such sales commonly known as attic, lawn or rummage sales. The term "garage sale" does not include business or trade sales which are regulated by any other ordinance of the city.

Gasoline service station means a place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles but not including major automobile repair.

Grade means the ground elevation or height of land on a site or a parcel for the purpose of regulating the height of a building. When referring to "building grade," it shall mean the elevation of the ground at the edge of a building. Generally, the building grade of a building shall be set at 18 inches above the road at a point adjacent to the building if the ground is level. If the ground is not entirely level, the building grade shall be the average elevation of the ground at each face or side of the building.

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

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

Guarantee means a cash deposit, certified check, irrevocable bank letter or credit, or such other instrument acceptable to the city.

Guestroom means a sleeping room offered for compensation for permanent or transient occupancy containing no less than 100 square feet, measured from the interior faces of the walls of such room.

Hardship means situations created by circumstances unique to an individual property that do not generally occur to land or buildings in the neighborhood or zoning district of the property in question and which circumstances make the use of such property infeasible under conditions imposed by this chapter. The term "hardship" shall not include personal or financial hardship or economic disadvantage nor shall it constitute circumstances that are self-created.

Home occupation means an occupation carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

Hospice means a lodging place for the ill where persons are housed and furnished meals and attendant care.

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

Improvements means those features and actions associated with a project which are considered necessary by the city to protect natural resources or the health, safety and welfare of the residents of the city, and future users or inhabitants of the proposed project or project area, including parking areas, landscaping, roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project which is the subject of zoning approval.

Junkyard means an area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. The term "junkyard" includes automobile wrecking yards and includes any open area of more than 200 square feet for storage, keeping or abandonment of junk.

Kennel, commercial, means any lot or premises on which three or more dogs, cats or other household pets are either permanently or temporarily boarded or bred and raised for remuneration.

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

Lot means a parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records. The term "lot" shall mean the same as homesite and condominium unit in site condominium developments.

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

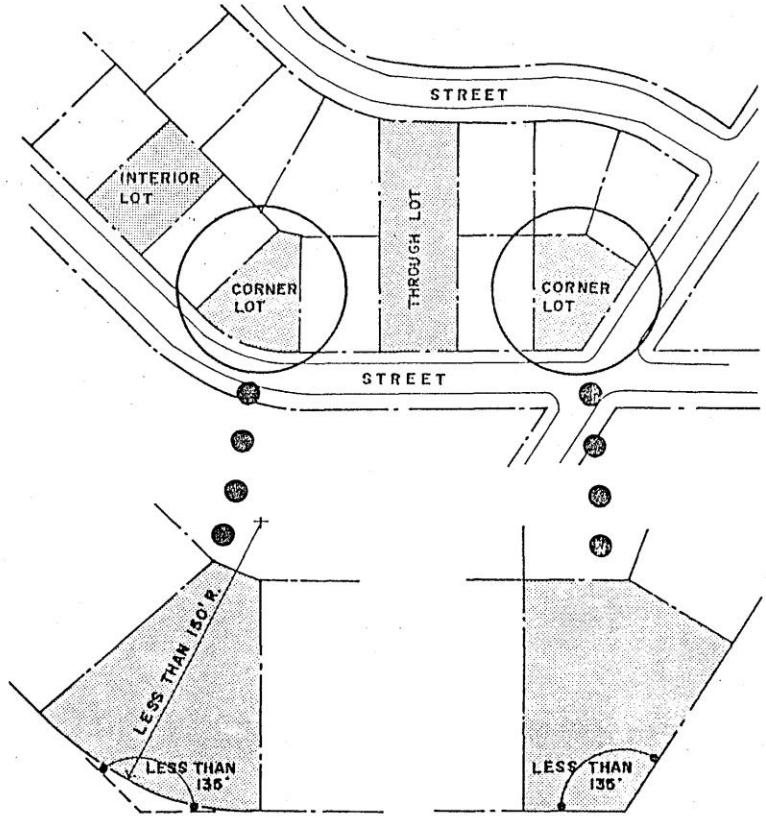
Lot, corner, means a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this article if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

Lot coverage means that percent of the total lot area occupied by buildings, including accessory buildings (see illustration "lots and areas").

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

Lot, double-frontage, means any interior lot (through lot) having frontage on two more or less parallel streets as distinguished from a corner lot. In case of a row of double-frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required (see illustration "interior, through and corner lots").

Lot, interior, means any lot other than a corner lot (see illustration "interior, through and corner lots").



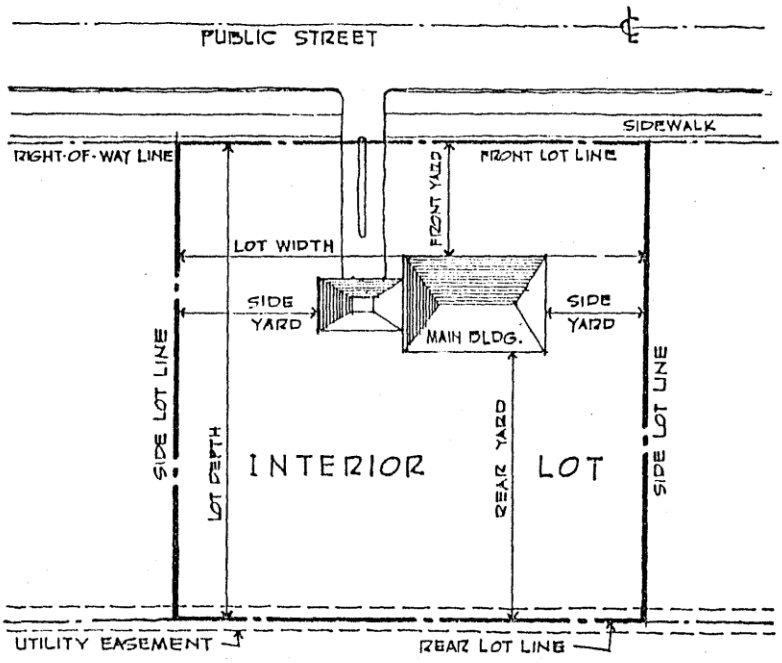
INTERIOR, THROUGH AND CORNER LOTS

Lot lines means the lines bounding a lot as defined herein:

(1) *Front lot line.* In the case of an interior lot, that line separating such lot from the street. In case of a corner lot or double-frontage lot, that line separating such lot from that street which is designated as the front street in the plat and in the application for a certificate occupancy.

(2) *Rear lot line.* The opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.

(3) *Side lot line.* Any lot line other than the front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.



LOTS AND AREAS

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

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

Lot, zoning, means a single tract of, land, located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control.

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

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

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

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

Mezzanine/loft means an intermediate floor in a story occupying not more than one-third of the floor area of such story.

Mini storage units means storage buildings for lease to the general public for storage of office or business effects not including the warehousing of products or supplies.

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

Mobile home park means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a mobile home.

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

Nonconforming structure means a structure or portion thereof lawfully existing at the effective date of the ordinance from which this chapter is derived, or amendments thereto, and that does not conform to the provisions of the ordinance in the district in which it is located.

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

Nonconforming use or structure, class A, means a nonconforming use or structure which has been designated to be allowed to be perpetuated and improved under the provisions of this chapter.

Nonconforming use or structure, class B, means a nonconforming use or structure which has been designated to be allowed to be continued within the restricted provisions of this chapter.

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

(1) Noise;

(2) Dust;

(3) Smoke;

(4) Odor;

(5) Glare;

(6) Fumes;

(7) Flashes;

(8) Vibration;

(9) Shock waves;

(10) Heat;

(11) Electronic or atomic radiation;

(12) Objectionable effluent;

(13) Noise of congregation of people, particularly at night;

(14) Passenger traffic;

(15) Invasion of nonabutting street frontage by traffic;

(16) A burned structure;

(17) A condemned structure.

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

Nursery school means a facility which has as its main objective a development program for preschool children and whose staff meets the educational requirements established by the state.

Nursing home means a structure with sleeping rooms where persons are housed or lodged and are furnished with meals, nursing and medical care.

Off-street parking lot means a facility providing off-street vehicular parking spaces and drives or aisles for the parking of more than three vehicles.

Open storage means the storage of any materials or objects outside the confines of a building.

Parking means the parking of a motor vehicle for short duration, and possessing the element of a vehicle in use, being temporarily parked or placed until it is about to be again put into service or use. Temporary, for the purpose of this definition, shall be measured by hours or at most by not more than three days.

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

Performance standards means criterion developed to control nuisance factors.

Plot plan means a plan drawn for use in applying for a building permit as required by this chapter.

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

Private club means a facility intended to house the activities of fraternal organizations or other organizations which are not generally open to the public but are established for special purposes, such as for the promulgation of the arts, sciences, literature or the like.

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

Reasonable accommodation use means provisions for providing housing opportunities suited for the needs of persons entitle to housing accommodation under law.

Recreational equipment means travel trailers, camp trailers, truck camber bodies, folding tent trailers, utility trailers, horse trailers, snowmobiles, off-road vehicles or any other altered vehicles designed for off-road use as well as any trailers or other transportation equipment designed for, or used in conjunction with, any of the above listed items. Also manufactured motor busses or any vehicle of a like or similar nature uses, or designed for use, as a temporary dwelling for travel, recreational, or vacation purposes. The term "recreational equipment" includes not only all specially listed items, but all items of a like or similar nature.

Setback means the distance required to obtain front, side or rear yard open space provisions of this chapter.

Sign. The term "sign" includes the following definitions:

(1) *Sign* means any announcement, declaration, display, billboard, illustration and insignia when designed and placed so as to attract general public attention. The term "sign" shall include any banner, bulbs or other lighting devices, streamer, pennant, inflated or deflated membrane device, propeller, flag (other than the official flag of any nation or state) and any similar device of any type or kind whether bearing lettering or not.

a. *Decorative display* means a decorative, temporary display designed for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising content.

b. *Freestanding sign* means a sign, other than a ground sign or portable sign, which is not attached to a building and is capable of being moved from one location to another on the site on which it is located.

c. *Ground sign* means a permanent display sign supported by one or more columns, uprights or braces or mounted directly in and upon the ground surface and having a height not in excess of six feet.

d. *Marquee sign* means a sign on or attached to a permanent overhanging shelter that projects from the face of the building and is supported entirely by the building.

e. *Portable sign* means a sign and sign structure which is designed to facilitate the movement of the sign from one zoning lot to another. The sign may or may not have wheels, changeable lettering and or hitches for towing. A sign shall be considered portable only if such sign is manifestly designed to be portable to manifest its movement form one zoning lot to another. Signs utilized to be movable, other than from one zoning lot to another, shall be considered freestanding signs under this chapter.

f. *Projecting sign* means a sign which is affixed to any building or structure, other than a marquee, and any part of which extends beyond the building wall or structure more than 15 inches.

g. *Pole sign* means a display sign supported by one or more columns, uprights or braces in the ground surface and having a height in excess of six feet.

h. *Temporary sign* means a display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, inflated devices with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays or public events.

i. *Wall sign* means a display sign which is painted on or attached directly to the building wall.

(2) *Sign, accessory,* means a sign which pertains to the principal use of the premises.

(3) *Sign, nonaccessory,* means a sign which does not pertain to the principal use of the premises.

(4) *Sign, alteration,* means the changing, enlarging or relocating of any sign, excluding the changing of movable parts of an approved sign that is designed for such changes or the repainting or reposting of original display matter, shall be deemed an alteration.

(5) *Erect* means to build, construct, attach, hang, place, suspend, suspend, affix or paint.

Single housekeeping unit means all of the associated rooms in a dwelling unit available to and occupied by all of the occupants with a single set of cooking facilities also available to all of the occupants of the dwelling unit.

Site condominium. The following definitions are related to site condominiums:

(1) *Condominium act* means Public Act No. 59 of 1978 (MCL 559.101 et seq.).

(2) *Condominium documents* means the master deed, recorded pursuant to the condominium act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

(3) *Condominium subdivision plan* means the drawings and information prepared in accordance with section 66 of the condominium act (MCL 559.166).

(4) *Condominium unit* means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a timeshare unit, or any other type of use.

(5) *Consolidating master deed* means the final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

(6) *Contractible condominium* means a condominium project from which any portion of the submitted land or buildings may be withdrawn in accordance with this chapter and the condominium act.

(7) *Conversion condominium* means a condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under section 71 of the condominium act (MCL 559.171).

(8) *Expandable condominium* means a condominium project to which additional land may be added in accordance with this chapter and the condominium act.

(9) *Master deed* means the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by section 8 of the condominium act.

(10) *Notice to proceed action* means the notice required by section 71 of the condominium act (MCL 559.171), to be filed with the city and other agencies.

(11) *Site condominium* means a condominium development containing residential, commercial, office, industrial or other structures for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a parcel of and herein defined as a condominium unit, as described in the master deed, as well as described space in a building located in a condominium unit.

(12) *Yards, condominium subdivisions (site condominiums),* means:

a. *Front yard setback* shall be equal to the distance between the front yard area line and the condominium dwelling.

b. *Rear yard setback* shall be equal to the distance between the side yard area line and the condominium dwelling.

c. *Side yard setback* shall be equal to the distance between the side yard area line and the condominium dwelling.

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

Story, half, means an uppermost story lying under a sloping roof, the usable floor area of which, at a height of four feet above the floor does not exceed two-thirds of the floor area in the story directly below, and the height above at least 200 square feet of floor space is seven feet six inches.

Street means a right-of-way dedicated to public use which provides vehicular and pedestrian access to adjacent properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, lane or however otherwise designated.

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

Subdivide or*subdivision* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of this state law by MCL 560.108 and 560.109. The term "subdivide" or "subdivision" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of state law or the requirements of an applicable local ordinance.

Temporary use of building means a use or building permitted by the board of appeals to exist during periods of construction of the main building or use for special events or as otherwise permitted in this chapter.

Tourist home means a building containing a single dwelling unit and guestrooms offered to the public for compensation and catering primarily to the public traveling by motor vehicle.

Usable floor area means, for the purposes of computing parking, that area used or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage of processing of merchandise or for utilities shall be excluded from this computation of "usable floor area." Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls (see illustration "floor area").

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

Wall (fence) means a completely obscuring structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

Yard means the open spaces on the same lot with a main building unoccupied and unobstructed form the ground upward except as otherwise provided in this chapter, and as defined herein:

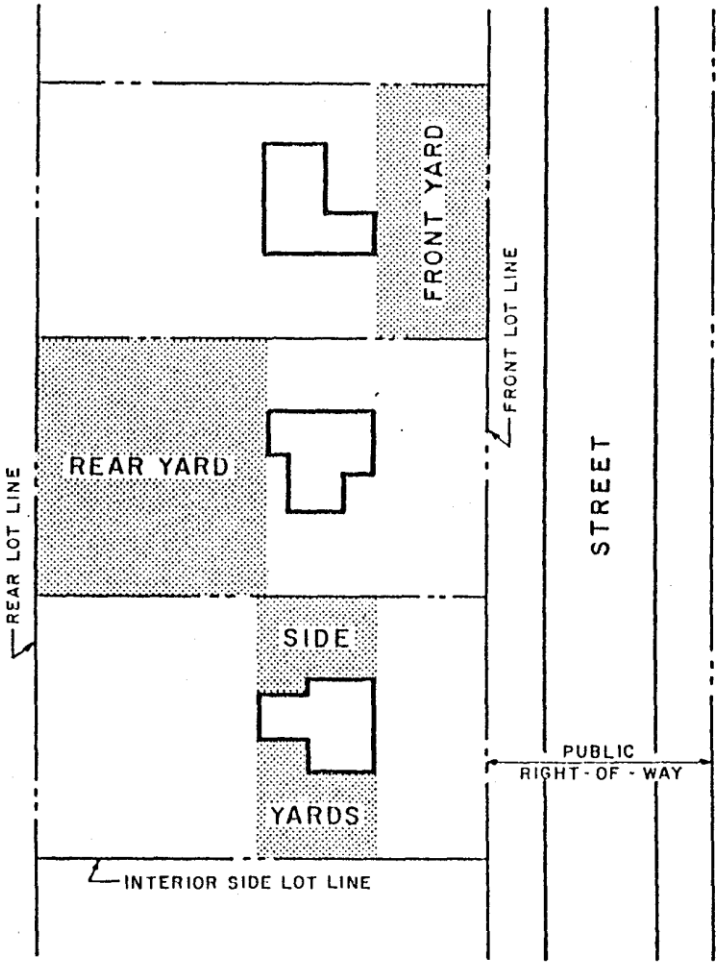
(1) *Front yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. All yards abutting on a street shall be considered as front yards for setback purposes and all lots having water frontage shall consider both the street side and waterfront as front yards for setback purposes.

(2) *Rear yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard shall be opposite the front building facade side of such lot.

(3) *Side yard* means an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

(4) *Side yard, interior,* means a side yard abutting a side yard on an adjacent lot.

(5) *Side yard, exterior,* means a side yard abutting a street.



YARDS

(Ord. No. 96-5, §§ 201—208, 3-5-1996; Ord. No. 98-2, 3-3-1998; Ord. No. 98-2, 3-3-1999; Ord. No. 2000-2, 3-21-2000; Ord. No. 2000-05, 8-15-2000; Ord. No. 2006-02, 9-5-2006)

Sec. 50-4. Zoning exceptions and variances.

A use permitted only after review of an application by the board of appeals or planning commission other than the administrative official (building inspector), such review being necessary because the provisions of this article covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation and such review is required by this chapter.

(Ord. of 5-6-2005; Ord. No. 96-5, § 209, 3-5-1996)

Sec. 50-5. Repeal of prior ordinances.

Any and all previous ordinances adopted by the city and all amendments thereto are hereby repealed. The repeal of the above ordinances and their amendments does not affect or impair any act done, offense committed

or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

(Ord. No. 96-5, art. XXII, 3-5-1996)

Sec. 50-6. Interpretation.

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

(Ord. No. 96-5, art. XXIII, 3-5-1996)

Sec. 50-7. Vested right.

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

(Ord. No. 96-5, art. XXIV, 3-5-1996)

Secs. 50-8—50-32. Reserved.

ARTICLE II. ZONING DISTRICTS, MAPS AND REQUIREMENTS

Sec. 50-33. City areas.

For the purpose of convenience, the city is hereby divided into areas which are placed on maps as hereafter provided.

(Ord. No. 96-5, § 300, 3-5-1996)

Sec. 50-34. Zoning districts.

For the purposes of this article, the city is hereby divided into the following zoning districts:

Residential Districts	
R-1	One-Family Residential District
R-2	One-Family Residential District
R-3	One- and Two-Family Residential District

RM-1	Multiple-Family Residential District
RM-2	Multiple-Family Residential District
Nonresidential Districts	
MB	Marina Business District
CBD	Central Business District
GB	General Business District
I	Industrial District
P	Parking District
WP	Waterfront Park District

(Ord. No. 96-5, § 301, 3-5-1996)

Sec. 50-35. Zoning maps.

Each area shall be set forth on a map containing such information as may be acceptable to the council and showing by appropriate means the various districts into which the area is divided, which map shall be entitled "Zoning District Map(s) of the City of Algonac," and shall bear the date adopted or amended, and it shall be the duty of the city mayor and clerk to authenticate such records by placing their official signatures thereon. All such maps with all explanatory matter thereon are hereby made a part of this article and shall be as much a part of this article as if the matters and information set forth thereon were all fully described herein.

(Ord. No. 96-5, § 302, 3-5-1996)

Editor's note(s)—The zoning map referred to in section 302 has not been reproduced herein but is available for inspection in appropriate city offices.

Sec. 50-36. District boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts established in this article as shown on the zoning district map, the following rules shall be applied:

(1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines or highway right-of-way lines shall be construed to be such boundaries.

(2) Where district boundaries are indicated as approximately parallel to the centerlines of streets or the centerlines of right-of-way lines of the highways, such district boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning district map. If no such distance is given, such dimension shall be determined by the use of the scale shown on the zoning district map.

(3) Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

(4) Where the boundary of a district follows a stream, lake or other body of water, such boundary line shall be deemed to be located midway between opposite shores.

(5) Where the boundary of a district follows a subdivision boundary line, such boundary line shall be construed to be such district boundary line.

(6) Where unzoned property may exist or where, due to the scale, lack of detail or illegibility of the zoning district map accompanying the ordinance from which this article is derived, there is any uncertainty, contradiction or conflict as to the intended location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application or upon its own motion, by the board of appeals.

(Ord. No. 96-5, § 303, 3-5-1996)

Sec. 50-37. Zoning text.

Where uncertainty exists with respect to uses permitted in any district, or any condition set forth in this chapter, the following rules shall apply:

(1) No use of land shall be permitted in any use district except those uses specifically set forth in the district.

(2) Uses or structures not specifically permitted in a zoning district shall be prohibited in such district.

(3) Unless otherwise provided for in this article where uses of yard areas are indicated as being permitted, the use of any other yard area for additional use shall be prohibited.

(Ord. No. 96-5, § 304, 3-5-1996)

Sec. 50-38. Zoning of vacated areas.

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

(Ord. No. 96-5, § 305, 3-5-1996)

Sec. 50-39. Zoning of annexed areas.

Any area annexed to the city shall immediately upon such annexation be automatically classified as an R-1 district until a zoning district map for such area has been adopted by the council. The planning commission shall recommend appropriate zoning for such area within three months after the matter is referred to it by the council.

(Ord. No. 96-5, § 306, 3-5-1996)

Sec. 50-40. District requirements.

All buildings and uses in any district shall be subject to the provisions of article XV, general provisions, and article XVI, general exceptions, of this chapter. Uses for enterprises or purposes that are contrary to federal, state, or local laws or ordinances are prohibited.

(Ord. No. 96-5, § 307, 3-5-1996; Ord. No. 2010-03, § 1, 8-3-2010)

Sec. 50-41. Imposition of conditions precedent to approval of uses subject to special conditions.

(a) Mandatory conditions precedent. The planning commission shall impose on all special use permits granted under this article the following conditions precedent:

(1) It must determine that the proposed special use harmoniously co-exists with the adjacent land uses and the surrounding neighborhood in general;

(2) It must determine that the proposed special use promotes and protects the public health, safety, tranquility, or general welfare of a zoning district, including, but not limited to, those reasonably calculated to reduce or minimize the hazards to vehicular or pedestrian traffic; and

(3) In furtherance of these determinations, traffic, market, environmental and other reports as deemed necessary to make an informed determination may be ordered.

(b) Optional conditions precedent. The planning commission may act to protect the best interest of the city and the surrounding property within the zoning district, or an adjacent district, and to achieve the objectives of this chapter by adding additional conditions precedent.

(c) Conditions imposed pursuant to subsection (b) of this section shall meet all of the following requirements:

(1) Be designed to protect the public health, safety, tranquility, and general welfare; the social and economic well-being of both residents and landowners immediately adjacent to the proposed land use or activity, and the surrounding neighborhood generally; those who will use the land use or activity under consideration; the city's natural resources; and the community as a whole.

(2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

(3) Be necessary to meet the intent and purpose of this article, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(d) The conditions imposed with respect to the approval of a special land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the planning commission and the landowner. The planning commission shall maintain a record of conditions that are changed.

(e) The conditions imposed by this section shall occur contemporaneously and in conjunction with the reviews referenced in sections 50-82, 50-112, 50-142, 50-172, 50-202, 50-230, 50-258, 50-284, 50-309 and 50-339.

(Ord. No. 96-5, § 307, 3-5-1996; Ord. No. ZOA-2016-01, 7-5-2016)

Sec. 50-42. Conditional rezoning.

It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this section to provide a process consistent with the provisions of section 405, Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(Ord. No. 96-5, § 308, 3-5-1996)

Sec. 50-43. Application and offer of conditions.

(a) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed, or may be made at a later time during the rezoning process.

(b) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

(c) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(d) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(e) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this article may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this article.

(f) Any use or development proposed as part of an offer of conditions that require variance under the terms of this article may only be commenced if a variance for such use or development is ultimately granted by the zoning board of appeals in accordance with the provisions of this article.

(g) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this article may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this article.

(h) The offer of conditions may be amended during the process of rezoning consideration provided that any amendments or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action, provided that if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.

(Ord. No. 96-5, § 308(1), 3-5-1996)

Sec. 50-44. Planning commission review.

The planning commission, after public hearing and consideration of the factors for rezoning, shall recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(Ord. No. 96-5, § 308(2), 3-5-1996)

Sec. 50-45. City council review.

After receipt of the planning commission's recommendations, the city council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The city council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning of this chapter. Should the city council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the city council shall, in accordance with section 405 of the Michigan zoning enabling act (MCL 125.3405), refer such amendments

to the planning commission for a report thereon within a time specified by the city council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(Ord. No. 96-5, § 308(3), 3-5-1996)

Sec. 50-46. Approval.

(a) If the city council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the city council to accomplish the requested zoning.

(b) The statement of conditions shall:

(1) Be in a form recordable with the register of deeds of the county or, in the alternative, be accompanied by a recordable affidavit, or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the city council.

(2) Contain a legal description of the land to which it pertains.

(3) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.

(4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(5) Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the city with the register of deeds of the county.

(6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.

(c) Upon rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The city clerk shall maintain a listing of all lands rezoned with a statement of conditions.

(d) The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the city with the register of deeds of the county. The city council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.

(e) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.

(Ord. No. 96-5, § 308(4), 3-5-1996)

Sec. 50-47. Compliance with conditions.

(a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(b) No permit or approval shall be granted under this article for any use or development that is contrary to an applicable statement of conditions.

(Ord. No. 96-5, § 308(5), 3-5-1996)

Sec. 50-48. Time period for establishing development or use.

Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by city council if:

(1) It is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and

(2) The city council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(Ord. No. 96-5, § 308(6), 3-5-1996)

Sec. 50-49. Reversion of zoning.

If approved development and/or use of the rezoned land do not occur within the time frame specified under section 50-48, then the land shall revert to its former zoning classification as set forth in the Michigan zoning enabling act (MCL 125.3405). The reversion process shall be initiated by the city council requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(Ord. No. 96-5, § 308(7), 3-5-1996)

Sec. 50-50. Subsequent rezoning of land.

When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to section 50-49 or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the register of deeds of the county that the statement of conditions is no longer in effect.

(Ord. No. 96-5, § 308(8), 3-5-1996)

Sec. 50-51. Amendment of conditions.

During the time period for commencement of an approved development or use specified pursuant to section 50-48 or during any extension thereof granted by the city council the city shall not add to or alter the conditions in the statement of conditions.

(Ord. No. 96-5, § 308(9), 3-5-1996)

Sec. 50-52. City right to rezone.

Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan zoning enabling act (MCL 125.3405).

(Ord. No. 96-5, § 308(10), 3-5-1996)

Sec. 50-53. Failure to offer conditions.

The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this article.

(Ord. No. 2009-02, § 1, 8-18-2009; Ord. No. 96-5, § 308(11), 3-5-1996)

Secs. 50-54—50-79. Reserved.

ARTICLE III. R-1 AND R-2 ONE-FAMILY RESIDENTIAL DISTRICTS

Sec. 50-80. Preamble.

The one-family residential districts established by this article are designed to provide for one-family dwelling sites and residentially related uses in keeping with the master plan of residential development in the city. In addition, the preservation of natural terrain and wooded areas is reflected in the controls set forth in this article.

(Ord. No. 96-5, art. IV, preamble, 3-5-1996)

Sec. 50-81. Principal uses permitted.

In a one-family residential district (R-1 and R-2), no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this article:

(1) One-family detached dwellings.

(2) State-licensed residential facilities, which would include adult foster care family homes, foster family homes and foster family group homes, as required by section 206 of Public Act No. 110 of 2006 (MCL 125.3206).

(3) Farms.

(4) Publicly owned and operated libraries, parks, parkways and recreational facilities.

(5) Cemeteries.

(6) Public, parochial and other private elementary schools offering courses in general education and not operated for profit.

(7) Home occupation in compliance with section 204 of Public Act No. 110 of 2006 (MCL 125.3204) and the following provisions:

a. Home occupation shall not be permitted if said home occupation:

1. Changes the outside appearance of the residential character of the dwelling;

2. Occupies more than 25 percent of the ground floor area or basement of the dwelling;

3. Requires the employment of anyone in the home or as a contract employee other than the dwelling occupants;

4. Generates excessive traffic, parking, sewage, or water use;

5. Requires parking for customers that cannot be accommodated on the site and/or not exceeding one parking space at curbside in the street;

6. Creates noise, vibration, glare, fumes, odors, or results in electrical interference, or becomes a nuisance;

7. Results in outside storage or display of anything, including signs;

8. Requires the delivery of goods or the visit of customers before 6:00 a.m. or after 8:00 p.m.

b. The following are permitted home occupations provided they do not violate the provisions of subsection (7)a of this section.

1. Dressmaking, sewing, and tailoring;

2. Laundering and ironing.

3. Home crafts, such as model making, rug weaving, and lapidary work;

4. Painting, sculpturing, or writing;

5. Telephone answering;

6. Computer application; not including sale of computers;

7. Salesperson office or home office of a professional person;

8. Tutoring, music, or dance teaching, limited to four students at a time;

9. Repair of clocks, instruments, or other small appliances which do not create a nuisance due to noise, vibration, glare, fumes, odors or results in electrical interference;

10. Child care family home.

c. The following are not permitted as home occupations:

1. Private clubs;

2. Repair shops which create a nuisance due to noise, vibration, glare, fumes, odors or electrical interference;

3. Restaurants;

4. Stables or kennels;

5. Vehicle repair or paint shops.

d. Any proposed home occupation not referenced in subsections (7)b and c of this section may be permitted subject to the conditions set forth in subsection (7)a and subject to further review and approval by the planning commission pursuant to the procedure set forth in section 50-82.

e. Home occupation permits shall be limited to applicants who legally reside in the residence.

(8) The mooring of no more than three boats on vacant residential lots between the dates of April 1 and November 1.

(9) Accessory building and uses, customarily incident to any of the above uses, provided such buildings and uses are located on the same zoning lot as a permitted use.

(Ord. No. 96-5, § 400, 3-5-1996)

Sec. 50-82. Uses subject to special conditions.

The following uses shall be permitted after a public hearing held in accordance with section 50-546 by the planning commission if the commission, upon review of the plans, finds that the plans meet the conditions herein required, together with such other conditions as may be imposed to carry out the purposes of this article, subject to the conditions hereinafter imposed for each use:

(1) Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of such facilities within the district in order to serve the immediate vicinity. Further, no building and/or structure shall be located in any required front or side yard.

(2) Private recreational areas and institutional recreation centers when not operated for profit, nonprofit swimming pool clubs, all subject to the following conditions:

a. In those instances where the proposed site is not to be situated on a lot or lots of record, the proposed site shall have one property line abutting a major thoroughfare (see major thoroughfare plan, and the site shall be so planned as to provide ingress and egress directly onto such major thoroughfare.

b. Front, side, and rear yards shall be at least 75 feet wide, except on those sides adjacent to nonresidential districts and shall be landscaped in trees, shrubs, grass and terrace areas. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.

c. Buildings erected on the premises shall not exceed one story or 14 feet in height.

d. Whenever a swimming pool is constructed under this article, the pool area shall be provided with a protective fence six feet in height, and entry shall be provided by means of a controlled gate or turnstyle.

e. Off-street parking shall be provided so as to accommodate at least one-fourth of the member families and/or individual members. Bylaws of the organization shall be provided to the planning commission in order to establish the membership involved in computing parking requirements.

f. All storm and sanitary sewer plans shall be provided and shall be reviewed and approved by the city engineer prior to issuance of a building permit.

g. The off-street parking and general site layout and its relationship to all adjacent lot lines shall be reviewed by the planning commission, which may impose any reasonable restrictions or requirements so as to ensure that contiguous residential areas will be adequately protected.

(3) State-licensed child care centers for children subject to the following conditions:

a. Such facility shall have received a state license to operate prior to seeking a special use permit under this article.

b. Not less than 400 square feet of outdoor play area per child, as authorized by the license issued to the applicant by the department of children and family services allowed to occupy such home, shall be provided on the site.

c. Screening and fencing of outdoor play area shall be provided as required by the planning commission.

d. Parking shall be provided to allow for direct drop-off and pick-up of children without requiring children to cross public streets.

(4) State-licensed group child care home all in accordance with Public Act No. 116 of 1973 (MCL 722.111 et seq.) for not more than 12 children for care during the day subject to the following:

a. Location is not closer than 1,500 feet to any of the following:

1. Another licensed group child care home.

2. Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Public Act No. 218 of 1979 (MCL 400.701 et seq.).

3. A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under article 6 of the Public Health Code.

4. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.

b. Has appropriate fencing for the safety of the children in the group child care home as determined by the city.

c. Maintains the property consistent with the visible characteristics of the neighborhood.

d. Does not exceed 16 hours of operation during a 24-hour period. The city may limit the operation of group child care home between the hours of 10:00 p.m. and 6:00 a.m.

e. Off-street parking for not less than two cars in addition to requirements for the dwelling unit shall be provided.

(5) Adult foster care facilities, as defined by section 3 of Public Act No. 218 of 1979 (MCL 400.703(4) as provided for by said act and to the extent exempted from local regulation by section 33 of Public Act No. 218 of 1979 (MCL 400.733) thereof and by section 206 of Public Act No. 110 of 2006 (MCL 125.3206).

(6) College, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education and not operated for profit, all subject to the following conditions:

a. Any use permitted shall be developed only on sites of at least 40 acres in area and shall not be permitted on any portion of a recorded subdivision plat.

b. All ingress to and egress from such site shall be directly onto a major thoroughfare.

c. No building other than a structure for residential purposes shall be closer than 75 feet to any property line.

(7) Churches and other facilities normally incidental thereto, subject to the following conditions:

a. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than 15 feet.

b. Buildings of greater than the maximum height allowed in article XIV of this chapter may be allowed, provided front, side and rear yards are increased above the minimum requirements by one foot for each foot of building that exceeds the maximum height allowed.

(8) Municipal buildings and structures when in character with the neighborhood.

(9) Bed and breakfast dwelling, provided the following conditions are met:

a. Such dwellings shall be located only on state trunkline routes.

b. The establishment shall be located within a residence which is the principal dwelling unit on the property and such dwelling shall be the principal residence of the establishment operator.

c. Not more than 25 percent of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms.

d. There shall be no separate cooking facilities used for the bed and breakfast sleeping rooms.

e. A sign not exceeding six square feet in area for each side of such sign may be permitted as a freestanding sign, provided the following conditions are met:

1. Such sign shall not exceed five feet in height.

2. Such sign shall not be illuminated.

3. A setback of not less than ten feet shall be maintained from the front property line.

4. The location of such sign shall be such that traffic and pedestrian safety will not be impaired.

5. Such sign shall receive the review and approval of the planning commission to assure its compatibility with the residential character of the area.

(10) Functional equivalent family; additional persons. The limit upon the number of persons who may reside as functional equivalent of the domestic family may be increased or enlarged upon demonstration by the applicant of all the following:

a. There are adequate provisions on the subject property for off-street parking for each adult proposed to reside on the premises, and adequate storage for each person proposed to reside on premises.

b. The extent of increase or enlargement of the limit upon the number of persons shall not, when considered cumulatively with existing and reasonably projected population concentration in the area, place an unreasonable burden upon public services, facilities and/or schools.

c. There shall be a minimum of 150 square feet of useable floor space per person on the premises.

d. If the city grants an application under this provision, the determination shall include the specific maximum number of persons authorized to reside on the property, and minimum parking or storage requirements to be maintained.

(11) Reasonable accommodation use. This use is intended to authorize and grant relief from the strict terms of this chapter in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under law and to encourage innovation in land use and variety in design and layout. In the event state and federal law (e.g., The Federal Fair Housing Amendment Act of 1988) requires the city to make reasonable accommodation for a particular proposed use of property, the following shall apply:

a. As a condition to approval of a reasonable accommodation use, the applicant must comply with all the terms of this section, and must demonstrate all of the following:

1. The ultimate residential uses or users of the property shall be persons for whom the state or federal law mandates the city shall make reasonable accommodations in connections with proposed uses of land.

2. Taking into consideration the needs, facts, and circumstances which exist through the community, and within the population to be served by the use, including financial and other conditions, making the proposed reasonable accommodation shall be necessary to afford such persons equal opportunity to the proposed use and enjoyment within the community.

3. Approval of the proposed housing shall not require nor will likely result in a fundamental alteration in the nature of the land use district and neighborhood in which the property is situated, considering cumulative impact of one or more other uses and activities in, or likely to be in the area, and shall not impose an undue financial or administrative burden. The interest of the community shall be balanced against the need for accommodation on a case-by-case basis.

4. No other specific provision exists and is available to provide the relief sought.

b. The application for a reasonable accommodation use shall include the following:

1. A plan drawn to scale showing the proposed use and development.

2. A separate document providing a summary of the basis on which the applicant asserts entitlement to approval of a reasonable accommodation use, covering each of the requirements of subsection (11)a.1 through 4 of this section.

3. The information required for site plan review, provided, upon showing by the applicant that the inclusion of specified information generally required for site plan review would be irrelevant, the city may waive the requirement to include such material in the application.

4. All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply.

5. Accessory buildings and uses customarily incident to any of the above permitted uses, provided such buildings and uses are located on the same zoning lot as a permitted use.

(Ord. No. 96-5, § 401, 3-5-1996; Ord. No. 2006-02, 9-5-2006)

Sec. 50-83. Required conditions.

(a) See article XIV of this chapter, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted and providing minimum yard setback requirements.

(b) All dwelling units shall be reviewed by the building inspector subject to the following conditions:

(1) Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.

(2) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall

shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with dwelling and other homes in the area.

(3) Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(4) Dwelling units shall be provided with roof designs and roofing materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.

(5) Dwelling units shall be provided with an exterior building wall configuration which represents an average width-to-depth or depth-to-width ratio which does not exceed three to one, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.

(6) The dwelling shall contain storage capability 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 building inspector may request a review by the planning commission of any dwelling unit with respect to subsections (b)(3) through (5) of this section. The building inspector or planning commission shall not seek to discourage architectural variation, but shall seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large. In reviewing any such proposed dwelling unit, the building inspector may require the applicant to furnish such plans, elevations and similar documentation as it deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling areas, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, then the nearest 25 similar dwellings shall be considered.

(Ord. No. 96-5, § 402, 3-5-1996; Ord. of 9-15-2006)

Secs. 50-84—50-109. Reserved.

ARTICLE IV. R-3 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 50-110. Preamble.

The one-and two-family residential district established by this article is designed to provide for one- and two-family dwelling sites and residentially related uses in keeping with the master plan of residential development in the city. In addition, the preservation of natural terrain and wooded areas is reflected in the controls set forth in this article.

(Ord. No. 96-5, art. V, preamble, 3-5-1996)

Sec. 50-111. Principal uses permitted.

In a one- and two-family residential district (R-3), no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this article:

(1) All principal uses permitted in R-1 and R-2 districts.

(2) One-family detached dwellings.

(3) Two-family dwellings.

(4) Farms.

(5) Publicly owned and operated libraries, parks, parkways and recreational facilities.

(6) Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 96-5, § 500, 3-5-1996)

Sec. 50-112. Uses subject to special conditions.

The following uses shall be permitted after a public hearing held in accordance with section 50-546 by the planning commission if the commission, upon review of the plans, finds that the plans meet the conditions herein required, together with such other conditions as may be imposed to carry out the purposes of this article, subject to the conditions herein after imposed for each use: All special condition uses permitted in the R-1 and R-2, one-family residential districts and subject to the regulation of those districts.

(Ord. No. 96-5, § 501, 3-5-1996; Ord. No. 2001-3, 7-6-2001)

Sec. 50-113. Required conditions.

All conditions as specified in section 50-83 shall be required in this district.

(Ord. No. 96-5, § 502, 3-5-1996)

Secs. 50-114—50-139. Reserved.

ARTICLE V. RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 50-140. Preamble.

The RM-1, Multiple-Family Residential District is designed to provide sites for low-rise multiple-family dwelling structures and related uses which will generally serve as zones of transition between the nonresidential districts and the lower density one- and two-family residential district. The multiple-family district is further provided to serve the limited needs for the apartment type of unit in an otherwise low-density, single-family community.

(Ord. No. 96-5, art. VI, preamble, 3-5-1996)

Sec. 50-141. Principal uses permitted.

Approval shall be contingent upon finding that:

(1) The site plan shows that a property relationship exists between local streets and any proposed service roads, driveways and parking areas to encourage pedestrian and vehicular traffic safety;

(2) All the development features including the principal building or buildings and any accessory buildings or uses, open spaces and any service roads, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to,

channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groups and circulation routes located so as to interfere with police or fire equipment access.

a. All principal uses first permitted in the R-3 One- and Two-Family Residential District and subject to the regulations of that district.

b. Low-rise, multiple-family dwellings.

c. Nonprofit clubs, providing that no residential facilities of any kind be a part of the premises.

d. Boardinghouse, roominghouse, or lodginghouse.

e. Accessory buildings and uses customarily incident to any of the above permitted uses, provided such buildings and uses are located on the same zoning lot as a permitted use.

(Ord. No. 96-5, § 600, 3-5-1996)

Sec. 50-142. Uses subject to special conditions.

The following uses shall be permitted after a public hearing held in accordance with section 50-546 by the planning commission if the commission, upon review of the plans, finds that the plans meet the conditions herein required, together with such other conditions as may be imposed to carry out the purposes of this article, subject to the conditions hereinafter imposed for each use:

(1) All special conditions uses permitted in the R-3 One- and Two-Family Residential District and subject to regulations of that district.

(2) General hospitals, except those for criminals and those solely for the treatment of persons who are mentally ill or have contagious disease, not to exceed two stories when the following conditions are met:

a. All such hospitals shall be developed only on sites consisting of at least five acres in area and shall not be permitted on a lot or lots of record.

b. The proposed site shall have at least one property line abutting a major thoroughfare.

c. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 100 feet for front, rear and side yards for all two story structures.

d. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height. Ingress and egress to the site shall be directly from a major thoroughfare.

e. All ingress and egress to the off-street parking area for guests, employees, staff, as well as any other uses of the facilities, shall be directly from a major thoroughfare.

(3) Convalescent homes, not to exceed a height of two stories, when the following conditions are met:

a. The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one bed in the convalescent home there shall be provided not less than 1,500 square feet of open space. The 1,500 square feet of land area per bed shall provide for landscape setting, off-street parking, service drives, loading space, yard requirements, employee facilities and any space required for accessory uses. The 1,500 square feet requirement is over and above the building coverage area.

b. No building shall be closer than 40 feet from any property line.

(4) Mortuary establishments, not to exceed a height of two stories, when the following conditions are met:

a. All ingress and egress to the off-street parking area for guests, employees, staff, as well as any other uses of facilities shall be directly from a major thoroughfare.

b. Adequate assembly area shall be provided off-street for vehicles to be used in funeral processions. Further, such assembly area shall be provided in addition to any off-street parking area. Ingress and egress to the area shall be provided in addition to any off-street parking area. Ingress and egress to the area shall be directly from a major thoroughfare.

c. Hearse and delivery areas shall be obscured from all residential view with an obscuring wall or fence six feet in height. Ingress and egress to the area shall be directly from a major thoroughfare.

d. No building shall be closer than 30 feet from any property line.

e. A caretaker's residence may be provided within the main building of mortuary establishments.

(5) Accessory buildings and uses customarily incident to any of the above permitted uses, provided such buildings and uses are located on the same zoning lot as a permitted use.

(Ord. No. 96-5, § 601, 3-5-1996)

Sec. 50-143. Required conditions.

All conditions as specified in section 50-83 shall be required in this district.

(Ord. No. 96-5, § 602, 3-5-1996)

Secs. 50-144—50-169. Reserved.

ARTICLE VI. RM-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 50-170. Preamble.

The RM-2 Multiple-Family Residential District is designed to provide sites for high-rise multiple-family dwelling structures and related uses which will generally be located in high-intensity areas. The multiple-family district is further provided to service the limited needs for the apartment type of unit in a high-density part of the community.

(Ord. No. 96-5, art. VII, preamble, 3-5-1996)

Sec. 50-171. Principal uses permitted.

Approval shall be contingent upon finding that:

(1) The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways and parking areas to encourage pedestrian and vehicular traffic safety; and

(2) All the development features including the principal building or buildings and any accessory buildings or uses, open spaces and any service roads, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to,

channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groups and circulation routes located so as to interfere with police or fire equipment access.

a. All principal uses first permitted in the RM-1 Multiple-Family Residential District subject to the regulations of that district.

b. High-rise multiple-family dwellings.

c. Accessory buildings and uses customarily incident to any of the above permitted uses, provided such buildings and uses are located on the same zoning lot as a permitted use.

(Ord. No. 96-5, § 700, 3-5-1996)

Sec. 50-172. Uses subject to special conditions.

The following uses shall be permitted after a public hearing held in accordance with section 50-546 by the planning commission if the commission, upon review of the plans, finds that the plans meet the conditions herein required, together with such other conditions as may be imposed to carry out the purposes of this article, subject to the conditions hereinafter imposed for each use: all special conditions uses permitted in the RM-1 Multiple-Family Residential District and subject to regulations of that district.

(Ord. No. 96-5, § 701, 3-5-1996)

Sec. 50-173. Required conditions.

See article XIV of this chapter, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted and providing minimum yard setbacks.

(Ord. No. 96-5, § 702, 3-5-1996)

Secs. 50-174—50-199. Reserved.

ARTICLE VII. MB MARINA BUSINESS DISTRICT

Sec. 50-200. Preamble.

The MB Marina Business District is designed to accommodate recreational boating along with those activities and services related to harbor and waterway improvements, thereby facilitating navigation and providing safe and economical waterfront recreation development. To this end, uses permitted in this district shall be subject to approval by the planning commission.

(Ord. No. 96-5, art. VIII, preamble, 3-5-1996)

Sec. 50-201. Principal uses permitted.

Under such conditions as the planning commission, after a hearing in accordance with section 50-546, finds the use as not being injurious to the MB District and environs and not contrary to the spirit and purposes of this article, the following uses may be permitted:

(1) Any uses permitted in any residential district which is part of a planned development, subject to the approval of the planning commission; and provided that such use shall comply with all of the zoning regulations of the highest residential district in which it is first allowed.

(2) Engine and hull repair shops.

(3) Boat fuel stations.

(4) Municipal or private development of either the berthing, protection or service of recreational boats, yachts, cruisers, inboards, outboards and sailboats.

(5) Commissary facilities for the provision food, beverages and the like to be stored aboard boats.

(6) Municipal or private beaches and water-related recreation areas.

(7) Retail businesses that supply commodities for persons using the facilities of the district, such as the sale of boats, engines and accessories, fishing equipment and other similar items.

(8) Restaurants, lounges or clubs.

(9) Hotels or other such facilities to provide temporary home-port accommodations.

(10) Accessory buildings and uses customarily incident to any of the above permitted uses provided such buildings and uses are located on the same zoning lot as a permitted use.

(11) Other uses of a similar and no more objectionable character and which, in the opinion, of the planning commission, will not be injurious or have any adverse areas and may, therefore, be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary by the planning commission in the interest of public health, safety and welfare.

(Ord. No. 96-5, § 800, 3-5-1996)

Sec. 50-202. Required conditions.

(a) All dredging, construction and/or development shall be subject to the requirements of all subject codes and ordinances of the city and where applicable all state and federal requirements.

(b) See article XIV of this chapter, schedule of regulations, limiting the height and bulk of buildings and the minimum size of lot by permitted land use.

(Ord. No. 96-5, § 801, 3-5-1996)

Secs. 50-203—50-227. Reserved.

ARTICLE VIII. CBD CENTRAL BUSINESS DISTRICT

Sec. 50-228. Preamble.

The CBD Central Business District is designed to provide for a mix of uses in a compact setting to continue the character that has been established in this area. Single- and mixed-use developments containing retail, office, residential, and/or public uses are permitted in this district, which also provide for a pedestrian orientation, a reduction in automobile trips where possible, and a unique coastal town setting. The central business district provides the major focus of retail, government and business services facilities for the entire community.

(Ord. No. 96-5, art. IX, preamble, 3-5-1996; Ord. No. ZOA-2015-01, 4-21-2015)

Sec. 50-229. Principal uses permitted.

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

(1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to, groceries, meats, dry goods, clothing, furniture, and hardware.

(2) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radios, televisions, shoes, etc.), tailor shops, beauty parlors, barber shops, interior decorators, photographers and dry cleaners.

(3) Restaurants and taverns where the patrons are served within a building, or walk-up service, occupied by such establishments and wherein such establishment does not extend as an integral part of, or accessory thereto, any service of a drive-in. Drive-through services are permitted.

(4) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.

(5) Offices and medical offices, including clinics.

(6) Banks, credit unions, savings and loan associations and similar uses, with drive-through facilities permitted when said drive-through facilities are incidental to the principal function.

(7) Municipal buildings and post offices.

(8) Business schools, or private schools operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance schools, music and voice schools and art studios.

(9) Newspaper and publisher offices.

(10) Warehouse and storage facilities when incident to and physically connected with any principal use permitted, provided that such facility is within the confines of the building or part thereof occupied by such establishment.

(11) Hotels and motels.

(12) Publicly owned off-street parking lots or parking structures.

(13) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations and gas regulator stations with service yards, but without storage yards.

(14) Veterinary offices and clinics, excluding kennels.

(15) Funeral homes and mortuaries, not including crematoriums.

(16) Churches.

(17) Clubs, lodge halls, rental or catering halls, and similar uses.

(18) Gift/specialty retail (florist, party supplies, cosmetics, hobby supplies, bakery supplies, jewelry, trophy shops, art gallery, sporting goods, pets, fabrics, computers, music instruments, tourist souvenirs, among others)

(19) Health clubs and fitness centers.

(20) Bed and breakfast inns.

(21) Accessory structures and uses customarily incident to the above permitted uses, provided such structures and uses are located on the same zoning lot as a permitted use.

(22) Other uses which are similar to the above and subject to the following restrictions:

a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.

b. All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

c. Outdoor storage of commodities shall be expressly prohibited.

(Ord. No. ZOA-2015-01, § 900, 4-21-2015; Ord. No. ZOA-2018-04 , § 1, 7-10-2018)

Sec. 50-230. Uses subject to special conditions.

The following uses shall be permitted after a public hearing held in accordance with section 50-546 by the planning commission if the commission, upon review of the plans, finds that the plans meet the conditions herein required, together with such other conditions as may be imposed to carry out the purposes of this article, subject to the conditions hereinafter imposed for each use:

(1) *High-rise multiple-family dwellings.* High-rise multiple-family dwellings in buildings of four stories or more on a site of at least three acres in area, subject to the dimensional requirements for the RM-2 district in the schedule of regulations.

(2) *Business on high-rise multiple-family dwelling site.* Business uses shall be permitted on a high-rise multiple-family dwelling site when developed as retail and/or service uses clearly accessory to the main use within the walls of the main structure, with access from the interior only. Such businesses and/or services shall be prohibited on all floors above the first floor, or grade level, except that a restaurant or restaurant-lounge may be permitted on the uppermost story.

(3) *Sidewalk or outdoor cafes.* Outdoor cafes or restaurants subject to the following conditions: In the interest of promoting business by increasing activity and improving the general business climate, the city manager or his designee may issue revocable permits to businesses that apply for a permit to operate a sidewalk cafe or an outdoor cafe as an extension of or compatible with, the existing business on a portion of a city sidewalk adjacent to the business or on private property adjacent to the business. The permit may be issued under the following terms and conditions:

a. Sidewalk or outdoor cafe permits shall be issued if the city manager or his designee determines the occupancy will not:

1. Interfere with the use of the street for pedestrian or vehicular travel.

2. Unreasonably interfere with the view of, access to or use of property adjacent to said street.

3. Reduce any sidewalk width to less than five feet.

4. Interfere with street cleaning or snow removal activities.

5. Cause damage to the street or to sidewalks, trees, benches, landscaping or other objects lawfully located therein.

6. Cause a violation of any state or local laws.

7. Be principally used for off-premises advertising.

8. Be attached to or reduce the effectiveness of or access to any utility pole, sign or other traffic control device.

9. Cause increased risk of theft or vandalism.

10. Be in or adjacent to property zoned exclusively for residential purposes.

b. All businesses selling food or beverages to be consumed in a public sidewalk area or outdoor area adjacent to the business shall enclose the area with a temporary structure approved by the building inspector. Prior to approval, written plans shall be submitted to the building inspector. All construction shall conform to existing building codes and regulations of the city and shall not be permanent. Such plans shall also include the location of adequate trash receptacles.

c. Prior to the issuance of a sidewalk or outdoor cafe permit, the applying business must provide the city with a certificate of liability insurance in an amount to be determined solely by the city. The certificate of insurance must be in effect for at least the period of the permit to be issued. In addition, the applying business shall, by written agreement with the city, indemnify and hold harmless the city from all claims or damages incident to the establishment and operation of a sidewalk cafe.

d. Prior to the issuance of a permit, a fee as specified from time to time by resolution of the city council shall be paid by the requesting business for the period of the permit. The period of a sidewalk or outdoor cafe; permit shall not exceed 180 days. The date and duration shall be specified on the permit. The permit shall be subject to immediate revocation for failure to properly maintain the area being used as a sidewalk or outdoor cafe;, or for any other violation of this article.

(4) *Dwellings above stores.* To encourage and provide for the economic vitality of the central business district, residential occupancy shall be permitted in buildings of two stories in height or greater subject to the following:

a. No dwelling unit shall occupy any portion of the building at ground level or below ground level. Businesses may occupy any number of total rooms.

b. Such dwellings shall meet all applicable codes and ordinances of the city, county or state.

c. Floor plans drawn to scale of all floors to be utilized for dwelling purposes shall be submitted to the building department.

d. Approved smoke detectors shall be provided in each dwelling unit and in common hallways and shall be provided as required in the single state construction code.

e. Emergency egress lighting shall be provided to assure continued illumination for a duration of not less than one hour in case of emergency or primary power loss in common hallway areas as may be required in the building department.

f. An approved fire extinguisher shall be provided in the common hallway accessible to all occupants as may be required by the single state construction code.

g. In those instances where residential uses are proposed to occupy the same floor as a business use, the planning commission shall review such mixed use and may approve such mixed use based on findings that compatibility of the business with residential occupancy will occur. Such findings may include, but are not limited to:

1. Compatible hours of operation.

2. Noise of operation or occupancy that would be detrimental to the business operation or vice-versa.

3. Excessive foot traffic.

(5) *Live/work units.* A live/work unit is an integrated residence and work space (located on the ground floor), occupied and utilized by a single household in an array of at least three such structures, or a structure with at least three units arranged side by side along the primary frontage, that has been designed or structurally modified to accommodate joint residential occupancy and work activity.

a. *Primary residence.* The residential and the commercial space must be occupied by the same tenant, and no portion of the live/work unit may be rented or sold separately. The unit shall be the primary residence of the business owner or principal manager.

b. *Permitted commercial components.* The commercial component of live/work units are intended for use by the following occupations: accountants; architects; artists and artisans; attorneys; computer software and multimedia-related professionals; consultants; engineers; fashion, graphic, interior and other designers; hair stylists; home-based office workers; insurance, real estate, and travel agents; one-on-one instructors; photographers; and similar occupations as determined by the building inspector.

c. *Access standards.*

1. The main entrance to the ground floor work space shall be accessed directly from and face the street.

2. The upstairs dwelling shall be accessed by a separate entrance, and by a stair and/or elevator.

3. Accessibility should be accommodated between a pair of units and not in the front yard to the degree possible.

d. *Service standards.*

1. The commercial use shall not generate external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors.

2. Services (including all utility access, aboveground equipment, and trash containers) shall be located on an alley when present, or in the rear of the lot for those lots without alley access.

3. No explosive, toxic, combustible or flammable materials in excess of what would be allowed incidental to normal residential use shall be stored or used on the premises.

e. *Frontage standards.* Each live/work unit shall be designed so that social areas (e.g., living room, family room, dining room, etc.), rather than sleeping and service rooms, are oriented toward the fronting street.

f. *Building size and massing standards.*

1. The maximum height of live/work structures in the CBD shall be subject to the review and approval of the planning commission; however, at no time shall the height of a live/work structure exceed three stories.

2. Buildings on corner lots shall be designed with two front facades.

g. *Prohibited commercial uses in live/work units.*

1. Entertainment, drinking, and public eating establishments.

2. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale.

3. Adult-oriented businesses, astrology, palmistry, massage, head shops, and similar uses.

4. Sales, repair or maintenance of vehicles, including automobiles, boats, motorcycles, aircraft, trucks, or recreational vehicles.

5. Trade of private schools. This excluded private instruction of up to two students at any one time (e.g., music lessons, tutoring)

(6) *Public outdoor markets.* In the interest of promoting business by increasing activity and improving the general business climate in the central business area, the city manager or his designee may issue permits to operate public outdoor markets for the retail sale of farm produce and products and other items such as floral items, craft products, and antiques subject to the following conditions:

a. A sketch plan showing the boundaries of the market area and its relationship to nearby buildings, parking areas and public streets shall be submitted.

b. A public outdoor market may be permitted if the city manager or his designee determines the use will not:

1. Interfere with the use of the street or a parking area for pedestrian or vehicular travel.

2. Unreasonably interfere with the view of, access to, or use of property in close proximity to the market.

3. Cause damage to the street or to sidewalks, parking areas, trees, benches, landscaping or other objects located in the vicinity.

4. Cause a violation of any state or local laws.

5. If located on or adjacent to an existing parking lot, cause a reduction in parking which impacts negatively on the uses for which the parking lot serves.

c. All construction shall conform to existing building codes and regulations of the city and shall not be permanent.

d. Adequate trash receptacles shall be provided at convenient locations throughout the market area. All refuse, produce and materials shall be removed by each operator of a location in the market area prior to or at the close of the market each day.

e. The use of public areas such as streets, parking lots, parks, etc., for a public outdoor market shall require the approval of the city council. For the use of such areas, the city may require liability insurance and property damage coverage naming the city as an insured party.

(7) *Arcades.*

(8) *Accessory structures.* Accessory structures and uses customarily incident to the above uses, provided such structures and uses are located on the same zoning lot as a permitted use.

(Code 1988, § 11-44; Ord. No. 95-03, 11-21-1995; Ord. No. 96-5, § 901, 3-5-1996; Ord. No. ZOA-2015-01, § 901, 4-21-2015)

Sec. 50-231. Required conditions.

(a) Outdoor cafes or restaurants shall provide off-street parking in keeping with the same standards as specified for similar indoor facilities in section 50-450.

(b) See article XIV of this chapter, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 96-5, § 900, 3-5-1996; Ord. No. ZOA-2015-01, § 902, 4-21-2015)

Secs. 50-232—50-255. Reserved.

ARTICLE IX. GB GENERAL BUSINESS DISTRICTS

Sec. 50-256. Preamble.

The GB General Business Districts are designed to provide for all the same uses allowed in the CBD Central Business District, along with a variety of other more diverse businesses often located to serve passerby traffic.

(Ord. No. 96-5, art. X, preamble, 3-5-1996; Ord. No. ZOA-2015-02, 4-21-2015)

Sec. 50-257. Principal uses permitted.

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

(1) Any use permitted and as regulated in the CBD district as principal uses permitted and uses subject to special conditions.

(2) New automobile sales or showroom and any accessory parking or outdoor sales are subject to the conditions under section 50-258(1).

(3) Bus passenger stations.

(4) Mortuary establishments.

(5) Private clubs or lodge halls.

(6) Governmental offices or other governmental uses; public utility offices, exchanges, transformer stations, pump stations and service yards, but not including outdoor storage.

(7) Clinics (medical, dental and veterinary).

(8) Retail cold storage establishments.

(9) Laundry and dry cleaning establishments.

(10) Indoor recreation centers such as bowling alleys, skating rinks, billiard parlors, establishments for the operation of amusement devices, or dance halls when conducted within a completely enclosed building.

(11) Open-air business uses such as, but not limited to, retail sales of live plant materials not grown on the site; lawn furniture; playground equipment; and other home garden supplies.

(12) Storage of materials or goods to be sold at retail, provided such storage is within a building or is enclosed so as not to be visible to the public from any abutting nonindustrial district or public street.

(13) Offices and showrooms of plumbers, electricians, decorators or similar trades, in connection with which not more than 25 percent of the floor area of the building or part of the building occupied by such establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise, and provided that the ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by such establishment.

(14) Newspaper printing plants.

(15) Other uses which are similar to the above uses.

(16) Accessory structures and uses customarily incident to the above permitted uses provided such structures and uses are located on the same zoning lot as a permitted use.

(Ord. No. 96-5, § 1000, 3-5-1996; Ord. No. ZOA-2015-02, § 1000, 4-21-2015)

Sec. 50-258. Uses subject to special conditions.

The following uses shall be permitted after a public hearing held in accordance with section 50-546 by the planning commission if the commission, upon review of the plans, finds that the plans meet the conditions herein required, together with such other conditions as may be imposed to carry out the purposes of this article, subject to the conditions hereinafter imposed for each use:

(1) Outdoor sales space for exclusive sale of boats, automobiles or house trailers, subject to the following:

a. Ingress and egress to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.

b. The lot or area shall be provided with durable and dustless surface and shall be graded and drained so as to dispose of all surface water accumulated with the area.

c. No major repair or major refinishing shall be done on the lot; however, auto repair garages may be permitted, subject to the following:

1. In no case shall the building be located closer than 40 feet to residentially zoned land.

2. Outdoor storage of wrecked automobiles or junk shall be prohibited.

(2) Business in the character of a drive-in, subject to the following:

a. A setback of at least 60 feet from the street right-of-way line of any existing or future land use plan street must be maintained.

b. Ingress and egress points hall be located at least 60 feet from the intersection of any two streets.

(3) Commercially used outdoor recreational space for children's amusement parks, miniature golf courses, subject to the following:

a. Children's amusement parks must be fenced on all sides with a four-foot wall or fence.

b. Adequate parking shall be provided off the road right-of-way and shall be fenced with a four-foot six-inch wall or fence where adjacent to the use.

(4) Gasoline service station, subject to the following:

a. 100 feet of street frontage on the lot proposed for the gasoline service station shall be provided on the principal street serving the station. The lot shall contain not less than 10,000 square feet of lot area.

b. All buildings shall be set back not less than 40 feet from all street right-of-way lines. Canopies over pump islands may be set back not less than 20 feet from street right-of-way lines.

c. Gasoline pumps, air and water hose stands and other appurtenances shall be set back not less than 15 feet from all street right-of-way lines.

d. Driveway widths entering the filling station shall have a maximum width of 35 feet. Curb openings for such driveways shall not exceed 50 feet in length.

e. Curb cuts shall be no closer than ten feet to any adjoining property and shall be no closer than 25 feet to any corner of two intersecting street right-of-way lines. Any two driveways shall be separated by an island at least 20 feet long.

f. The angle of intersection of any driveway shall not be less than 60 degrees, unless acceleration or deceleration lanes are provided.

g. Curbs in accordance with standard municipal specifications shall be constructed on all streets adjacent to the gasoline service station site.

h. Prohibited activities include, but are not limited to, the following: vehicle body repair, painting, tire recapping engine rebuilding, auto dismantling, upholstery work, auto glass work, and such other activities whose external physical effects could adversely extend beyond the property line. The storage of wrecked automobiles on the site shall be obscured from public view. No automobiles or vehicle of any kind shall be stored in the open for a period exceeding one week.

i. All restroom doors shall be shielded from adjacent streets and residential districts.

(5) Adult entertainment facilities subject to the provisions of section 50-465.

(6) Minor automotive repair businesses such as muffler shops, shock absorber replacement shops, tire stores, undercoating shops and minor engine repair shops, subject to the following conditions:

a. Access to such use shall be directly to a major or collector street or shall be to a minor street which has direct access to an abutting major or collector street.

b. Access to and from such use shall not be cause for traffic to utilize residential streets.

c. Outdoor storage of parts or materials shall be prohibited unless such storage is within a fenced and obscured area which meets all setback requirements.

d. Vehicles shall not be allowed to be stored outside the building for more than 48 hours unless awaiting repair for which a "work order," signed by the owner of the vehicle, is posted in the vehicle so as to be visible from outside the vehicle.

e. Areas for off-street parking required for customer use shall not be utilized for the storage of vehicles awaiting repair.

f. All vehicle servicing or repair, except minor repairs such as, but not limited to, tire changing and headlight changing shall be conducted within a building.

g. Suitable containers shall be provided and utilized for the disposal of used parts and such containers shall be screened from public view.

h. A six-foot obscuring wall shall be provided and maintained on those property lines adjacent to or abutting a residential district.

(7) Automobile carwash subject to the following:

a. All buildings shall have a front yard setback of not less than 50 feet.

b. All washing facilities shall be within a completely enclosed building.

c. Vacuuming and drying areas may be located outside the building but shall not be in the required front yard and shall not be closer than 25 feet from any residential district.

d. All cars required to wait for access to the facilities shall be provided space off the street right-of-way and parking shall be provided in accordance with sections 50-450 and 50-451.

e. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.

f. All off-street parking and waiting areas shall be hard surfaced and dust free.

g. All lighting shall be shielded and directed away from adjacent residential districts.

h. A four-foot six-inch completely obscuring wall shall be provided where abutting to a residential district.

(8) Arcades.

(9) Accessory buildings and uses customarily incident to any of the above permitted uses provided such structures and uses are located on the same zoning lot as a permitted use.

(Code 1988, § 11-44; Ord. No. 95-03, 11-21-1995; Ord. No. 96-5, § 1001, 3-5-1996; Ord. No. ZOA-2015-02, § 1001, 4-21-2015)

Sec. 50-259. Required conditions.

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

(Ord. No. 96-5, § 1002, 3-5-1996; Ord. No. ZOA-2015-02, § 1002, 4-21-2015)

Secs. 50-260—50-281. Reserved.

ARTICLE X. I INDUSTRIAL DISTRICT

Sec. 50-282. Preamble.

The I Industrial District is designed so as to primarily accommodate wholesale and warehouse activities, and industrial operations whose external physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semifinished products from previously prepared material. It is the intent of this article that the processing of raw material for shipment in bulk form to be used in an industrial operation at another location not be permitted.

(Ord. No. 96-5, art. XI, preamble, 3-5-1996)

Sec. 50-283. Principal uses permitted.

In an I Industrial district, no land or building shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this article.

(1) Any of the following uses when conducted wholly within a completely enclosed building, or within a designated area enclosed on all sides with a six-foot fence or solid wall. Such fence or wall shall be completely obscuring on those sides where abutting or adjacent to districts zoned for residential use.

a. Warehousing and wholesale establishments and trucking facilities.

b. The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.

c. The manufacture, compounding, assembly or treatment of articles of merchandise from previously prepared materials such as, but not limited to, bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell, textiles, tobacco, wax, wire, wood (excluding saw and planing mills) and yarns.

d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.

e. Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other small molded rubber products.

f. Manufacture or assembly of electrical appliances, electronic instruments and devices; radios and phonographs.

g. Laboratories, experimental, film or testing.

h. Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.

i. Warehouse, storage and transfer and electric and gas service buildings and yards, water supply and sewage disposal plants. Water and gas tank holders, railroad transfer and storage tracks, heating and electric power generating plants and all necessary uses, railroad rights-of-way and freight terminals.

j. Storage facilities for building materials, sand, gravel, stone, lumber, open storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all residential or business districts, and on any front yard abutting a public thoroughfare. In any I district, the extent of such fence or wall may be determined by the board of appeals on the basis of usage. Such fence or wall shall not be less than six feet in height and may, depending on land usage, be required to be eight feet in height. A chainlink type fence with heavy evergreen shrubbery inside of such fence shall be considered to be an obscuring fence.

(2) All public utilities, including buildings, necessary structures, storage yards and other related uses.

(3) Kennels, commercial.

(4) Nonaccessory signs shall be permitted in accordance with the requirements set forth in section 50-456.

(5) Other uses of a similar character, subject to such conditions, requirements and safeguards as set forth in sections 50-545 and 50-547.

(6) Accessory buildings and uses customarily incident to any of the above permitted uses provided such buildings and uses are located on the same zoning lot as a permitted use.

(Ord. No. 96-5, § 1100, 3-5-1996)

Sec. 50-284. Uses subject to special conditions.

The following uses shall be permitted after the planning commission, after a public hearing held in accordance with section 50-546 and upon review of the plans, finds that the plans meet the conditions as may imposed to carry out the purposes of this article:

(1) Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to, lumber yards, building materials, outlets, garage sales; upholsterer, cabinet maker; outdoor boat, or house trailer, automobile, or agricultural implement

sales) or serve convenience needs of the industrial district (such as, but not limited, eating and drinking establishments, excluding drive-in, motel or bowling alley).

(2) Auto repair station and undercoating shops when completely enclosed.

(3) Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the I district.

(4) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.

(5) Other uses which, in the determination of the planning commission after a public hearing held in accordance with section 50-546, are of a similar character to the above uses and subject to the requirements set forth in sections 50-545 and 50-547.

(6) Accessory structures and uses customarily incident to the above uses provided such structures and uses are located on the same zoning lot as a permitted use.

(Ord. No. 96-5, § 1101, 3-5-1996)

Sec. 50-285. Required conditions.

(a) Any use established in the I district after the effective date of the ordinance from which this article is derived shall be operated so as to comply with the performance standards set forth hereinafter in article XV of this chapter, general provisions.

(b) See article XIV of this chapter, schedule of regulations, limiting the height and bulk of buildings.

(Ord. No. 96-5, § 1102, 3-5-1996)

Secs. 50-286—50-303. Reserved.

ARTICLE XI. P PARKING DISTRICT

Sec. 50-304. Preamble.

The P Parking District is intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities. The following regulations shall apply to all P districts.

(Ord. No. 96-5, art. XII, preamble, 3-5-1996)

Sec. 50-305. Principal uses permitted.

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

(Ord. No. 96-5, § 1200, 3-5-1996)

Sec. 50-306. Required conditions.

(a) The parking area shall be accessory to and for use in connection with one or more existing professional or institutional office buildings or institutions.

(b) Such parking lots shall be contiguous to an MB, CBD, GB or I district. Parking areas may be approved when adjacent to such districts, or on the end of a block where such areas front on a street which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P district and such MB, CBD, GB or I district.

(c) Parking areas shall be used solely for parking of private passenger vehicles (for periods of less than one day) and shall not be used as an off-street loading area.

(d) No commercial repair work or service of any kind or display thereof shall be conducted in such parking area.

(e) No signs of any kind other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area.

(f) No buildings other than those for shelter of attendants shall be erected upon the premises, and they shall not exceed 15 feet in height.

(g) Application for P district rezoning shall be made to the planning commission by submitting a layout of the area requested showing the intended parking plan.

(Ord. No. 96-5, § 1201, 3-5-1996)

Sec. 50-307. Minimum distances and setbacks.

(a) *Side and rear yards.* Where the P district is contiguous to the side and/or rear lot lines of premises within a residentially zoned district, the required wall shall be located along such lot line.

(b) *Front yards.* Where the P district is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for such residential district or a minimum of 25 feet, whichever is the greater. The required wall shall be located on this minimum setback line.

(Ord. No. 96-5, § 1202, 3-5-1996)

Sec. 50-308. Parking space layout, standards, construction and maintenance.

The P Parking District shall be developed and maintained in accordance with the requirements of section 50-451.

(Ord. No. 96-5, § 1203, 3-5-1996)

Sec. 50-309. Approval and modifications.

(a) The planning commission may modify the yard and wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this article.

(b) In all cases where a wall extends to an alley which is a means of ingress and egress to a parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.

(c) In addition to the above requirements, such parking area shall comply with such further requirements or conditions as may be prescribed by the planning commission for the protection of the residential district abutting such parcel or parcels in which the parking area is to be located.

(Ord. No. 96-5, § 1204, 3-5-1996)

Secs. 50-310—50-336. Reserved.

ARTICLE XII. WP WATERFRONT PARK DISTRICT

Sec. 50-337. Preamble.

The WP Waterfront Park District is designed to accommodate recreational and public uses, while at the same time provide an open unobstructed character. To this end, uses permitted in this district shall be subject to approval by the planning commission.

(Ord. No. 96-5, art. XIII, preamble, 3-5-1996)

Sec. 50-338. Principal uses permitted.

Under such conditions as the planning commission, after hearing in accordance with section 50-546, finds the use as not being injurious to the WP district and environs and not contrary to the spirit and purposes of this article, the following uses may be permitted:

(1) Municipal or private water-related recreation areas.

(2) Municipal or private development of the berthing of recreational boats, yachts, cruises, inboards, outboards, sailboats and ferries.

(3) Municipal office buildings (i.e., administrative, library, police, fire, etc.) when in character with the surrounding area.

(4) Other uses of a similar and no more objectionable character and which, in the opinion of the planning commission after a public hearing in accord with section 50-546 will not be injurious or have any adverse effect on the adjacent areas and may, therefore, be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary by the planning commission in the interest of public health, safety and welfare.

(Ord. No. 96-5, § 1300, 3-5-1996)

Sec. 50-339. Required conditions.

(a) All dredging, construction and/or development shall be subject to the requirements of all subject codes and ordinances of the city and where applicable all state and federal requirements.

(b) All site plans shall be subject to the review and approval of the planning commission relative to area and bulk requirements, parking plan, and ingress and egress.

(c) Sec article XIV of this chapter, schedule of regulations, limiting the height and bulk of buildings and the minimum size of lot permitted land use.

(Ord. No. 96-5, § 1301, 3-5-1996)

Secs. 50-340—50-366. Reserved.

ARTICLE XIII. PD PLANNED DEVELOPMENT DISTRICT[2]

Sec. 50-367. Intent.

The Planned Development District (PD) is intended to permit the private or public development or redevelopment of acres throughout the city which shall be substantially in accord with the goals and objectives of the master plan of future land use for the city. The use patterns of the areas involved shall provide a desirable environment and shall be harmonious to the general surrounding uses permitting flexibility in overall development while ensuring the highest of safeguards and standards for public health, safety, convenience and general welfare. Such planned development district may embrace a mixture of one or more distinct uses or zoning categories, in the vertical or horizontal plane. A planned development district shall encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land use planning; and bring about a compatibility of design and use.

(Ord. No. 96-5, § 1350, 3-5-1996; Ord. No. 2003-1, § 1350, 4-1-2003)

Sec. 50-368. Standards for planned development districts.

(a) The uses proposed will have a beneficial effect, in terms of public health, safety, welfare or convenience or any combination thereof, on present and potential surrounding land uses. The uses proposed will encourage a more efficient use of public utilities and service and lessen the burden on circulation systems, surrounding properties, and the environment. This beneficial effect for the city (not the developer) shall be one which could not be achieved under any other single zoning classification.

(b) The uses proposed shall be consistent with the master plan of future land use for the city.

(c) The zoning is warranted by the design and amenities incorporated in the development proposal.

(d) Usable open spaces shall be provided, at least equal to the total of the minimum usable open space which would be required for each of the component uses of the development. The city may, if deemed appropriate, require for planned developments more or less open space than that required by this article.

(e) Off-street parking sufficient to meet the minimum required by section 50-450 shall be provided and the city may, if deemed appropriate, require for planned developments more or less parking than that required by this article.

(f) Landscaping shall be provided so as to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. The city may, if deemed appropriate, require for planned unit developments more or less landscaping than that required by this article.

(g) Vehicular and pedestrian circulation, allowing safe, convenient uncongested and well-defined circulation within and to the district shall be provided.

(h) Natural and historical features of the district shall reasonably be protected and preserved.

(Ord. No. 96-5, § 1351, 3-5-1996; Ord. No. 2003-1, § 1351, 4-1-2003)

[2]State law reference(s)—Planned unit development, MCL 125.3503.

Sec. 50-369. Procedure for application.

Application shall be made to the city council for consideration under this district. The person applying shall be required to make a submittal of the following material for review and recommendation by the planning commission:

(1) A property area survey of the exact area being required (scale: one inch equals 100 feet).

(2) A proof of ownership of land being requested for rezoning.

(3) A topographic map of the entire area at a contour interval showing two-foot changes in elevation. This map shall indicate all natural and manmade features (scale: one inch equals 100 feet). In those instances where more detailed topography is deemed necessary, the city may request a contour interval of one foot. Where extreme slopes exist, the city may allow a contour interval of five feet.

(4) A preliminary plan of the entire area carried out in such detail as to show the land use being requested, the densities being proposed where applicable, the system of collector streets, and off-street parking system.

(5) A preliminary plan layout or an overlay of such plan on a currently available aerial photo of the site and its immediate surroundings.

(6) A written statement explaining in detail the full intent of the sponsor indicating the specifics of the development plan as it relates to the type of dwelling units contemplated and resultant population; the extent of nonresidential development and the resultant traffic generated and parking demands created, and providing supporting documentation, such as, but not limited to, market studies, supporting land use request, and the intended scheduling of development and such other studies as the city council or planning commission may require.

(Ord. No. 96-5, § 1352, 3-5-1996; Ord. No. 2003-1, § 1352, 4-1-2003)

Sec. 50-370. Acceptance and approval of preliminary (Stage I) site plan and rezoning.

Approval of the preliminary plan by the city council shall be effective for a period of two years, and such accepted plan may be renewed upon expiration of said two-year period, provided conditions have not changed that would be cause for denial of such extension. In reviewing and approving the plan, the following procedures and conditions shall be followed:

(1) The preliminary plan shall be reviewed and a recommendation shall be made by the planning commission after public hearing to the city council relative to the plan, meeting the intent and the requirements of the master plan of future land use and for the rezoning of the property to PD district. Such rezoning shall be contingent on approved Stage II plans becoming part of such rezoning. The hearing for the preliminary plan may also, with proper notification and advertising, be the hearing for rezoning of the property to a planned development district.

(2) Approval of the preliminary plan shall be given only after public hearing by the planning commission and shall not constitute final site plan approval. Rezoning procedures under this section will rely on the plan submitted for both Stage I and Stage II and the supporting documentation and the plan, therefore, is basic to the rezoning.

(3) Once an area has been rezoned to a PD district, no development shall take place therein nor use made of any part thereof except in accordance with the preliminary plan as originally approved, or in accordance with an approved amendment thereto.

(4) Approval of the preliminary plan by the city council shall not constitute approval of the final site plan. It shall be deemed as approval of the land use plan submitted and shall serve as a guide in the preparation of the final plan.

(5) The proposed PD district shall be of such area as to represent a sound carrying out of the master plan of future land use, it not being the intention of this district that an unrelated parcel by parcel rezoning be effectuated.

(6) The zoning ordinance amendment which effectuates the rezoning to the PD district shall refer to and incorporate by reference the Stage I site plan and the Stage II site plan and such zoning amendment shall be carried out in accordance with rezoning procedures of this article.

(Ord. No. 96-5, § 1353, 3-5-1996; Ord. No. 2003-1, § 1353, 4-1-2003)

Sec. 50-371. Final plan submittal (Stage II site plan) prior to building permit.

A presentation of the final site plan shall be made to the planning commission for review and recommendation to the city council of the following:

(1) A final overall site plan for the entire area being requested under this PD district shall be submitted. This plan shall be worked out in detail showing specific uses, building location, off-street parking, street alignments, open spaces and other physical plan details being proposed. Supporting documentation in the form of building plans, and schedule of construction shall be submitted. The final site plan shall conform to all site plan requirements and all site plan review requirements of this article.

(2) The final plan shall reflect and adhere to those use patterns as approved in the preliminary plan. Standards for building bulk and off-street parking shall be equal to at least the minimum standards set forth for like uses in article XVI of this chapter and off-street parking requirements of section 50-450.

(Ord. No. 96-5, § 1354, 3-5-1996; Ord. No. 2003-1, § 1354, 4-1-2003)

Sec. 50-372. Stage II site plan; approval of site plan.

Approval of the final site plan shall be effective for a period of three years. If development is not completed in this period, the planning commission shall review progress to date and make a recommendation to the city council as to action relative to permitting continuation under an extension of the original approval. In reviewing and approving the final plan, the following conditions shall be set forth:

(1) A Stage II certificate of compliance may be granted by the city provided that the Stage II site plan is accepted and approved by the planning commission.

(2) All dedications of the public rights-of-way or planned public open spaces shall be made prior to any construction taking place on the site and shall be recorded by the developer.

(3) In residential use areas, any prorated open space shall be committed by dedication to an association of residents, either as rights-in-fee, easement, or in a master deed and retained as open space for park, recreation and related uses. All lands dedicated in fee or easement shall meet the requirements set forth by the city council. Provisions satisfactory to the city council shall be made to provide for the financing of any improvements by a means satisfactory to the city council. This may include a development agreement. Such documents shall be recorded with the county register of deeds.

(4) In those instances where a subdivision plat or site condominium is being utilized as a planned development or a part of such development, the procedures and expiration dates of the land division act or condominium act shall govern.

(Ord. No. 96-5, § 1355, 3-5-1996; Ord. No. 2003-1, § 1355, 4-1-2003)

Sec. 50-373. General design standards.

(a) All regulations applicable to setbacks, parking and loading, general provisions, and other requirements shall be met in relation to each respective land use in the development based upon zoning districts in which the use is listed as a permitted use or use permitted subject to special conditions.

(b) Residential density shall be regulated as follows:

(1) The maximum permitted residential density for single-family dwelling shall not exceed the density allowed for the R-2 single-family district. Yard setbacks for the R-2 district shall apply.

(2) The maximum permitted residential density for multiple-family areas shall not exceed the requirements of the RM-2 district and shall meet setback requirements of the RM-2 district.

(c) Requirements for height, bulk and density for all nonresidential uses shall be in accordance with zoning district standards most nearly reflecting policies in the city's master plan or as may be modified if appropriate by the city.

(d) Density calculations shall meet the following requirements:

(1) Land areas to be used in calculating gross residential density as provided in this section shall each be delineated on the Stage I plan and the Stage II plan so that the acreage and density computations can be confirmed.

(2) The land area used for calculating gross residential density shall include the total residential land area designated on the plan, where applicable, less any area within existing public street rights-of-way.

(3) The planning commission may require, as part of a final site plan review of a phase of a PD, that land shown as open space on the approved plan be held in reserve as part of the phase to be developed, in order to guarantee that density limits for the entire approved PD will not be exceeded when the subject phase is completed. Such reserved land may be included in the development of subsequent phases if the density limits will not be exceeded upon completion of that phase or if other land is similarly held in reserve.

(4) The surface area of lakes, streams, ponds, (natural, manmade, or stormwater retention), marshlands, and similar areas may be included in the acreage used for calculating density if at least 50 percent of the frontage of such areas are part or lands devoted to parks and open space used for and accessible to all residents in the PD district.

(5) Common open space, other common properties and facilities, individual properties, and all other elements of a PD district shall be so planned that they will achieve a unified open space and recreation area system, with open space and all other elements in appropriate locations, suitable related to each other, the site and surrounding lands.

(e) To the maximum extent feasible, the development shall be designed so as to preserve natural resources and natural features.

(f) There shall be a perimeter setback and berming, for the purpose of buffering the development in relation to surrounding properties. Such perimeter setback shall be established in the discretion of the planning commission taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.

(g) Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.

(h) There shall be underground installation of utilities, including cable, electricity and telephone, as found necessary by the city council, upon the recommendation of the planning commission.

(i) Signage, lighting, landscaping, building architecture and materials, and other features of the project, shall be designed to achieve an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.

(j) Where nonresidential uses adjoin residentially zoned property, noise reduction and visual screening mechanisms such as landscape berms and/or decorative walls shall be employed.

(Ord. No. 96-5, § 1356, 3-5-1996; Ord. No. 2003-1, § 1356, 4-1-2003)

Sec. 50-374. Required conditions.

Before approving the plan in either the preliminary Stage I site plan or final Stage II plan submittal, the planning commission and the city council shall determine that:

(1) The cost of installing all streets, sidewalks, bike paths, street lights, park areas and necessary utilities and maintenance thereof has been assured by a means satisfactory to the city council. The city council shall have the option of requiring suitable guarantee in a form suitable to the city for the provision of any or all site improvements.

(2) The final plan of each project area of the approved plan is in conformity with the overall approved plan. Any changes or amendments requested shall terminate approval of the preliminary plan until such changes or amendments have been reviewed and approved as in instance of the first submittal, it being the intent of this section that no other administrative or board of appeals action shall constitute official approval of such changes or amendments. Denial by the city council of any requested changes or amendments shall not void the originally approved plan.

(3) Proceeding with a planned development district shall only be permitted if it is mutually agreeable to the city council and the developer.

(Ord. No. 96-5, § 1357, 3-5-1996; Ord. No. 2003-1, § 1357, 4-1-2003)

Sec. 50-375. Deviations from approved planned development final site plan.

Minor changes to a previously approved planned development site plan may be approved without necessity of planning commission or city council action thereon if the building inspector certifies in writing that the proposed revision constitutes a minor alteration and does not alter the basic design nor any specific conditions of the plan as agreed upon by the planning commission and city council. The building inspector shall record all such changes on the original PD site plan and shall advise the planning commission and city council of all said minor revisions within 15 days of said administrative approval. Minor alterations or revisions under this section shall be limited to:

(1) Addition or relocation of fire escapes.

(2) Shifting of building heights and elevations, providing such shifting does not exceed ten percent of the previously approved dimension and providing such shifting does not significantly alter the conceptual integrity of the plan.

(3) Construction of additional, or alteration of, approved sidewalks, provided that the full intent of pedestrian movement through and around the site is not inhibited thereby.

(4) Shifting of, additions to, changes in species of landscape materials, provided such change does not reduce minimum landscape requirements.

(5) Relocation of refuse collection stations.

(6) Internal rearrangement of parking lots and curb cut locations, not including the relocation of parking lots, provided such functional rearrangement does not reduce the total number of parking spaces required, and further provided that the minimum landscape requirements are maintained, and further provided that such rearrangement does not inhibit good traffic flow or circulation.

(7) Any decrease in building size or changes in bedroom counts per dwelling unit in no more than ten percent of the total number of units.

(8) Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.

(Ord. No. 96-5, § 1358, 3-5-1996; Ord. No. 2003-1, § 1358, 4-1-2003)

Sec. 50-376. Filing of zoning amendment.

Upon adoption by the city council of the zoning amendment, the site plan, building elevation and other development proposals including the proposed uses shall become an integral part of the zoning amendment to the PD district and for the purposes of recordation, shall be referred to as "Planned Development No. _____." All approved plans shall be filed with the city clerk and building inspector.

(Ord. No. 96-5, § 1359, 3-5-1996; Ord. No. 2003-1, § 1359, 4-1-2003)

Sec. 50-377. Fees.

Fees for legal, engineering and planning review of the site plans shall be as established by the city council.

(Ord. No. 96-5, § 1360, 3-5-1996; Ord. No. 2003-1, § 1360, 4-1-2003)

Secs. 50-378—50-397. Reserved.

ARTICLE XIV. SCHEDULE OF REGULATIONS

Sec. 50-398. Schedule limiting height, bulk, density and area by zoning district.

		Minimum Zoning Lot Area Per Unit(q)		Maximum Height of Structure		Minimum Yard Setback (Per Lot in Feet) (Side)				Minimum Flo Area Per Un (Sq. Ft.)	
Zoning District		Area in Sq. Ft.	Width in Feet	In Stories	In Feet	Front	Least One	Total of Two	Rear	Ground Floor	To Flo Spa
R-1	One-Family Residential	9,600(a)	80(a)	2	25	25(b),(o),(p)	10(b),(c)	20(b),(c)	35(b)	960	1,2
R-2	One-Family Residential	7,200(a)	60(a)	2	25	25(b),(o),(p)	5(b),(c)	16(b),(c)	35(b)	860	1,1
R-3	One- and Two-Family Residential	6,000(a)	50(a)	2	25	25(b),(o),(p)	5(b),(c)	16(b),(c)	35(b)	760	1,0
RM-1	Multiple-Family Residential (low-rise)	(d)	(d)	2	25	30(f)	30(f)	60(f)	30(f)	Eff 1 Br 2 Br	350 500 700
RM-2	Multiple-Family Residential (high-rise)	(d)	(d)	(e)		50(f)	50(f)	100(f)	50(f)	3 Br 4 Br	900 1,1
MB	Marina Business	None	None	2	30	20(g),(i)	(h),(j),(k)	(h),(j),(k)	20(i),(j)	None	No
CBD	Central Business	None	None	2	30	20(g),(i)	(h),(j),(k)	(h),(j),(k)	20(i),(j)	None	No
GB	General Business	None	None	2	30	20(g),(i)	(h),(j),(k)	(h),(j),(k)	20(i),(j)	None	No
I	Industrial	None	None	—	40	40(g),(l)	20(k),(m)	40(k),(m)	40(m),(n)	None	No
WP	Waterfront Park	None	None	2	30	30(j),(k)	30(j),(k)	60(j),(k)	30(j)	None	No

Notes to schedule of regulations:

(a) See section 50-399, 50-400 and 50-401 regarding flexibility allowances.

(b) For all uses permitted other than single-family residential, the setback shall equal the height of the main building or the setback required in the district, whichever is greater. In the case of single-family dwellings, when it can be found that the front yards of two or more permitted principal structures in any block in existence at the time of adoption of this article within the district zoned and on the same side of the street are less than the minimum front yard permitted in the district, then a principal structure erected there-after shall provide the average depth of the front yards of said two or more structures.

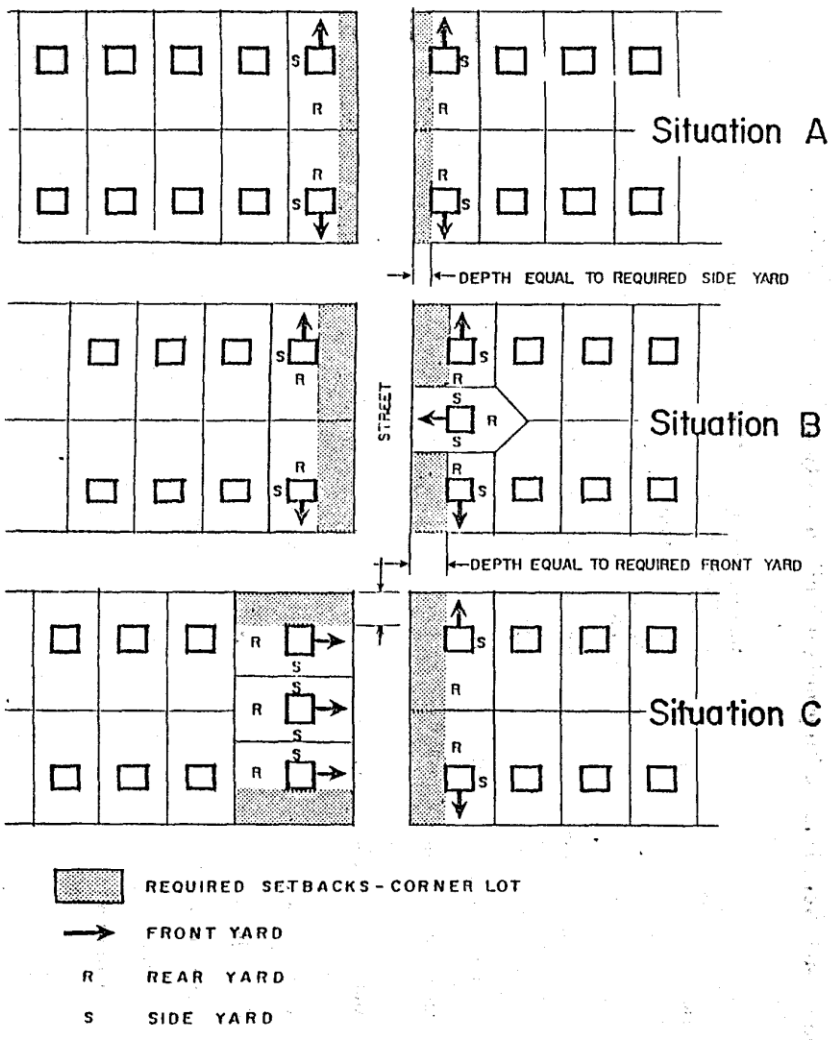
(c) In the case of a rear yard abutting a side yard, or when a side yard is adjacent to a front yard across a common separating street, the side yard abutting a street shall not be less than the minimum front yard of the district in which located (see illustration).

(d) In an RM-1 multiple-family district, the total number of rooms (not including kitchen, dining and sanitary facilities) shall not be more than the area of the parcel, in square feet, divided by 2,000. All units shall have at least one living room and one bedroom, except that not more than ten percent of the units may be of an efficiency apartment type.

a. In an RM-2 Multiple-Family District, the total number of rooms (not including kitchen, dining and sanitary facilities) shall not be more than the area of the parcel, in square feet, divided by 700. All units shall have at least one living room and one bedroom, except that not more than ten percent of the units may be of an efficiency apartment type.

b. In both the RM-1 and RM-2 districts, for the purpose of computing the permitted number of dwelling units per acre, the following room assignments shall control:

Efficiency	=	1 room
One-bedroom	=	2 rooms
Two-bedroom	=	3 rooms
Three-bedroom	=	4 rooms
Four-bedroom	=	5 rooms



SIDE YARDS ABUTTING A STREET [GRAPHIC]

c. Plans presented showing one-, two- or three-bedroom units and including a "den," "library" or other extra room shall count such extra room as a bedroom for the purpose of computing density.

d. In an RM-1 or RM-2 district, the area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads.

(e) The maximum height of structures in the RM-2 Multiple-Family High-Rise District shall be subject to the review and approval of the planning commission.

(f) In all RM-1, multiple-family residential low-rise, and RM-2, multiple-family residential high-rise, districts, the minimum distance between any two buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than 30 feet. Parking may be permitted within a required side or rear yard but shall not cover more than 30 percent of the area of any required yard or any minimum distance between buildings. The formula regulating the required minimum distance between the two buildings in all RM-1 and RM-2 districts is as follows:

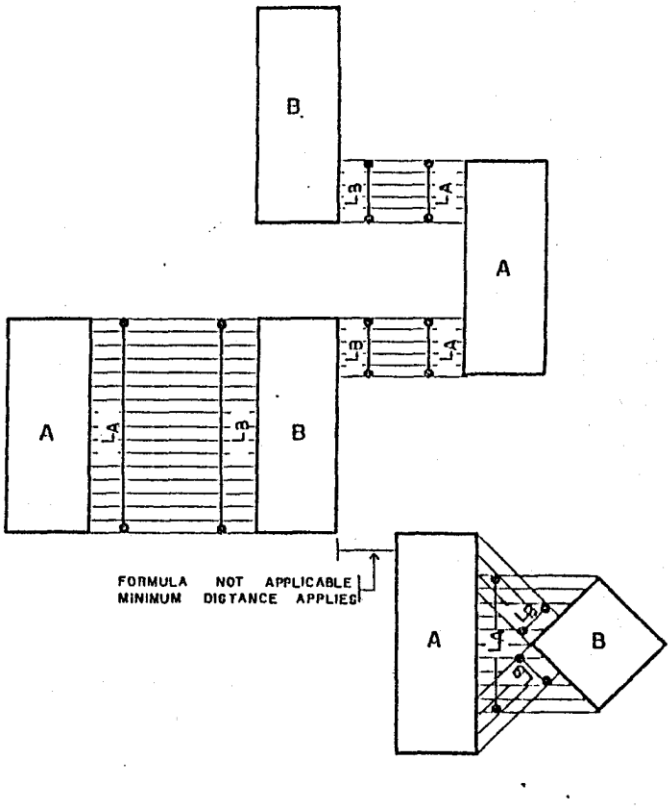
S	$=$	$\frac{(L_A + L_B + 2(H_A + H_B)}{6}$

Where:

S = The required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.

L_A = The total length of building A. The total length of building A is the length of that portion or portions of a wall or walls of building A from which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.

L_B = Total length of building B. The total length of building B is the length of that portion or portions of a wall or walls of building B from which, when viewed directly from above, lines drawn perpendicular to building B will intersect any wall of building A.



MIN. DISTANCE BETWEEN BUILDINGS

$$= \frac{L_A + L_B + 2(H_A + H_B)}{6}$$

H_A = Height of building A. The height of building A at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building A. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

H_B = Height of building B. The height of building B at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building B. Natural grade level shall be mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building (see illustration).

(g) Off-street parking shall be permitted to occupy a portion of the required front yard, provided that there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of

access driveways, and the nearest right-of-way line as indicated on the major thoroughfare plan. In those instances where access drives serve as maneuvering lanes for parking spaces, such drive shall not be considered an access drive for setback purposes.

(h) No side yards are required along the interior side lot lines of the district, except as otherwise specified in the single state construction code, provided that if walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than ten feet shall be provided. On a corner lot which has a rear yard abutting a residential district, there shall be provided a setback of 20 feet on the residential side street. Where a lot borders on a residential district or a street, there shall be provided a setback of not less than ten feet on the side bordering the residential district or street.

(i) Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements; except in the instance of office uses, loading space shall be provided in the ratio of five square feet per front foot of building. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley.

(j) No building shall be closer than 30 feet to any adjacent residential district.

(k) Off-street parking shall be permitted in a required side yard setback except in those instances where a lot borders a residential district.

(l) Off-street parking for visitors, over and above the number of spaces required under section 50-450, may be permitted within the required front yard, provided that such off-street parking is not located within 20 feet of the front lot line.

(m) No building shall be located closer than 40 feet or the height of the building, whichever is the greater, to the outer perimeter (property line) of such district when such property line abuts any residential district.

(n) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than six feet high, or with a chainlink type fence and a greenbelt planting so as to obscure all view from any adjacent residential, office or business district or from a public street.

(o) In residential districts R-1, R-2 and R-3, where lots are located on the St. Clair River or associated channels and canals, the property shall be treated as a through lot and have required front yards on the street and waterfront sides. Any dwelling to be constructed on the river, channel or canal frontage shall have a minimum setback on the waterfront side determined by the average setback of adjacent dwellings from the river, channel or canal.

(p) In a block on one side of the street 50 percent or more occupied, the depth of the front yard need not be more than the average depth of front yards of existing buildings, and in no instance shall the front yard depth be less than 15 feet.

(q) Single-family detached condominiums in a condominium subdivision shall meet all minimum requirements and standards of the district in which such dwellings are to be constructed, including minimum floor area requirements.

(Ord. No. 96-5, § 1400, 3-5-1996)

Sec. 50-399. Average lot size.

The intent of this section is to permit the subdivider or developer to vary his lot sizes and lot widths so as to average the minimum size of lot per unit as required in this article for each one- and two-family residential district. If this option is selected, the following conditions shall be met:

(1) In meeting the average minimum lot size, the subdivision shall be so designed as not to create lots having an area or width greater than ten percent below that area or width required in the schedule of regulations and shall not create an attendant increase in the number of lots.

(2) Each final plat submitted as part as part of a preliminary plat shall average the minimum required for the district in which it is located.

(3) All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.

(4) Lot averaging shall not be utilized in combination with a subdivision open space plan.

(Ord. No. 96-5, § 1401, 3-5-1996)

Sec. 50-400. Subdivision open space plan.

(a) The intent of the subdivision open space plan is to promote the following objectives:

(1) Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.

(2) Encourage developers to use a more creative approach in the development of residential areas.

(3) Encourage a more efficient, aesthetic and desirable use of open area, while recognizing a reduction in development costs and allowing the developer to bypass natural obstacles on the site.

(4) Encourage the provision of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreational facilities.

(b) Modification to the standards outlined in this article may be made in the one- and two-family residential districts when the following conditions are met:

(1) The lot area in all one- and two-family residential districts which are served by a public sanitary sewer system may be reduced up to 20 percent. In the R-1 district, this reduction may be accomplished in part by reducing lot widths up to ten feet. In the R-2 and R-3 districts, this reduction may be accomplished in part by reducing lot widths up to five feet. These lot area reductions shall be permitted, provided that the dwelling unit density shall be not greater than if the land area to be subdivided were developed in the minimum square feet lot areas as required for each one- and two-family districts under this article. All calculations shall be predicated upon the one- and two-family districts having the following gross densities (including rights-of-way):

District	Dwelling Units Per Acre
R-1	3.4
R-2	4.5
R-3	5.5

(2) Rear yards may be reduced to 30 feet when such lots border on land dedicated for park, recreation and/or open space purposes, provided that the width of such dedicated land shall not be less than 100 feet measured at the point at which it abuts the rear yard of the adjacent lot.

(3) Under the provisions of subsection (b)(1) of this section, for each square foot of land gained within a residential subdivision through the reduction of lot size below the minimum requirements as outlined in this article, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision in a manner approved by the city.

(4) The area to be dedicated for subdivision open space purposes shall in no instance be less than two acres and shall be in a location and shape approved by the planning commission.

(5) The land area necessary to meet the minimum requirements of this section shall not include bodies of water, swamps or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. The entire area may, however, be located in a floodplain.

(6) This plan for reduced sizes shall be permitted only if it is mutually agreeable to the legislative body and the subdivider or developer.

(7) This plan for reduced sizes shall be started within six months after having received approval of the final plat and must be completed in a reasonable time. Failure to start within this period shall void all previous approval.

(8) Under this subdivision open space approach, the developer or subdivider shall dedicate the total park area at the time of filing of the final plat on all or any portion of the plat.

(Ord. No. 96-5, § 1402, 3-5-1996)

Sec. 50-401. Single-family clustering option.

The intent of this section is to permit the development of single-family residential patterns which, through design innovation, will introduce flexibility so as to provide for the sound physical handling of site plans in situations where the normal subdivision approach would otherwise be unnecessarily restrictive. To accomplish this, the following modifications to the one- and two-family residential standards shall be permitted, subject to the conditions herein imposed:

(1) Under this section, the attaching of single-family homes shall be permitted when said homes are attached through a common party wall which does not have over 50 percent of its area in common with an abutting dwelling wall; by means of an architectural wall detailed which does not form interior room space; or through a common party wall in only the garage portion of adjacent structures, there being no common party wall relationship permitted through any other portion of the residential units.

(2) The number of units attached in the above manner shall not exceed four.

(3) Yard requirements may be modified as follows:

a. No building shall be located closer to a street or service drive than 25 feet.

b. Spacing between groups of attached units or individual units shall be at least 15 feet in the R-1, R-2 and R-3 districts.

c. That side of a cluster adjacent to a service drive or private lane shall not be nearer to such drive or land than ten feet.

(4) In all one- and two-family residential districts on parcels of land meeting certain criteria, densities in a cluster development may be increased to the following maximums (including street private right-of-way):

District	Dwelling Units Per Acre
R-1	3.4
R-2	4.5
R-3	5.5

(5) The planning commission may approve the clustering or attaching of buildings on parcels of land, under single ownership and control, which in the opinion of the planning commission have characteristics which would make sound physical development under the normal subdivision approach impractical because of parcel size, shape or dimension or because of soil problems or similar natural condition. In approving an area for cluster development at the densities permitted in subsection (4) of this section, the planning commission shall find at least one of the following conditions to exist:

a. The parcel to be developed is generally parallel to and generally does not exceed 500 feet in depth on those unsubdivided parcels of land abutting at major or collector thoroughfare of at

least 86 feet of right-of-way width so as to provide transition between such major thoroughfare and adjacent single-family detached housing.

b. A parcel of land located between developed single-family detached uses in which the size, shape and location of the parcel preclude a development of single-family detached units for subdivision in a proper manner; the determination shall be made by the planning commission.

c. A small parcel which is shaped such that it contains acute angles which would make a normal subdivision difficult to achieve and has frontage on a major thoroughfare or collector street.

d. A substantial part of the parcel's perimeter is bordered by a major or collector thoroughfare which would result in a substantial proportion of the lots of the development abutting the major thoroughfare or collector street.

e. The parcel contains a floodplain or poor soil condition which results in a substantial portion of the total area of the parcel being unbuildable. Soil test borings, floodplain maps or other documented evidence must be submitted to the planning commission in order to substantiate the parcel's qualification for cluster development.

f. The parcel contains natural assets which could be preserved through the use of cluster development. Such assets may include natural stands of large trees, lands which serve as a natural habitat for wildlife, unusual topographic features or other natural assets which, in the opinion of the planning commission, should be preserved. Requests for qualification under these conditions must be supported by documented evidence which indicates that the natural assets would qualify the parcel under this option.

(6) The area in open space accomplished through the use of one-family clusters shall represent at least 15 percent of the horizontal development area of a one-family cluster development.

(7) In order to provide an orderly transition where the project proposed for use as a cluster development abuts a one- and two-family residential district, the planning commission shall determine that the abutting one- and two-family district is effectively buffered by means of one of the following within the cluster development; one-family lots, or detached one-family units subject to the standards of the schedule of regulations, open or recreations space, a major thoroughfare or collector street, a minimum of 40 feet greenbelt or some other similar means of providing a transition.

(8) Any area to be dedicated for park, recreation or open space purposes as a result of the application of this section shall be subject to review and approval of the planning commission for minimum size, shape, location, access, the character of any improvements and assurance of the permanence of the open space and its continued maintenance.

(9) In submitting a proposed layout under this section, the sponsor of the development shall include, along with the site plan, the proposed building elevations and typical floor plans, an indication of existing and proposed public easements, soil information or data sufficient to determine the buildability of the site, topography drawn at a two-foot contour interval, all computations relative to acreage and density, and any other details which will assist in reviewing the proposed plan.

(10) Approval of a site plan under this section shall be effective for a period of one year. Development not started in this period shall be considered as abandoned, and authorization shall expire requiring that any proposed development thereafter shall be reviewed and approved by the planning commission. Any proposed change in site plan or building, after approval has been received, shall require review and approval by the planning commission prior to effecting said change.

(11) Application of this option shall only be permitted when the site plan has been reviewed and approved by the planning commission.

(12) Prior to taking action on a proposed one-family residential clustering option, the planning commission shall hold a public hearing in accordance with section 50-546.

(Ord. No. 96-5, § 1403, 3-5-1996)

Sec. 50-402. Condominium projects.

All condominium projects, including, but not limited to, attached condominium unit projects, single unattached site condominium unit projects, also known as site condominiums, and conversion condominium projects, shall conform to the requirements of this section and all other ordinances, rules, and regulations of the city, including, but not limited to, this article and the condominium act (MCL 559.101 et seq.).

(Ord. No. 96-5, § 1404, 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-403. Definitions.

In addition to the definitions set forth in section 50-3, the definitions set forth below and in the Michigan condominium act are incorporated herein and made a part hereof.

Attached condominium project means a division of land based upon condominium ownership which provides for multiple attached condominium units on each condominium units on each condominium lot.

Condominium documents means the master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

Condominium lot means the area of land dedicated to the use of a structure that is either a single unattached condominium unit or a structure that contains two or more attached condominium units together with the limited common area dedicated to the respective unit or units.

Condominium structure or building means the principal building or structure constructed upon a lot intended for a single unattached condominium unit two or more attached condominium units.

Condominium subdivision (site condominium) means a method of subdivision where land ownership of sites is regulated by the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), as opposed to the land division act , Public Act No. 288 of 1967 (MCL 560.101 et seq.), condominium subdivision shall be equivalent to the term "subdivision" as used in this chapter and the city subdivision regulations ordinance.

Setback, front, side and rear yard means the distance measured from the respective front, side and rear yard lines associated with the condominium lot.

Unattached condominium project or site condominium project means division of land based upon condominium ownership which provides for a single unattached condominium unit on each condominium lot.

(Ord. No. 96-5, § 1404(1), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-404. General regulations.

The following regulations shall apply to all condominium projects permitted in any zoning district:

(1) *Attached condominium units on a condominium lot.* Attached condominium units will be considered as one structure being constructed on a single lot for the purposes of determining dimensional requirements under this article and shall comply with all applicable regulations of the zoning district in which it is located.

(2) *Unattached single condominium unit on a condominium lot.* An unattached single condominium unit shall be considered as one structure being constructed on a single lot for the purpose of determining dimensional requirements under this article and shall comply with all applicable regulations of the zoning district in which it is located.

(3) *Computation of minimum lot area.* The area within public and private street rights-of-way shall not be included in the computation of minimum lot area.

(4) *One unattached condominium unit per condominium lot.* Not more than one unattached condominium unit shall be located on a condominium lot with any other principal use. This requirement shall be incorporated into the condominium documents.

(5) *Yard requirements.* Yard requirements shall be measured from the boundaries of the condominium lot and shall comply with all applicable regulations of the zoning district in which it is located.

(6) *Utility connections.* Each condominium unit shall be separately connected to all utilities including water, sanitary sewer, electrical, gas, telecommunications, and any other utility.

(7) *Relocation of lot boundaries.* Relocation of condominium lot boundaries, if allowed in the condominium documents as permitted in section 48 of the condominium act, shall comply with all regulations of the zoning district in which they are located and shall be approved by the city planning commission in consultation with the city planner and city engineer. This requirement shall be included as part of the condominium documents.

(8) *Resulting lots.* Each condominium lot which results from a division of another condominium lot as permitted by section 49 of the condominium act shall comply with all regulations of the zoning district within which it is located and shall be approved by the city planning commission in consultation with the city planner and city engineer. This requirement shall be included as a part of the condominium documents.

(9) *Land division requirements.* The condominium project shall comply with the requirements of the land division act (MCL 560.101 et seq.) and the land division regulations and engineering standards of the city as may be amended from time to time. Attached condominium units and an unattached condominium unit may abut and have frontage on a private street provided that the condominium project complies with the requirements of this chapter and other ordinances, rules, and regulations of the city.

(10) *Design standards.* The design standards as approved by the city council for water, sanitary sewer, storm sewer, roads, sidewalks, streets, and other utilities shall apply, subject to such reasonable modifications as may be authorized by the city engineer based upon the location, topography, size, layout, and other site conditions of the proposed condominium project.

(Ord. No. 96-5, § 1404(2), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-405. Specific regulations.

Condominium projects shall be subject to the following regulations:

(1) *Unattached condominiums.* Unattached condominiums, also known as site condominiums, shall be subject to all requirements and standards of the underlying zoning district, including, but not limited to, density, lot size, minimum floor area requirements, regulations governing the distance between buildings and the attachment of buildings, and other requirements as set forth in this article. All information and dimensions shall be depicted on the site plan so that the planning commission in consultation with the city planner and city engineer can determine that all applicable minimum requirements are met. These regulations shall be applied by requiring the condominium unit and a

surrounding limited common element to be equal in area to the minimum lot area and lot width requirements for the district in which the project is located. The site condominium unit shall be equivalent to the area of the lot where a principal building can be constructed and there shall be a limited common element associated with each site condominium unit, which shall be at lease equivalent to the minimum yard area requirements for the district in which the project is located.

(2) *Street requirements in any condominium project.* All streets and sidewalks in a residential condominium project shall conform at a minimum to the standards and specifications as determined by the city for a typical street in a single-family residential subdivision. All streets and sidewalks in nonresidential condominium project shall conform to reasonable requirements for such commercial uses as determined by the city planner and city engineer in light of the proposed land use. The amount of right-of-way to be dedicated as general common element for streets is the same amount required in a subdivision play by the city, but not less than 60 feet.

(3) *Commercial condominiums.* Commercial attached or unattached condominium projects shall be subject to all requirements applicable to the appropriate underlying zoning district which exists for the property on which a commercial site condominium may be proposed, including minimum lot requirements and all other applicable requirements set forth in this article. The regulations shall be applied by requiring the condominium unit and a surrounding limited common element to be equal in area to the minimum lot area and lot width requirements for the district in which the project is located. The commercial condominium project must be appropriate to the underlying zoning for the project site.

(4) *Conversion condominiums.* All conversion condominiums shall be subject to the provisions of this chapter and shall require final site plan approval by the planning commission prior to the occupancy of any converted condominium unit. The site plan shall include all existing conditions and clearly identify all proposed site modifications. The planning commission shall consider the site plan for a condominium as a new site plan and may revise any requirements of previous site plan approvals.

(5) *Location of condominium units.* Unattached single-family residential condominium units shall be located in a single family residential zoning district. Attached single family residential condominium units shall be located in a multiple family residential zoning district. Commercial attached and unattached condominium units shall be located in a commercial zoning district.

(Ord. No. 96-5, § 1404(3), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-406. Preliminary and final review for condominium projects.

(a) Prior to the preparation of a preliminary site plan for a condominium project, the owner or the developer of the proposed project may request a meeting with the planning commission, city council or the city building official and at the direction of the city with the city engineer, city planner or attorney, to discuss the applicant's condominium project. The applicant is encouraged to submit a sketch to scale indicating the general location and configuration of the property to be divided; the alignment of streets and lots, and the relationship of the proposed site condominium to adjacent streets and neighboring properties. The prospective applicant should submit a written narrative that discusses how the project will be served by water and sanitary sewer, storm drainage and other utilities and that includes any additional information that will assist the city in evaluating the condominium project.

(b) Prior to recording the master deed required by the condominium act, the condominium project shall undergo a two-step review and approval process involving preliminary and final review of the site plan and the condominium documents. Prior to the expansion or conversion of a condominium project to include additional land, site plan review and approval shall be required pursuant to the requirements of this article.

(Ord. No. 96-5, § 1404(4), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-407. Additional site plan requirements.

In addition to the requirements of section 50-462, the following information shall be included on or attached to the site plan and submitted to the building official at least 21 days prior to a meeting for preliminary site plan review, concurrently with the notice required to be given to the city pursuant to section 71 of the condominium act (MCL 559.171). The site plan and the condominium documents with exhibits shall be reviewed by the city planner, city engineer and the attorney:

(1) The names, addresses, e-mail addresses and telephone numbers of:

a. All persons with ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest in the land, including, for example, fee owner, optionee, lessee, or purchaser pursuant to a binding purchase agreement land contract vendee.

b. All engineers, attorneys, architects, land surveyors, planners, or landscape architects associated with the condominium project.

c. The developer or proprietor of the condominium project.

(2) The tax identification numbers and legal descriptions of the parcels of property under consideration and a boundary survey and legal description of the assembled parcels, if applicable.

(3) The purpose of the project such as, residential or commercial, unattached or attached site condominiums.

(4) Approximate number of condominium units to be developed on the subject parcel.

(5) A preliminary site plan, drawn to a reasonable scale, which shows the following information.

a. The vehicular circulation system planned for the proposed development, including a designation of each street as to whether it is proposed to be private or dedicated to the public.

b. The location of existing private and public street adjacent to the proposed development with an indication how they will connect with the proposed circulation system for the new development.

c. The type and location of street signs.

d. The proposed layout of the condominium units, utility easements, parking, open space and recreation and park areas.

e. Proposed water and sanitary sewer service.

f. Proposed storm water and drainage system.

g. Proposed utility plans including electricity, gas, and telecommunications.

h. Preliminary indication of the regulation proposed to be included in the condominium documents in the nature of restrictive covenants which regulate the use and maintenance of public areas, accessory structures, payment of assessments, and enforcement of condominium regulations.

i. The applicant shall provide updated information regarding the above topics until the last certificate of occupancy has been issued pursuant to this article.

(6) Plans for the following:

a. Cross sections of roads, drive aisles and paved areas.

b. Site drainage showing topography and flow directions, including retention and detention areas, if any.

(7) Specific locations and dimensions of wetland areas and significant site features such as tree stands, unusual slopes, streams and water drainage areas. If deemed necessary because of site or soil conditions or because of the scope of the project being proposed, a detailed hydrology study may be required, subject to review by the city engineer.

(8) Preliminary approval by the city engineer that sufficient capacity for water service and sanitary sewer service and storm drainage is available in the city to serve the condominium project.

(9) Drafts of the condominium documents including the master deed. Condominium bylaws and condominium subdivision plan as required by the condominium act.

(10) The site condominium site plan shall identify all necessary public easements proposed to be granted to the city for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, or removing public pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including conveyance of sewage, water and storm water run-off across, through and under the property subject to said easements, and excavating and refilling ditches and trenches necessary for the location of such public structures.

(11) All information required to be furnished under the subsection above shall be kept updated until the last certificate of occupancy has been issued as required by this article.

(Ord. No. 96-5, § 1404(5), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-408. Required improvements.

The same required improvements set out in the subdivision regulations ordinance regulating preliminary and final plats shall be applicable to condominium projects, unless otherwise directed by the planning commission.

(Ord. No. 96-5, § 1404(6), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-409. Preliminary approval by the planning commission.

(a) The planning commission shall consider whether to recommend to the city council that the council grant preliminary approval of the site plan and condominium documents for the proposed condominium project. Based upon the standards and requirements set forth in this article and other applicable local, state, and federal rules, regulations and statutes, the planning commission shall recommend and the city council shall do one of the following:

(1) Grant preliminary approval;

(2) Grant preliminary approval subject to conditions; or

(3) Deny the proposed condominium project and site plan.

(b) A denial shall mean that the proposed project and site plan do not meet the requirements of this article. Any denial shall specify the reasons for the denial and those requirements that have not been met.

(c) A preliminary approval shall mean that the condominium project and site plan meet the requirements as set forth in this article and all other ordinances of the city. Subject to any conditions imposed by the planning commission as part of its motion, preliminary approval assures the applicant that the project and site plan will receive final approval if all state and county approvals are obtained, no negative comments are received from any governmental agency or public utility, and all local, state and federal laws have been met.

(Ord. No. 96-5, § 1404(7), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-410. State and county approval.

(a) All site condominium projects shall require the review and approval of the following agencies prior to final site plan approval:

(1) The county road commission or the state department of transportation if any part of the project includes or abuts a county road or a state highway or includes streets or roads that connect with or lie within the right-of-way of such county or state highway.

(2) The county drain commission.

(3) The state department of environmental quality shall approve the extension of the water supply system, with state department of environmental quality reviews of sanitary, water, wetlands and other matters as required.

(b) In addition to the specific required approvals, all site condominiums project site plans shall be submitted, to the extent required by law, to the state department of environmental quality, each of the public utilities serving the site, and any other state agency designated by the planning commission, for informational purposes. The planning commission shall consider any comments made by these agencies prior to the final site plan approval. Names of streets shall comply with the city's designation of street names for the purposes of 911 emergency communication.

(Ord. No. 96-5, § 1404(8), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-411. Final approval.

Final approval shall be granted by the city council upon the receipt and approval of all the following:

(1) A revised, dated site plan incorporating all of the changes, if any, required for preliminary approval or required by any state or local agencies.

(2) Revised condominium documents required by the condominium act or by this article.

(Ord. No. 96-5, § 1404(9), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-412. Master deed, restrictive covenants, "as built" survey, and Mylar copy.

The condominium project developer or proprietor shall furnish the building official and the city engineer with the following:

(1) One copy of the recorded master deed with exhibits and two copies of an "as built" survey.

(2) One copy of the site plan on a Mylar sheet of at least 13 inches by 16 inches with an image not to exceed 10½ inches by 14 inches and on a 3½-inch diskette or on a CD in AutoCAD Release 14 or higher format.

(3) The "as built" survey shall be reviewed by the city engineer for compliance with city ordinances.

(Ord. No. 96-5, § 1404(10), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-413. Fees.

The applicant shall pay and deposit such fees as are required by the city council as set forth by resolution of the city council.

(Ord. No. 96-5, § 1404(11), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-414. Monuments required.

All condominium projects shall be marked with monuments as follows:

(1) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

(2) All monuments used shall be made of solid iron or steel bars at least one-half-inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.

(3) Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project; at all points in the sidelines of streets and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.

(4) If the required location of a monument is an inaccessible place, or where the locating of a monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.

(5) If a point required to be monumented is on a bedrock outcropping, a steel rod at least one-half-inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.

(6) All required monuments shall be placed flush with the ground where practicable.

(7) All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and one-half-inch in diameter, or other approved markers.

(8) The city council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the city clerk cash or certified check, irrevocable bank letter of credit running to the city, whichever the proprietor selects, in an amount approved by the city as sufficient to accomplish said placing of the required monuments and markers. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

(Ord. No. 96-5, § 1404(12), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-415. Temporary occupancy.

The city council, upon recommendation from the planning commission, may allow occupancy of the condominium project before all improvements required by this chapter are installed, provided that a bond or other suitable guarantee is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the city.

(Ord. No. 96-5, § 1404(13), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

Sec. 50-416. Condominium plan revision.

If the condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review by the planning commission before any building permit may be issued.

(Ord. No. 96-5, § 1404(14), 3-5-1996; Ord. No. 2003-1, 10-7-2003)

State law reference(s)—Condominium act, MCL 559.101 et seq.

Secs. 50-417—50-445. Reserved.

ARTICLE XV. GENERAL PROVISIONS

Sec. 50-446. Conflicting regulations.

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

(Ord. No. 96-5, § 1500, 3-5-1996)

Sec. 50-447. Scope.

No building or structure or part thereof shall hereafter be erected, constructed or altered and maintained and no new use or change shall be made or maintained of any building, structure or land or part thereof, except in conformity with the provisions of this article.

(Ord. No. 96-5, § 1501, 3-5-1996)

Sec. 50-448. Nonconforming lots, uses of land, structures and uses of structures and premises.

(a) *Intent.*

(1) It is the intent of this article to permit legal nonconformities to continue until they are removed but not to encourage their survival. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this chapter was passed or amended but which would be prohibited, regulated or restricted under the terms of this article or future amendment. Such uses are declared by this article to be incompatible with permitted uses in the districts involved. It is further the intent of this article that nonconformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district. All nonconforming uses and structures are classified as Class B nonconforming uses or structures unless designated Class A nonconforming uses or structures.

(2) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this article by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance from which this article is derived and upon which actual construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(b) *Class A nonconforming uses or structures.* Those nonconforming uses or structures which have been designated by the planning commission, after hearing, shall be designated Class A providing findings that the following conditions exist with respect to the use or structure:

(1) The use or structure was lawful at its inception.

(2) Continuance of the use or structure does not significantly depress property values of nearby properties.

(3) Continuance of the use or structure would not be contrary to the public health, safety or welfare or the spirit of this article.

(4) No useful purpose would be served by strict application of the provisions of this article with which the use or structure does not conform.

(c) *Class A conditions.* The decision to grant a Class A designation shall be made in writing setting forth the findings and reasons on which it is based. Conditions may be attached, including time limits where deemed necessary to assure the use or structure does not become contrary to the public health, safety, or welfare or the spirit and purpose of this chapter and further to assure that at least the following standards are met.

(1) Screening and landscaping should be provided in keeping with community standards to provide compatibility with adjacent uses.

(2) Effects which may have a negative impact such as lighting, noise or visual impact should be minimized.

(3) Where such use is in close proximity to homes, parking should not be permitted to utilize curb-side parking to an extent greater than the immediate property frontage of the nonconforming use.

(4) New signage should meet zoning district requirements. Existing nonconforming signs may be required to be eliminated or reduced in size and number as the commission may, in its judgment, determine.

(5) The exterior building materials utilized in any alteration to the building shall be harmonious with materials on abutting properties whenever practical.

(6) Enlargement of a building may be allowed provided such enlargement does not create a more nonconforming yard setback condition which would impact on conforming properties in the immediate vicinity.

(7) The commission may require such other safeguards and improvements as it may deem necessary to protect conforming uses in the surrounding area.

a. Once the planning commission has conducted a hearing and designated a nonconforming use or structure to the person, firm or partnership requesting the designation, said Class A designation, said Class A designation shall be deemed temporary until the planning commission has received

written verification from the building inspector that the party requesting the Class A designation has complied with all of the conditions set forth by the planning commission.

b. Once the planning commission has received written verification from the building inspector, that the party requesting the Class A designation has complied with said conditions, the Class A designation shall become final, subject to other provisions of this article as hereinafter prescribed.

c. No Class A nonconforming use or structure shall be resumed if it has been discontinued for six consecutive months or 18 months in any three-year period. No Class A nonconforming use or structure shall be used, altered or enlarged in violation of any condition imposed in its designation.

d. No temporary Class A nonconforming use or structure which has not met with all the conditions set forth by the planning commission within six months from the date of the nonconforming use or structure received a temporary Class A designation shall receive final approval unless a request for extension of time in which to fulfill all of the conditions set forth by the planning commission is submitted in writing to the planning commission along with sufficient reasons as to why the temporary Class A designation should be extended.

e. Upon a showing of good cause, the planning commission may extend the temporary Class A designation for the nonconforming use or structure for another six months.

(d) *Class B nonconforming uses or structures.* All nonconforming uses or structures, not designated Class A, shall be Class B nonconforming uses or structures. Class B nonconforming uses and structures shall comply with all the provisions of this chapter relative to nonconforming uses and structures.

(e) *Nonconforming lots.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this article, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance from which this article is derived. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance to yard requirements shall be obtained through approval of the board of appeals.

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

(1) No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this article is derived.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance from which this article is derived.

(3) If such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this article for the district in which such land is located.

(g) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of the ordinance from which this article is derived that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its

location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way which increases its nonconformity.

(2) Should such structure be destroyed by any means to an extent of more than 60 percent of its reasonable value exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this article.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(h) *Nonconforming uses of structures and land.* If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that would not be allowed in the district under the terms of this article, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this article in the district in which it is located shall be enlarged, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this article, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the board of appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the purposes and intent of this article.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(5) When a nonconforming use of structure, or structure and premises in combination, is discontinued or ceases to exist for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures, or structures and premises in combination, occupied by seasonal uses which are discontinued or cease to exist for 12 consecutive months and shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(i) *Repairs and maintenance.* On any building devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on replacements of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this article shall not be increased. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(j) *Uses subject to special conditions not nonconforming uses.* Any use for which a general exception or special approval is permitted as provided in this article shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such district.

(k) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures, and premises, provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this article.

(Ord. No. 96-5, § 1502, 3-5-1996; Ord. No. 2001-3, 7-5-2001)

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

Sec. 50-449. Accessory buildings structures and uses.

Accessory building structures and uses, except as otherwise permitted in this article, shall be subject to the following regulations:

(1) Where an accessory garage or building is structurally attached to a main building, it shall be subject to and must conform to all yard regulations of this article applicable to main buildings.

(2) In residential districts, detached accessory buildings shall not be erected in any required yard, except a rear yard.

(3) a. In no instance shall any one accessory building exceed the ground floor area of the main building.

b. On parcels of 7,200 square feet or less, up to a total of two accessory buildings may be permitted, the total of which shall not exceed 720 square feet of floor space.

c. On parcels of 7,201 square feet or more, up to a total of two accessory buildings may be permitted, the total of which shall not exceed 2,000 square feet of floor space.

(4) No detached accessory building shall be located closer than ten feet to any main building, nor shall it be located closer than three feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall be no closer than one foot to such a rear lot line. In no instance shall an accessory structure be located within a dedicated easement right-of-way.

(5) No detached accessory building in any residential district shall exceed one story or 14 feet in height. Such accessory building shall be constructed of exterior building materials compatible with the character of the neighborhood. A review by the planning commission of building material compatibility may be requested by the building inspector. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in such districts.

(6) When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, such building shall not project beyond the front yard line required on the lot to its rear, such building shall not project beyond the front yard line required on the lot in the rear of such corner lot. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, such buildings shall not project beyond the side yard line of the lot in the rear of such corner lot.

(7) The parking/storage of boats and recreational equipment is prohibited with the following exceptions:

a. The outdoor parking and/or storage of not more than the aggregate of three boats and/or items or recreational equipment for lots 7,800 square feet or more and two boats and/or items or recreational equipment for lots less than 7,800 square feet, currently registered and licensed to the owner or occupant shall be permitted subject to the following conditions:

1. Parking and/or storage within the confines of the rear yard, the side yard or in the case of a corner lot, the front yard that is not parallel to the residential address of the property shall be subject to the following limitations:

i. The unit shall be parked or stored no closer than three feet from any window or door of any residential building.

ii. The unit shall be parked or stored no closer than seven feet from the front lot line.

iii. All units will be kept in proper repair and not allowed to be unsightly or unkempt.

iv. Approved surfaces for side yard parking include asphalt; asphalt millings; concrete; and gravel; provided that a gravel parking area has a weed barrier and is properly retained.

v. Existing gravel surfaces may be used provided they are well-maintained.

2. Driveway parking of boats and recreational equipment is permitted year-round subject to the following limitations:

i. No more than one unit shall be permitted to be parked or stored upon any established driveway at one time. A boat mounted on a trailer is considered one unit.

ii. The unit shall be parked or stored no closer than seven feet from the front lot line.

3. On waterfront lots, boats may be parked and/or stored on the waterside.

4. Recreational boats, belonging to the owner of a lot, moored within navigable waterways adjacent to the lot shall not be counted toward the boat and/or recreational equipment parking and/or storage limit total.

5. Recreational motor homes and campers may be parked or stored on a public street for a period not to exceed 48 hours, or on an established driveway for a period not to exceed 72 hours for purposes of loading, unloading, trip preparation, and routine maintenance and repair.

b. The parking and/or storage of boats and/or recreational equipment is prohibited on vacant lots or any public streets; rights-of-way; sidewalks; and planting areas between sidewalk and curb lines, except if the owner of an occupied home also is the owner of an adjacent vacant lot, then said vacant lot may be considered a side yard, and the occupants of such residence may park or store up to two boats and/or recreational equipment.

c. Boats and/or recreational equipment parked or stored shall not be connected to sanitary facilities and shall not be occupied. Electrical hook-ups may only be provided for the purpose of maintaining charged batteries.

d. Any boat or recreational equipment that serves as a collection point for pools or ponds of water; a breeding ground for mosquitoes or other insects; or a breeding ground for rats, rodents, vermin or other pests while stored or parked is hereby declared a nuisance.

e. Any wrecked; damaged; inoperable; disassembled; or disabled boat or recreational equipment stored or parked in zoning districts other than those zoned for commercial repair is prohibited, unless it is within the confines of any enclosed garage or accessory structure.

f. The use of any recreational equipment or boat for the storage of materials, goods, or equipment other than those items considered to be a part of the unit or essential to its immediate use in any zoning district is prohibited.

g. At no time shall any unmounted camper enclosure or any boat not mounted on a boat trailer be permitted to be parked or stored unless it is within the confines of any enclosed garage or accessory structure.

h. For purposes of this section, distance limitations shall be measured from any part of the unit closest from a direct line to the location from which it must be set back; including the body of the unit, the tongue of the unit, and any other protrusion of or from the unit. Length limitations shall include the body of the unit; the tongue of the unit; fender; wheel; and/or any other protrusion of or from the unit.

(Ord. No. 96-5, § 1503, 3-5-1996; Ord. No. 98-2, 3-3-1998; Ord. No. 2000-05, 8-15-2000; Ord. No. 2001-01, 5-15-2001; Ord. No. 2002-02, 2-19-2002; Ord. No. 2016-02, § 1, 6-18-2003; Ord. No. 2010-01, 2-2-2010; Ord. No. 2013-02, 6-18-2013; Ord. No. 2021-01 , § 1, 2-16-2021; Ord. No. 2021-05 , § 1, 12-21-2021)

Sec. 50-450. Parking requirements.

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

(1) Off-street parking for other than residential use shall be either on the same lot or within 300 of the building it is intended to serve, measured from the nearest point of the off-street parking lot. Ownership of all lots or parcels intended for use as parking by the applicant shall be shown.

(2) Residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve and subject to the provisions of section 50-451.

(3) Any area once designated as required off street parking shall not be changed to any other use, unless and until facilities are provided elsewhere.

(4) Off-street parking existing at the effective date of the ordinance from which this article is derived in conjunction with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.

(5) Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

(6) In the instance of dual function of off-street parking spaces where the operating hours of buildings do not overlap, the planning commission may grant an exception.

(7) The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited.

(8) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which is similar in type.

(9) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall require one parking space.

(10) For the purpose of computing the number of parking spaces required, the definition of usable floor area in this chapter shall govern.

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

MINIMUM NUMBER OF PARKING SPACES

Uses				Spaces Per Unit of Measure
a.	*Residential*			
	(1)	Housing for the elderly		One space for each two units; should units revert to general occupancy, then two spaces per unit.
	(2)	Residential, one-family and two-family		Two for each dwelling unit.
	(3)	Residential, multi-family		Two for each dwelling unit.
	(4)	Mobile home park		Two for each mobile home site, one for every three mobile home sites for visitors and one for each employee of the mobile home court.
	(5)	Residential, multiple-family high rise (five or more stories)		1.75 for each dwelling unit, or 1.5 for each dwelling unit, provided that 0.25 space per unit is indicated as potential future parking, to be initially developed as landscape open space. The site plan shall show how the parking lot could be expanded to add the 0.25 space per dwelling unit if ever found necessary.
	(6)	Bed and breakfast		Two for each dwelling unit, plus one for each leasable bedroom.
	(7)	Child and adult care facilities		
		(a)	Family child care homes for up to six adults	Two for each dwelling unit plus one off street parking space for each care giver.
		(b)	Group child care home for up to 12 adults	Two for each dwelling unit plus one off-street space for each caregiver.
		(c)	Group child care home for children	Two for each dwelling unit plus one off-street parking space for each care giver
		(d)	Dependent child care center	One off-street parking space for each care giver plus one space for each ten children in the facility.
		(e)	Dependent day care center for adults	One off-street parking space for each care giver plus one space for each 20 adults in the facility.
b.	*Institutional*			
	(1)	Churches or temples		One for each three seats or six feet of pews in the main unit of worship.
	(2)	Hospitals		One for each one bed.
	(3)	Homes for the aged, convalescent homes		One for each two employees plus one for each four persons in residence.

	(4)	Elementary and junior high schools	One for each one teacher, employee or administrator in addition to the requirements of the auditorium.
	(5)	Foster care facilities	One for each two residents plus one for each employee.
	(6)	High school	One for each one teacher, employee or administrator and one for each ten students in addition to the requirements of the auditorium.
	(7)	Private clubs or lodges	One for each 45 square feet of usable floor space.
	(8)	Stadium and sports arena or similar outdoor place of assembly	One for each four seats or eight feet benches.
	(9)	Theaters and auditoriums	One for each three seats plus one for each two employees.
	(10)	Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	One for each two-member families or individuals plus spaces required for each one accessory use such as a restaurant or bar.
	(11)	Golf courses, open to the general public, except miniature or "par 3" courses	Six for each one golf hole and one for each employee, plus spaces required for each accessory use such as a restaurant or bar.
c.	*Business*		
	(1)	Automobile repair	Two for each service stall plus one for each employee.
	(2)	Auto wash	One for each one employee. In addition, reservoir parking spaces equal in number to five times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each car wash line by 20.
	(3)	Auto wash (self-service or coin operated)	Three for each washing stall in addition to the stall itself.
	(4)	Athletic clubs, exercise establishments, health studios studios, sauna baths, judo clubs and other similar uses	One parking space for each three persons allowed within the maximum occupancy load as established by local, county or state fire, single state construction or health codes plus one space per employee.
		In those instances where memberships are provided for, not less than one space per each five memberships shall be provided plus one space per employee or one	

		space for each two clothing lockers plus one space per employee, whichever is the larger.	
	(5)	Amusement arcade	One for each one game table and one for each amusement device
	(6)	Beauty parlor or barbershop	Two spaces for each of the first two beauty or barber chairs, and 1½ spaces for each additional chair.
	(7)	Bowling alleys	Five for each one bowling lane plus spaces required for accessory uses such as a bar or restaurant.
	(8)	Dancehalls, pool or billiard parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed seats	One for each three persons allowed within the maximum occupancy load as established by local, county or state fire, single state construction or health codes or one space for each 200 square feet of gross floor area, whichever is greater.
	(9)	Commercial outdoor recreation facilities	Four for each batting cage, archery ranges or similar activity.
	(10)	Drive-in restaurant	One for each employee and one for each 25 square feet of usable floor area.
	(11)	Drive through	One for each employee and five stack-up spaces for each drive through window or station.
	(12)	Carry-out (with no eating on premises)	One for each employee and one for each 60 square feet of usable floor area with a minimum of four spaces.
	(13)	Establishments for sale and consumption, on the premises, of beverages, food or refreshment	One for each 75 square feet of usable floor area or one for each two persons allowed within the maximum occupancy load as established by local, county or state fire, single state construction or health codes, whichever is the greater
	(14)	Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair, and other similar uses.	One for each 800 square feet of usable floor area used in processing, one additional space shall be provided for each two persons employed therein.
	(15)	Gasoline service stations (full-service)	Two for each lubrication stall, rack or pit; and one for each service vehicle used by the service station, in addition to space provided at each fuel pump dispenser. Gasoline service stations providing car wash facilities, sale of food, beverages and other products shall provide

			additional off-street parking spaces based on the requirements for such uses.
	(16)	Gasoline filing stations (service station)	One parking space for each 50 square feet of floor area in the cashier and office areas in addition to space provided at each fuel dispenser. In no instance shall such facility provide fewer than three spaces for cashier's office use. Gasoline service stations providing car wash facilities, sale of food, beverages and other products shall provide additional off-street parking spaces upon the requirements for such uses.
	(17)	Laundromats and coin operated dry cleaners	One for each two washing and/or dry-cleaning machines.
	(18)	Miniature or "par 3" courses	Three for each one hole plus one for each one employee.
	(19)	Gold driving range	Two spaces for each driving tee plus three spaces for employees.
	(20)	Mortuary establishments	One for each 50 square feet of assembly room usable floor area.
	(21)	Motel, hotel or other commercial loading establishments	One for each one occupancy unit plus one for each one employee plus spaces as required for accessory uses such as a bar, restaurant, meeting rooms, etc.
	(22)	Motor vehicle sales and service establishments	One for each 200 square feet of usable floor area of sales room and one for each one auto service stall in the service room.
	(23)	Retail stores except as otherwise specified herein	One for each 150 square feet of usable floor space.
	(24)	Open front stores such as, but not limited to: dairy bars and fruit and vegetable stands	Six parking spaces plus one space per employee.
	(25)	Tennis club, paddle-ball club, racquetball club and other such similar uses	Four spaces per court, plus additional spaces as may be required herein for affiliated uses such as restaurants, plus one space per employee.
d.	*Office*		
	(1)	Banks	One for each 100 square feet of usable floor area.
	(2)	Banks (drive-through)	One for each employee. In addition, reservoir waiting spaces at each service window or station shall be

			provided at the rate of five for each service window or station. Each waiting space shall measure not less than 20 feet in length.
	(3)	Business offices or professional offices, except as indicated in the following item	One for each 300 square feet of usable floor area.
	(4)	Professional offices of doctors dentists	One for each 50 square feet of usable floor area in waiting room, and one for each examining room, dental chair, laboratory, reception office or similar use area to be occupied by patients. There is an additional parking space required for each employee.
e.	*Industrial*		
	(1)	Industrial or research establishments and related accessory offices	Five plus one for every 1½ employees in the largest working shift or one for each 450 square feet of usable floor area in those instances where shift size is not known. Space on the site shall also be provided for all construction workers during period of plant construction.
	(2)	Warehouses and wholesale establishments and related accessory offices	Five plus one for every one employee in the largest working shift, or five plus one for every 1,700 square feet of usable floor space, whichever is the greater.
f.	*Parking for disabled (all districts)*		
	Shall comply with the provisions of the American's with Disabilities Act (ADA) and shall comply with the Michigan Barrier Free Design Law. The number and layout of spaces required shall comply with ADA accessibility guideline including the following:		

	Accessible Parking Spaces* (Required Minimum)	**Accessible Spaces**
	1 to 25	1
	26 to 50	2
	51 to 75	3
	76 to 100	4
	101 to 150	5
	151 to 200	6
	201 to 300	7
	301 to 400	8
	401 to 500	9
	501 to 1,000	2**
	1,001 to over	20***

* Accessible spaces are required to be eight feet wide, with an adjacent access aisle five feet wide. One in every eight accessible spaces shall have an access aisle eight feet eight inches wide (rather than five feet) and shall be signed "van accessible."

** Percent of total.

*** Plus one space for each 100 over 1,000.

(Ord. No. 96-5, § 1504, 3-5-1996)

Sec. 50-451. Off-street parking space layout, standards, construction and maintenance.

Wherever the off-street parking requirements in section 50-450 require the building of an off-street parking facility or where P parking districts are provided, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following standards and regulations:

(1) No parking lot shall be constructed unless and until a permit therefor is issued by the building inspector. Application for a permit shall be submitted to the building department in such form as may be determined by the building inspector and shall be accompanied with two sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

(2) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Patterns (degrees)	Parking Space Maneuvering Lane Width (feet)	Parking Space Width (feet)	Length (feet)	Total Width of One Tier of Spaces Plus Maneuvering Lane (feet)	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)
0 (parallel parking)	12	8½	23	20	28
30 to 53	12	8½	20	32	52
54 to 74	15	8½	20	36½	58
75 to 90	20	9½	20	40	60

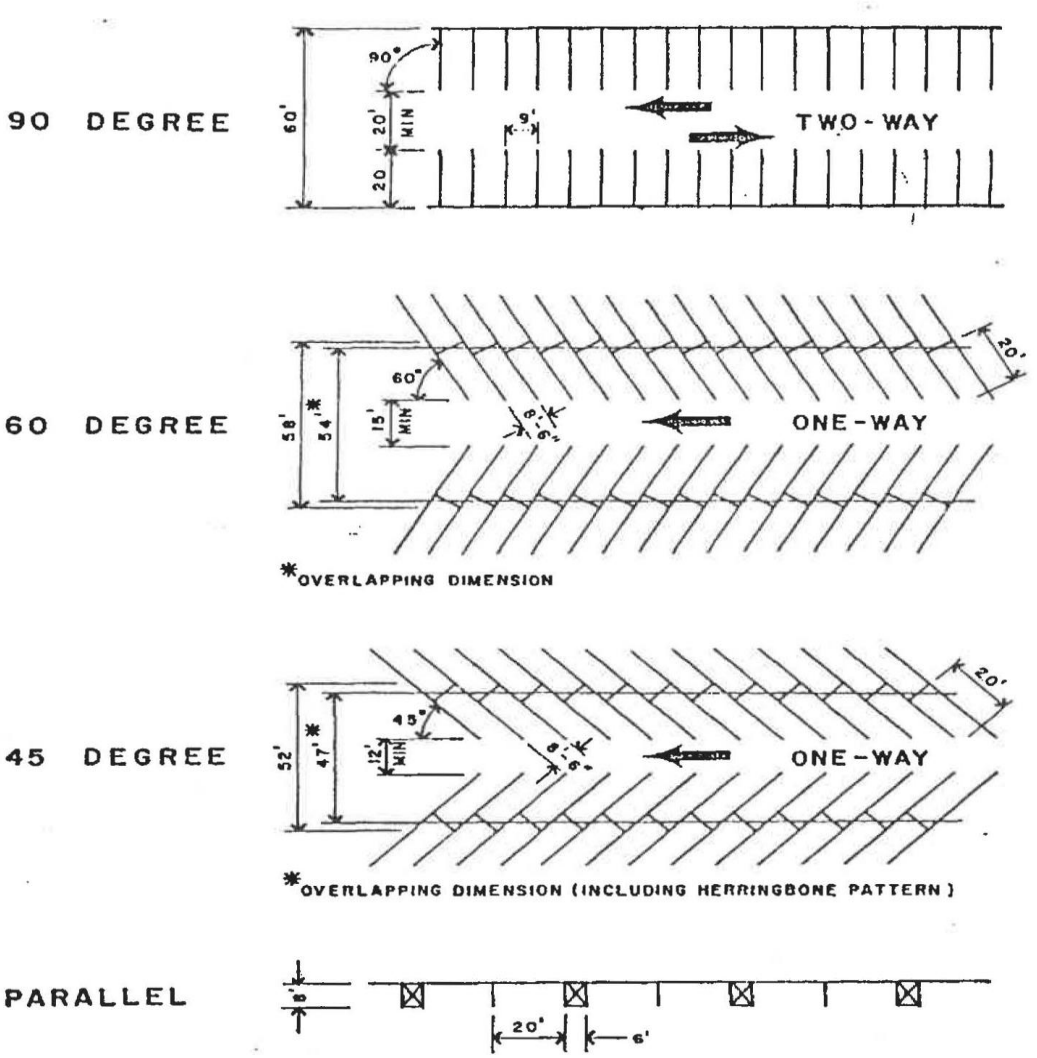
(3) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly into a street shall be prohibited.

(4) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

(5) All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit two-way movement.

(6) Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet distant from any adjacent property located in any single-family residential district.

PARKING LAYOUTS



(7) The off-street parking area shall be provided with a continuous and obscuring masonry wall not less than four feet six inches in height measured from the surface of the parking area. This wall shall be provided on all sides where the next zoning district is designated as a residential district and shall be subject further to the requirements of section 50-458. When a front yard setback is required, all land between the wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees in accord with requirements of section 50-455. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

(8) The entire parking area for new buildings and structures, including additions to existing buildings and structures, including parking spaces and maneuvering lanes, required under this section shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the city engineer. The parking area shall be surfaced within one year of the date the permit is issued. Off-street

parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.

(9) Asphalt, asphalt millings, concrete, or gravel, provided that gravel parking area has a weed barrier and is properly retained, are all acceptable parking surfaces for new or replacement front and side yard parking surfaces for existing residential homes.

(10) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.

(11) In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the [w]all not more than ten feet from such alley line in order to permit a wider means of access to the parking area.

(12) The planning commission, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this section (see illustration).

(Ord. No. 96-5, § 1505, 3-5-1996; Ord. No. 2022-01 , § 1, 2-15-2022)

Sec. 50-452. Off-street loading and unloading.

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

(1) All spaces in MB, CBD and GB districts shall be provided in the ratio required in article XIV of this chapter under "minimum yard setbacks."

(2) All spaces shall be paid out in the dimension of at least ten feet by 50 feet or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent durable and dustless surface. All spaces in I districts shall be provided in the following ratio of spaces to usable floor area.

Gross Floor Area (in square feet)	Loading and Unloading Spaces Required in Terms of Square Feet of Usable Floor Area
0—1,400	None
1,401—20,000	One space
20,001—100,000	One space plus one space for each 20,000 square feet in excess of 20, 001 square feet
100,001—500,000	Five spaces plus one space for each 40,000 square feet in excess of 100,001 square feet

(Ord. No. 96-5, § 1506, 3-5-1996)

Sec. 50-453. Uses not otherwise included within a specific use district.

Because the uses hereinafter referred to possess unique characteristics making it impractical to include them in a specific use district classification, they shall be permitted by the board of appeals in the I District, under the

conditions specified and after public hearing in accordance with section 50-543. In every case, the uses hereinafter referred to shall be specifically prohibited for R-1, R-2, R-3, RM-1 or RM-2 districts. These uses require special consideration since they service an area larger that the city and require sizable land areas, creating problems of control with reference to abutting use districts. Reference to those uses falling specifically within the intent of this section is as follows:

(1) *Outdoor theaters.* Because outdoor theaters possess the unique characteristic of being used only after darkness and since they develop a concentration of vehicular traffic in terms of ingress and egress from their parking area, they shall be permitted in the I District. Outdoor theaters shall further be subject to the following conditions:

a. The proposed internal design shall receive approval from the building inspector and the city engineer as to adequacy of drainage, lighting and other technical aspects.

b. Points of ingress and egress shall be available to the outdoor theater from abutting major thoroughfares and shall not be available from any residential street.

c. All vehicles waiting or standing to enter the facility shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.

d. The area shall be laid out so as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares. All lighting used to illuminate the area shall be installed so as to be confined within and directed onto the premises of the outdoor theater site.

(2) *Commercial television and radio towers and public utility microwaves and public utility television transmitting towers.* Radio and television towers, public utility microwaves and public utility television transmitting towers and their attendant facilities shall be permitted in the I District, provided said use shall be located centrally on a continuous parcel of not less than one times the height of the tower measured from the base of said tower to all points of each property line. The site shall in no instance be used for the storage of vehicles or any material not required for the principal use. Outdoor storage of any kind shall be expressly prohibited.

(3) *Towers and antennas.* Towers and antennas for cellular telephone transmission may be permitted in industrial and marina business district and on municipally owned properties subject to the following conditions:

a. Cellular towers and antennas shall not exceed 150 feet in height measured from the grade at the base of the tower.

b. The base of the tower shall have a minimum setback of not less than the height of the tower from any property line.

c. If located on the same zoning lot with another permitted use, such tower and any other structures connected therewith shall not be located in a front yard or side yard abutting a street.

d. Cellular telephone antennas and supporting structures shall be permitted to be placed on the roofs of buildings subject to the following conditions:

1. The principal use is a conforming use and the building is a conforming structure.

2. The antenna shall not exceed the height of its supporting structure by more than 12 feet.

3. The top of the supporting structure may exceed the maximum height of the district in which it is located by not more than ten feet.

4. The supporting structure shall be set back from the outermost vertical wall or parapet of the building on which it is placed a distance equal to at least two times the height of such structure.

e. The planning commission may permit such use after finding that the criteria for approving special land uses are met as well as the following:

1. The petitioner demonstrated that operating requirements necessitate locating within the city and within the district, and that location on existing towers or buildings in districts where such facilities are permitted are not available.

2. That, in the opinion of the planning commission, nearby residential areas will not be negatively influenced by the location of the tower.

3. That the height of the tower and antenna not exceed 150 feet.

f. Any cellular tower and antenna that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such tower or antenna shall remove same within 90 days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. No. 96-5, § 1507, 3-5-1996)

Sec. 50-454. Performance standards.

No use otherwise allowed shall be permitted within any district which does not conform to the following standards of use, occupancy and operation, which standards are hereby established as the minimum requirements to be maintained within such area:

(1) *Smoke.* It shall be unlawful for any person, firm or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 2 on the Ringlemann Chart; provided that the following exceptions shall be permitted:

a. Smoke, the shade or appearance of which is equal to, but not darker than, No. 3 on the Ringlemann Chart for a period or periods aggregating four minutes in any 30 minutes.

b. Smoke, the shade or appearance of which is equal to, but not darker than No. 3 on the Ringlemann Chart for a period or periods aggregating three minutes in any 15 minutes, when building a new fire or when breakdown or equipment occurs such as to make it evident that the emission was not reasonably preventable.

Method of measurement: for the purpose of grading the density of smoke, the Ringlemann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the umbrascope readings of smoke densities may be used when correlated with the Ringlemann Chart.

(2) *Dust, fire and fly ash.*

a. No person, firm or corporation shall operate or cause to be operated, maintain or cause to be maintained any process for any purpose or furnace or combination device for the burning of coal or other natural or synthetic fuels without maintaining and operating while using such process or furnace or combustion device any recognized and approved equipment, means, method, device or contrivance to reduce the quantity of gasborne or airborne solids or fumes emitted into the open air, which is operated in conjunction with such process, furnace, or combustion device so that the quantity of gasborne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

b. Methods of measurement: For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50 percent at full load. The foregoing requirement shall be measured by the ASME test code for dust-separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The building inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.

(3) *Open storage.* The open storage of any industrial equipment, vehicles and all materials including wastes shall be screened from public view, from a public street and from adjoining properties by an enclosure consisting of a wall not less than the height of the equipment, vehicles and all materials to be stored. Whenever such open storage is adjacent to a residential zone in either a front, side or rear lot line relationship, whether immediately abutting or across a right-of-way from such zone, there shall be provided an obscuring masonry wall or wood fence of at least six feet in height.

(4) *Glare and radioactive material.* Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes and machine operation shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

(5) *Fire and explosive hazards.*

a. In the I District, the storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the fire marshal, is permitted, subject to compliance with all other performance standards above mentioned.

b. The storage, utilization or manufacture of materials, goods or products ranging from free active burning to intense burning, as determined by the fire marshal, is permitted, subject to compliance with all other yard requirements and performance standards previously mentioned and providing that the following conditions are met:

1. Such materials or products shall be stored, utilized or produced within completely enclosed buildings or structures, having incombustible exterior walls which meet the requirements of the single state construction code.

2. All such buildings or structures shall be set back at least 40 feet from lot lines, or in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.

3. The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the state rules and regulations as established by Public Act No. 207 of 1941 (MCL 29.1 et seq.).

(6) *Noise.* Objectionable sounds, including those of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

(7) *Odors.* Creation of offensive odors shall be prohibited.

(8) *Wastes.*

a. No waste shall be discharged into the public sewer system which is dangerous to the public health and safety. The following standards shall apply at the point wastes are discharged into the public sewer.

b. Acidity or alkalinity shall be neutralized within an average pH range of between 5.5 to 7.5 as a daily average on the volumetric bases, with a temporary variation of pH 4.50 to 10.0.

c. Wastes shall contain no cyanide. Wastes shall contain no chlorinated solvents in excess of 0.1 ppm; no fluorides shall be in excess of ten ppm and shall contain no more than five ppm of hydrogen sulphide and shall contain not more than ten ppm of sulphur dioxide and nitrates, and shall contain not more than 25 ppm of chromates.

d. Wastes shall not contain any insoluble substance in excess of 10,000 ppm or exceed a daily average of 500 ppm or fail to pass a number eight standard sieve or have a dimension greater than one-half inch.

e. Wastes shall not have chlorine demand greater than 15 ppm.

f. Wastes shall not contain phenols in excess of 0.05 ppm.

g. Wastes shall not contain any grease or oil or any oily substance in excess of 100 ppm or exceed a daily average of 25 ppm.

(Ord. No. 96-5, § 1508, 3-5-1996)

Sec. 50-455. Plant materials and landscaping requirements.

Whenever in this article a greenbelt or planting is required, it shall be planted to completion within three months, and no later than November 30, from the date of issuance of a certificate of occupancy if said certificate is issued during April 1 to September 30 period; if the certificate issued during the October 1 to March 30 period, the planting shall be completed no later than the ensuing May 31; plantings shall thereafter be reasonable maintained, including permanence and health of plant materials to provide a screen to abutting properties and including the absence of weeds and refuse. Spacing, as required by this section, shall be provided in any greenbelt planting.

(1) *Site plan required.* Whenever a greenbelt or planting screen is required under the provisions of this chapter, a site planting of the parcel to be developed, together with a detailed planting plan of said greenbelt, shall be submitted to the planning commission for approval prior to the issuance of a building permit. The site plan shall indicate, to scale, the proposed location and height of buildings and other structures, the location of public walks, roadways and utilities, and the proposed location of off-street parking, loading, service, and outside storage areas and points of ingress/egress to the site. The planting plan shall indicate, to scale, the location, spacing, starting size, and description for each unit of plant material proposed for use within the required greenbelt area, together with the finished grade elevations proposed therein.

(2) *Plant material spacing and size.*

a. Plant material shall not be located within four feet of the property line.

b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.

c. Evergreen trees shall not be less than six feet in height. When planted informally, they shall be spaced not more than 20 feet on centers. When planted in rows, they shall be placed not more than 12 feet on centers.

d. Narrow evergreen trees shall not be less than five feet in height. When planted informally, they shall be spaced not more than ten feet on centers. When planted in rows, they shall be spaced not more than 12 feet on centers.

e. Large shrubs shall not be less than 30 inches in height. When planted informally, they shall be spaced not more than six feet on centers. When planted in rows, they shall not be more than four feet on centers.

f. Small shrubs shall not be less than 30 inches in spread. They shall be planted not more than four feet on centers.

g. Large deciduous trees shall not be less than two inches in caliper. When placed informally, they shall be planted not more than 30 feet on centers.

h. Small deciduous trees shall not be less than 1½ inches in caliper. When planted informally, they shall be spaced not more than 15 feet on centers.

(3) *Spacing requirements.* A mixture of plant materials (evergreen and deciduous trees and shrubs) is required in all landscape plans as a protective measure against disease and insect infestation. Plant materials used together informally shall meet the following on-center minimum spacing requirements:

MINIMUM DISTANCE BETWEEN PLANT MATERIALS

Plant Material Types	Evergreen Trees	Narrow Evergreen Trees	Large Deciduous Trees	Small Deciduous Trees	Large Shrubs	Small Shrubs
Evergreen trees	Min. 10'	Min. 12'	Min. 20'	Min. 12'	Min. 6'	Min. 5'
Narrow evergreen trees	Min. 12'	Min. 5'	Min. 15'	Min. 10'	Min. 5'	Min. 4'
Large deciduous trees	Min. 20'	Min 15'	Min. 20'	Min. 15'	Min. 5'	Min. 3'
Small deciduous trees	Min. 12'	Min. 10'	Min. 15'	Min. 8'	Min 6'	Min. 3'
Large shrubs	Min. 6'	Min. 5'	Min. 5'	Min. 6'	Min. 4'	Min. 5'
					Max. 6'	
Small shrubs	Min. 5'	Min. 4'	Min. 3'	Min. 3'	Min. 5'	Min. 3'

(4) *Parking lot landscaping and screening.*

a. Parking lots which are visible from a public right-of-way (excluding a public alley) shall have the following landscaping between the parking lot and the right-of-way:

1. A landscape strip at least ten feet in width or wider as may be required in article XIV of this chapter.

2. One tree for every 40 feet or fraction thereof of street frontage of the parking lot.

b. Parking lots of greater than 5,000 square feet in area shall meet the following landscaping requirements for the interior of the parking lot:

1. Within the interior of the parking lot there shall be one square foot of landscaped area for each 15 square feet of the parking lot. In computing the lot area for this subsection, the area 20 feet from the required perimeter landscaping may be excluded.

2. Each interior landscaped area shall have at least 150 square feet.

3. The landscaped areas shall be located in a manner that breaks up the expanse of paving throughout the parking lot.

(5) *Trash receptacle landscaping and screening.* Trash receptacles shall be screened from public view as follows:

a. In all nonresidential districts, trash receptacles shall be located at the rear of buildings and shall be screened with a constructed enclosure, earth berm or landscaping. In those instances where trash receptacles cannot be located in the rear of the buildings, location that is obscured from any abutting residential district and from public streets may be allowed by the planning commission.

b. In residential districts, trash receptacles shall be located and screened with a constricted enclosure, earth berm or landscaping to effectively obscure the receptacle from abutting properties or public streets (also see section 50-449(13)).

SUGGESTED PLANT MATERIALS

Evergreen trees			
Pine		Douglas-Fir	Fir
Hemlock		Spruce	
Narrow evergreens			
Red cedar		Arborvitae	Junipers
Large deciduous trees			
Oaks		Ginkgo (male)	Birch
Linden		Hard maples	Beech
Honeylocust (seedless and thornless)		Ash (seedless)	
Small deciduous trees			
Hornbeam		Hawthorn	Magnolia
Mountain Ash		Redbud	Flowering dogwood
Flowering crabs (disease resistant varities)			
Large shrubs			
Deciduous:	Honeysuckle	Lilac	Forsythia
	Border privet	Buckthorn	Sumac
	Pyracantha	Barberry	Flowering quince
	Sargent crabapple	Dogwood (red osier, grey)	Cotoneaster (Peking, spreading)
Evergreen:	Irish yew	Hicks yew	Mungo pine
	Pfitzer juniper	Savin juniper	

Small shrubs			
Deciduous:	Regal privet	Fragrant sumac	Japanese quince
	Potentilla	Compact burning bush	Cotoneaster (cranberry, rockspray)
Evergreen:	Dwarf mugo pine	Big leaf winter creeper arborvite	
	Low spreading junipers (Andorra, Hughes, tamarack, etc.)		
	Speading yews (dense, Brown's, Ward's, etc.)		

TREES NOT SUGGESTED

Box elder	Willows	Soft maples (red, silver)	
Poplars	Horse chestnut (nut bearing)	Tree of heaven	
Elms	Catalpa	Russian olive	

(Ord. No. 96-5, § 1509, 3-5-1996)

Sec. 50-456. Signs.

The primary function of signage, as it relates to this article, is to identify a particular use of a parcel of property. It is not the intent of this article, to have the open spaces and lines of vision created by public rights-of-way be used for unrestricted advertising through the use of signage. Signs will be allowed in such a manner as to provide those similar uses in similar zones the opportunity for identification exposure regardless of parcel size, although the location and size of buildings will influence the amount of signage permitted. This consistent approach is necessary to remove the need for the types of signs which compete for attention of the motorist, thereby creating traffic hazards as well as creating visual blight within the city. It is, therefore, within the health, safety and welfare responsibility of the city that this section is promulgated.

(1) *Sign definitions.* The following definitions are related to signs:

Erect means to build, construct, attach, hang, place, suspend, affix or paint.

Sign means any announcement, declaration, display, billboard, illustration and insignia when designed and placed so as to attract general public attention. The term "sign" shall include any banner, bulbs or other lighting devices, streamer, pennant, inflated or deflated membrane device, propeller, flag (other than the official flag of any nation or state) and any similar device of any type or kind whether bearing lettering or not.

1. *Decorative display* means a decorative, temporary display designed for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising content.
2. *Freestanding sign* means a sign, other than a ground sign or portable sign, which is not attached to a building and is capable of being moved from one location to another on the site on which it is located.

3. *Ground sign* means a permanent display sign supported by one or more columns, uprights or braces or mounted directly in and upon the ground surface and having a height not in excess of six feet.

4. *Marquee sign* means a sign or attached to a permanent overhanging shelter that projects from the face of the building and is supported entirely by the building.

5. *Portable sign* means a sign and sign structure which is designed to facilitate the movement of the sign from one zoning lot to another. The sign may or may not have wheels, changeable lettering and/or hitches for towing. A sign shall be considered portable only if such sign is manifestly designed to be portable to facilitate its movement from one zoning lot to another. Signs utilized to be movable, other than from one zoning lot to another, shall be considered freestanding signs under this chapter.

6. *Projecting sign* means a sign which is affixed to any building or structure, other than a marquee and any part of which extends beyond the building wall or structure more than 15 inches.

7. *Pole sign* means a display sign supported by one or more columns, uprights or braces in the ground surface and having a height in excess of six feet.

8. *Temporary sign* means a display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, inflated devices with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays or public events.

9. *Wall sign* means a display sign which is painted on or attached directly to the building wall.

Sign, accessory, means a sign which pertains to the principal use of the premises.

Sign alteration means the changing, enlarging or relocating of any sign, excluding the changing of movable parts of an approved sign that is designed for such changes or the repainting or reposting of original of original display matter, shall be deemed an alteration.

Sign, nonaccessory, means a sign which does not pertain to the principal use of the premises.

(2) *General requirements for all signs.* The following conditions shall also apply to all signs erected or located in any use district:

a. All signs shall conform to all codes and ordinances of the city and, where required, shall be approved by the building inspector and a permit issued.

b. Public right-of-way. No sign, except those established and maintained by the city, county state or federal governments, shall be erected, located or placed in, project into or overhang a public right-of-way or dedicated public easement. The owner of any sign which has been removed by the city from the right-of-way because it is in violation of this provision and shall pay to the city the actual costs of removal and storage or charges as adopted by resolution of the city council, whichever is greater. If such sign is not claimed within five days, it shall be destroyed.

c. Directional. All directional signs required for the purpose of orientation, when established by the city, county, state or federal government, and directional signs for churches and public service organizations shall be permitted in all use districts.

d. No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which located and provided further that no freestanding sign shall exceed three feet in height.

e. No sign above a height of two feet shall be located within, project into or overhang the triangular area formed at the intersection of street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.

f. Accessory signs shall be permitted in any use district and may be located in the required front yard except as otherwise provided herein.

g. Nonaccessory signs shall be permitted only in I district, except that nonaccessory signs pertaining to real estate development located within the city and designed to promote the sale of lots or homes within a subdivision located with the city may be permitted on a temporary basis in any use district but shall not be located upon subdivided land unless such land is part of the subdivision being advertised for sale and shall be subject to the requirements and conditions of all codes and ordinances of the city.

h. Illumination of signs shall be directed or shaded downward so as not to interfere with driver visibility, become hazardous to traffic or the vision of persons on adjacent streets or property. Flashing or intermittent type signs shall not be permitted.

i. Signs used for advertising land or buildings for rent, lease and/or for sale shall be permitted on the land or building intended to be rented, leased and/or sold.

j. Removal of certain signs. Any sign, including framing, now or hereafter existing, which no longer advertises a bona fide business conducted or a product or entertainment, service commodity offered or sold on the lot, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign shall be found within 30 days after written notice from the building inspector. Notice shall be sent to the property owner of record, as indicated in city tax rolls, by certified mail. The owner may petition the zoning board of appeals for temporary approval to install blank sign faces when it can be demonstrated that the sign structure is likely to be reused by a future business and the sign framework is in sound structural condition.

k. Connections to an energy source for lighting shall be in accord with all codes of the city and shall not be exposed in any way that may constitute a safety hazard to the public.

(3) *Permitted signs by zoning district.*

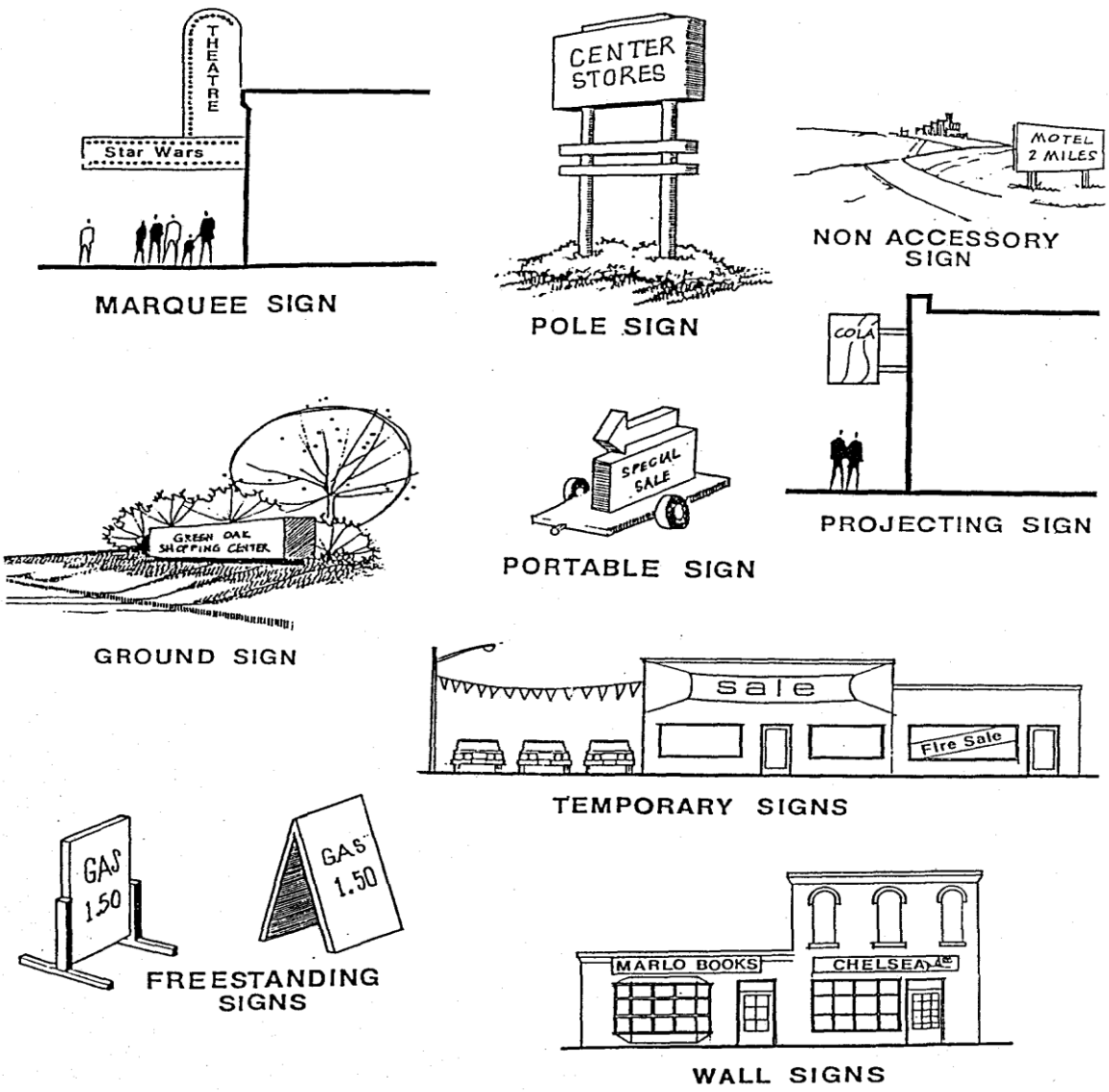
a. R-1, R-2, R-3, RM-1 and RM-2 district sign types allowed:

1. For each dwelling unit, one nameplate not exceeding two square feet in area, indicating the name of the occupant.

2. For structures other than dwelling units, one identification sign not exceeding ten square feet, except a church bulletin board not exceeding 18 square feet.

3. For rental and/or management offices in a multiple housing development, an identification sign not exceeding six square feet.

b. MB, CBD, GB and WP district sign types allowed. Ground, portable, pole, temporary and wall signs as defined in this section and subject to the following conditions:



1. *Ground sign.*

   (i) One ground sign having a sign area of not more than 24 square feet for a single face and 48 square feet for a total of all sign faces shall be permitted. Such sign shall not exceed six feet in height.

   (ii) Not more than one ground sign may be erected accessory to any one development, regardless of number of buildings, separate parties, tenants or uses contained therein.

   (iii) The distance measured between the principal faces of any ground sign shall not exceed 18 inches.

   (iv) No ground sign shall be located nearer than 25 feet to any existing or proposed right-of-way line.

(v) Ground signs shall be utilized only for identification of the uses allowed in the zoning district and shall not be utilized to advertise products for sale.

(vi) Ground signs may be illuminated as required by subsection (2)k of this section.

2. *Portable sign.* There shall be no more than one portable sign, and such portable sign shall be licensed as temporary signs for periods not to exceed seven days in a 30 consecutive day period on any one zoning lot and not to exceed 28 days in any one year. Such sign shall not exceed 15 square feet in area for each face of such sign and shall not exceed six feet in height. In no instance shall such sign be located so as to obstruct parking spaces or automobile or pedestrian travel lanes. Such signs shall not flash or be located so as to obstruct traffic vision, and lighting shall be of a type so as not to be confused with traffic controls and not to cause distraction to vehicle drivers.

3. *Pole sign.*

(i) Not more than one pole sign may be erected accessory to any one development, regardless of the number of buildings, separate parties, tenants or uses contained therein.

(ii) It shall be unlawful to erect any pole sign to a height greater than 30 above the level of the street upon which the sign faces. The distance from the ground to the bottom shall be not less than eight feet, and the sign shall be so erected as not to obstruct traffic vision.

(iii) Pole signs may be illuminated as required by subsection (2)k of this section.

(iv) Time and temperature signs shall be permitted.

(v) All pole signs shall be securely built, constructed and erected upon posts and standards at least 42 inches below the material surface of the ground and shall be embedded in concrete. Wood or wood products shall be of wolmanized or equal treatment.

(vi) All letters, figures, characters, items or representations in cutout or irregular form maintained in conjunction with, attached to or superimposed upon any sign shall be safely and securely built or attached to the sign structure. Loose or missing letters, figures, characters or items shall constitute a maintenance violation.

(vii) The distance measured between the principal faces of any pole sign shall not exceed 18 inches.

(viii) Sign height, setback and size for pole signs.

Maximum Height (in feet)	Minimum Setback Required (in feet)	Maximum* of Single Sign Face (in square feet)
13	15	50
14	18	56
15	20	62
16	22	68
17	24	74
18	26	80

19	28	86
20	30	92
21	32	98
22	34	104
23	36	110
24	38	116
25	40	122
26	42	128
27	44	134
28	46	140
29	48	146
30	50	150

* In those instances where more than one sign face is proposed, the maximum area of all sign faces shall not exceed two times the area prescribed for a single-faced sign.

4. *Temporary signs.*

(i) For sale or rental of individual units, there shall be no more than one such sign, except that on a corner lot two signs, one facing each street, shall be permitted. No such sign shall exceed six square feet in area for each side of such sign. All such signs shall be removed within one week after a lease or sale contract has been signed.

(ii) Signs advertising buildings under construction may be erected from the period of construction and shall not exceed a face area of 32 square feet for each side of such sign. Such signs shall be erected on the building or lot where such construction is being carried on and shall advertise only the architect, contractor, subcontractor, building or materials and equipment used. There shall be no more than one such sign.

(iii) One temporary sign may be displayed for any new business or owner for a period of time not to exceed 28 consecutive days, except as otherwise permitted by the city council.

(iv) No temporary sign may have a single-face area greater than 32 square feet nor be of greater height than the top of the wall to which 32 square feet nor be of greater height than the top of the wall to which it is attached. If the temporary sign is not attached to a wall, the sign shall be attached so the bottom edge of such sign is not less than seven feet six inches above grade and shall not exceed 12 feet in overall height.

(v) No temporary sign shall be strung across any public right-of way, nor shall any temporary sign project beyond the property line except as authorized by the city council.

(vi) Temporary signs shall be removed promptly at the end of the display period provided for above.

(vii) Temporary signs found by the building inspector to be in a torn or damaged condition must be removed by the owner within three days after his receipt of

notice to do so from the building inspector. Temporary signs found to be unsafe shall be removed immediately upon receipt of notice from the building inspector.

(viii) Temporary signs advertising products for sale/and or special events and attached to building walls are permitted provided that the conditions in subsections (3)b.4(iv) through (vii) of this section are complied with along with the following:

A. Signs shall be limited to not more than three signs for any single occupancy and for any tenant in a multiple occupancy building. Such signs may be located on not more than two walls of a building and shall not cover more than five percent or not exceed 96 square feet of wall surface of any wall whichever is the lesser. Signs may be allowed on other surfaces, for special circumstances, at the discretion of the city manager.

B. A permit for posting such signs shall be required.

5. *Wall signs.*

(i) Wall signs may be provided on all street sides, front sides or parking lot sides of a building, and the total surface area of all wall signs shall not exceed ten percent of the area of the front elevation (including doors and windows) of the principal building of three square feet for each lineal foot of building frontage, or 100 square feet, whichever is less. Where a single principal building is devoted to two or more businesses or commercial uses, the operator of each such use may install a front wall sign. The maximum area of each such sign shall be determined by determining the proportionate share of the front face (including doors and windows) of the principal building occupied by each such use and applying such proportion of the total sign area permitted from the front wall of the building; or the percent agreed to by the occupants, total not to exceed the above area limitations. It is the responsibility of the applicant to provide the required information when applying for a sign permit.

(ii) Such sign may be illuminated as required by subsection (2)k of this section.

(iii) Time and temperature signs shall be permitted.

(iv) Materials required. All wall signs of a greater area than 50 square feet shall have a surface or facing of noncombustible material.

(v) Limitation on placement. No wall sign shall cover wholly or partially any wall opening nor project beyond the ends or top of the wall to which it is attached.

(vi) Projection and height. No wall sign shall have a greater thickness than 12 inches measured from the wall to which it is attached to the outermost surface. Wall signs may project over the public right-of-way not to exceed 12 inches, provided clearance of not less than seven feet six inches is maintained below such sign if such sign projects more than four inches. Such sign shall not project above the roof line.

(vii) Supports and attachments. All wall signs shall be safely and securely attached to structural members of the building by means of metal anchors, bolts or expansion screws. In no case shall any wall sign be secured with wire, strips of wood or nails. The method of attachment shall be stated on the permit application.

All plans for the erection of signs shall be submitted to the building inspector for review and approval and shall be further subject to all codes and ordinances of the city.

c. I district sign types allowed. All sign types allowed and as controlled for business districts:

1. Accessory freestanding signs, provided they shall not be located closer than 200 feet to any public right-of-way line and provided further that there shall be not less than 1,000 feet between nonaccessory signs located on the same side of a right-of-way.

2. Nonaccessory signs shall be permitted but shall not be located closer than 200 feet to any public right-of-way line and provided further that there shall be not less than 1,000 between nonaccessory signs located on the same side of a right-of-way.

d. Permitted signs accessory to churches, schools or nonprofit institutions; sign types allowed (all use districts). Churches, colleges, schools, buildings housing governmental functions and utilities of the city, county or state or any subdivision thereof are permitted to erect signs. Such signs, when of a permanent nature, shall meet all the requirements of this article and other ordinances of the city except as provided hereafter and may include ground, portable, real estate and temporary signs as defined in this chapter. During periods of special events, temporary signs advertising such events may be allowed for periods not to exceed two weeks.

(4) *Prohibited signs.* The following signs are prohibited within the city:

a. String lights used in connection with business premises for commercial purposes, other than holiday decorations.

b. Any sign unlawfully installed, erected or maintained.

c. Business signs erected on any post, tree, utility pole, public right-of-way or dedicated public easement or other object within any area, whether public or private.

d. Any sign or banner erected upon or across any public right-of-way or dedicated public easement except by permission of the city council.

e. Signs which incorporate in any manner any flashing lights.

f. Any sign or other advertising structure upon which is displayed any obscene, indecent or immoral matter.

g. Rotating signs.

h. Signs on park-type benches.

i. Freestanding signs.

j. Any sign on the roof of any building.

k. Marquee sign.

l. Projecting signs.

Any sign type that is not defined within this article shall be subject to review and approval by the city.

(5) *Nonconforming signs.*

a. All existing signs that do not conform to the provisions of this article shall be permitted to continue as nonconforming signs until such time as they are removed or until any changes are necessary, at which time they shall conform to the provisions of this article. The provision of this subsection shall not apply to electrical maintenance and repainting.

b. A nonconforming use shall not be permitted to add additional signs to the building or premises other than those existing. Signs on nonconforming uses shall be maintained in good repair or be removed, and such removal shall be conditional to subsections (7) and (8) of this section.

(6) *Enforcement.* This section shall be enforced by the building inspector or any employee designated by the city council.

(7) *Unsafe, damaged and unlawful signs.* Signs shall be subject to inspections, and when the condition of a sign is questionable, the owner or occupant shall obtain a professional engineer's report, certifying the condition of the sign. Failure to submit the report and make any specified corrections is a direct violation which will result in court action and order for the sign removal.

(8) *Sign maintenance.* The building inspector may forward to the prosecutor a violation report seeking a court order for the maintenance of the sign.

a. *Maintenance.* All signs, including those for which a permit is not required, together with all their supports, braces, guys and anchors, shall be maintained in good working order; and when not galvanized or constructed of approved corrosion-resistant, noncombustible materials shall be painted when necessary to prevent corrosion. The exteriors of all signs, supporting members, painted surfaces, advertising materials and lettering shall be kept painted and in good repair so as to present a neat and orderly appearance and so as not to create visual blight within the city. All bulbs or component parts of the sign, including the electrical switches, boxes and wiring used in the illumination of the sign, must be well maintained and in good repair. Loose or missing letters, figures, characters or items shall constitute a maintenance violation. Signs which lack maintenance shall be removed.

b. *Housekeeping.* It shall be the duty and responsibility of the owner or lessee of every sign to maintain the immediate premises occupied by the sign in a clean, sanitary and healthful condition.

(9) *Sign permits required.* It shall be unlawful for any person to erect, repair, paint, alter or relocate any sign within the city, as defined in this section, without first obtaining a permit from the building inspector, with the exception of the following:

a. *Signs for which a permit is not required.*

1. Wall signs, which are used as nameplates, not exceeding two square feet in area; occupational signs denoting only the name and profession of the occupant in a commercial, public or other institutional building and not exceeding two square feet in area.

2. Bulletin boards not over 20 square feet in area for governmental, educational and religious institutions when the same are located on the premises of said institutions; provided, however, if such signs are electrically illuminated, an electrical permit must be obtained.

3. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or aluminum.

4. Traffic or other municipal signs, legal notices, danger and such temporary emergency or nonadvertising signs as may be approved by the city.

5. Signs advertising the rental, sale, lease or open house of the property upon which they are located.

6. Flags of recognized federal, state, county or city governments.

7. Decorative displays, provided any such display that occupies a public right-of-way shall be subject to city council approval.

b. *Application for sign permit.* Applications for permits shall be made upon forms provided by the building inspector and shall contain or have attached thereto the following information:

1. Name, address, e-mail address and telephone number of the applicant.
2. Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.
3. Position and location of the sign or other advertising structure in relation to nearby buildings or structures.
4. Two blueprints or drawings of the plans and specifications and methods of construction and attachment to the building or in the ground.
5. Name of person, firm, corporation or association erecting the structure.
6. Written consent of the owner where the sign is to be erected on vacant land.
7. In all cases where wiring is to be used in connection with the structure, it shall comply with the city electrical code. The electrical inspector shall approve and affix his signature to the permit if it is deemed necessary by the electrical inspector.
8. Insurance policy or bond as may be required by the city.
9. Such other information as the building inspector shall require to show full compliance with this section and all other ordinances of the city.

c. *Sign permit fee.* It shall be unlawful for any person to erect or alter any sign, except those signs specifically exempted herein, unless a permit shall first have been obtained from the building inspector for such erection or alteration and a permit fee paid to the city according to the schedule as shall be established from time to time by resolution of the city council.

d. *Sign permit revocable at any time.* All rights and privileges accrued under the provisions of this section or any amendment thereto are mere licenses and may be revoked upon the violation of any of the conditions contained herein. If the work authorized under an erection permit has not been completed within six months after the date of issuance, the permit shall become null and void and a new permit shall be necessary to continue the project. Partially completed signs, if abandoned, shall be removed by the erector upon notice from the building inspector.

e. *Permit number.* Every sign hereafter erected shall have placed in a conspicuous place thereon, in letters not less than one-half-inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.

(Ord. No. 96-5, § 1510, 3-5-1996; Ord. No. 98-4, § 1510(4)(h), 9-7-1999)

State law reference(s)—Highway advertising act, MCL 252.301 et seq.

Sec. 50-457. Residential entranceway.

In residential districts, so-called entranceway structures, including, but not limited to, walls, columns and gates marking entrances to single-family subdivisions or multiple housing projects, may be permitted and may be located in a required yard, except as provided in section 50-458, provided that such entranceway structures shall comply with all codes and ordinances of the city, shall be approved by the building inspector and a permit issued.

(Ord. No. 96-5, § 1511, 3-5-1996)

Sec. 50-458. Corner clearance.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of three feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between such right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(Ord. No. 96-5, § 1512, 3-5-1996)

Sec. 50-459. Exterior lighting.

All lighting for parking areas or for the external illumination of buildings and uses shall be directed away from and shall also be so arranged as to not adversely affect driver visibility on adjacent thoroughfares.

(Ord. No. 96-5, § 1513, 3-5-1996)

Sec. 50-460. Residential fences.

(a) Fences in all residential districts shall not exceed six feet in height, measured from the surface of the ground, and shall not extend beyond the front of a dwelling unit nor encroach upon a minimum front yard setback line. Those side yards that have common street lines with front yards on the same block shall be treated as front yards and shall not have a fence constructed within the minimum setback.

(b) Fences in all residential districts shall not contain barbed wire, electric current or a charge of electricity. Fencing shall not utilize fence materials such as woven wire, chicken wire, or similar types of farm fencing. Snow fence shall not be utilized except during winter months for snow control purposes.

(c) Fences which enclose public or institutional parks, playgrounds or public landscaped areas situated within an area developed with residential shall not exceed eight feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total area.

(d) In those instances where in a one-family residential lot has a front, side or rear yard relationship with a major thoroughfare, the board of appeals may permit the construction of a fence along the major thoroughfare when the following conditions are met:

    (1) The fence shall be located along the common line formed by the lot line and the major thoroughfare right-of-way as defined on the thoroughfare plan.

    (2) The fence height shall be established by the board of appeals, and in no instance shall it be greater than six feet in height, measured from the adjacent centerline elevation of the road.

    (3) The fence shall be constructed of a permanent material similar to that used on the exterior wall of the house it obscured from the road and shall be compatible with adjacent houses, in both material used and in color.

    (4) The fence shall be designed so as to enable convenient extension and continuity along the road right-of-way and lot lines of adjacent residences.

    (5) Complete working drawings of the proposed fence as to location, height, material and color shall be submitted to the board of appeals for final approval prior to seeking of a building permit.

    (6) The board of appeals shall further make the determination that a fence will not create any hazards with reference to the obscuring of vision between residential driveways and the intersection thoroughfare.

(e) No fence, wall, shrubbery or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between such right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(f) Ornamental fences not exceeding three and one-half feet in height are permitted within front yards.

(g) Ornamental fences not exceeding three and one-half feet in height are permitted in both front yards of corner lots.

(Ord. No. 96-5, § 1514, 3-5-1996)

Sec. 50-461. Greenbelts and walls.

(a) For those use districts and uses listed below there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall or greenbelt equal to the dimensions specified below:

Use		Dimensions
a.	P, Parking District	Four-foot six-inch-high wall
b.	Off-street parking area (other than P districts)	Four-foot six-inch-high wall
c.	MB, CBD and GB districts	Four-foot six-inch-high wall
d.	I district	Four-foot six-inch-high wall or four-foot six-inch-high chainlink type fence and a 20-foot wide greenbelt, planted in accord with the minimum requirements of section 50-455
e.	Utility buildings, station and/or substation	Six-foot high chainlink type fence and a 20-foot wide greenbelt planted in accord with the minimum requirement of section 50-455
f.	Hospital ambulance and delivery areas	Six-foot high wall

(b) Required walls shall be located on the lot line, except where this chapter requires conformance with front yard setback lines in abutting residential districts. Required wall may, upon approval of the board of appeals, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be major consideration of the board of appeals in reviewing such request.

(c) Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except such openings as may be approved by the chief of police and the building inspector. All walls herein required shall be constructed of materials approved by the building inspector to be durable, weather-resistant, rustproof and easily maintained; and wood or wood products shall be specifically excluded. Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of 42 inches below a grade approved by the building inspector and shall be not less than four inches below wider than the wall to be erected. Masonry walls may be constructed with openings above 32 inches above grade, provided such openings are not larger than 64 square inches and do not comprise more than one-third of the total area of that part of the wall located more than 32 inches above grade.

(d) The planning commission may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than four feet six inches in height. In consideration of requests to waive wall requirements between non-residential and residential districts, the board of appeals shall refer the request to the planning commission for the determination as to whether or not the residential district is considered to be an area in transition

and will become nonresidential in the future. In such cases as the planning commission determines the residential district to be a future nonresidential area, the board of appeals may temporarily waive wall requirements for an initial period not to exceed 12 months. Granting of subsequent waivers shall be permitted, provided that the planning commission shall make a determination as herein before described for such subsequent waiver prior to the granting of such waiver by the Board.

(Ord. No. 96-5, § 1515, 3-5-1996)

Sec. 50-462. Site plan review (all districts).

(a) A site plan shall be submitted to the planning commission for approval of:

(1) Any use or development for which the submission of a site plan is required by any provision of this chapter.

(2) Any development, except single-family and two-family residential, for which off-street parking areas are provided as required in section 50-450.

(3) Any use in an RM-1, RM-2, MB, CBD, GB or WP district lying contiguous to, or across a street from a single-family residential district.

(4) Any use except single- or two-family residential which lies contiguous to a major thoroughfare or collector street.

(5) All residentially related uses permitted in a single-family district, such as, but not limited to, churches, schools and public facilities.

(6) Building additions or accessory buildings shall not require planning commission review unless off-street parking in addition to that already provided on the site is required.

(b) Every site plan submitted to the planning commission shall be in accordance with the requirements of this article. No site plan shall be approved until it has been reviewed by the building department, in coordination with the fire department and the police department, for compliance with the stands of the respective departments.

(c) The following information shall be included on the site plan:

(1) A scale of not less than one inch equals 50 feet if the subject property is less than three acres and one inch equals 100 feet if three acres of more.

(2) Date, northpoint and scale.

(3) The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.

(4) The location of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property.

(5) The location of all existing and proposed drives and parking areas.

(6) The location and right-of-way widths of all abutting streets and alleys.

(7) The names and addresses of the architect, planner, designer, engineer or person responsible for the preparation of the site plan.

(8) The elevations of buildings or structures shall be drawn to a scale of not less than one-fourth inch equals one foot and shall be sufficient clarity to indicate the nature and extent of work proposed.

(d) In the process of reviewing the site plan, the planning commission shall consider:

(1) The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site and in relation to pedestrian traffic.

(2) The traffic circulation features within the site and the location of automobile parking areas and may make such requirements with respect to any matters as will ensure:

a. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.

b. Satisfaction and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.

(3) The planning commission may further require landscaping, fences and walls in pursuance of these objectives, which shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.

(4) In those instances where in the planning commission finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the carrying capacity of the thoroughfare, the planning commission may recommend marginal access drives. For a narrow frontage which will require a single outlet, the planning commission may recommend that money in escrow be placed with the city so as to provide for a marginal service drive equal in length to the frontage of the property involved. Occupancy permits shall not be issued until the improvement is physically provided or moneys have been deposited with the city clerk.

(5) The plan for the proposed building or structure indicates the manner in which the structure is in harmony with the general character of the surrounding development and in general contributes to the image of the city as a place of beauty, balance, fitness, broad vistas and high quality.

(6) The plan for the proposed building or structure indicates the manner in which the structure is reasonably protected against external and internal noises, vibrations and other factors which may tend to make the environment less desirable.

(7) The proposed building or structure is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment to materially depreciate in appearance and value.

(e) If the aforementioned criteria are met, the application shall be approved. Conditions may be applied when the proposed building or structure does not comply with the above criteria and shall be such as to bring such building or structure into conformity. If an application is disapproved, the commission shall detail in its findings the criterion or criteria that are not met. The action taken by the commission shall be reduced to writing.

(Ord. No. 96-5, § 1516, 3-5-1996)

State law reference(s)—Submission and approval of site plan, MCL 125.3501.

Sec. 50-463. Boatwells in residential districts.

Four boatwells that border on rivers, channels or canals, the side yard between the side lot line and any excavation for boatwells, canals or any similar waterfront construction shall be not less than ten feet so as to allow for all structural elements of such construction to be provided for within the confines of the lot or parcel.

(Ord. No. 96-5, § 1517, 3-5-1996)

Sec. 50-464. Grading, drains and drainage.

(a) The finish grade of a building shall be set 18 inches above the road at a point adjacent to the building if the ground is level.

(b) All buildings shall be located at such elevation that a sloping grade shall be maintained to cause the flow of surface water away from the walls of the building. This grade shall slope away from the building at a rate of not less than two percent (one foot per 50 feet of horizontal distance). The minimum finish elevation at the building walls shall be 580.3 NGVD (National Geodetic Vertical Datum). Allowances to this elevation can be made by the building inspector if unusual conditions exist. An elevation survey shall be required for all new construction.

(c) When a new building is to be constructed on a vacant lot between two existing buildings or adjacent to an existing building, the established level of the existing buildings shall have priority in determining the level of the new building. The yard around the new building shall be graded to meet existing grades at the property line. Grades shall be subject to approval by the building inspector. Existing structures where the grade is extremely low, a new building may be constructed at a higher grade with positive drainage to be installed at the expense of the new building owner. The drainage plan shall be subject to the approval of the building inspector and/or city engineer.

(d) Storm water runoff including that from building eaves or similar apparatus shall be channeled so that it shall not flow across other property. Grading of the property shall not cause runoff from properties to pool or pond on any property.

(e) No person may alter, divert or block, or cause to be altered diverted, or blocked any drain, drainage course, or body of water, whether natural or artificial, public or private, which causes or which is likely to cause an increase in the runoff of water onto adjacent properties, beyond that which would occur without proposed action.

(f) Prior to the issuance of a permit, the building inspector shall examine the application and plan, make a site inspection of the property involved and make a determination that the proposed action will not cause an increase in the runoff or flow of water onto adjacent properties beyond that which will occur without the proposed action.

(g) Official flood hazard boundary and flood insurance rate maps as prepared by the Federal Insurance Administration, and other available and applicable sources of information regarding drainage matters shall be utilized in making the determination.

(h) In no case shall a certificate of occupancy be issued when, in the opinion of the building official, the proposed action is likely to cause, or the completed action causes, an increase in the runoff or flow of water onto adjacent properties beyond that which would occur without the proposed or completed action.

(i) In cases involving official county drains, sole jurisdiction shall rest with the county drain commissioner. In cases involving county road ditches, sole jurisdiction shall rest with the board of county road commissioners.

(Ord. No. 96-5, § 1518, 3-5-1996; Ord. No. 98-2, 3-3-1998)

State law reference(s)—Building and construction in floodplain, MCL 324.3108; soil conservation districts law, MCL 324.9301 et seq.; habitat protection, MCL 324.30101 et seq.; subdivision within or abutting floodplain, plat requirements, MCL 560.138; subdivision within floodplain, conditions for approval, MCL 560.194.

Sec. 50-465. Adult entertainment establishments.

(a) *Intent.* It is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having deleterious effects upon the adjacent areas. Special regulations of these uses are necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area or next to residential zones.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Adult entertainment facilities means:

(1) *Adult bookstore* means an establishment having as a substantial or significant portion of its stock in trade, magazines and other periodicals with an emphasis on matter depicting, describing or relating to "specified sexual areas" of "specified anatomical areas" (as described below), or an establishment with a segment or section devoted to the sale or display of such material and which excludes minors by virtue of age.

(2) *Adult motion picture theater* means an enclosed building, with a capacity of 50 or more persons, used for presenting material with an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for observation by patrons therein and which excludes minors by virtue of age.

(3) *Adult mini-motion picture theater* means an enclosed building with a capacity for less than 50 persons, used for presenting materials with an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for observation by patrons therein and which excludes minors by virtue of age.

(4) *Adult cabaret* means an establishment which provides dancers or other live entertainment who display or describe "specified sexual activities" or "specified anatomical areas" (as described below), for observation by patrons therein.

(5) *Specified anatomical areas* means:

a. Less than completely and opaquely covered:

1. Human genitals, pubic region;

2. Buttock; and

3. Female breast below a point immediately above the top of the areola;

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(6) *Specified sexual activities* means:

a. Human genitals in a state of sexual stimulation or arousal.

b. Acts of human masturbation, sexual intercourse or sodomy.

c. Fondling or other touching of human genitals, pubic region, buttocks or female breasts.

(c) *Location provisions.* Except as provided in subsections (d) and (e) of this section, the following listed uses shall not be permitted to be established within 500 feet of a residential district:

(1) Adult bookstores.

(2) Adult motion picture theaters.

(3) Adult mini-motion picture theaters.

(4) Adult cabarets.

(d) *Waiver of location provisions.* The city council, after receiving a report and recommendation from the planning commission, may waiver the locational provisions of subsection (c) of this section if the following findings are made:

(1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this article will be observed.

(2) That the proposed use will not enlarge or encourage the development of a skid row area.

(3) That the establishment of an additional regulated use in the area will not be contrary to neighborhood conversation.

(4) That all applicable regulation of this article will be observed.

(5) That the proposed use of any adult bookstore, adult motion picture theater, adult mini-motion picture theater or adult cabaret would not be established within 300 feet of a residentially zoned district, or that, in the alternative, the provision of subsection (c) of this section has been met.

(e) *Procedure for waiver.* Prior to granting waiver of the locational restrictions set forth in subsection (c) of this section, and not less than five, nor more than 15 days before the request for waivers is considered or a public hearing held pursuant to this section, the city clerk shall publish, in a newspaper of general circulation in the city, one notice indicating that a request for waivers to establish a controlled use has been received, and shall send by mail or personal delivery, a copy of said notice to the owners of the property for whom waivers are being considered, and to all persons to whom any real property is assessed within 300 feet of the boundary of the premises in question and to the occupants of all structures within 300 feet. If the name of the occupant is not known, the term "occupant" may be used in making notification.

(1) Notification need not be given to more than one occupant of a structure, except if the structure contains more than one dwelling or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each dwelling unit or partial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

(2) The notice of application shall inform the recipient of the applicant's name, describe the nature and type of use proposed, indicate the local address, the lot number and subdivision name of the property in question and provide the section of chapter 50 under which the proposal is being processed. Said notice shall also invite written comments, statements of opinions, and indicate the place and date upon which written comments concerning the proposed use must be received.

(3) Said notice of application shall further indicate that a public hearing on the proposed controlled use may be requested by a property owner or occupant, no less than 18 years of age, of a structure located within 300 feet of the boundary of the property being considered for the controlled use. If the applicant or the planning commission requests a public hearing under this section any interested person may be represented by a person, firm, organization, partnership, corporation, board or bureau.

(f) *Filing.* The planning commission shall not consider the waiver of locational requirements set forth in subsections (c) and (d) of this section until the procedure described in subsections (d) and (e) of this section have been filed with and verified by the city clerk.

(Ord. No. 96-5, § 1519, 3-5-1996)

Sec. 50-466. Sidewalks.

(a) *Required generally.* Sidewalks shall be required on all side streets of all lots and parcels of land on which new buildings or new uses of land are proposed, except as otherwise set forth by subsection (b) of this section.

(b) *Waiver.* A property owner shall have the right to seek a waiver of the general requirement of subsection (a) of this section by submitting a written request to the building official on a form supplied by the city. Upon receipt of a waiver request, the building official shall promptly submit a recommendation to the city manager, who shall render a decision. If the waiver request is denied, the property owner shall have the right to appeal the city manager's denial of the waiver request to the zoning board of appeals.

(Ord. No. 2016-02, § 1, 11-15-2016)

Secs. 50-467—50-485. Reserved.

ARTICLE XVI. GENERAL EXCEPTIONS

Sec. 50-486. Area, height and use exceptions.

The regulations in this article shall be subject to the following interpretations and exceptions:

(1) *Essential services.* Essential services shall be permitted as authorized and regulated by law and other ordinances of the city, it being the intent hereof to exempt such essential services from the application of this article.

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

(3) *Height limit.* The height limitations of this article shall not apply to farm buildings, chimneys, church spires, flagpoles, public monuments or wireless transmission towers; provided, however, that the board of appeals may specify a height limit for any such structure when such structure requires authorization as a use permitted subject to special conditions or under section 50-453.

(4) *Lot area.* Any lot existing and of record at the effective date of the ordinance from which this article is derived may be used for any principal use (other than uses permitted subject to special conditions for which special lot area requirements are specified in this article) permitted in the district in which such lot is located, whether or not such lot complies with the lot area requirements of this article, provided that all requirements other than lot area requirements prescribed in this chapter are complied with, and provided that not more than one dwelling unit shall occupy any lot except in conformance with provisions of this article for required lot area for each dwelling unit.

(5) *Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements of this article, one-half the width of such alley abutting the lot shall be considered as part of such lot.

(6) *Yard regulations.* When yard regulations cannot reasonably be complied with, as in the case of a planned development in the multiple-family district, or where their application cannot be determined on lots existing and of record on the effective date of the ordinance from which this article is derived and on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.

(7) *Porches, terraces and decks.* An enclosed and uncovered porch (i.e., one which is not roofed over) or paved terrace or deck may project into a required front yard or rear yard for a distance not exceeding eight feet. Paved terraces or decks not exceeding 24 inches in height may project into a required side or rear yard not to exceed a depth of 30 percent of the depth of the required side or rear yard.

(8) *Projections into yards.* Architectural features such as, but not limited to, window sills, cornices, eaves, bay windows may extend or project into a required side yard not more than two inches for each one foot of width of such side yard and may extend or project into a required front yard or rear yard not more than three feet. Architectural features shall not include those details which are nominally demountable.

(9) *Multiple dwelling side yards.* For the purpose of side yard regulations, a two-family terrace, a row house or any multiple dwelling shall be considered as one building occupying one lot.

(Ord. No. 96-5, § 1600, 3-5-1996)

Secs. 50-487—50-510. Reserved.

ARTICLE XVII. ADMINISTRATION

Sec. 50-511. Administrative official.

(a) Except where herein otherwise stated, the provisions of this article shall be administered by the city manager who shall appoint a building inspector who may be an employee of the city or an independent contractor providing contractual services to the city provided that said individual is properly licensed and certified. The building inspector shall have the power to:

(1) Issue building permits.

(2) Grant certificates of occupancy permits.

(3) Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this article.

(4) Perform such other further functions necessary and proper to enforce and administer the provisions of this article.

(b) The chief of police (or his designee) is hereby designated as the authorized city official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the city municipal ordinance violations bureau) for alleged violations of this article.

(Ord. No. 96-5, § 1700, 3-5-1996)

Sec. 50-512. Building permit application.

(a) No building, fence, or structure including accessory buildings and structures within the city shall hereafter be erected, moved, repaired, altered or razed, nor shall any work be started to erect, move, repair or raze until a building permit shall have been obtained from the building inspector; nor shall any change be made in the use of any building or land without a certificate of occupancy having been obtained from the building inspector. In those instances where waterfront construction requires federal or state permits, copies of such

permits shall be made available to the building inspector when seeking a building permit. The construction of seawalls shall not require a permit other than those required by federal or state agencies.

(b) The building inspector shall record all nonconforming uses existing at the effective date of adoption for the purpose of carrying out the provisions of section 50-448.

(c) The building inspector shall require that all applications for building permits for uses not covered by section 50-462 be accompanied by plans and specifications including a plot plan, in duplicate, drawn to scale, showing the following:

(1) The actual shape, location and dimensions of the lot, drawn to scale.

(2) The shape, size and location of all buildings or other structures upon it including, in residential areas, the number of dwelling units the building is intended to accommodate.

(3) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this article are being observed.

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

(d) The following shall apply in the issuance of any permit:

(1) *Permits not to be issued.* No building permit shall be issued for the erection alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this article.

(2) *Permits for new use of land.* No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

(3) *Permits for new use of buildings.* No buildings or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

(4) *Permits required.* No building or structure, or part thereof, shall be hereafter erected, altered, moved or required unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the city single state construction code, housing law, or this article, except for minor repairs or changes not involving any of the aforesaid features.

(e) Upon completion of the work authorized by a building permit, the holder thereof shall seek final inspection thereof by notifying the building inspector.

(f) Building permits shall be effective for the following time periods:

(1) Residential structures, 12 months.

(2) Office, commercial and institutional structures, 18 months.

(3) Industrial structures, 24 months.

(Ord. No. 96-5, § 1701, 3-5-1996; Ord. No. 2000-2, 3-21-2000)

Sec. 50-513. Certificate of occupancy.

No land, building, structure or part thereof shall be occupied by or for any use for which a building permit is required by this article unless and until a certificate of occupancy shall have been issued for such new use. No land

or building shall be occupied or reoccupied, used or changed in use until a certificate of occupancy and compliance shall have been issued by the building inspector stating that the land or building or proposed use of a building or land complies with all the provisions of this chapter. A copy of such certificate of occupancy and compliance shall be conspicuously posted and displayed on the premises used for any purposes other than residential. The following shall apply in the issuance of any certificate:

(1) *Certificates not to be issued.* No certificates of occupancy pursuant to the single state construction code shall be issued for any building, structure or part thereof, or for use of any land, which is not in accordance with all the provisions of this article.

(2) *Certificates required.* No building or structure or part thereof which is hereafter erected or altered shall be occupied or used or the same caused to be done unless and until a certificate of occupancy shall have been issued for such building or structure.

(3) *Certificates including zoning.* Certificates of occupancy as required by the building code for new buildings or structures or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this article.

(4) *Certificates for existing buildings.* Certificates of occupancy will be issued for existing buildings, structures or parts thereof or existing uses of land if, after inspection, it is found that such buildings, structures or parts thereof or such use of land are in conformity with the provisions of this article. It shall hereafter be unlawful for any person to occupy any existing commercial and/or industrial building or premises located within the city which has been vacated by a tenant, lessee or owner unless such persons desiring to reoccupy such building or premises shall first make application for and obtain a certificate of occupancy from the building inspector.

(5) *Temporary certificates.* Nothing in this article shall prevent the building inspector from issuing a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months or more than five days after the completion of the building ready for occupancy and provided further that such portion of the building, structure or premises is in conformity with the provisions of this article.

(6) *Records of certificate.* A record of all certificates issued shall be kept on file in the office of the building inspector, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(7) *Certificates for dwelling accessory buildings.* Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the time as such dwelling.

(8) *Application for certificate.* Application for a certificate of occupancy shall be made in writing to the building inspector on forms furnished by the building department, and such certificate shall be issued if, after final inspection, it is found that the building or structure or part thereof or the use of land is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant therefore shall be notified in writing of such refusal and the cause thereof.

(Ord. No. 96-5, § 1702, 3-5-1996)

Sec. 50-514. Fees.

Fees for zoning change review, site plan review and for projects requiring review under uses permitted subject to special conditions, inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this article may be collected by the building inspector in advance of issuance. The

amount of such fees shall be established by resolution of the city council and shall cover the cost of inspection and supervision resulting from enforcement of this article.

(Ord. No. 96-5, § 1703, 3-5-1996)

Sec. 50-515. Security for completion of improvements.

All improvements shown on the site plan shall be completed prior to the issuance of a certificate of occupancy. However, where it would be impractical to delay occupancy prior to the completion of certain improvements, a temporary certificate of occupancy can be issued upon the approval of the building inspector if an adequate guarantee as required in section 50-553 is presented to the city to secure the improvements.

(Ord. No. 96-5, § 1704, 3-5-1996)

State law reference(s)—Performance guarantee, MCL 125.3505.

Sec. 50-516. Public notice.

(a) *Public notification.* All applications for development approval requiring a public hearing shall comply with the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and the other provisions of this section with regard to public notification.

(b) *Responsibility.* When the provisions of this chapter or the Michigan Zoning Enabling Act require that notice be published, the city clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the city and mailed or delivered as provided in this section.

(c) *Content.* All mail, personal and newspaper notices for public hearings shall:

(1) Describe nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

(2) Location: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

(3) When and where the request will be considered: Indicate the date, time and place of the public hearing(s).

(4) Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

(5) Handicap access: Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

(d) *Personal and mailed notice.*

(1) *Generally.* When the provisions of this chapter or state law require that personal or mailed notice be provided, notice shall be provided to:

a. The owners of property for which approval is being considered, and the applicant, if different than the owner of the property.

b. Except for rezoning requests involving 11 or more adjacent properties or an ordinance interpretation request that does not involve a specific property, to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the city. If the name of the occupant is not known the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to subsection (f) of this section.

d. Other governmental units or infrastructure agencies within one mile of the property involved in the application.

(2) *Notice by mail/affidavit.* Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

(e) *Timing of notice.* Unless otherwise provided in the Michigan zoning enabling act, PA 110 of 2006, or this chapter where applicable, notice of a public hearing shall be provided as follows:

(1) For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal or ordinance interpretation: not less than 15 days before the date the application will be considered for approval. This means it must be published in a newspaper of general circulation and for those receiving personal notice, received by mail or personal notice, not less than 15 days before the hearing.

(2) For any other public hearing required by this chapter: 15 days.

(f) *Registration to receive notice by mail.*

(1) *Generally.* Any neighborhood organization, public utility company, railroad or any other person may register with the clerk to receive written notice of all applications for development approval pursuant to subsection (d) of this section, or written notice of all applications for development approval within the zoning district in which they are located. The clerk shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

(2) *Requirements.* The requesting party must provide the clerk information on an official form to ensure notification can be made. All registered persons must re-register bi-annually (or another period) to continue to receive notification pursuant to this section.

(Ord. No. 96-5, § 1705, 3-5-1996; Ord. No. 2014-05, § 1(1705), 11-4-2014)

Secs. 50-517—50-540. Reserved.

ARTICLE XVIII. CITY PLANNING COMMISSION[3]

Sec. 50-541. Powers and duties.

The city planning commission is hereby designated the commission as specified in the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and shall perform the duties of said commission as provided in these acts, as amended, together with such other powers and duties as are given to such commission by the provisions of this article, including authority to act on all matters requiring approval or recommendation of such commission. One member of the planning commission shall serve as a member of the board of appeals.

(Ord. No. 96-5, § 1900, 3-5-1996; Ord. No. 2014-05, § 1(1800), 11-4-2014)

Sec. 50-542. Authority to approve uses.

Whenever in this article the lawful exercise or existence of a use requires the approval of the city planning commission, such commission is hereby authorized and directed to investigate the matter requiring such approval, to conduct a hearing thereon, to make a determination, to either grant or refuse the approval and to do all things reasonably necessary to the making of such investigation and determination, subject to the provisions of this article.

(Ord. No. 96-5, § 1801, 3-5-1996)

Sec. 50-543. Hearing notice.

Upon receipt of an application for a special land use approval, a conditional use approval, a planned development approval, a single-family cluster approval or any other land use approval which requires a decision on discretionary grounds, one notice that a request has been received shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. All notice requirements shall comply with the provisions of the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and section 50-516.

(Ord. No. 96-5, § 1802, 3-5-1996; Ord. No. 2014-05, § 1(1802), 11-4-2014)

Sec. 50-544. Surveys and plans.

Where the planning commission is empowered to approve certain uses of premises under the provisions of this article or in cases where the commission is required to make an investigation, the applicant shall furnish such

[3]State law reference(s)—Michigan planning enabling act, MCL 125.3801 et seq.

surveys, plans or other information as may be reasonably required by said commission for the proper evaluation and consideration of the matter.

(Ord. No. 96-5, § 1803, 3-5-1996)

Sec. 50-545. Special land uses.

(a) Whenever a special land use, namely, uses subject to special conditions, is requested pursuant to sections 50-82, 50-112, 50-142, 50-172, 50-230, 50-284 and 50-453, then the provisions and conditions of this section shall apply in addition to the provisions and conditions of the other aforesaid sections and the following sections.

(b) The planning commission shall have the authority to grant special land use permits and to attach conditions to a permit. Only those uses listed in sections 50-82, 50-112, 50-142, 50-172, 50-230, 50-258, 50-284 and 50-453 shall be considered for special land use permit review and approval.

(c) Application for a special land use permit shall be made by filing the application form, required information, and required fee with the building inspector. The fee shall be set by resolution by the city council, except that no fee shall be required for a special land use permit application for the construction of a single-family residence or of any governmental body or agency. No part of the fee shall be returnable to the applicant. The building inspector shall transmit a copy of the application and submitted information to the planning commission.

(d) An application for a special land use permit shall contain the following information:

(1) The applicant's name, address, e-mail address and telephone number.

(2) The names, and addresses of all record owners and proof of ownership.

(3) The applicant's interest in the property and if the applicant is not the fee-simple owner, the owner's signed authorization for the application.

(4) Legal description, address, and tax parcel number of the property.

(5) A scaled and accurate survey drawing correlated with a legal description and showing all existing buildings, drives, and other improvements.

(6) A detailed description of the proposed use.

(7) A site plan, if requested by the planning commission, which plan shall meet all the requirements of section 50-462.

(e) The planning commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and with respect to any additional standards set forth in this article. The planning commission shall find and report adequate data, information, and evidence showing that the proposed use meets all required standards:

(1) Will be harmonious, and in accordance with the objectives, intent, and purpose of this article.

(2) Will be compatible with a natural environment and existing and future land uses in the vicinity.

(3) Will be compatible with the city master plans.

(4) Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage ways and structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.

(5) Will not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property, or the public welfare.

(6) Will not create additional requirements at public costs for public facilities and services that will be detrimental to the economic welfare of the community.

(f) The planning commission shall approve, approve with conditions, or deny special land use permit application. The planning commission's decision, the basis for their decisions, and all conditions imposed, shall be described in a written statement which shall be made a part of the record of the meeting.

(g) In granting a special land use permit, the planning commission shall impose any conditions it deems necessary to achieve the objective and standards of this chapter, the standards of the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.), and the public health, safety, and welfare of the city. Failure to comply with such conditions shall be considered a violation of this article. An approved special land use permit, including all conditions, shall run with the parcel in the approval and shall remain unchanged except upon the consent of the planning commission. Any such changes shall be entered into city records and recorded in the minutes of the planning commission meeting at which the action occurred. The procedures required for an original application shall be followed with respect to any proposed changes.

(h) An application for a special land use permit which has been denied wholly or in part by the planning commission shall not be resubmitted for a period of 365 days from the date of denial, except upon the consent of the planning commission to be valid.

(i) A special conditional use approval runs with the land until such time as the use designated in the "approval" is changed by the occupant. The land then reverts back to only the uses permitted in that specific zoning district.

(j) The decision of the planning commission with respect to a special land use permit shall not be appealable to the board of appeals.

(Ord. No. 96-5, § 1804, 3-5-1996)

State law reference(s)—Special land uses, MCL 125.3502 et seq.

Sec. 50-546. Hearings; matters to be considered.

In making any recommendations or approvals on special land uses, conditional uses, planned development districts, single family cluster developments or other matters authorized by law, the planning commission and the city council, where its approval is also required, shall consider and apply the following standards:

(1) Whether or not the use involved is consistent with and promotes the intent and purpose of this article.

(2) Whether or not the use involved is compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

(3) Whether or not the use involved is consistent with the public health, safety and welfare of the city.

(Ord. No. 96-5, § 1805, 3-5-1996)

Sec. 50-547. Conditions for approval.

Reasonable conditions may be required in conjunction with the approval of a special land use, conditional use, planned development district, single family cluster development or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads

caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

(1) Conditions imposed shall do the following:

a. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

b. Be reasonably compatible with the city's master plan for future land use.

c. Be related to the valid exercise of the policy power and purposes which are affected by the proposed use or activity.

d. Be necessary to meet the intent and purpose of the zoning regulations, be related to the standards established in this article for the land use or activity under consideration, and be necessary to insure compliance with those standards.

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

(Ord. No. 96-5, § 1806, 3-5-1996)

Secs. 50-548—50-572. Reserved.

ARTICLE XIX. BOARD OF APPEALS[4]

Sec. 50-573. Created; membership.

There shall be established and appointed by the city council, in accordance with act 110 of the Public Acts of 2006, as amended, a zoning board of appeals (ZBA). Such board shall consist of seven members, one of whom shall be a member of the city council, one a citizen member of the planning commission with appointment by the council coinciding with his planning commission term, and five members who shall be appointed by the council. In the latter instance, one of such members shall be appointed for a one-year term; two of such members shall be appointed for a two-year term, and two of such members shall be appointed for a three-year term. Thereafter, each member shall be appointed to hold office for a full three-year term. No elected officer, other than the council member, or employee of the city shall be a member of the board. Any vacancy in the board shall be filled by the council for the remainder of the unexpired term. Compensation of the members of the board of appeals shall be fixed by the city council.

(1) Any member who has a conflict of interest on any matter before the board of appeals may disqualify himself from voting thereon, and failure to do so may constitute misconduct in office.

(2) The ZBA shall elect its own chairperson; however, a ZBA member who is also on the city council shall not be chairperson of the ZBA.

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

(Ord. No. 96-5, § 1900, 3-5-1996; Ord. No. ZOA-2015-03, § 1900, 4-21-2015)

Sec. 50-574. Rules of procedure.

The board shall annually elect its own chairman and at such other times as the board may determine by rule. The board shall adopt its own rules of procedure and shall maintain a record of its proceedings which shall be filed in the office of the city clerk and shall be a public record. The fees to be charged for appeals shall be set by resolution of the city council. In those instances wherein lot area and yard requirements in lots existing of record cannot be complied with and must therefore be reviewed by the board, the required fees for appeal, in whole or part, may be refunded to the petitioner at the discretion of the board of appeals.

(Ord. No. 96-5, § 1901, 3-5-1996; Ord. No. ZOA-2015-03, § 1901, 4-21-2015)

Sec. 50-575. Procedures.

(a) Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as the ZBA, in its rules of procedure, may specify. There shall be a fixed place of meeting and all meetings shall be open to the public.

(b) A majority of the total membership of the zoning board of appeals shall vote on every matter (no abstentions) unless a member has a conflict of interest. A member of the ZBA shall request to be disqualified from a vote in which the member has a conflict of interest. The member shall state the nature of the conflict of interest and the ZBA shall vote whether to excuse the member from participation because of a conflict of interest. Failure to raise an issue of conflict of interest prior to discussion and vote on a matter before the ZBA shall constitute misconduct in office for which the member may be removed, following a hearing.

(c) Conflict of interest may include, but is not limited to: considering property a ZBA member owns or has a legal or financial interest in or adjacent property; considering a request by a party a ZBA member has close ties with, such as a relative, friend, boss, co-worker or neighbor. A fundamental issue is whether the member of ZBA believes he can objectively consider the request before the ZBA.

(d) The ZBA shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it, to the extent allowed by law.

(e) All findings of the zoning board of appeals shall be in writing, with a record of its proceedings showing the action of the ZBA and the vote of each member of each question considered.

(f) Determinations and findings of the ZBA shall be made in a reasonable time period.

(g) The ZBA shall file a record of its proceedings in the office of the city clerk. The record of proceedings shall be a public record.

(h) The zoning board of appeals may not conduct any business unless a majority of its membership is present.

(i) A majority vote of the total membership is necessary to reverse any administrative decision or grant a dimensional (non-use) variance or make a decision in favor of an applicant.

(Ord. No. 96-5, § 1902, 3-5-1996; Ord. No. 2014-05, § 1(1902), 11-4-2014; Ord. No. ZOA-2015-03, § 1902, 4-21-2015)

Sec. 50-576. Powers and duties.

The zoning board of appeals shall have the following powers and duties under this article:

(1) Those duties described in Michigan zoning enabling act (Public Act 110 of 2006), as amended;

(2) To review, hear, consider and approve, approve with conditions or disapprove variances;

(3) To hear, review, consider, and affirm, modify or reverse any order, decision, determination or interpretation of the building inspector or any other administrative official made under the terms of this article;

(4) To hear and decide, in accordance with the provisions of this article, requests for exceptions, for interpretations of the zoning map and for decisions on special approval situations on which this article specifically authorizes the board to pass. Any exception or special approval permit shall be subject to such conditions as the board may require to preserve and promote the character of the zoning district in question and otherwise promote the purposes of this article;

(5) To permit the erection and use of a building or use of premises for public utility purposes and make exceptions therefore to the height and bulk requirements herein established which the board considers necessary for the public safety and welfare.

(Ord. No. 96-5, § 1903, 3-5-1996; Ord. No. ZOA-2015-03, § 1903, 4-21-2015)

Sec. 50-577. Temporary permits.

(a) The zoning board of appeals may grant a permit for temporary buildings or permitted uses for periods not to exceed two years.

(b) The granting of temporary permits shall be done under the following conditions:

(1) The granting of a temporary permit shall in no way constitute a change in the basic zoning district and principal uses permitted therein.

(2) The temporary permit shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.

(3) All setbacks, land coverage, off-street parking, lighting and other necessary requirements to be considered in protecting the public health, safety and general welfare of the people of the city shall be made at the discretion of the zoning board of appeals or as otherwise provided in this article.

(Ord. No. 96-5, § 1904, 3-5-1996; Ord. No. ZOA-2015-03, § 1904, 4-21-2015)

Sec. 50-578. Jurisdiction.

(a) The zoning board of 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 of this article, but does have power to act on those matters where this article provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined in this section and laws of the state.

(b) The zoning board of appeals, in conformity with the provisions of the this chapter and the Michigan zoning enabling act (Public Act 110 of 2006), as amended, may reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination appealed from and shall make such an order, requirements, decision, or determination as, in its opinion, ought to be made and to that end, shall have all the powers to hear and decide all matters referred to it or upon which it is required to pass under this article.

(Ord. No. 96-5, § 1905, 3-5-1996; Ord. No. ZOA-2015-03, § 1905, 4-21-2015)

Sec. 50-579. Appeals, interpretations, and variances.

Subject to the provisions of section 50-580, the board, after a public hearing, shall have the power to decide applications for appeals, interpretations, and variances filed as hereafter provided:

(1) Where it is alleged by the appellant that there is an error or misinterpretation in any order, requirement, decision, grant, or refusal made by the building inspector or other administrative office in the carrying out or enforcement of the provisions of this article, then an appeal or request for ordinance interpretation shall be filed with the zoning board of appeals on forms established for that purpose. In deciding a request for ordinance interpretation, the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the ordinance, the article in which the language in question is contained, and all other relevant provisions of the ordinance.

(2) Where, by reason of the exceptional narrowness, shallowness or shape of a specific piece of property which existed on the effective date of the ordinance from which this article is derived, or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building, or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this article would involve practical difficulties, provided that the board shall not grant a variance on a lot of less area than the requirements of its zoning district, even though such lot existed at the time of the adoption of this article if the owner or members of his immediate family owned adjacent land which could, without practical difficulty, be included as part of the lot.

(3) Where there are practical difficulties in the way of carrying out the strict letter of this chapter relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of land, buildings, or structures so that the spirit of this chapter shall be observed, public safety secured, and substantial justice done.

(Ord. No. 96-5, § 1906, 3-5-1996; Ord. No. ZOA-2015-03, § 1906, 4-21-2015)

Sec. 50-580. Dimensional or non-use variances.

No variance in the provisions of this article shall be authorized unless the zoning board of appeals finds, from reasonable evidence, that all of the following standards have been met:

(1) Such variance will not be detrimental to adjacent property and the surrounding neighborhood;

(2) Such variance will not impair the intent and purpose of this article;

(3) Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See section 50-579(2);

(4) Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance;

(5) The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation;

(6) The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, shall not be the result of actions of the property owner. In other words, the problem shall not be self-created;

(7) That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

(8) That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship;

(9) That the variance will relate only to property under the control of the applicant.

(Ord. No. 96-5, § 1907, 3-5-1996; Ord. No. ZOA-2015-03, § 1907, 4-21-2015)

Sec. 50-581. Use variances prohibited.

(a) The zoning board of appeals is hereby prohibited from granting a use variance for a use not permitted within a particular zoning district. A use variance would allow a landowner to use the land for a purpose which is otherwise not permitted or is prohibited by the applicable zoning district regulations.

(b) The zoning board of appeals shall only be authorized to issue dimensional or non-use variances in strict accordance with section 50-580.

(Ord. No. 96-5, § 1908, 3-5-1996; Ord. No. ZOA-2015-03, § 1908, 4-21-2015)

Sec. 50-582. Public hearing and notification requirement.

Upon receipt of an application for an appeal, interpretation, or variance, the zoning board of appeals shall hold at least one public hearing, in accordance with the public hearing and public notice requirements set forth in the Michigan zoning enabling act (Public Act 110 of 2006), as amended:

(1) *Responsibility.* When the provisions of this chapter or the Michigan zoning enabling act require that notice be published, the building inspector shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the city and mailed or delivered as provided in this section.

(2) *Content.* All mail, personal and newspaper notices for public hearings shall:

a. *Describe the nature of the request.* Identify whether the request is for a rezoning, text amendment, special approval use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

b. *Location.* Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

c. *When and where the request will be considered.* Indicate the date, time and place of the public hearing.

d. *Written comments.* Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

e. *Handicap access.* Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

(3) *Personal and mailed notice.* When the provisions of this chapter or state law require that personal or mailed notice be provided, notice shall be provided to:

a. The owners of property for which approval is being considered, and the applicant, if different than the owner of the property;

b. Except for rezoning requests involving 11 or more adjacent properties or an chapter interpretation request that does not involve a specific property, to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the city. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure;

c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to subsection (6) of this section.

(4) *Notice by mail/affidavit.* Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The building inspector shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

(5) *Timing of notice.* Unless otherwise provided in the Michigan zoning enabling act (Public Act 110 of 2006), as amended, or this chapter where applicable, notice of a public hearing shall be provided as follows: For a public hearing on a variance, appeal, or chapter interpretation, not less than 15 days before the date the application will be considered for approval.

(6) *Registration to receive notice by mail.*

a. Any neighborhood organization, public utility company, railroad or any other person may register with the building inspector to receive written notice of all applications for development approval pursuant to section (3)c of this section, or written notice of all applications for development approval within the zoning district in which they are located. The building inspector shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the city council.

b. Requirements. The requesting party must provide the building inspector information on an official form to ensure notification can be made. All registered persons must re-register bi-annually to continue to receive notification pursuant to this section.

(Ord. No. 96-5, § 1909, 3-5-1996; Ord. No. ZOA-2015-03, § 1909, 4-21-2015)

Sec. 50-583. Standards for evaluation.

Each case before the zoning board of appeals shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring board approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. The board shall give consideration to the following:

(1) The location and size of the use.

(2) The nature and intensity of the operations involved in or conducted in connection with it.

(3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use.

(4) The assembly of persons in connection with it will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood.

(5) Taking into account, among other things, convenient routes of pedestrian traffic, particularly of children.

(6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, site distance and the general character and intensity of development of the neighborhood.

(7) The location and height of buildings, the locations, nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

(8) The nature, location, size, and site layout of the use shall be such that it will be a harmonious part of the district in which it is situated, taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and related characteristics.

(9) The location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise endanger the public safety.

(Ord. No. 96-5, § 1910, 3-5-1996; Ord. No. ZOA-2015-03, § 1910, 4-21-2015)

Sec. 50-584. Conditions of approval.

In authorizing a variance, the zoning board of appeals may impose specific conditions regarding the location, character, fencing, buffering or landscaping, or such other design changes as are reasonably necessary for the furtherance of the intent and spirit of this chapter and to ensure the protection of the public interest and abutting properties. To ensure compliance with such conditions, the ZBA may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond per the requirements of section 50-659.

(Ord. No. 96-5, § 1911, 3-5-1996; Ord. No. ZOA-2015-03, § 1911, 4-21-2015)

Sec. 50-585. Lapse of approval.

(a) No order of the ZBA permitting the erection of a building shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(b) No order of the ZBA permitting a use of a building or premises shall be valid for a period longer than one year unless such permitted use is established within such period, provided, however, that where such permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Ord. No. 96-5, § 1912, 3-5-1996; Ord. No. ZOA-2015-03, § 1912, 4-21-2015)

Secs. 50-586—50-602. Reserved.

ARTICLE XX. ZONING COMMISSION

Sec. 50-603. Designated.

The city planning commission is hereby designated as the commission specified in section 301 of Public Act No. 110 of 2006 (MCL 125.3301) and shall perform the duties of said commission as provided in the statue in connection with the amendment of this article.

(Ord. No. 96-5, art. XX, 3-5-1996)

State law reference(s)—Zoning commission, MCL 125.3301 et seq.

Secs. 50-604—50-624. Reserved.

ARTICLE XXI. CHANGES AND AMENDMENTS[5]

Sec. 50-625. Procedures.

The city council may from time to time on recommendation from the planning commission, on its own motion or on petition amend, supplement, modify or change this chapter in accordance with the authority of Public Act No. 110 of 2006 (MCL 125.3101 et seq.), in accordance with the following procedural outline:

(1) Upon presentation to the city council of a petition for amendment of this article by an owner of real estate to be affected, such petition shall be accompanied by a fee. The amount of such fee shall be set by resolution of the city council and shall be used to defray the expense of publishing required notices and related expenditures. Should no public hearing be held thereon; the fee shall be refunded to the petitioner.

[5]State law reference(s)—Zoning adoption and enforcement, MCL 125.3401 et seq.

(2) All amendment proposals not originating with the planning commission shall be referred by the city council to the planning commission for a recommendation before any action is taken by the city council.

(3) The planning commission shall study the proposed ordinance amendment and make written recommendation to the city council for approval, conditional approval, or disapproval. In the course of such study, the planning commission may hold public informational meetings on the proposed amendment.

(4) The planning commission shall hold a public hearing thereon per the provisions of section 401 of Public Act No. 110 of 2006 (MCL 125.3401).

(5) In case a protest against a proposed amendment, supplement or change is presented, duly signed by the owners of at least 20 percent of the area of land included in the proposed change or by the owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change, such amendment shall not be passed except by a three-quarters vote of the city council. Publicly owned land shall be excluded in calculating the 20 percent land area requirement.

(Ord. No. 96-5, art. XXI, 3-5-1996)

Secs. 50-626—50-653. Reserved.

ARTICLE XXII. ENFORCEMENT, PENALTIES AND OTHER REMEDIES[6]

Sec. 50-654. Violations.

Any firm, corporation or person who violates any provision of this chapter is responsible for a misdemeanor.

(Ord. No. 96-5, § 2500, 3-5-1996)

Sec. 50-655. Declaration of public nuisance.

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

(Ord. No. 96-5, § 2501, 3-5-1996)

Sec. 50-656. Fines, imprisonment, etc.

The owner of any building, structure or premises or part thereof where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation, shall be guilty of a separate offense and, upon conviction thereof, shall be liable to the fines and imprisonment herein provided.

[6]State law reference(s)—Certain violations as nuisance per se, MCL 125.3407.

(Ord. No. 96-5, § 2502, 3-5-1996)

Sec. 50-657. Each day a separate offense.

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

(Ord. No. 96-5, § 2503, 3-5-1996)

Sec. 50-658. Right and remedies cumulative.

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

(Ord. No. 96-5, § 2504, 3-5-1996)

Sec. 50-659. Performance bonds.

(a) Where in this chapter there is delegated to the zoning board of appeals or the city planning commission the function of establishing certain physical site improvements as a contingency to securing a zoning amendment, site plan approval, special approval or variance, the zoning board of appeals or the city planning commission may, to ensure strict compliance with any regulation contained herein or required as a condition of the issuance of a permit, require the permittee to furnish a cash, performance or surety bond executed by a reputable surety company authorized to do business in the state, or irrevocable letter of credit, in an amount determined by the zoning board of appeals or the city planning commission to be reasonably necessary to ensure compliance hereunder; provided, however, that in fixing the amount of such cash, performance, surety bond or irrevocable letter of credit, the zoning board of appeals or city planning commission shall take into account the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.

(b) The performance guarantee shall be deposited with the city clerk at the time of the issuance of the permit authorizing the activity or project. The city may not require the deposit of the performance guarantee prior to the time when the city is prepared to issue the permit.

(c) The city shall establish procedures whereby a rebate of any cash deposits, in reasonable proportion to the ratio of work completed on the required improvements, will be made as work progress.

(d) As used in this section, the term "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting approval to protect natural resources or the health, safety and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including, but not limited to, roadways, paving, walls, curbing, striping, lighting utilities, sidewalks, screening and drainage.

(e) A certificate of occupancy for any improvement will not be issued not shall the property be used or occupied in any way until the required physical site improvements are fulfilled. In instances where all improvements as required by this chapter are not completed and a temporary certificate of occupancy is requested, the cost of such remaining improvements shall be estimated by the building inspector, taking into account the criteria listed above. The building inspector may grant temporary occupancy if use of the premises does not constitute a hazard or nuisance. Temporary occupancy will not be granted until satisfactory cash bond or irrevocable letter of credit in the amount of the estimated cost of completion is filed with the city clerk. If the

work is not completed by the date specified on the temporary occupancy permit, the city may use the cash, surety bond or irrevocable letter of credit to complete the improvements. Issuance of a temporary certificate of occupancy is also subject to the provisions of section 50-513(5).

(f) Should the applicant object to the amount of the performance guarantee as set by the planning commission, zoning board of appeals or building inspector as provided herein, he shall file with the city clerk his written objection thereto within 30 days of such determination. The city clerk shall forward any such written objection he shall receive to the city council, which may make such inquiry and determination as it deems to be in the interest of the city. The determination of the city council shall be final.

(Ord. No. 96-5, § 2505, 3-5-1996)

State law reference(s)—Performance guarantee, MCL 125.3505.

Secs. 50-660—50-676. Reserved.

ARTICLE XXIII. SEVERANCE CLAUSE

Sec. 50-677. Validity of holdings.

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

(Ord. No. 96-5, art. XXVI, 3-5-1996)