

Chapter 50 - ZONING⁽¹⁾

Footnotes:

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State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

ARTICLE I. - IN GENERAL

Sec. 50-1. - Purpose.

Pursuant to the authority conferred by the public acts of the state, this chapter has been established for the purpose of:

- (1) Promoting and protecting the public health, safety, and general welfare;
- (2) Promoting the orderly and beneficial development of residential and non-residential areas within the city;
- (3) Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light, air, access and privacy to protect the public health;
- (4) Lessening and avoiding congestion or other traffic related problems on the public highways and roads;
- (5) Facilitating adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs;
- (6) Protecting the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards;
- (7) Preventing the overcrowding of land and undue concentration of buildings and structures so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
- (8) Enhancing social and economic stability in the city;
- (9) Conserving the taxable value of land, buildings and structures in the city;
- (10) Enhancing the aesthetic desirability of the environment throughout the city; and
- (11) Conserving the expenditure of funds for public improvements and services to conform to the most advantageous uses of land.

(Ord. No. 299 of 2011, § 101, 2-14-2011)

Sec. 50-2. - Short title.

This chapter shall be known and may be cited as the "City of Manistique Zoning Ordinance."

(Ord. No. 299 of 2011, § 102, 2-14-2011)

Secs. 50-3—50-22. - Reserved.

ARTICLE II. - DEFINITIONS

Sec. 50-23. - Construction of language.

The following rules of construction shall apply to the text of this article:

- (1) All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases that have a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.
- (2) The particular shall control the general.
- (3) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (4) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (5) The word "use" includes the words, structures and buildings associated with such use.
- (6) When not inconsistent with the context, words in the present tense shall include the future, words in the singular number shall include the plural, and words in the plural shall include the singular.
- (7) The word "building" includes the word "structure," and the word "dwelling" includes the word "residence." A "building" or "dwelling" includes any part thereof.
- (8) The words "used" or "occupied" include the words "intended," "designed," or "arranged" to be used or occupied.
- (9) The word "person" includes any firm, association, organization, partnership, trust, corporation, or similar entity, as well as an individual.
- (10) The word "lot" includes the words "plot" and "parcel."
- (11) 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 connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (12) The masculine gender shall include the feminine and the feminine gender shall include the masculine.
- (13) Whenever a reference is made to several sections and the section numbers are connected by the word "to," the reference includes both sections whose numbers are given and all intervening sections.
- (14) "Day" refers to a calendar day unless otherwise specified as a working day, business day, etc. In computing a period of days, if the first day or the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

(Ord. No. 299 of 2011, § 201, 2-14-2011)

Sec. 50-24. - Definitions.

For the purpose of this chapter, terms pertaining to access, building, property, land use, building use, building measurement, and enforcement shall have the following meaning:

Accessory building means a building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building or use.

Accessory use means a use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Adult foster care family home means a private residence licensed under Public Act No. 218 of 1979 (MCL 400.701 et seq.), with the approved capacity to receive six or fewer adults who are provided with foster care for five or more days a week, and for two or more consecutive weeks, for compensation. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

Adult foster care large group home means a facility licensed under Public Act No. 218 of 1979 (MCL 400.701 et seq.), with the approved capacity to receive at least 13 but not more than 20 adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks, for compensation.

Adult foster care small group home means a facility licensed under Public Act No. 218 of 1979 (MCL 400.701 et seq.), with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks, for compensation.

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

Alteration means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Amusement park means a facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sales of items, buildings for shows and entertainment, and restaurants and souvenir sales.

Apartment means a dwelling unit in a "multiple-family dwelling" as defined herein.

Assisted living facility means a residence for the frail elderly that provides rooms, meals, and personal care. Other services, such as recreational activities, financial services, and transportation, may also be provided.

Automobile means a self-propelled, free-moving vehicle, with four wheels, usually used to transport not more than six passengers and licensed by the appropriate state agency as a passenger vehicle.

Automobile/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 the servicing of and minor repair of automobiles.

Automotive repair garage means a premises where the following services may be carried out in a completely enclosed building: general repairs, engine rebuilding, rebuilding or reconditioning of motor vehicles; auto glass work, collision service such as body, frame or fender straightening and repair; painting and undercoating of automobiles. Retail sale of motor fuels, lubricants and accessories may also occur on these premises.

Automobile wash facility means a structure containing facilities for washing automobiles, including automatic or self-service applications of cleaning solutions, water, wax and/or heat for drying.

Basement means that portion of a building which is partly or wholly below grade, but so located that the vertical distance from average grade to the floor is greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the grade to the ceiling is over five feet, such basement shall be rated as a first story.

Bed and breakfast means a single-family detached dwelling, containing four or fewer sleeping rooms available for rental to transient tenants for less than 15 consecutive nights. Guest accommodations shall

be subordinate to the principal use of the dwelling as a single-family residence. Meals shall be served to transient tenants at no additional cost in accordance with Public Act No. 112 of 1987 (MCL 125.1504b).

Billboard means a large sign that is affixed to or erected upon a freestanding framework, designed or intended to be used for posting information not pertaining directly to the use of the premises on which it is located.

Buffer strip means open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

Buildable area means the area of a lot remaining after the minimum yard and open space requirements of this chapter have been met.

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. This shall include tents, awnings or vehicles situated on private property and used for such purposes.

Building, accessory. See *Accessory building*.

Building area means the area covered by a structure, measured from the exterior walls of the structure.

Building height means the vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. (BOCA National Building Code, slightly modified.)

Building line means a line parallel to the street touching that part of a building closest to the street.

Building, principal. See *Principal building*.

Business services means establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

Campground means a plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

Cellular communications site means any tower, roof-mounted, side-mounted or monopole facility used for the transmission of cellular (wireless) communications.

Change of use means any use that substantially differs from the previous use of a building or land.

Child care center, commercial, means a day care operation located in a structure whose principal use is that of a child care center, and is not the residence of the operator or any other person. Such facility shall be licensed and regulated under Public Act No. 116 of 1973 (MCL 722.111 et seq.).

Clinic, animal , means a building where animal patients, which may or may not be lodged overnight, are admitted for examination and treatment by a veterinarian or similar professionals.

Clinic, medical, means an establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not usually lodged overnight.

Club means an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities, but not operated for profit and open only to members and not the general public.

College means an educational institution authorized by the state to award baccalaureate or higher degrees.

Commercial tower means a structure intended to send and/or receive radio and television communications.

Community college means an educational institution authorized by the state to award associate or higher degrees, and usually lacking residential facilities for students.

Conditional use means a use requiring express approval by the planning commission and issuance of a conditional use permit before the use may begin. Conditional land uses must meet certain requirements and performance standards, as specified in this chapter, before being authorized, and additional conditions may be imposed by the planning commission.

Conditional use permit means a permit issued by the planning commission to a person or persons intending to undertake the operation of a use upon land or within a structure or building specifically identified in the affected zoning district under conditional uses authorized by permit. These conditional uses possess unique characteristics and are found to be not injurious to the health, safety, convenience, and general welfare of the city's inhabitants.

Condominium means a building or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the common areas, facilities, and in some cases structures are owned by all the owners on a proportional, undivided basis.

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, time-share, or any other type of use.

Conference center means a facility used for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resources facilities and meeting rooms.

Contractor yard means an area intended for the storage of materials and equipment used for construction, road building and forestry operations.

Convenience store means any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, alcoholic and non-alcoholic liquors and sandwiches and other freshly prepared foods, such as salads, for off-site consumption. A convenience store may be operated in combination with an automobile/gasoline service station.

Court means an open unoccupied space, other than a yard, and bounded on at least two sides by a building. A court extending to the front yard or front lot line or to the rear yard or rear lot line is an outer court. Any other court is an inner court.

Cul-de-sac means the turnaround at the end of a dead-end street.

Cultural facilities means establishments that document the social, intellectual and artistic manifestations that characterize a society, and include museums, art galleries, and similar facilities of historical, educational or cultural interest.

Developer means the legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

Development means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

District means a specifically delineated area within the city, within which uniform regulations and requirements under this chapter govern the use, placement, spacing and size of land and structures.

Drive-in use means an establishment that by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

Driveway means a private roadway providing access to a street or highway.

Duplex means a building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof. Also see *Dwelling, two-family*.

Dwelling, multiple-family, means a single structure containing more than two dwelling units each designed for residential occupancy by one family, including condominiums.

Dwelling, single-family, means a single structure, including a mobile home, designed or used for residential occupancy by one family in all districts that allow single-family dwellings. The single-family dwelling, including mobile homes and manufactured housing, shall have a minimum exterior breadth/caliper/width of 20 feet. (This is to imply that the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least 20 feet.) Breezeways, garages, porches, and other appurtenances shall not be considered part of the required 20 feet.

Dwelling, two-family, means a single building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. The two-family dwelling building shall have a minimum exterior breadth/caliper/width of 20 feet. (This is to imply that the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least 20 feet.) Breezeways, garages, porches, and other appurtenances shall not be considered part of the required 20 feet.

Dwelling, upper floor commercial, means a dwelling unit located in the upper floors of a commercial establishment, with an outside entrance allowing the occupants to come and go without entering the commercial establishment. There may be more than one dwelling unit associated with a single commercial establishment.

Dwelling unit means one or more rooms with bathroom, bedroom, and kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes.

Enlargement means an increase in the size of an existing structure or use, including physical size of the property, building, parking, and other improvements.

Erected means any physical operations on the premises required for construction on or moving on to said premises and includes construction, reconstruction, alteration, building, excavation, fill, drainage, installation of utilities and the like.

Essential services means buildings, structures, and facilities, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

Excavation means removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances, or organic substances, other than vegetation, from water or land, on or beneath the surface thereof, whether exposed or submerged.

Existing use means the use of a lot or structure at the time of the enactment of this chapter.

Fairgrounds means structures and/or land designed for the public exhibition of agricultural products, livestock, equipment, etc., on an occasional basis. Includes other activities commonly associated with or similar to fairs, such as musical entertainment, carnival rides, food service stands, and temporary commercial exhibits and/or sale of merchandise, also on an occasional basis.

Family means either of the following:

- (1) A domestic family which is one or more persons living together and related by the bonds of blood, marriage or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of the individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling.
- (2) The functional equivalent of the domestic family which is persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the

functional equivalent of the domestic family must operate as a single housekeeping unit. The term "family" shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.

The term "family" does not apply in instances of group care centers, or state licensed residential facilities as defined in section 102 of Public Act No. 110 of 2006 (MCL 125.3102).

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. The term "family child care home" does not include an individual providing babysitting services for another individual. As used in this section, "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. It shall be licensed or registered under Public Act No. 116 of 1973 (MCL 722.111 et seq.).

Fast food restaurant means an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars on the premises, or off the premises. Often includes drive-through service.

Fence means an artificially constructed above-ground barrier of any material or combination of materials, erected to enclose, screen or separate areas. Fences constructed of barbed wire, razor wire, electrified materials or a single strand of any material are not permitted, except that barbed wire may be used in conjunction with chain link fence at least six feet in height in the industrial district.

Fence, obscuring, means an artificially constructed barrier of any material or combination of materials, other than barbed wire, razor wire, or electrified materials, erected to enclose, screen or separate areas and to block vision from one area to another.

Flea market means an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Floor area means the total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, attached or interior vehicular parking or loading, breezeways or porches; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

Floor area, usable, for purposes of computing parking requirements, is that area 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 for the storage or processing of merchandise, for hallways, stairways and elevator shafts 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 living areas of the building, measured from the interior faces of the exterior walls, including private garages. For the purposes of computing parking for those uses not enclosed within a building the area used for the sale of merchandise, display of merchandise, and/or area used to serve patrons or clients shall be measured to determine necessary parking spaces.

Food processing establishment means an establishment in which food is processed or otherwise prepared for eventual human consumption, but not consumed on the premises. If retail sales are conducted, such sales are incidental and subordinate to the processing or preparation of food.

Freight handling facility means a terminal with the capability of handling a large variety of goods involving various forms of transportation and which may provide multimodal shipping capabilities, such as rail to truck or truck to air.

Funeral home means a building used for the preparation of the deceased for burial, and for the display of the deceased and rituals connected therewith before burial and cremation.

Garage, residential, means an accessory building, or portion of a principal building, designed or used solely for the storage of non-commercial motor vehicles, boats, and similar items or equipment, and having no public sales or shop services in connection thereof.

Golf course means a tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards and that may include a clubhouse and shelter.

Grade means a ground elevation established for the purpose of controlling the number of stories and the height of any structure. The building grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure. The average of all faces shall be used to determine the height of a structure.

Greenbelt means an open area that may be cultivated and/or maintained in a natural state surrounding development and used as a buffer and/or screen between land uses or to mark the edge of an urban or developed area.

Greenhouse means a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for subsequent sale or for personal enjoyment.

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. The term "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. It shall be licensed or registered under Public Act No. 116 of 1973 (MCL 722.111 et seq.).

Health care facility means a facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental and/or physical conditions. Health care facilities may be either inpatient or outpatient facilities; inpatient facilities provide for overnight or long-term care, while outpatient facilities provide care to patients who receive treatment or consultation without being hospitalized. Inpatient facilities often provide outpatient care as well.

Home occupation means any activity carried out for gain by a resident and conducted as a secondary, incidental, and accessory use in the resident's dwelling unit, and which does not change the character thereof. This includes giving instruction in a craft or fine art within the residence.

Hotel means a structure designed, used, or offered for residential occupancy for any period less than one month, including tourist homes, resorts, lodges, motels and youth camps, but does not include hospitals and nursing homes.

Improvement means any permanent structure that becomes part of, placed upon, or is affixed to real estate.

Incidental means subordinate and minor in significance and bearing a reasonable relationship with the primary use.

Junk means any scrap, waste, reclaimable material, or debris for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or otherwise used or disposed of.

Junkyard means an open area greater than 200 feet square in size, where junk or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled, handled or abandoned, including, but not limited to, scrap iron and other metals, paper, rags, tires and bottles. Junkyards include automobile wrecking yards, but do not include uses established entirely within enclosed buildings.

Kennel means any lot or premises on which more than four dogs and cats more than six months of age are either permanently or temporarily kept.

Kennel, commercial, means an establishment in which three or more dogs and/or cats are housed, groomed, bred, boarded, trained, or sold, primarily for financial gain.

Land use means a description of how land is occupied or utilized.

Landfill means a disposal site in which refuse and earth, or other suitable cover material, are deposited in alternating layers of specified depth in accordance with an approved plan, and in accordance with state and federal licensing requirements.

Laundromat means an establishment providing washing, drying, and/or dry cleaning machines on the premises for rental use to the general public. Laundromats may incorporate drop-off facilities for commercial dry cleaning establishments, but do not include dry cleaning equipment other than self-service machines.

Loading space means an off-street space or berth used for the loading or unloading of cargo, products or materials from vehicles.

Long-term care facility means an institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing body or its members by marriage, blood or adoption. Such facilities include nursing homes, hospices, etc.

Lot means a designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon.

Lot area means the total horizontal area within the lot lines of the lot, excluding any street rights-of-way.

Lot, corner, means a lot abutting on two or more streets or roads at their intersection or upon two parts of the same street forming an angle of less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter 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 the part or percent of the lot occupied by buildings, including accessory buildings.

Lot, double frontage, means is any interior lot having frontages on two or more or less parallel streets or roads as distinguished from a corner lot. All lot lines consisting of streets or roads shall be front lot lines, and front yards shall be provided as required.

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

Lot line means the lines bounding a lot as defined herein from another lot or from a public or private street or any other public space:

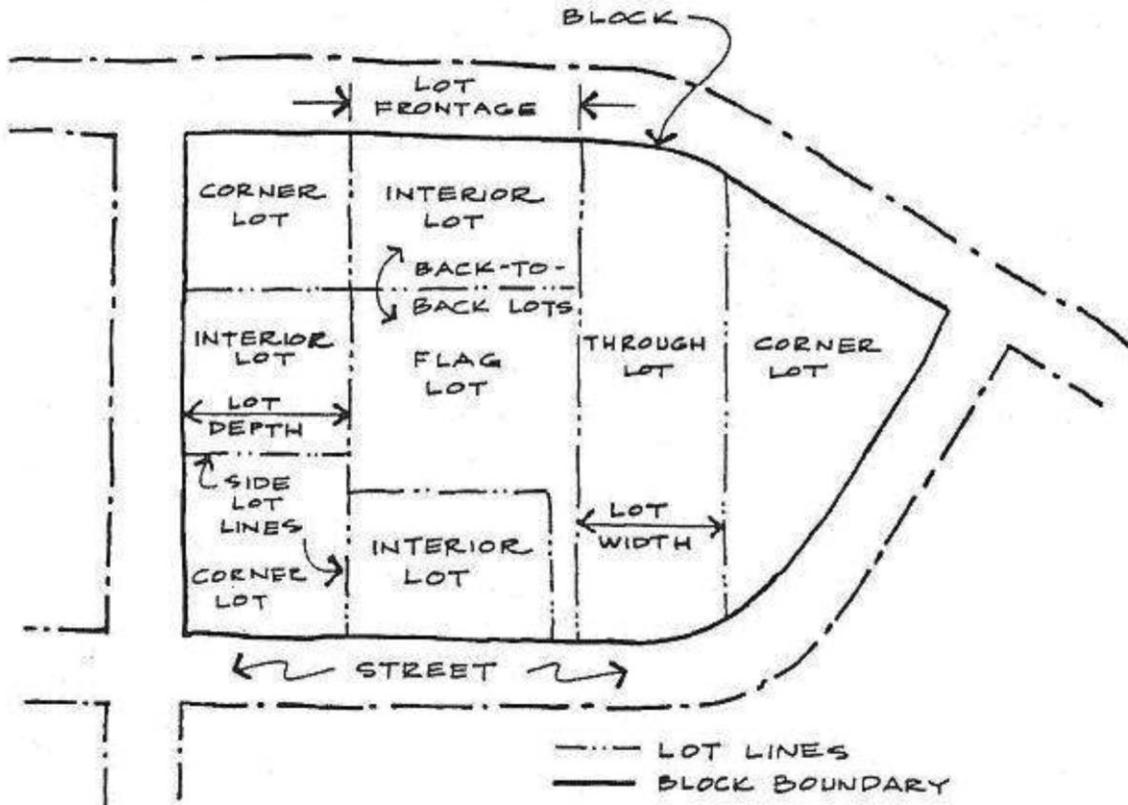
Front lot line means the line separating said lot from a street right-of-way. In the case of corner or double frontage lots, both lot lines abutting on street rights-of-way shall be treated as front lot lines.

Rear lot line means the lot line opposite and most distant from 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 entirely within the lot.

Side lot line means any lot lines other than the front lot line or rear lot line. In the case of a corner lot or double frontage lot, all lot lines other than front lot lines shall be side lot lines.

Lot of record means a lot in a map recorded with the county register of deeds, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgment of a notary public, prior to the effective date of the ordinance from which this chapter is derived, and which lot actually exists as shown or described.

Lot width means the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.



Manufacturing means establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

Master plan means the comprehensive 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. Such plan may or may not be adopted by the planning commission.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used 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. A mobile home does not include a recreational vehicle.

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

Modular (pre-manufactured) housing unit means a dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

Motel means a series of attached, semi-detached or detached rental units containing bedroom, bathroom and closet space. Units shall provide overnight lodging and are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicles as a facility for temporary residence.

Multi-use building means a building containing two or more distinct uses.

Nonconforming lot means a lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this chapter, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

Nonconforming structure or building means a structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to this chapter but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

Nonconforming use means a use or activity that was lawful prior to the adoption, revision or amendment of this chapter but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

Nuisance means an interference with the enjoyment and use of property.

Nursery means an establishment where flowers, shrubs, trees or other plants are raised and/or offered for sale. A nursery may include a greenhouse, but also includes unenclosed areas used for growing and/or displaying plants for sale. Sales of related items, such as fertilizers, landscaping materials, etc., may be included when clearly related to the principal use of growing and/or selling plants.

Nursing home means an institution or a district part of an institution that is licensed to provide health care under medical supervision to residents of the institution.

Occupancy or occupied means the residing of an individual or individuals overnight in a dwelling unit or the storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.

Office means a room or group of rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files and communications equipment.

Office building means a building used primarily for conducting the affairs of a business, profession, service or government, or like activity, and which may include ancillary services exclusively for workers in the building, such as a restaurant, coffee shop, newspaper or candy stand, or child care facilities.

Office park means a development on a tract of land that contains a number of separate office buildings, accessory and supporting uses, and open space designed, planned constructed and managed on an integrated and coordinated basis.

Outdoor storage means the keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

Park means a tract of land, designated and used by the public for active and passive recreation.

Parking lot means an off-street, ground-level open area, usually improved for the temporary storage of motor vehicles.

Parking space means a space for the parking of a motor vehicle within a public or private parking area of definite length and width and exclusive of drivers, driveways, aisles, or entrances giving access thereto, and fully accessible for the parking of motor vehicles.

Personal services means establishments primarily engaged in providing services involving the care of a person or his personal goods or apparel.

Planned unit development (PUD) means an area of a minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained as a single entity and containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial, or industrial areas in such ranges or ratios of nonresidential uses to residential uses as specified in the ordinance.

Planning commission means the city planning and zoning commission.

Principal building means a building in which is conducted the principal use of the lot on which it is located.

Permitted principal use means a use which is allowed in a certain zoning district with no permits or stipulations other than the issuance of a zoning compliance permit and such general requirements as setbacks, lot size, etc.

Principal use means the primary or predominant use of any lot or parcel.

Public building means any building, structure, facility, or complex used by the general public or providing public services, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation, including, but not limited to, assembly buildings, such as auditoriums, libraries, etc.; city, village or township halls; community centers; senior citizen centers; fire halls; etc.

Public hearing means a meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

Public service means relating to the health, safety, and welfare of the population.

Public sewer and water system means any system, other than an individual septic tank, tile field, or individual well, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment, and disposal of waste and the furnishing of potable water.

Public utility means a closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare.

Recreation facility means a place designed and equipped for the conduct of sports and leisure-time activities.

Recreational vehicle means a vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recreational vehicle park means any lot or parcel of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

Recycling center means a lot or parcel of land, with or without buildings, upon which used materials are separated and processed for shipment for eventual reuse in new products.

Recycling collection point means an incidental use that serves as a neighborhood drop-off point for temporary storage of recyclables.

Recycling plant means a facility in which recyclable materials, such as newspapers, magazines, books, and other paper products; glass; metal; and other products, are recycled, reprocessed, and/or treated to return such products to a condition in which they may again be used in new products.

Religious institution means a building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

Restaurant means an establishment where food and drink are prepared, served and consumed primarily within the principal building.

Retail food establishment means any fixed facility in which food or drink is offered primarily for retail sale. May include food preparation on the premises, such as a deli or bakery, when clearly related and incidental to the retail sale of food items.

Retail outlet store means a retail establishment selling a single manufacturer's product.

Retail sales means establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Retail warehouse outlet means a retail operation from a warehouse as an accessory to the principal warehouse use.

Same ownership means properties owned by the same individual, corporation, partnership, or other entity, or if one property is owned by any corporation that controls, is controlled by, or is under common control with the owner of the other property, or is owned by any corporation resulting from a merger or consolidation with the other property owner, or is owned by any subsidiary or affiliate of the other property owner, or is owned by any joint venture of which the other property owner is a partner.

School, elementary, means any school, public, private or parochial, which meets state requirements for elementary education.

School, secondary, means any school, public, private or parochial, which meets state requirements for secondary education.

Setback means the distance between a building and any lot line. The minimum setbacks establish required yards and define the zoning envelope.

Shopping center means a group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements and landscaping and signage in accordance with an approved plan.

Sidewalk cafe means a restaurant with tables on the sidewalk in front of the premises.

Sign means any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

Sign face means the area or display surface of a sign used for the message, not including any structural framework not used for display. Where a sign has two display surfaces back-to-back or in V-formation, each display surface is considered a face.

Sign, marquee, means a sign that is mounted, painted, or attached to an awning, canopy or marquee.

Sign, mechanical, means any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.

Sign, off-premises, means a sign, other than a billboard as defined by this section, that advertises a commodity, service, business or event lawfully conducted, sold, or offered at a location other than the premises on which the sign is located.

Sign, on-premises, means a sign, other than a billboard as defined by this section, that advertises a commodity, service, business or event lawfully conducted, sold, or offered on the premises on which the sign is located.

Sign structure means the assembled components which make up an outdoor advertising display, including but not limited to uprights, supports, facings and trim. Such sign structure may contain two faces arranged back-to-back or in V-formation.

Spot zoning means rezoning of a lot or parcel of land to benefit an owner, resulting in a use incompatible with surrounding land uses and which is inconsistent with local plans and policies.

Sprawl means uncontrolled growth, usually of a low-density nature, in previously rural areas and some distance from existing development and infrastructure.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

Street means a dedicated public right-of-way which affords the principal means of vehicular access to abutting property. A street includes the entire right-of-way and any improvements constructed thereon.

Structure means any constructed, erected, or placed material or combination of materials in or upon the ground, including, but not limited to buildings, mobile homes, sheds, freestanding signs, storage bins, and satellite dishes, but not including sidewalks, driveways, patios, parking lots, and utility poles. Building areas separated by fire walls or bearing walls shall not be considered separate structures under this chapter.

Supermarket means a retail establishment primarily selling food as well as other convenience and household goods.

Tavern means an establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

Temporary outdoor activity means happenings that are carried out primarily out-of-doors for a fixed period of time, not to exceed five consecutive days, and including flea markets, fireworks, displays, speeches, farm stands, seasonal sales, swap and shop markets, racing meets, circuses, carnivals, concerts and parades.

Temporary structure means a structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Temporary use means a use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Theater means a building or part of a building devoted to the showing of motion pictures or for dramatic, dance, musical or other live performances.

Transfer station means an intermediate destination for solid waste, where small shipments of waste are aggregated or compacted, or where separation of different types of waste may occur.

Truck stop means any building, premises, or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of equipment or accessories for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations and restaurant facilities primarily for the use of truck crews.

Truck terminal means an area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

Undeveloped or unimproved land means land in its natural state before development.

Use means the purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are or may be occupied or maintained. Includes actual and/or proposed use of land and/or structures.

Use, accessory. See *Accessory use*.

Variance means a modification of the literal provisions of this chapter granted by the board of appeals when in its judgment the strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are undue hardship, and unique circumstances

Warehouse means a building used primarily for the storage of goods and materials.

Warehouse, self storage , means a structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

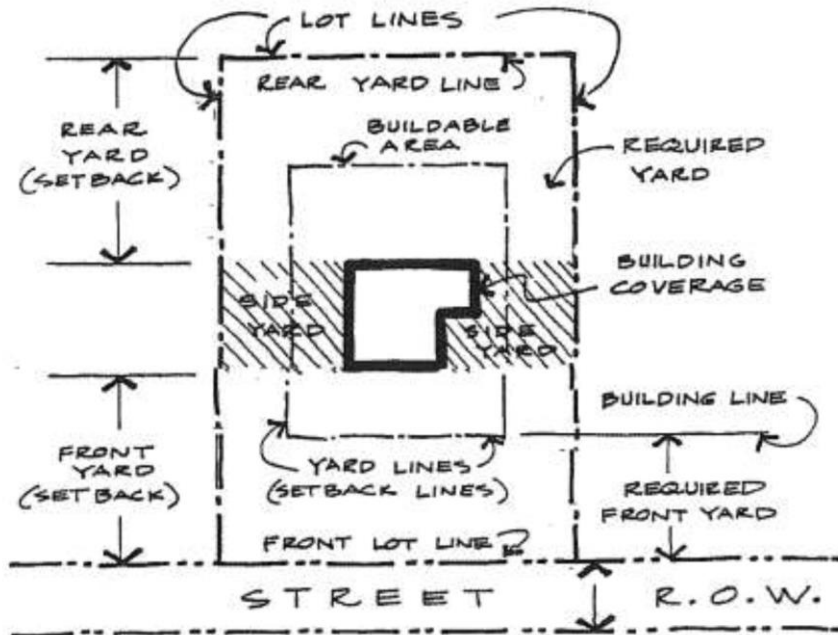
Yard means an open space that lies between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in this chapter is unoccupied and unobstructed from the ground upward except as may be specifically provided in this chapter.

Yard, front, means a space extending the full width of the lot between the principal building and the front line and measured perpendicular to the building at the closest point to the front lot line.

Yard, rear, means a space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

Yard, required, means the open space between a lot line and the yard line within which no structure shall be located except as provided in this chapter.

Yard, side, means a space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.



Zoning compliance permit means a document signed by a zoning officer, as required in this chapter, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that acknowledges that such use, structure, or building complies with the provisions of this chapter or authorized variance therefrom.

Zoning envelope means the three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations, minimum yard setbacks and sky exposure plane regulations when applicable.

(Ord. No. 299 of 2011, § 202, 2-14-2011)

Secs. 50-25—50-51. - Reserved.

ARTICLE III. - ZONING DISTRICTS AND MAPS

Sec. 50-52. - Establishment of districts.

For the purpose of this article, the city is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

R-1: Single-Family Residential

R-2: Multiple-Family Residential

B-1: Restricted Business

B-2: General Business

M-1: Mixed Use

I-1: Industrial

OS-1: Open Space/Public Area

OS-2: Open Space/Services

(Ord. No. 299 of 2011, § 301, 2-14-2011)

Sec. 50-53. - Zoning district maps.

- (a) The boundaries of the respective districts enumerated in section 50-52 are defined and established as depicted on the map entitled "City of Manistique Official Zoning Map," which is an integral part of this article. This map, along with all notations and explanatory matter thereon, shall become as much a part of this article as if fully described herein.
- (b) The city official zoning map shall be identified by the signature of the mayor, attested by the city clerk. If, in accordance with the provisions of this article, changes are made in district boundaries, such changes shall be incorporated on the city official zoning map and approved by the city council together with an entry on the city official zoning map showing the date and official action taken.
- (c) One copy of the city official zoning map is to be maintained and kept up-to-date by the city zoning administrator, accessible to the public and shall be the final authority as to the current zoning status of properties in the city.

(Ord. No. 299 of 2011, § 302, 2-14-2011)

Sec. 50-54. - Interpretation of the zoning map.

Where due to the scale, lack of detail or illegibility of the zoning maps, there is any uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon; the zoning board of appeals shall make an interpretation of said map upon request of any person. The zoning board of appeals shall apply the following standards in interpreting the zoning map:

- (1) Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the center lines of alleys, streets, rights-of-way or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map. In the case of districts which are drawn as a strip along a street or highway, the intent is for the district to encompass the entire area of any lot fronting upon that street or highway. Although the district boundary as depicted on the map may be a straight line, the actual boundary will be irregular as a result of the irregular nature of some lots.
- (2) Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
- (3) Zoning district boundary lines are not generally intended to result in a single lot being divided into two or more districts. A lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- (4) If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of uses of property and the history of zoning ordinances and amendments in the city, as well as all other relevant facts.

(Ord. No. 299 of 2011, § 303, 2-14-2011)

Sec. 50-55. - Replacement of official zoning maps.

In the event the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the city council may adopt a new official zoning map which shall supersede the prior official zoning map. The official zoning map shall bear the same signatures and certification as required in section 50-53. Unless the official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

(Ord. No. 299 of 2011, § 304, 2-14-2011)

Sec. 50-56. - Application of district regulations.

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety and general welfare, and shall be uniform for each class of land or buildings and structures throughout each district. Where there are practical difficulties in the way of carrying out the strict letter of this article, the zoning board of appeals shall have power in passing upon appeals, in accordance with article X of this chapter, to vary or modify regulations and provisions of this article so that the intent and purposes of this article shall be observed, public safety secured and substantial justice done.

(Ord. No. 299 of 2011, § 305, 2-14-2011)

Sec. 50-57. - Scope of provisions.

- (a) Except as may otherwise be provided in this article, every building and structure erected, every use of any lot, building or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building or structure occurring after the effective date of the ordinance from which this article is derived shall be subject to all regulations of this article which are applicable in the zoning district in which such use, building, or structure shall be located.
- (b) Uses are permitted by right only if specifically listed as principal permitted uses in the various zoning districts. Where not specifically permitted, either by right or conditionally, uses are thereby prohibited unless construed to be similar to an expressly permitted use. The zoning board of appeals shall determine if a use is similar to a use specifically permitted by right or by conditions.
- (c) Accessory uses are permitted as indicated for the various zoning districts and if such uses are clearly incidental to the permitted principal uses.
- (d) The uses permitted subject to conditional use permit are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, etc.) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.
- (e) Any structure, use of a structure or land use and any lot, the size, width, or other characteristic of which fails to meet the requirements of the land use district in which it is located and which was lawfully established in accordance with state and local statutes ("of record") prior to the effective date of this amendment shall be considered a legal nonconforming use.

(Ord. No. 299 of 2011, § 306, 2-14-2011)

Sec. 50-58. - Conflicting regulations.

Wherever any provision of this article imposes more stringent requirements, regulations, restrictions or limitations than those imposed or required by the provisions of any other law or ordinance, then 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. No vested right shall arise to the property owner for any parcel or use created in violation of any preceding city zoning ordinance.

(Ord. No. 299 of 2011, § 307, 2-14-2011)

Sec. 50-59. - Exemptions.

The location of pipes, wires, poles, and generating and transmission equipment of public utilities or railroad tracks regulated by the state or by the United States are exempt from regulation under this article.

(Ord. No. 299 of 2011, § 308, 2-14-2011)

Sec. 50-60. - District R-1: Single-Family Residential.

- (a) *Intent.* The R-1 Single-Family Residential District is intended for the establishment and preservation of quiet neighborhoods for single-family dwellings, free from other uses except those which are both compatible with and convenient to the residents in this district. The R-1 district is designed to accommodate residential dwellings served by municipal water and wastewater treatment services.
- (b) *Permitted principal uses.*
- (1) Single-family dwellings.
 - (2) Adult foster care family homes.
 - (3) Foster family homes.
 - (4) Foster family group homes.
 - (5) Family day care facilities.
 - (6) Group day care facilities.
 - (7) Home occupations.
 - (8) Parks and recreation facilities, day use only.
 - (9) Public libraries, other public buildings.
 - (10) Schools, elementary (K—6).
- (c) *Permitted accessory uses.* The following are permitted accessory uses:
- (1) Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, pens, boat house, swimming pools, woodshed, and sauna.
 - (2) Accessory uses and structures normally associated with the permitted use.
- (d) *Conditional uses authorized by permit.* The following uses of land and structures may be permitted in this district by application for and the issuance of a conditional use permit as provided for in article VII of this chapter.
- (1) Bed and breakfast establishments.
 - (2) Day care centers or preschools.
 - (3) Golf courses.

- (4) Planned unit developments in accordance with section 50-108 only in those portions of this district located west of Chippewa Street, south of Deer Street, north of U.S. 2, and east of the corporate limits of the city.
- (5) Religious institutions.
- (e) *Permitted temporary storage.*
 - (1) Cargo (intermodal) containers may be used for temporary storage in the R1 zoning district for a period not to exceed 180 days in a 365-day period. Cargo (intermodal) containers that exceed a height of eight feet six inches, a width of eight feet and a length of 40 feet are prohibited at all times.
 - (2) Cargo containers are prohibited in R-1 residential districts for any use other than the aforementioned temporary storage.

(Ord. No. 299 of 2011, § 309, 2-14-2011)

Sec. 50-61. - District R-2: Multiple-Family Residential.

- (a) *Intent.* The R-2 District, Multiple-Family Residential, is intended for the establishment and preservation of residential areas, including single-, two- and multiple-family dwellings. The regulations of this district are designed to protect and stabilize the characteristics of these areas and to promote and encourage a suitable and safe environment for family life.
- (b) *Permitted principal uses.*
 - (1) Single-family dwellings.
 - (2) Two-family dwellings.
 - (3) Adult foster care family homes.
 - (4) Foster family homes.
 - (5) Foster family group homes.
 - (6) Family day care facilities.
 - (7) Group day care facilities.
 - (8) Home occupations.
 - (9) Parks and recreation facilities, day use only.
 - (10) Public libraries, other public buildings.
 - (11) Schools, elementary (K-8).
- (c) *Permitted accessory uses.* The following are permitted accessory uses:
 - (1) Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, pens, boat house, swimming pools, woodshed, and sauna.
 - (2) Accessory uses and structures normally associated with permitted uses.
- (d) *Conditional uses authorized by permit.* The following uses of land and structures may be permitted in this district by application for and the issuance of a conditional use permit as provided for in article VII of this chapter.
 - (1) Assisted living facilities.
 - (2) Bed and breakfast establishments.
 - (3) Cultural facilities.

- (4) Day care centers or preschools.
 - (5) Mobile home parks.
 - (6) Multiple-family dwellings.
 - (7) Golf courses.
 - (8) Religious institutions.
- (e) *Permitted temporary storage.*
- (1) Cargo (intermodal) containers may be used for temporary storage in the R-2 zoning district for a period not to exceed 180 days in a 365-day period. Cargo (intermodal) containers that exceed a height of eight feet six inches, a width of eight feet and a length of 40 feet are prohibited at all times.
 - (2) Cargo containers are prohibited in R-2 residential districts for any use other than the aforementioned temporary storage.

(Ord. No. 299 of 2011, § 310, 2-14-2011)

Sec. 50-62. - District B-1: Restricted Business District.

- (a) *Intent.* The B-1 Restricted Business District is intended to provide for commercial uses which are appropriate for high-density development, such as in the central business district. Uses in this district typically occupy buildings which share common walls and front directly on the sidewalks; where off-street parking is provided, it is typically behind the business. Uses are generally arranged so as to be more attractive to pedestrian traffic, where shoppers can access several businesses in a compact area. Residential uses are not permitted in this district, with the exception of dwellings in the upper floors of commercial establishments.
- (b) *Principal permitted uses.*
- (1) Banks and financial institutions.
 - (2) Business service establishments.
 - (3) Cultural facilities.
 - (4) Dwellings, upper floor commercial.
 - (5) Home occupations.
 - (6) Medical and dental offices.
 - (7) Office buildings.
 - (8) Parks and recreation facilities, day use only.
 - (9) Personal service establishments.
 - (10) Plumbers, electricians, decorators, etc., offices and showrooms.
 - (11) Private clubs and lodge halls.
 - (12) Public libraries, other public buildings.
 - (13) Restaurants without drive-through.
 - (14) Retail food establishments.
 - (15) Retail outlet stores.
 - (16) Retail sales establishments.
 - (17) Sidewalk cafes.

- (18) Supermarkets.
 - (19) Taverns.
 - (20) Temporary outdoor activities.
 - (21) Theaters, assembly halls, and gaming establishments.
- (c) *Permitted accessory uses.* The following are permitted accessory uses:
- (1) Any structural or mechanical building or use customarily incidental to the permitted principal use.
 - (2) Signs, as required and subject to the regulations established in article VI of this chapter.
- (d) *Conditional uses permitted by conditional use permit.* The following uses of land and structures may be permitted in this district by application for and the issuance of a conditional use permit as required for in article VII of this chapter.
- (1) Adult foster care/small group homes.
 - (2) Automobile service stations.
 - (3) Automobile repair garages.
 - (4) Automobile wash facilities.
 - (5) Automobile sales or showrooms, new or used.
 - (6) Bowling alleys.
 - (7) Cellular communications sites.
 - (8) Commercial printing and newspaper offices.
 - (9) Convenience retail.
 - (10) Dry cleaning establishments.
 - (11) Flea markets.
 - (12) Funeral homes.
 - (13) Greenhouse.
 - (14) Greenhouses with nursery.
 - (15) Health care facilities (out-patient).
 - (16) Laundromats.
 - (17) Motels, hotels, cabins and resorts.
 - (18) Office parks.
 - (19) Planned units developments.
 - (20) Recycling collection points.
 - (21) Research and development establishments.
 - (22) Shopping centers.
 - (23) Video arcades.

(Ord. No. 299 of 2011, § 311, 2-14-2011)

Sec. 50-63. - District B-2: General Business.

- (a) *Intent.* The B-2 General Business District is intended to provide for a more diversified, lower density commercial district, containing businesses which may require larger lots, or generate more traffic, lighting and other impacts on adjacent uses. Uses in this district are generally oriented more towards automobile traffic, and may include outdoor storage or sales in some cases. Residential uses are not permitted in this district, with the exception of dwellings in the upper floors of commercial establishments.
- (b) *Permitted principal uses.*
- (1) Adult foster care small group homes.
 - (2) Automobile service stations.
 - (3) Automobile repair garages.
 - (4) Automobile wash facilities.
 - (5) Automobile sales or showrooms, new or used.
 - (6) Banks and financial institutions.
 - (7) Bowling alleys.
 - (8) Business service establishments.
 - (9) Cultural facilities.
 - (10) Dry cleaning establishments.
 - (11) Dwellings, upper floor commercial.
 - (12) Flea markets.
 - (13) Funeral homes.
 - (14) Greenhouses.
 - (15) Greenhouses with nursery.
 - (16) Home occupations.
 - (17) Laundromats.
 - (18) Medical and dental offices.
 - (19) Motels, hotels, cabins and resorts.
 - (20) Office buildings.
 - (21) Office parks.
 - (22) Parks and recreation facilities, day use only.
 - (23) Personal service establishments.
 - (24) Plumbers, electricians, decorators, etc., offices and showrooms.
 - (25) Private clubs and lodge halls.
 - (26) Public libraries, other public buildings.
 - (27) Restaurants without drive-through.
 - (28) Retail food establishments.
 - (29) Retail outlet stores.
 - (30) Retail sales establishments.
 - (31) Shopping centers.
 - (32) Sidewalk cafes.

- (33) Supermarkets.
 - (34) Taverns.
 - (35) Temporary outdoor activities.
 - (36) Theaters, assembly halls and gaming establishments.
- (c) *Permitted accessory uses.* The following are permitted accessory uses:
- (1) Any structural or mechanical building or use customarily incidental to the permitted principal use.
 - (2) Signs, as required and subject to the regulations established in article V of this chapter.
- (d) *Conditional uses authorized by permit.* The following uses of land and structures may be permitted in this district by application for and the issuance of a conditional use permit as provided in article VII of this chapter.
- (1) Adult foster care large group homes.
 - (2) Amusement parks, fairgrounds, miniature golf courses.
 - (3) Assisted living facilities.
 - (4) Bed and breakfast establishments.
 - (5) Building material sales and storage.
 - (6) Cellular communications site.
 - (7) Commercial printing and newspaper offices.
 - (8) Conference center.
 - (9) Contractor yards.
 - (10) Convenience retail.
 - (11) Day care center or preschool.
 - (12) Flea markets.
 - (13) Golf courses.
 - (14) Health care facilities (in-patient).
 - (15) Health care facilities (out-patient).
 - (16) Kennels, commercial.
 - (17) Kennels, non-commercial.
 - (18) Long-term care facilities.
 - (19) Manufacturing and assembly.
 - (20) Painting, varnishing, and undercoating shops for automobiles.
 - (21) Parks and recreation facilities, overnight use.
 - (22) Planned unit developments.
 - (23) Recycling centers.
 - (24) Recycling collection points.
 - (25) Refineries, storage of flammable liquids.
 - (26) Research and development establishments.
 - (27) Restaurants with drive-through.
 - (28) Retail warehouse outlets.

- (29) Roadside stands.
- (30) Trade and technical schools.
- (31) Truck stops.
- (32) Truck terminals.
- (33) Utility substations.
- (34) Veterinary clinics.
- (35) Video arcades.
- (36) Warehouse, self storage.
- (37) Wholesale and warehousing.

(Ord. No. 299 of 2011, § 312, 2-14-2011)

Sec. 50-64. - District M-1: Mixed Use.

- (a) *Intent.* The M-1 Mixed Use District is established to provide for the establishment and preservation of traditional neighborhoods containing a mix of residential and compatible commercial uses. These areas can also serve as a transition area between business and residential districts. Non-residential uses permitted in this district are limited to those uses which are compatible with residential use, in that they do not involve high traffic volumes, excessive lighting, noise, smoke, fumes, or outdoor storage or sales.
- (b) *Permitted principal uses.*
 - (1) Adult foster care family homes.
 - (2) Foster family homes.
 - (3) Foster family group homes.
 - (4) Adult foster care small group homes.
 - (5) Family day care facilities.
 - (6) Group day care facilities.
 - (7) Dwellings, upper floor commercial.
 - (8) Dwellings, single-family.
 - (9) Dwellings, two-family.
 - (10) Home occupations.
 - (11) Laundromats.
 - (12) Parks and recreation facilities, day use only.
 - (13) Plumbers, electricians, decorators, etc., offices and showrooms.
 - (14) Public libraries, other public buildings.
 - (15) Schools, elementary (K—6).
 - (16) Schools, middle and high (7—12).
- (c) *Permitted accessory uses.* The following are permitted accessory uses:
 - (1) Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, pens, boat house, swimming pools, woodshed, and sauna.

- (2) Any structural or mechanical building or use customarily incidental to the permitted principal use.
 - (3) Signs, as required and subject to the regulations established in article VI of this chapter.
- (d) *Conditional uses authorized by permit.* The following uses of land and structures may be permitted in this district by application for and the issuance of a conditional use permit as provided for in article VII of this chapter.
- (1) Adult foster care large group home.
 - (2) Assisted living facilities.
 - (3) Bed and breakfast establishments.
 - (4) Business service establishments.
 - (5) Cellular communications sites.
 - (6) Commercial printing and newspaper offices.
 - (7) Conference center.
 - (8) Convenience retail.
 - (9) Cultural facilities.
 - (10) Day care center or preschool.
 - (11) Dwelling, multiple-family.
 - (12) Flea market.
 - (13) Funeral homes.
 - (14) Greenhouse.
 - (15) Golf courses.
 - (16) Health care facilities, in-patient.
 - (17) Health care facilities, out-patient.
 - (18) Long-term care facilities.
 - (19) Medical and dental offices.
 - (20) Mobile home parks.
 - (21) Motels, hotels, cabins and resorts.
 - (22) Office buildings.
 - (23) Office parks.
 - (24) Parks and recreation facilities, overnight use.
 - (25) Personal service establishments.
 - (26) Planned unit development.
 - (27) Private clubs and lodge halls.
 - (28) Religious institutions.
 - (29) Research and development establishments.
 - (30) Restaurant with drive-through.
 - (31) Restaurant without drive-through.
 - (32) Retail outlet stores.
 - (33) Retail sales establishments.

- (34) Roadside stands.
- (35) Shopping centers.
- (36) Sidewalk cafes.
- (37) Supermarkets.
- (38) Taverns.
- (39) Temporary outdoor activities.
- (40) Theaters, assembly halls and gaming establishments.
- (41) Utility substations.
- (42) Veterinary clinics.
- (43) Warehouse, self storage.
- (44) Wholesale and warehousing.

(Ord. No. 299 of 2011, § 313, 2-14-2011)

Sec. 50-65. - District I-1: Industrial.

- (a) *Intent.* The I-1 Industrial District is designed and intended for manufacturing, assembling, fabricating, and processing businesses, storage, mineral extraction, and other commercial activities which may require larger sites and isolation from many kinds of other land uses and to make provisions for commercial uses necessary to service the immediate needs of an industrial area.
- (b) *Permitted principal uses.*
 - (1) Automobile service stations.
 - (2) Automobile repair garages.
 - (3) Automobile wash facilities.
 - (4) Automobile sales or showrooms, new or used.
 - (5) Banks and financial institutions.
 - (6) Bottling works.
 - (7) Building materials sales and storage.
 - (8) Cellular communications sites.
 - (9) Commercial printing and newspaper offices.
 - (10) Commercial towers.
 - (11) Contractor yards.
 - (12) Dry cleaning establishments.
 - (13) Freight handling facilities.
 - (14) Manufacturing and assembly.
 - (15) Office buildings.
 - (16) Office parks.
 - (17) Parks and recreation facilities, day use only.
 - (18) Recycling centers.

- (19) Recycling collection points.
 - (20) Recycling plants.
 - (21) Research and development establishments.
 - (22) Retail warehouse outlets.
 - (23) Warehouse, self storage.
 - (24) Wholesale and warehousing.
- (c) *Permitted accessory uses.* The following are permitted accessory uses:
- (1) Any structural or mechanical building or use customarily incidental to the permitted principal use.
 - (2) Signs, as required and subject to the regulations established in article VI of this chapter.
- (d) *Conditional uses authorized by permit.* The following uses of land and structures may be permitted in this district by application for and the issuance of a conditional use permit as provided for in article VII of this chapter.
- (1) Asphalt plants.
 - (2) Business service establishments.
 - (3) Convenience retail.
 - (4) Food processing establishments.
 - (5) Greenhouse.
 - (6) Greenhouse with nursery.
 - (7) Gravel/sand pits.
 - (8) Kennels, commercial.
 - (9) Painting, varnishing and undercoating shops.
 - (10) Planned unit developments.
 - (11) Plumbers, electricians, decorators, etc., offices and showrooms.
 - (12) Refineries, storage of flammable liquids.
 - (13) Trade and technical schools.
 - (14) Truck stops.
 - (15) Truck terminals.
 - (16) Utility substations.
 - (17) Woodyards.

(Ord. No. 299 of 2011, § 314, 2-14-2011)

Sec. 50-66. - District OS-1: Open Space/Public Area.

- (a) *Intent.* The OS-1 Open Space/Public Area District is intended to encompass publicly-owned lands which are to be maintained as open space and/or recreational areas. These areas generally provide residents and visitors views of and access to the Lake Michigan shoreline.
- (b) *Permitted principal uses.* Parks and recreation facilities, day use only.

- (c) *Permitted accessory uses.* The following are permitted accessory uses: Accessory structures normally associated with parks and recreational facilities, such as restrooms, interpretive signs, boardwalks, fishing or viewing piers, pavilions, shelters, picnic tables, etc.
- (d) *Conditional uses authorized by permit.* The following uses of land and structures may be permitted in this district by application for and the issuance of a conditional use permit as provided for in article VII of this chapter.
 - (1) Parks and recreation facilities, overnight use.
 - (2) Schools, elementary (K—6).
 - (3) Schools, middle and high (7—12).

(Ord. No. 299 of 2011, § 315, 2-14-2011)

Sec. 50-67. - District OS-2: Open Space/Services.

- (a) *Intent.* The OS-2 Open Space/Services District is intended to provide for recreational areas and other public services on publicly-owned lands, with the opportunity for certain types of commercial use should areas within this district be leased, sold, or otherwise made available for development. It is felt that certain sites within this district, although currently publicly-owned, represent suitable areas for development should ownership change.
- (b) *Permitted principal uses.*
 - (1) Parks and recreation facilities, day use only.
 - (2) Public libraries, other public buildings.
- (c) *Permitted accessory uses.* The following are permitted accessory uses:
 - (1) Accessory structures normally associated with parks and recreational facilities, such as restrooms, interpretive signs, boardwalks, fishing or viewing piers, pavilions, shelters, picnic tables, etc.
 - (2) Accessory uses and structures normally associated with the permitted use.
- (d) *Conditional uses authorized by permit.* The following uses of land and structures may be permitted in this district by application for and the issuance of a conditional use permit as provided for in article VII of this chapter.
 - (1) Amusement parks, fairgrounds, miniature golf courses.
 - (2) Assisted living facilities.
 - (3) Cultural facilities.
 - (4) Health care facilities, in-patient.
 - (5) Health care facilities, out-patient.
 - (6) Long-term care facilities.
 - (7) Medical and dental offices.
 - (8) Office buildings.
 - (9) Office parks.
 - (10) Planned unit developments.
 - (11) Trade and technical schools.

(Ord. No. 299 of 2011, § 316, 2-14-2011)

Secs. 50-68—50-92. - Reserved.

ARTICLE IV. - GENERAL REGULATIONS

Sec. 50-93. - Height, bulk and placement regulations.

Except as otherwise specifically provided in this article, no lot or parcel shall be created and no structure shall be erected or maintained except in compliance with the schedule of regulations specified below. Any sale of land in violation of this section shall be voidable at the option of the purchaser and shall subject the seller thereof to the forfeiture of any and all consideration received or pledged for the land. The purchaser may take additional action to recover any damages sustained. These remedies shall not preclude enforcement by the zoning administrator.

<i>Schedule of Regulations</i>						
<i>District</i>	<i>Minimum Lot Size (Sq. Ft.)</i>	<i>Minimum Lot Width (Feet) (A)</i>	<i>Setback (Feet)(B)(N)</i>			<i>Maximum Height (Feet)</i>
			<i>Front</i>	<i>Each Side</i>	<i>Rear</i>	
R-1	7,800(B)	65(B)	25(C)	7(C)	25/7(D)	30(E)
R-2	7,800(B)(F)	65(B)(F)	25(C)	7(C)	25/7(D)	30(E)
B-1	None	25	None	5(G)(H)(I)	10(I)	50(E)
B-2	10,000(B)	75(B)	50/10(J)	10(H)(I)	10(I)	50/30(E)(K)(J)
M-1	7,800(B)(F)	65(B)(F)	25(C)	7(C)	25/7(D)	35(E)
I-1	15,000(B)	100(B)	(L)	25(I)(L)	25(I)(L)	(L)
OS-1	None(M)	None(M)	25	10	25	15
OS-2	15,000(B)	150(B)	25	25	25	50(E)

- (1) Lot width shall be measured at the front setback line and shall not include any encumbrances, such as easements or other such restrictions. The maximum depth to width ratio shall be four to one.
- (2) Minimum lot sizes and lot widths in areas where municipal water and/or sewer are not available or will not be used are as follows:

- a. When either municipal water or sewer service, but not both, are available and will be used, the minimum lot size shall be 19,500 square feet with a minimum lot width of 130 feet or the minimum lot width as shown above, whichever is greater.
 - b. When neither municipal water or sewer are available, or will not be used, the minimum lot size shall be 40,000 square feet with a minimum lot width of 150 feet.
- (3) No accessory building shall be located in the front yard; garages may be placed in side yards provided that the required side setbacks can be met.
- (4) The first number represents the setback for the principal structure; the second number represents the minimum setback for accessory structures.
- (5) An accessory building or structure shall not exceed 15 feet in height.
- (6) For multiple-family dwellings or other uses where more than two dwelling units are placed on a single parcel, the minimum parcel size shall be 7,800 square feet plus an additional 2,400 square feet for each unit beyond two, in areas where municipal water and sewer service will be used. Parcels which do not have water and sewer service, or where such service will not be used, must comply with subsection (2) of this section, plus an additional 2,400 square feet for each unit beyond two.
- (7) The side setback must be at least five feet from the lot line, or 15 feet from existing structures on adjacent parcels, unless a wall is constructed in accordance with BOCA Code requirements for fireproof construction, in which case the wall shall be built at the lot line.
- (8) If more than one building is located on a parcel, there shall be a minimum of ten feet separation between any two buildings at any point.
- (9) A buffer shall be provided in accordance with section 50-106 when adjacent to R-1, R-2, and M-1 districts.
- (10) The front setback shall be 50 feet for those lots where U.S. 2 forms the front lot line, and ten feet for all other lots.
- (11) The maximum height for structures south of U.S. 2 shall be 30 feet.
- (12) Building height shall not exceed the distance to the lot line when measured from any point on the structure
- (13) Property in this district consists of large parcels of publicly-owned lands which are not expected to be platted or divided.
- (14) Setbacks from water. All structures on lots abutting Lake Michigan or any inland lake or stream, as defined in Public Act No. 451 of 1994 (MCL 324.30101), including, but not limited to, inland lakes, rivers, streams, and impoundments, shall maintain a minimum setback of 50 feet as measured from the high water mark. All uses shall be subject to this setback except private bathing facilities, saunas, storage sheds, and associated facilities which shall maintain a minimum setback of 30 feet as measured from the high water mark.
- (15) The dwelling distance from the property lines shall be set back for that parcel only, unless structure is less than three feet from side property line or less than ten feet from the front property line. If it is determined by the zoning administrator that existing primary dwelling setback would be obstructive and unsafe in existing setback, then existing setback could be denied by the zoning administrator. The homeowner could appeal the zoning administrator's decision to the zoning board of appeals.
- (16) Unenclosed porches, balconies, or decks may project eight feet into the front yard but must stay a minimum of ten feet from the front property line and be 30 inches or less from grade.

(Ord. No. 299 of 2011, § 401, 2-14-2011)

Sec. 50-94. - Minimum building floor area.

Every single- and/or two-family dwelling shall have a floor area of not less than 720 square feet, exclusive of unfinished basements, garages, porches and breezeways. Every unit in a multiple-family dwelling shall have a minimum floor area of at least 350 square feet.

(Ord. No. 299 of 2011, § 402, 2-14-2011)

Sec. 50-95. - Maximum lot coverage ratio.

The maximum lot coverage ratio in all districts except B-1 and B-2 shall be 35 percent. The maximum lot coverage ratio in the B-1 district shall be 90 percent, and in the B-2 district shall be 50 percent.

(Ord. No. 299 of 2011, § 403, 2-14-2011)

Sec. 50-96. - Accessory buildings and uses.

Where a lot is devoted to a permitted principal use, customary accessory uses and buildings are authorized except as prohibited specifically or by necessary implication in this or any other ordinance. The following special rules are applicable:

- (1) An accessory building, including carports, attached to the principal building shall be made structurally a part thereof, and shall comply in all respects with the requirements of this article applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor space.
- (2) An accessory building, unless attached and made structurally a part of the principal building, shall not be closer than ten feet to any other structure on the lot.
- (3) An accessory building in a residential district shall occupy no more than 25 percent of a required rear yard plus 20 percent of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the principal building.
- (4) In instances where the rear lot line and an alley right of way share a common boundary, the accessory building shall be no closer than three feet from such rear lot line. In no instance shall an accessory building be located within a dedicated easement right of way.
- (5) Storage sheds of 144 square feet or less, and not more than eight feet high or nine feet above grade, may be set within three feet of the rear or side property line.

(Ord. No. 299 of 2011, § 404, 2-14-2011)

Sec. 50-97. - Home occupations.

Home occupations shall be allowed in all districts, in accordance with the provisions below. Home occupations shall be authorized upon application for and issuance of a zoning compliance permit by the zoning administrator. All home occupations shall comply with the following conditions:

- (1) Home occupations shall employ only those members of the family residing on the premises and not more than one non-occupant employee; home occupations in the R-1 district shall not employ non-occupants;
- (2) There shall be no outdoor storage and there shall be no exterior evidence of the conduct of home occupations, other than an approved sign in accordance with article VI of this chapter;

- (3) If the home occupation is conducted in an accessory building, it shall occupy not more than 300 square feet of said accessory building;
- (4) No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the requirements of section 50-103; the home occupation may utilize only stock vehicles such as passenger cars and light utility vehicles such as pick-ups and vans. These vehicles may be parked outside;
- (5) The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and if such home occupation is conducted in the principal dwelling, not more than 25 percent of the usable floor area of the dwelling shall be used in the conduct of home occupation;
- (6) No equipment or processes shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(Ord. No. 299 of 2011, § 405, 2-14-2011)

Sec. 50-98. - One principal structure or use per lot.

No more than one principal structure or use may be permitted on a lot, unless specifically provided for elsewhere in this article.

(Ord. No. 299 of 2011, § 406, 2-14-2011)

Sec. 50-99. - Variance of requirements for lots of record.

Minimum lot size and lot width regulations do not apply to any nonconforming parcel of land shown as a lot in a map recorded with the county register of deeds, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgment of a notary public, prior to the effective date of the ordinance from which this article is derived, and which lot actually exists as shown or described. Uses and/or structures located on parcels shall be treated as conforming uses and/or structures as long as those uses and/or structures are in conformance with the requirements of this article. No vested right shall arise to the property owner for any parcel created in violation of any preceding city zoning ordinance. When a nonconforming lot is held in common ownership with abutting parcels of land, the two or more parcels shall be considered combined as necessary to reduce or eliminate the non-conformity.

(Ord. No. 299 of 2011, § 407, 2-14-2011)

Sec. 50-100. - Allocation and reduction of lot area.

- (a) No portion of a lot shall be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.
- (b) No setback area or lot existing at the time of adoption of the ordinance from which this article is derived shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the ordinance from which this article is derived shall meet at least the minimum requirements established herein.

(Ord. No. 299 of 2011, § 408, 2-14-2011)

Sec. 50-101. - Height requirement exceptions.

The following are exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

- (1) Those purely ornamental in purpose such as church spires, belfries, domes, ornamental towers, flagpoles and monuments.
- (2) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, radio towers, television antennas and satellite dishes, wire transmission structures, and cooling towers. Any commercial communication tower shall be so located that the distance from the base of the tower to the nearest property line shall be either equal to the height of the structure plus the setback in that district or the radius of the collapse/failure zone as certified by a structural engineer plus the setback in that district.
- (3) Public utility structures.

(Ord. No. 299 of 2011, § 409, 2-14-2011)

Sec. 50-102. - Use of yard or open space.

In a residential district it is prohibited to use the open space surrounding a dwelling for the open air parking, disposition, storage, wrecking, dismantling, accumulation or abandonment, either temporary or otherwise, of disused, discarded, worn-out, wrecked, or dismantled vehicles, machinery, implements, apparatus, furniture, appliances, junk, or any other personal property. A maximum of two unlicensed and temporarily disabled vehicles may be stored on the premises provided they are screened from adjacent residences and the road.

(Ord. No. 299 of 2011, § 410, 2-14-2011)

Sec. 50-103. - Off-street parking requirements.

- (a) There shall be provided off-street parking for motor vehicles; and the minimum number of parking spaces to be provided is shown in the following table. Where calculation of parking in accordance with this table results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

<i>Use</i>	<i>Spaces Required Residential Uses</i>
Single, two-family and multiple-family dwellings (except senior citizen multiple-family housing)	2 per dwelling unit
Senior citizen multiple-family housing	1 per every 3 dwelling units, plus 2 for owner or resident manager
Roominghouses	1 per guest room and 2 for owner or resident manager

Family or group day care	1 per non-resident employee, in addition to 2 spaces required for dwelling unit <i>Dining, Entertainment and Assembly, Lodging</i>
Restaurants (except fast food and drive-through), bars, taverns, private clubs	1 per 150 square feet of usable floor area
Fast food restaurants, drive-through restaurants	1 per 100 square feet of usable floor area; parking and maneuvering lanes must not encroach upon drive-through lanes
Arcade, pool hall, game room	1 per pool table, video game machine, etc. or 1 per 150 square feet of usable floor area, whichever is greater
Bowling alleys	4 per lane, plus spaces required for restaurant and/or bar, if any
Churches, theaters, facilities for spectator sports, auditoriums, concert halls, or similar facilities with fixed seats	0.25 times the seating capacity
Dance halls, roller and ice rinks, exhibition halls, arenas or assembly halls without fixed seats, etc.	1 per 150 square feet of usable floor area, or 0.25 times legal capacity where established
Gambling establishments	0.5 times maximum capacity, plus spaces required for restaurant and/or bar, if any
Golf courses	7 per hole, plus spaces required for restaurant and/or bar, if any
Hotels and motels	1.2 per room plus spaces required for restaurant and/or bar, if any <i>Retail Establishments</i>
Furniture and appliance stores, hardware and building supply stores	1 per 800 square feet of usable floor area
Outdoor sales space	To be determined on case-by-case basis by zoning board of appeals

Other retail establishments	1 per 150 square feet of usable floor area, plus additional spaces required for outdoor sales space, if any <i>Service Establishments</i>
Barber shops and beauty parlors	2 plus 1 per chair
Convalescent and nursing homes	0.25 times maximum lawful number of occupants, plus 0.5 per employee
Educational institutions	1 per employee plus 1 per every 5 students over 15 years of age
Financial institutions	3 per teller window; parking and maneuvering lanes must not encroach upon drive-through lanes, if any
Funeral homes	1 per 150 square feet of usable floor area in assembly rooms, parlors and slumber rooms
Hospitals	0.16 times number of beds, plus 0.5 per employee
Laundromats	0.3 per washing machine
Medical offices	1 per 100 square feet of waiting room area plus 2 per medical professional
Offices (except as otherwise noted)	1 per 300 square feet of usable floor area
Repair shops for household equipment, shoes, etc.; plumber, electrician, decorator, etc. showrooms	1 per 500 square feet of usable floor area
Other service establishments	1 per 150 square feet of usable floor area <i>Automotive-Related Uses</i>
Automobile gasoline station/convenience retail	1 per 150 square feet of usable floor area plus 2 per service bay, in addition to stopping places adjacent to pumps
Automobile repair garage	1 per employee plus 2 per service bay

Auto wash	1 per vacuum plus 1 waiting space per self-service or automatic wash facility
Motor vehicle sales	1 per 400 feet of usable floor area in showroom, plus 2 per service bay, if any <i>Other Uses</i>
Warehouses, including mini-storage warehouses	1 parking/loading space per unit, plus 0.5 per employee, if any
Other industrial uses	0.75 times maximum number of employees on premises at any one time

- (b) Required off-street parking shall be provided on the lot to which it pertains or within 400 feet of the structure it is intended to serve, measured from the nearest point of the building to the nearest point of the parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant. Access drives may be placed in the required front, side or rear yards so as to provide access to accessory or attached structures. Further, any walk or other pavement serving a like function shall not be considered a structure and shall be permitted in any required yard.
- (c) Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere, in conformance with all applicable requirements.
- (d) The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited. For recreational and residential storage facilities and warehousing, loading areas shall be provided adjacent to the openings of the buildings. In no case shall these loading areas including access lanes be less than 26 feet wide when loading occurs on one side of the lane nor less than 30 feet wide when loading would occur from both sides.
- (e) 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.
- (f) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the board of appeals considers as being similar in type. If the use cannot be regarded as being similar to the uses listed, the board of appeals shall establish a reasonable minimum parking space requirement based upon such considerations as building floor area, number of employees and the volume of customer vehicular traffic.
- (g) For the purpose of computing the number of parking spaces required, the definition of usable floor area shall govern.
- (h) The number of minimum parking spaces per unit of measure as required in this article shall apply fully to the erection, alteration or extension of residential uses within the developed central business area, however, the provisions of parking spaces as required in this section may be reduced by one-half the minimum required spaces for all other uses within the developed central business area, being that area zoned B-1 on the zoning district map of this chapter and amendments thereto.

(Ord. No. 299 of 2011, § 411, 2-14-2011)

Sec. 50-104. - Off-street parking layout, standards, construction and maintenance.

Wherever the off-street parking requirements in section 50-103(a) require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefor is issued. Applications for a permit shall be submitted with two copies of plans for the development, and construction of the parking lot showing the provisions of this section will be fully complied with.
- (2) Adequate ingress and egress to the parking lot shall be provided and shall receive the review and approval of the city manager, director of public safety, and state department of transportation or county road commission, if necessary, in order to provide for the greatest possible public safety and welfare. Such necessary directional signs and controls as are required shall be established and maintained by the owner or lessee of the parking lot.
- (3) All spaces shall be provided adequate access by means of maneuvering lanes.
- (4) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements.

<i>Parking Pattern</i>	<i>Maneuvering Lane Width</i>	<i>Parking Space Width</i>	<i>Parking Space Length</i>	<i>Total Width of One Tier of Spaces Plus Maneuvering Lane</i>	<i>Total Width of Two Tiers of Spaces Plus Maneuvering Lane</i>
0° (parallel parking)	12 ft.	8 ft.	23 ft.	20 ft.	28 ft.
30° to 53°	12 ft.	8 ft. 6 in.	20 ft.	32 ft.	52 ft.
54° to 74°	15 ft.	8 ft. 6 in.	20 ft.	35 ft.	55 ft.
75° to 90°	20 ft.	9 ft.	20 ft.	40 ft.	60 ft.

- (5) All maneuvering lane widths shall require one-way traffic movement, with the exception of the 90-degree pattern where two-way movement may be permitted, as illustrated on the following page.
- (6) Off-street parking areas shall be provided with a continuous and completely obscuring wall on all sides where the abutting property is included within a residential district.
- (7) Parking lot planting.
 - a. Where the provision of off-street parking for 50 or more vehicles is required, there shall be landscaped open space within the perimeter of the parking area, or areas, in the minimum amount of 18 square feet for each parking space, which shall be so located that no parking space is more than 120 feet from a portion of the landscaped open space required by this section. Landscaped open space required by this section shall be kept continuously planted with living vegetation. The required landscaped open space need not be contiguous, but there shall be at least one tree in each separate area. Required trees shall be at least 12 feet high when planted or when this article becomes applicable thereto, shall be maintained in a healthy condition, and shall not be pruned, except to remove dead wood, in such a

manner as to prevent growth to a height of at least 15 feet or to reduce existing height below 15 feet.

- b. The following varieties of trees are prohibited in meeting the requirements of this article: poplars, willows, American elm, seed bearing locusts, box elders, and jack pine. All plant materials shall be kept pruned to maximize visibility through them between the heights of three and eight feet.

(Ord. No. 299 of 2011, § 412, 2-14-2011)

Sec. 50-105. - 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 alleys. Such space shall be provided as follows:

- (1) All spaces in B-1, B-2, M-1 and OS-2 districts shall be provided within the area required in the "schedule of regulations" as minimum rear yard.
- (2) All spaces in the I district shall be laid 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. All spaces in the I district shall be provided in the following ratio of spaces to gross floor area:

<i>Gross Floor Area (Sq. Ft.)</i>	<i>Loading and Unloading Spaces Required</i>
0—1,400	None
1,401—20,000	One
20,001—100,000	One per 20,000 sq. ft. or fraction thereof
100,001 +	Five

(Ord. No. 299 of 2011, § 413, 2-14-2011)

Sec. 50-106. - Required planting screens.

- (a) *Generally.* When a planting screen, buffer or greenbelt is required by this article, such planting screen, buffer or greenbelt shall be in accordance with the requirements of this section. Planting screens, buffers or greenbelts shall be of sufficient length to interfere with the view thereof from the adjoining property, except where the view is blocked by a change in grade or other natural or man-made features. Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, a six-foot high fence whether it be an opaque wooden fence, a chainlink fence with interwoven slats, or a masonry wall may be substituted upon approval by the zoning board of appeals.
- (b) *Planting screen specifications.* All planting screens required by this article shall be maintained in a healthy condition and so pruned as to provide maximum opacity from the ground to a height of five feet. Selection and spacing of plant materials shall be in accordance with the following standards:

(1) *Plant material spacing.*

- a. Plant materials shall not be closer than four feet from the fence line or property line.
- b. Where planting materials are planted in two or more rows, plantings shall be staggered in rows.
- c. Evergreen trees shall be planted not more than 30 feet on centers.
- d. Narrow evergreens shall be planted not more than three feet on centers.
- e. Deciduous trees shall be planted not more than 30 feet on centers.
- f. Tree-like shrubs shall be planted not more than ten feet on centers.
- g. Large deciduous shrubs shall be planted not more than four feet on centers.

(2) *Suggested plant materials.*

	<i>Minimum Size at Planting</i>
Evergreen trees	Five feet in height
(1) Juniper	
(2) Red cedar	
(3) White cedar	
(4) Pines (except jack pine)	
Narrow evergreens	Three feet in height
(1) Pyramidal arborvitae	
(2) Columnar juniper	
(3) Irish juniper	
Deciduous trees	Eight feet in height
(1) Oaks	
(2) Hard maples	
(3) Ash	
(4) Hackberry	

Tree-like shrubs	Four feet in height
(1) Flowering crabapple	
(2) Russian olive	
(3) Mountain ash	
(4) Redbud	
(5) Rose of Sharon	
Large deciduous shrubs	Four feet in height
(1) Honeysuckle	
(2) Viburnum	
(3) Mock-Orange	
(4) Forsythia	
(5) Lilacs	
(6) Ninebark	

(3) *Trees not permitted.*

- a. Box elder.
- b. Soft maples.
- c. Elms.
- d. Poplars.
- e. Ailanthus (tree of heaven).
- f. Jack pine.

(c) *Time of completion of plantings.* All plantings required by this article shall be installed prior to occupancy or commencement of use. Where compliance is not possible because of the season of the year, the zoning administrator shall grant an appropriate delay. Any zoning compliance permit may be revoked, after 30 days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever plantings are not maintained as required in this article.

(Ord. No. 299 of 2011, § 414, 2-14-2011)

Sec. 50-107. - Fences.

(a) *Permit requirements.*

- (1) Any person desiring to build or replace an existing fence or cause to be built a fence upon property within the city must first apply to the zoning administration for a permit
- (2) Application for a permit shall include drawings necessary for the determination of whether the erection of such fence would be contrary to the provisions of this article or the laws of the state.
- (3) Verification of property lines is required prior to obtaining a fence permit. Verification can be accomplished by a survey performed by a licensed surveyor, or written permission by adjoining property owners that agree on location of property line.
- (4) The construction under a permit issued under the provisions of this article must be completed within six months from the date of issuance. The zoning administration shall have the authority to grant one additional six-month extension to the permit period.
- (5) Permit fees shall be established by the city council.

(b) *Construction and maintenance.*

- (1) Every fence shall be constructed in a substantial, workmanlike manner and of materials reasonably suited for the purpose for which the fence is intended.
- (2) Every fence shall be maintained in good repair. Any fence which is, or has become, dangerous to the public safety, health or welfare is declared a public nuisance and shall be required to be repaired or removed within 180 days of notice.
- (3) Wood fences shall be constructed of new materials and preserved in a manner to maintain the fence in good structural condition and appearance.
- (4) Metal fences shall be constructed of new material, treated in a manner to prevent rust or corrosion.
- (5) Fence materials must be comparable to those manufactured for fencing purposes. Alternate materials, design and method of construction may be approved, if the zoning administration finds that the proposed design is satisfactory and complies with the intent and provisions of this article.

(c) *Direction of fences.* All fences shall be erected so that the finish face of the fences faces outside property, with any visible posts or supports being located on the inside of the fence or structure.

(d) *Height requirement; fences or hedges in non-industrial districts.* Except in the industrial district, fences and hedges not exceeding six feet in height may be located in the rear yard of any lot. Except in the industrial district, fences and hedges not exceeding six feet in height may be allowed in any side yard of any lot. Except in the industrial district, fences are prohibited in the front yard of any lot unless all of the following conditions are met:

- (1) The fence will not exceed four feet including posts and decorative finials.
- (2) The fence will be of vinyl, aluminum or wood construction with no more than 50 percent solid construction with open spaces spread uniformly along the entire length of the fence. Chainlink fences are prohibited in all non-industrial districts.
- (3) The fence may not be placed closer than two feet from the inside edge of the sidewalk or where a sidewalk would normally be.
- (4) At least one post in any front fence will be free standing with the post clearly marked as such to permit front lot access by public safety vehicles at all times.
- (5) Any person within the city who erects or maintains a fence between the edge of the established lot line and the inside edge of the sidewalk or where any sidewalk would normally be, shall be

fully responsible for the care and maintenance of such fence, and shall assume full responsibility for any damage arising due to the erection of such fence.

- (e) Hedges not exceeding three feet in height may be located in the front yard of any lot and alongside lot lines. No fence or hedge shall intrude into or break the vertical plane of the property line. Shrubs and trees planted for purposes of maintaining a hedge shall be placed so that the trunk or main stem of the plant is no closer than three feet from any lot line.
 - (1) *Fences in the Industrial (I-1) District.* In the industrial district fences not to exceed ten feet in height are permitted on all lot lines. If barbed wire is used in conjunction with chain link fencing, the barbed wire must be at least six feet off the ground.
 - (2) *Supportive/decorative structures.* Supporting posts shall not exceed six feet in height; supporting posts with decorative attachments shall not exceed 6½ feet in height. This does not include posts in industrial district.
 - (3) *Prohibited materials.* Use of barbed wire, razor wire, electrified materials or a single strand of material as a fencing material is prohibited, except that barbed wire may be used in conjunction with chain link fence at least six feet in height in the industrial district.

(Ord. No. 299 of 2011, § 415, 2-14-2011; Ord. No. 311 of 2014, 3-24-2014)

Sec. 50-108. - Planned unit development.

- (a) *Intent.* To permit greater flexibility in the use and design of structures and land in situations where modifications of specific provisions of this article will not be contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the neighborhood in which they occur. A planned unit development (PUD) should result in development which maximizes the provision of open space, preserves natural features, and provides a harmonious arrangement of structures and uses. More than one principal use and/or structure per lot may be permitted.
- (b) *Eligibility.* In order to be approved by the city planning commission, a proposed planned unit development shall:
 - (1) Be located on a parcel at least two acres in size.
 - (2) Provide for open space and preservation of natural features; clustered development and similar design methods are encouraged.
 - (3) Minimize the amount of impervious surface created.
 - (4) Provide a harmonious and efficient arrangement of all structures and uses in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. Arrangement of buildings shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond the site.
- (c) *Application and modification powers.* The applicant shall submit an application to the planning commission in accordance with the procedures in subsections (d) through (f) of this section.
 - (1) In acting upon the application, the planning commission may alter setback requirements, building size limits, off-street parking regulations, landscaping rules, and density and intensity limits. It may also authorize uses not permitted in the district where the lot is located, providing such uses are desirable or convenient for the users of the lot as developed or the immediate neighborhood and provided that such uses are planned so as to assure that they will not materially alter the existing character of the neighborhood. However, uses not permitted in the district where the lot is located shall not be permitted to occupy more than ten percent of the lot area nor more than ten percent of the building floor area.
 - (2) The provisions of this section shall be applied to the existing zoning district, as defined on the zoning map where the PUD is to be located.

- (d) *Preliminary conference.* Prior to preparing a formal application, the applicant shall meet with the planning commission to discuss the proposed development and application procedures. No decision regarding any proposed PUD is to be reached at this conference.
- (e) *Preliminary application.*
 - (1) Following the preliminary conference, the applicant shall prepare and submit ten copies of a preliminary application which consists of the following written and graphic documents, together with any fees which have been imposed by the city council:
 - a. A written description of the proposed PUD, including:
 - 1. How the proposed PUD is consistent with the intent of the section, and with the eligibility criteria in subsection (b) of this section.
 - 2. A statement identifying all intended uses, including future sales or leasing arrangements of all or portions of the proposed PUD.
 - 3. A legal description of the proposed PUD parcel.
 - 4. A listing of all owners, holders of easements, and other interested parties.
 - 5. A projected assessment of the proposed PUD demands on public services and utilities, including, but not limited to, water, sewer, electrical service, streets and roads, sidewalks, refuse disposal, and emergency services.
 - b. A preliminary site plan which is in accordance with the site plan requirements of article V of this chapter.
 - c. A development schedule; a list of proposed covenants or deed restrictions; any proposed maintenance agreements on open space or common ownership areas; and a description of the type of financial guarantees to be utilized to insure PUD development.
 - d. Any other information as the planning commission may reasonably require showing the applicant's intent for the development and viability of the proposal.
 - e. The applicant may request that the requirement of subsection (f) of this section for a final application be waived, and include all of the information required for a final application with the preliminary application. If, upon submittal, the zoning administrator finds that all items required by section subsections (e)(1)a through d and (f)(1)a through e of this section are included, the requirement for a final application and final public hearing may be waived. If the requirement for a final application is waived, the public hearing notice and all other materials pertaining to the preliminary application should clearly state that the final application requirement has been waived, and that no further public hearings on this application are anticipated.
 - (2) All the application materials must be received in the office of the city zoning administrator before a public hearing notice can be submitted for publication.
 - (3) The planning commission shall hold a public hearing, held in accordance with the requirements of section 50-243, to review the preliminary application. In making its review of any portion of the PUD preliminary application, the planning commission shall find that the proposed PUD is consistent with the standards outlined in subsection (h) of this section and section 50-195 and other relevant provisions of this article. Following the review, the planning commission shall approve, approve with conditions or subject to modifications, or deny the preliminary application. Action taken on the preliminary application shall be specified in writing, including the reasons for approval or denial of the application, and any conditions imposed as part of approval with conditions.
 - (4) Approval of the preliminary application does not constitute recording of the plan or plot nor authorize the issuance of building permits.
 - (5) Within a maximum of 12 months following preliminary approval, the applicant shall file for final application as outlined below. For good cause, the planning commission may extend this time

period for six months. If the applicant fails to apply for final application for any reason, approval or conditional approval shall be revoked.

(f) *Final application.*

- (1) Following approval or approval with conditions of the preliminary application, the applicant shall prepare and submit ten copies of a final application which shall include:
 - a. All information as required by the planning commission for preliminary approval or conditional approval of the preliminary application, including modifications required to meet conditions imposed on the preliminary application, if any.
 - b. Signed copies of any preliminary plats, in accordance with Public Act No. 288 of 1967 (MCL 560.101 et seq.), the land division act.
 - c. A detailed development time schedule.
 - d. Deed restrictions or covenants of the parcel.
 - e. Any other plans, documentation or specifications, as the planning commission may require to insure final engineering review and approval, which may include building plans, elevation and perspective drawings, drainage, road or other facility designs, and letters of commitment or intent insuring adequate financing for public utilities and/or services.
- (2) All the application materials must be received in the office of the city zoning administrator before a public hearing notice can be submitted for publication.
- (3) If a separate final application is received, the planning commission shall hold a second public hearing, in accordance with section 50-243, and shall determine whether or not the final plans substantially conform to the approved preliminary development plan and are in proper form for final recording. Action taken on the final application shall be specified in writing, including the reasons for approval or denial of the application, and any conditions imposed as part of approval with conditions.

(g) *Authorization and issuance of conditional use permit.*

- (1) Where the planning commission determines that the final application is consistent with this section and other requirements thereof, and is in proper form for recording, it shall authorize a PUD conditional use permit for development and use in accordance with the final accepted development plan. Authorizing the PUD conditional use permit shall not obligate the city planning commission or the city council to enforce any deed restrictions or covenants of the development parcel.
- (2) The PUD conditional use permit shall be issued following evidence of recording of the PUD final development plan with the county register of deeds.

(h) *Planned unit development standards.* All preliminary and final applications shall be evaluated with respect to the following standards:

- (1) *Requirements for yard, setback, lot size, etc.* Yard, setback, lot size, type of dwelling unit, height, and frontage requirements and restrictions may be waived for the PUD, provided, however, that the spirit and intent of this section as defined in the intent statement, are incorporated within the total development plan. The planning commission may determine that certain setbacks be established within all or a portion of the perimeter of the site, and shall determine the suitability of the total development plan in accordance with the intent of this section.
- (2) *Access.* Every structure or dwelling unit shall have access to a public street, or to a private roadway built to city specifications and dedicated to common use. A maintenance agreement shall be required for private roadways.
- (3) *Sidewalks.* All streets and roadways within the PUD shall be bordered by sidewalks at least five feet in width on both sides of the street or roadway.

- (4) *Land usage.* Structures and uses shown on the development plan shall be arranged so as not to be detrimental to existing or proposed structures within the development or surrounding neighborhood.
 - (5) *Privacy.* Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses and reduction of noise.
 - (6) *Off-street parking.* Parking convenient to all dwelling units and other uses shall be provided pursuant to the requirements of sections 50-103 through 50-105. Common driveways, parking areas, walks, or steps may be required together with appropriate lighting, in order to insure the safety of the occupants and the general public. Screening of parking and service areas may be required through use of trees, shrubs, hedges or screening walls.
 - (7) *Utilities.* PUD's shall, where feasible, provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. In no instance shall the PUD place demands in excess of the capabilities of the affected public facilities and services.
 - (8) *Planting.* The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; additional new landscaping shall be added for privacy, shade, beauty of buildings and grounds, and to screen out objectionable features.
 - (9) *Consistent with relevant standards.* The PUD shall be consistent with the standards outlined in section 50-195 and other relevant provisions of this article.
- (i) *Changes in approved PUD.* Minor changes in the location site or character of the building and structures may be authorized by the planning commission, if required by engineering or other circumstances not foreseen at the time the final development plan was approved. No changes so authorized may cause a change in the use, character, or intent of the development, an increase in the intensity of use, changes in the overall coverage of the structures, or problems of traffic circulation, utility services, or similar services, or a reduction in the approved open space, off-street parking and loading space, or pavement width requirements. Any changes which are approved must be made and recorded in accordance with the procedures established for the recording of the initial final development plan.

(Ord. No. 299 of 2011, § 416, 2-14-2011)

State Law reference— Planned unit development, MCL 125.3501 et seq.

Secs. 50-109—50-129. - Reserved.

ARTICLE V. - SITE PLAN REVIEW¹²

Footnotes:

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State Law reference— Submission and approval of site plan, MCL 125.3501.

Sec. 50-130. - Intent.

It is the purpose of this article to require site plan review approval for all buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to

provide for and promote the orderly development of the city; safe and convenient traffic movement, both within a site and in relation to access streets; and provide information which enables local officials to both on-site and off-site impacts of the proposed development.

(Ord. No. 299 of 2011, § 501, 2-14-2011)

Sec. 50-131. - Site plan required.

- (a) A site plan is required for and shall accompany the applications for:
- (1) Zoning compliance permits for:
 - a. Any proposed construction.
 - b. Any commencement of a new use.
 - c. Any proposed change in use.
 - (2) Conditional use permit.
 - (3) Variances.
 - (4) Class A nonconforming use designations.
 - (5) Any other request for zoning status where the zoning administrator determines a site plan is necessary for accurate review or documentation of the existing development.
- (b) The site plan may be drawn on the application form or on a separate sheet of paper as appropriate to the scale and amount of information shown.

(Ord. No. 299 of 2011, § 502, 2-14-2011)

Sec. 50-132. - Site plans for single and two-family dwellings, and residential accessory uses and structures.

The site plan for single-family dwellings, two-family dwellings, and residential accessory uses and structures shall show the following information:

- (1) The legal description and street address of the site.
- (2) All lot lines and dimensions of the lot.
- (3) All existing and proposed sidewalks, streets and easements on or abutting the lot. Named streets should be labeled.
- (4) All existing and proposed structures, including dimensions and use.
- (5) Distances between all structures.
- (6) Distances between all structures and all lot lines.
- (7) Natural features affecting development, such as rock outcrops, water, wetlands, etc.
- (8) Location of existing and proposed utility connections.
- (9) North arrow.

(Ord. No. 299 of 2011, § 503, 2-14-2011)

Sec. 50-133. - Site plans for commercial, industrial and multiple-family development (all other development).

Site plans meeting the following standards shall be required for any use or construction not covered in section 50-132. This information shall be provided on six identical copies on one or more sheets, at a scale adequate to illustrate the proposed activity, and shall include the following information:

- (1) The legal description and street address of the lot.
- (2) The name, address and telephone number of the owner, developer, and/or designer.
- (3) The date the site plan was prepared.
- (4) North arrow and scale
- (5) The actual dimensions of the lot as shown by a licensed surveyor, engineer, architect, or registered landscape architect, with survey stakes visible.
- (6) The relationship of the subject lot to abutting properties.
- (7) The location of all existing and proposed structures, including signs on the subject lot, and all existing structures within 100 feet of the boundaries of the subject lot.
- (8) The dimensions of all existing and proposed structures on the subject lot, including height.
- (9) Distances between all existing and proposed structures on the subject lot and all lot lines.
- (10) Use of all existing or proposed structures on the subject lot.
- (11) The location of all proposed fences and planting screens or other buffers.
- (12) The location and right-of-way widths of all streets, alleys, private road easements and/or railroads located within or abutting the subject lot. Named streets should be labeled.
- (13) The location of all existing and proposed ingress/egress points, sidewalks, driveways and parking areas on the subject lot.
- (14) The locations of existing ingress/egress points, driveways, streets, alleys and/or railroads within 300 feet of the boundaries of the subject lot.
- (15) The size and location of all existing and proposed public and private utilities.
- (16) The location of natural features affecting development, such as rock outcrops, water, wetlands, etc.
- (17) The location of existing and proposed surface water impoundments and surface water drainage pattern.
- (18) The location and extent of all planned earth movement. Indicate status of any necessary permits, such as sedimentation and soil erosion permit, wetlands permit, etc.
- (19) Any other information necessary, in the opinion of the zoning administrator, to establish compliance with this article or any other applicable ordinances.

(Ord. No. 299 of 2011, § 504, 2-14-2011)

Sec. 50-134. - Site plan review procedures.

- (a) Upon receipt of any site plan, the zoning administrator shall conduct a preliminary review to determine whether the site plan is in the proper form and contains all of the information required by section 50-132 or 50-133. If the site plan meets these requirements, it is forwarded, along with other application materials, to the appropriate zoning official or body. In the case of applications for zoning compliance permits, the zoning administrator is responsible for reviewing and approving site plans and applications. The planning commission is responsible for reviewing and approving site plans and applications for conditional uses, Class A nonconforming uses and planned unit developments. The zoning board of appeals is responsible for reviewing and approving zoning variances.

- (b) Denial of a zoning compliance permit, conditional use permit, Class A nonconforming status, variance or other zoning request shall set forth in writing the reasons for the denial. The denial shall specify inadequacies or deficiencies in the site plan, and may set forth changes which would result in approval. The zoning administrator, planning commission and zoning board of appeals shall use the standards set forth in section 50-135 in their review of site plans.

(Ord. No. 299 of 2011, § 505, 2-14-2011)

Sec. 50-135. - Standards for site plan approval.

- (a) The proposed use shall conform to the uses permitted in that district.
- (b) The dimensional arrangement of buildings and structures shall conform to the dimensional requirements of section 50-93.
- (c) The proposed use shall conform to all use and design provisions and requirements found in this article for specified uses.
- (d) The relationship of existing and proposed streets, alleys, ingress/egress points, driveways, railroads and other transportation-related features shall assure the safety and convenience of pedestrian and vehicular traffic.
- (e) For site plans prepared in accordance with section 50-133, driveway spacing shall be in accordance with the guidelines shown below.
- (f) Adverse effects upon owners and occupants of adjacent and surrounding properties shall be minimized by providing for adequate ingress/egress, internal and external traffic flow, storm drainage, erosion control, grading, lighting, parking, etc., as specified by this or other ordinances or state or federal regulations.
- (g) The proposed development shall be served by adequate utilities, and shall not adversely affect the provision of utilities to owners or occupants of adjacent or nearby properties.
- (h) Natural features of the site shall be retained where such features enhance the proposed development, provide a buffer or barrier between the proposed use and adjoining properties, and/or assist to preserve or enhance the general safety, health and appearance of the community.
- (i) Adverse effects on adjacent property owners or occupants are minimized by buffers, screening and/or fencing, as provided for in this article.
- (j) All buildings and structures shall be accessible to emergency vehicles from all sides.
- (k) The site plan shall demonstrate that the proposed development is consistent with the intent and purpose of this chapter, as described in section 50-1.

	<i>Posted Speed (mph)</i>					
	25	30	35	40	45	50 or above
Center-to-center distance (feet)*	130	185	245	300	350	455
Distance from signalized intersection (feet)*	230	230	230	460	460	460
Distance from intersection w/stop sign (feet)*	115	115	115	230	230	230

*If a lot or combination of lots proposed for development do not contain adequate road frontage to meet the above standards, the spacing may be reduced to the level required for the next lowest speed (e.g., on a 30 mph roadway, the center-to-center distance required may be reduced to 130 feet if 185 feet is not available). Alternatively, a shared driveway with adjacent owners may be encouraged, access to a side street may be required, or, if these options have been exhausted, an access point may be allowed at the location determined to be least hazardous by the superintendent of public works and director of public safety.

(Ord. No. 299 of 2011, § 506, 2-14-2011)

Sec. 50-136. - Site plan as part of permit.

An approved site plan is a part of any zoning compliance permit, conditional use permit, variance, Class A nonconforming use designation, or other zoning decision issued in accordance with the standards set forth in this article. Subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this article is mutually agreed upon by the owner of the site and the individual or body which initially approved the site plan.

(Ord. No. 299 of 2011, § 507, 2-14-2011)

Secs. 50-137—50-155. - Reserved.

ARTICLE VI. - SIGNS³¹

Footnotes:

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State Law reference— Highway advertising act of 1972, MCL 252.301 et seq.

Sec. 50-156. - Intent.

It is determined that regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities without difficulty and confusion, to prevent wasteful use of natural resources in competition among business for attention, to prevent hazards of life and property, and to assure the continued attractiveness of the community and protect property values. It is further determined that signs which may lawfully be erected and maintained under the provisions of this article are consistent with customary usage, and that signs which may not lawfully be erected or maintained under the provisions hereof are not consistent with customary usage, are an abuse thereof, and are unwarranted invasions of the rights of legitimate business interests and of the public.

(Ord. No. 299 of 2011, § 601, 2-14-2011)

Sec. 50-157. - Residential district regulations for signs.

Within all districts allowing residential uses as a permitted principal use, signs shall be permitted as follows:

- (1) One residential nameplate not to exceed two square feet, indicating the name of the occupant.
- (2) One sign to announce the sale or rent of property whose area shall not exceed six square feet.
- (3) Churches shall be permitted a total sign area of 20 square feet. The total sign area may be divided into two signs: one identification sign and one bulletin board.
- (4) One sign per vehicle entrance which identifies a platted subdivision development or mobile home park not exceeding 36 square feet and eight feet in height.
- (5) Multiple dwellings shall be permitted one identification sign not to exceed six square feet.
- (6) One sign shall be permitted to advertise a home occupation not to exceed six square feet and shall not be illuminated or have working parts. It shall be attached flush to the building and shall not detract from the visual appearance of the neighborhood.
- (7) Signs permitted by this section are exempt from the setback requirements of section 50-93. However, no part of any sign shall be located within the right-of-way. Signs shall not interfere with traffic visibility as determined and approved by the city public safety department.

(Ord. No. 299 of 2011, § 602, 2-14-2011)

Sec. 50-158. - On-premises sign regulations.

- (a) Within the B-1, B-2, M-1, OS-2, and I districts, attached and/or freestanding (ground) signs shall be permitted on premises for non-residential land use as follows:

<i>District</i>	<i>Maximum Total Sign Area</i>	<i>Maximum Height</i>
B-1, OS-2	64 square feet/face	20 feet
I	64 square feet/face	40 feet
B-2, M-1 (establishments with U.S. 2 frontage)	200 square feet/face; if more than one business occupies a premises, each business shall be permitted a maximum of 200 square feet/face, up to a total of 400 square feet/face for all businesses on the premises.	50 feet
B-2 (establishments with Deer Street frontage)	120 square feet/face; if more than one business occupies a premises, each business shall be permitted a maximum of 120 square feet/face, up to a total of 300 square feet/face for all businesses on the premises.	40 feet
B-2 (all other areas)	64 square feet/face; if more than one business occupies a premises, each business shall be permitted a maximum of 64	40 feet

	square feet/face, up to a total of 300 square feet/face for all businesses on the premises.	
M-1 (all other areas)	32 square feet	20 feet

- (1) Freestanding (ground) signs advertising an on-site business are permitted as shown below. The maximum total sign area may be located on one sign structure, or may be divided between no more than two sign structures.
 - (2) Signs permitted by this section are exempt from the setback requirements of section 50-93. However, no part of any sign shall be located within the right-of-way. Signs shall not interfere with traffic visibility as determined and approved by the city public safety department.
 - (3) There shall be at least ten feet between the surface of the ground or sidewalk and the lowest point on the sign face. Exception: A ground sign may be approved as long as all elements of the sign are a minimum of ten feet from the front of the property line.
 - (4) Directional or instructional signs which indicate ingress/egress, location of drive-thru windows, self/full service, etc. shall be permitted in the B-1, B-2 and M-1 districts, provided that such signs do not exceed six square feet per face, and provided that such signs are limited to two per ingress/egress point, one per island of gas pumps, and/or the minimum necessary to provide for orientation. The height requirement in subsection (a)(3) of this section does not apply to directional or instructional signs.
 - (5) Permanent marquees and canopies shall be permitted provided that such marquees and canopies shall be established no less than ten feet above the established sidewalk grade.
 - (6) If attached to a building, signs shall be mounted in one of the following ways:
 - a. Flat against the wall of the building.
 - b. Parallel to the wall of the building at a distance of 12 inches or less from the wall.
 - c. Perpendicular to the wall of the building, extending no more than five feet from the wall or to no less than 12 inches back from the sidewalk edge (where sidewalks exist), whichever is less.
- (b) Signs may also be painted directly on the wall of a building. For signs which are mounted flat against or parallel to the wall of the building, or painted on the wall, the following maximum sizes shall apply:

<i>District</i>	<i>Maximum Size of Sign</i>
B-1	40 percent of the area of the wall upon which the sign is mounted or painted
B-2	50 percent of the area of the wall upon which the sign is mounted or painted
M-1, OS-2, I	25 percent of the area of the wall upon which the sign is mounted or painted

(Ord. No. 299 of 2011, § 603, 2-14-2011)

Sec. 50-159. - Off-premises sign regulations.

- (a) Off-premises signs, other than billboards, are permitted along U.S. 2 in areas zoned B-2 and I.
- (b) The maximum sign area for any one face of an off-premises sign shall not exceed 64 square feet, excluding the base or apron, trim supports, and other structural elements. Temporary embellishments shall not exceed 20 percent of the maximum sign area allowed.
- (c) Signs may be back-to-back, V-type, or multiple-faced with not more than two faces to each facing, and such structure shall be considered as one off-premises sign.
- (d) An off-premises sign shall have a maximum height not to exceed 40 feet above road grade level. An off-premises sign shall maintain a minimum clearance of ten feet measured from the ground level at the base of the sign to the bottom of the sign face.
- (e) Off-premises signs shall be located a minimum of 300 feet from the intersection of public roads.
- (f) Setback requirements for off-premises signs are:

Front:	A minimum setback of ten feet.
Side:	A minimum setback of five feet.
Rear:	A minimum setback of five feet.

Signs shall not interfere with traffic visibility as determined and approved by the city public safety department.

- (g) No off-premises sign shall be constructed which resembles any official marker erected by a governmental entity, or which by reason of position, shape, or color would conflict with the proper functioning of any official traffic control device.

(Ord. No. 299 of 2011, § 604, 2-14-2011)

Sec. 50-160. - Tourist-oriented directional signs.

- (a) The city may permit tourist-oriented directional signs as defined by MCL 247.401 within its jurisdictional boundaries as provided by and pursuant to MCL 247.403(7).
- (b) An operator of a tourist-oriented activity who wishes to participate in a directional sign program under Public Act No. 299 of 1996 (MCL 247.401 et seq.), and is applying for a sign that would reside within the boundaries of the city in accordance with the provisions of MCL 247.402 shall submit the application for review by the city council or its designee.
- (c) The city council or its designee may approve or reject the placement of any tourist-oriented directional sign within its jurisdictional boundaries under the provisions of this section.
- (d) The city council may appoint a designee by resolution to approve or reject the placement of any tourist-oriented directional sign within its jurisdictional boundaries under the provisions of this section.

- (e) Any person violating any of the provisions of this section, or who installs or causes to be installed a tourist-oriented directional sign without the approval of both the state department of transportation and the city commission, shall be guilty of a municipal civil infraction, punishable by a civil fine of not more than \$100.00, plus costs, and if applicable, damages and expenses as provided by law. A municipal civil infraction action brought for any violation of this section shall follow the procedures set forth in Public Act No. 12 of 1994 (MCL 600.113 et seq.), and a defendant charged with a municipal civil infraction violation shall have all of the rights, duties, responsibilities, and obligations set forth therein.

Sec. 50-161. - Cluster sign regulations.

A sign that lists and identifies a number or group of institutions, residences, organizations, churches and/or businesses and which contain the names, locations, hours, products sold, services offered, announcement of events or similar messages is permitted in all zoning districts. A cluster sign at one location shall have a maximum sign area of 64 square feet per face. The cluster sign must be maintained either by the city or by a recognized civic organization, church, or individual.

(Ord. No. 299 of 2011, § 605, 2-14-2011)

Sec. 50-162. - Signs for conditional use.

In granting a conditional use permit, the planning commission shall stipulate the maximum sign area, setback requirements, location, sign height and other requirements of a sign on the parcel.

(Ord. No. 299 of 2011, § 606, 2-14-2011)

Sec. 50-163. - Temporary signs.

Signs which are intended to identify or advertise a nonprofit annual or one-time event or occurrence, such as a fair or other event of general public interest, shall be permitted for a period not to exceed 30 calendar days provided that the sign is not contrary to the spirit and purpose of this article and shall conform to all size limitations set forth by this article. The applicant is responsible for both the erection and removal of all signs. All signs must be removed no later than ten days after the end of the event.

(Ord. No. 299 of 2011, § 607, 2-14-2011)

Sec. 50-164. - Construction signs.

One construction sign is permitted per project not exceeding 16 square feet in sign area for residential buildings and 32 square feet for non-residential buildings. Signs shall be erected no more than five days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed no later than 30 days following occupancy or completion of the project.

(Ord. No. 299 of 2011, § 608, 2-14-2011)

Sec. 50-165. - Exempt signs.

The following signs shall not exceed nine square feet and are otherwise exempt from this article:

- (1) Public signs. Signs of a noncommercial nature and in the public interest, erected by, or on the order of a public officer in the performance of official duty.
- (2) Directional signs. Signs required for purposes of orientation when established by a governmental agency.

- (3) Political signs. Those signs which are intended to advertise a public election, an individual actively participating in such an election, or other public ballot issue, are permitted on private property with the owner's permission. All political signs must be removed within ten calendar days after the election date.
- (4) Signs which indicate a garage sale or directions to a garage sale. All such signs shall be removed within 48 hours and shall not be located on the public right-of-way or on utility poles, traffic control posts, or other structures owned or maintained by utility companies or any public agency.
- (5) Signs used for advertising of buildings for rent, lease and/or sale, when located on the building or land intended to be rented, leased or sold. Said signs shall not exceed six square feet in the R-1 and R-2 districts or 32 square feet in the B-1, B-2, M-1, OS-2 and I districts.

(Ord. No. 299 of 2011, § 609, 2-14-2011)

Sec. 50-166. - Lighting of signs.

- (a) No strobe, blinking, or other pulsating lights shall be permitted in any district. So-called "reader-board" signs which contain flashing lights are specifically prohibited. No sign shall be lighted in any way so as to create a traffic hazard or to adversely affect neighboring land uses. Permanent signs with time, temperature, or other messages which change from time to time shall be permitted in accordance with this section.
- (b) Illumination of signs in the R-1 and R-2 districts is prohibited.
- (c) Illumination of signs shall be directed, shaded or designed so as not to interfere with the vision of drivers or pedestrians. The use of full-cutoff fixtures shall be encouraged.
- (d) Illumination of signs shall be directed, shaded or designed in such a way that no light shall shine onto adjacent properties. The use of full-cutoff fixtures shall be encouraged.
- (e) No sign may be lighted to such intensity or in such a manner that it creates a public nuisance or adversely affects the public health, safety, or general welfare.

(Ord. No. 299 of 2011, § 610, 2-14-2011)

Sec. 50-167. - Maintenance of signs.

Dilapidated sign structures which are likely to cause injury or degrade the surrounding area, and signs which advertise a closed business, past event or political election, are no longer legible, or are otherwise untimely or unsafe, are a nuisance or danger to the public. The zoning administrator is authorized to remove, or to have removed, all dangerous or nuisance signs, the cost of which is to be borne by the sign owner and/or property owner.

(Ord. No. 299 of 2011, § 611, 2-14-2011)

Sec. 50-168. - Nonconforming signs.

- (a) It is the intent and purpose of this section to eliminate nonconforming signs except as otherwise specifically set forth in this section as rapidly as the police power of the city permits. Signs may be designated as Class A nonconforming in accordance with article VIII of this chapter.
- (b) No nonconforming sign:
 - (1) Shall be structurally altered so as to prolong the life of the signs, nor shall the shape, size, type, or design of the sign structure be altered;

- (2) Shall be continued after the activity, business, or usage to which it relates has been discontinued for 30 days or longer; or
- (3) Shall be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50 percent of the sign value.
- (c) A conforming sign shall not be changed to a nonconforming sign.
- (d) Nonconforming signs may have their face or message updated but may not be structurally altered.

(Ord. No. 299 of 2011, § 612, 2-14-2011)

Sec. 50-169. - Billboards.

- (a) Billboards shall be allowed in the city in accordance with the following provisions:
 - (1) Billboards may be located in the B-1, B-2 and I districts along U.S. 2 and M-94 only.
 - (2) Billboards shall not exceed 500 square feet in area per face, including border and trim but excluding ornamental base or apron, supports, or other structural members. Billboards may be placed back to back or in V-type or T-type construction, but shall not contain more than one face on each side.
 - (3) Lighting of billboards shall be in accordance with section 50-166.
 - (4) No mechanical billboards (containing moving parts or changing displays) shall be allowed in the city.
 - (5) Billboard structures shall not be located closer than 500 feet from another billboard structure on the same side of the highway.
 - (6) Billboard structures shall have a maximum height not to exceed 40 feet above road grade level. A billboard shall maintain a minimum clearance of ten feet measured from the ground level at the base of the sign to the bottom of the sign face.
 - (7) Billboards shall be located a minimum of 300 feet from the intersection of public roads.
 - (8) Setback requirements for billboards are:

Front:	A minimum setback of ten feet.
Side:	A minimum setback of five feet.
Rear:	A minimum setback of five feet.

- (b) Billboards shall not interfere with traffic visibility as determined and approved by the city public safety department.
- (c) Except as indicated above, billboards shall comply with the provisions of the highway advertising act of 1972, Public Act 106 of 1972, as amended.

(Ord. No. 299 of 2011, § 613, 2-14-2011)

Secs. 50-170—50-191. - Reserved.

ARTICLE VII. - CONDITIONAL USE PERMITS⁴¹

Footnotes:

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State Law reference— Special land uses, MCL 125.3502 et seq.

Sec. 50-192. - Intent.

- (a) Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with some of the older, more familiar kinds of uses call for more flexibility and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants.
- (b) In order to accomplish such a dual objective, provision is made in this article for more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as conditional uses and may be authorized by the issuance of a conditional use permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.
- (c) The following sections (50-193 through 50-196), together with previous references in other sections (50-60 through 50-67), designate what uses require a conditional use permit. With any exception noted, the procedures for obtaining such a permit apply to all conditional uses indicated.

(Ord. No. 299 of 2011, § 701, 2-14-2011)

Sec. 50-193. - Application procedure.

- (a) Any person having an interest in a property may file an application for a conditional use permit. The proposed use should be consistent with the uses allowed under conditional permit for the zoning district in which the property is situated.
- (b) Applications shall be submitted through the zoning administrator to the planning commission. Each completed application shall be accompanied by the payment of a fee in accordance with the duly adopted schedule of fees as currently established or as hereafter adopted by resolution of the city council from time to time, to cover costs of processing the application. No part of any fee shall be refundable.
- (c) Data required in application. Every application shall be accompanied by the following information and data:
 - (1) Conditional use permit form supplied by the zoning administrator filled out by the applicant.

- (2) Site plan drawn to a readable scale and containing that information specified in article V of this chapter, section 50-132 or 50-133.
- (3) A statement, prepared by the applicant, with supporting evidence regarding the required findings specified in section 50-195(1) through (9).
- (d) Upon receipt of a completed application, a public hearing by the planning commission will be scheduled in accordance with section 50-243. The planning commission will review the application, hear and consider public comment, and approve, approve with conditions, or deny the conditional use permit.
- (e) Approval of a conditional use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by all subsequent owners.
- (f) In instances where development authorized by a conditional use permit has essentially changed in nature, extent or character, the planning commission shall review the permit in relation to the applicable standards and requirements of this article. Upon finding that there has been a violation in the conditions of the conditional use permit granted under the provisions of this article, the planning commission may declare the permit null and void.
- (g) If development of a conditional use permit has not commenced within one year from the date of issuance, said permit shall expire automatically. The planning commission can approve an extension for one additional year upon request by the applicant.

(Ord. No. 299 of 2011, § 702, 2-14-2011)

Sec. 50-194. - Review and findings.

The planning commission shall approve, approve with conditions, or reject the application within 60 days of the hearing based upon materials received and testimony recorded at the public hearing. The planning commission shall set forth in writing the reasons for approval, denial, or modification of the conditional use permit application. All conditions shall be clearly specified in writing and be consistent with sections 50-195 and 50-243. The petitioner has one year from date of hearing to comply with all specified conditions. Compliance shall occur prior to issuance of a zoning compliance permit by the zoning administrator pursuant to section 50-246 and the commencement of the use, unless a specified time is set or implied in the motion granting the conditional use permit.

(Ord. No. 299 of 2011, § 703, 2-14-2011)

Sec. 50-195. - General standards.

The planning commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (1) Will be consistent with the goals, policies and objectives of the city comprehensive plan.
- (2) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;
- (3) Will not be hazardous or disturbing to existing or future neighboring uses;
- (4) Will not diminish the value of land, buildings, or structures in the district;
- (5) Will be served adequately by essential public facilities and services, such as streets, municipal water and sewer service, police and fire protection, drainage structures, refuse disposal, or schools, and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (7) Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, or odors;
- (8) Will protect the public health, safety and general welfare of the community; and
- (9) Will be consistent with the intent and purpose of the specific zoning district in which it is located.

(Ord. No. 299 of 2011, § 704, 2-14-2011)

Sec. 50-196. - Conditions and safeguards.

- (a) Prior to granting any conditional use permit, the planning commission may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the conditional use permit as in its judgement may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize 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; and be consistent with the general standards listed in section 50-195 and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- (b) Conditions and requirements stated as part of conditional use permit authorization shall be a continuing obligation of land holders. The zoning administrator shall make periodic investigations of developments authorized by conditional use permit to determine compliance with all requirements.
- (c) In authorizing a conditional use permit, the planning commission may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the city, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the city clerk/treasurer at the time of issuance of the permit authorizing the use or activity. The city shall establish procedures for a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
- (d) Revocation of a conditional use permit by the planning commission shall be made at a public hearing following the same procedures as original approval to the effect that:
 - (1) Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period; or
 - (2) Violations of conditions pertaining to the granting of the permit continue to exist more than 30 days after an order to correct has been issued. Violations of any conditions set by the planning commission are violations of this article.
- (e) All plans, specifications and statements submitted with the application for a conditional use permit shall become, along with any changes ordered by the planning commission a part of the conditions of any conditional use permit issued thereto.
- (f) Any person aggrieved by the planning commission's granting or failure to grant a conditional use permit may appeal to the circuit court. Upon appeal, the circuit court shall review the record and decision, and rule in accordance with state law.
- (g) The standards in section 50-195 are basic to all conditional uses. The specific requirements accompanying sections relating to particular uses are in addition to the standards in section 50-195 and shall be required in all applicable situations.

(Ord. No. 299 of 2011, § 705, 2-14-2011)

Secs. 50-197—50-215. - Reserved.

ARTICLE VIII. - NONCONFORMING USES AND STRUCTURES^[5]

Footnotes:

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State Law reference— Nonconforming uses or structures, MCL 125.3208.

Sec. 50-216. - Intent.

- (a) Nonconforming uses and structures are those which do not conform to a provision or requirement of this article but were lawfully established prior to the time of its applicability. It is recognized that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without restriction. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established.
- (b) This article distinguishes by class the various nonconforming uses and structures. In general, Class A nonconforming uses and structures have been found by the planning commission not to be contrary to the public health, safety, and general welfare, and are not in conflict with the spirit of this article or other standards in this article and as such should either be encouraged or at a minimum not be discouraged to continue. In contrast, the Class B nonconforming uses and structures are not consistent with the aforementioned, and as such, should be not encouraged to exist by the city. Different regulations are established for each class. The degree of restriction over each class is a function of the degree to which that class of nonconformity is a nuisance or is incompatible with the purposes and regulations of this article. The location of a use or structure on a nonconforming parcel as defined in section 50-99 does not make the use or structure nonconforming, unless that use or structure also fails to conform to the provisions of this article.
- (c) Any use or structure created in violation of any preceding adopted city zoning ordinance remains a violation.

(Ord. No. 299 of 2011, § 801, 2-14-2011)

Sec. 50-217. - Class A nonconforming uses and structures.

Class A nonconforming uses and structures are those which have been so designated by the planning commission, after application by any interested person or the zoning administrator. The planning commission shall find that the continuance thereof would not be contrary to the public health, safety, and general welfare, or to the spirit of this article; that the use or structure does not and is not likely to significantly depress the value of nearby properties; that the use or structure was lawful at the time of its inception; that it meets the standards set out in section 50-195; and that no useful purpose would be served by strict application of the provisions or requirements of this article with which the use or structure does not conform.

(Ord. No. 299 of 2011, § 802, 2-14-2011)

Sec. 50-218. - Procedure for obtaining class A designation.

- (a) A written application shall be filed with the planning commission utilizing forms obtained from the zoning administrator, which shall include:

- (1) Name, address, e-mail address and telephone number of property owner and applicant if not same;
 - (2) A legal description of the property or lot;
 - (3) A site plan pursuant to sections 50-132 and 50-133;
 - (4) An explanation describing the present nonconforming use or structure;
 - (5) An explanation of any proposed addition or alteration to the uses or structures.
- (b) The planning commission shall consider said application, and shall issue written decision setting forth the findings and reasons on which it is based, pursuant to the standards identified in section 50-195. Conditions may be attached, including any time limit, where necessary to assure that the use or structure does not become contrary to the public health, safety, or welfare, or the spirit and purpose of this article.

(Ord. No. 299 of 2011, § 803, 2-14-2011)

Sec. 50-219. - Provisions for Class a nonconforming uses and structures.

A designated Class A nonconforming use or structure may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such Class A nonconforming use or structure shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this article, except with specific approval of the planning commission.
- (2) No such Class A nonconforming use or structure shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this article, except with specific approval of the planning commission.
- (3) No Class A nonconforming use or structure shall be extended to displace a permitted (conforming) use.
- (4) No Class A nonconforming use or structure shall be changed to another nonconforming use, except with specific approval of the planning commission. Before granting such approval, the planning commission shall determine that such change in use will have a less deleterious effect on neighboring properties than the existing nonconforming use.
- (5) No Class A nonconforming use shall be expanded to add another nonconforming use, except with specific approval by the planning commission. The proposed nonconforming use shall satisfy the standards as set out in section 50-195.
- (6) Structural alterations to Class A nonconforming uses which do not add to the bulk of the structure or increase the intensity of use of the structure are permitted without prior approval of the planning commission.

(Ord. No. 299 of 2011, § 804, 2-14-2011)

Sec. 50-220. - Regulations pertaining to Class A nonconforming uses and structures.

No Class A nonconforming use shall be resumed if it has been discontinued for a continuous period of at least 18 months or if it has been changed to a conforming use for any period. No Class A structure shall be used, altered, or enlarged in violation of any condition imposed in its designation.

(Ord. No. 299 of 2011, § 805, 2-14-2011)

Sec. 50-221. - Class B nonconforming uses and structures.

- (a) All nonconforming uses and structures not designated as Class A are considered as Class B. It is the purpose of this article to eliminate Class B nonconforming uses and Structures as rapidly as is permitted by law without payment of compensation. No Class B nonconforming use shall be resumed if it has been discontinued for a continuous period of at least 18 months or if it has been changed to a conforming use for any period, or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the reproduction cost of such structure.
- (b) No Class B nonconforming structure shall be enlarged or structurally altered. No Class B nonconforming use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than was used at the time of becoming nonconforming. No Class B nonconforming use or structure shall be permitted to continue in existence if it was unlawful at the time of its inception.

(Ord. No. 299 of 2011, § 806, 2-14-2011)

Sec. 50-222. - Revocation of Class A nonconforming uses and structures.

- (a) Any Class A nonconforming use or structure maintained or used in violation of this article is a nuisance per se. Whenever the zoning administrator determines that a violation of this article exists, said zoning administrator shall issue a notice of violation. Such notice shall be directed to each property owner of or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.
- (b) All violations of Class A nonconforming uses and structures shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the planning commission. The planning commission shall, upon receipt of said violation, schedule a public hearing in accordance with the procedures set out in section 50-243. Upon hearing the facts and information, the planning commission shall make its decision to consider revocation of the Class A designation in writing and set forth the findings and reasons on which it is based.

(Ord. No. 299 of 2011, § 807, 2-14-2011)

Sec. 50-223. - Appeal of granting, denying, or revocation of Class A status.

Any person aggrieved by the planning commission's granting or failure to grant a Class A status must appeal that decision to the zoning board of appeals within 30 days. The zoning board of appeals shall notify all affected parties and hold a public hearing on the appeal as specified in section 50-243.

(Ord. No. 299 of 2011, § 808, 2-14-2011)

Sec. 50-224. - Allow pre-existing residential dwellings to rebuild in certain zoning districts.

- (1) Pre-existing residential dwellings are allowed in districts B-1, B-2, M-1 and I-1.
- (2) The city has determined that all residential dwellings which existed at the time of the adoption of the zoning ordinance from which this article is derived shall legally exist and that the non-conforming uses shall have the right to alter, enlarge or rebuild within their lots so long as said dwellings meet general regulations of article IV of this chapter for the R-1 and R-2 districts and any other requirements for the R-1 and R-2 districts.

- (3) The purpose of this section is to allow the residential dwellings in the above-mentioned zones to obtain financing which they would be unable to do should they not be able to rebuild in the event of fire or other natural disaster.

(Ord. No. 299 of 2011, § 809, 2-14-2011)

Secs. 50-225—50-241. - Reserved.

ARTICLE IX. - ADMINISTRATION AND ENFORCEMENT

Sec. 50-242. - Administration.

The administration and enforcement of this chapter shall be the responsibility of the city manager. The city manager shall have the right to delegate said responsibility to appropriate city officers, employees or designees. The person administering and enforcing this chapter shall be known as the zoning administrator.

(Ord. No. 299 of 2011, § 901, 2-14-2011)

Sec. 50-243. - Administrative standards and procedures.

- (a) Whenever, in the course of administration and enforcement of this chapter, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this chapter, the decision shall be made so that the result will not be contrary to the spirit and purpose of this chapter or injurious to the surrounding neighborhood.
- (b) Where a public hearing is required in the administration of this chapter, the planning commission and the zoning board of appeals:
 - (1) Shall base their decision upon facts presented at a public hearing. Applications which require hearings before the planning commission or the zoning board of appeals shall be submitted thirty days prior to the regular meeting date of that body. Late applications may be scheduled for hearings upon authorization by the chairperson after review of the upcoming agenda, and the work load and ability of the staff to meet legal notice deadlines and to prepare reports and recommendations. Under no circumstances may a late application be accepted less than five days prior to a legal notice deadline;
 - (2) Timing of notice. Unless otherwise provided in the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.), or this chapter where applicable, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, conditional use permit, appeal or ordinance interpretation shall be provided no less than 15 days before the date the application will be considered for approval;
 - (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 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. The current year's assessment roll shall be used as prima facia evidence of record ownership.

- c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to this section shall receive notice by mail.
 - d. Other governmental units within one mile of the property involved in the application.
- (4) Shall include the time, place and nature of the request, the geographic area included in the zoning request, where and when written comments will be received, and where and when this chapter and proposals or applications may be examined;
 - (5) Shall permit interested parties at the hearing to present and rebut information either supporting or opposing the zoning action under consideration;
 - (6) Shall prepare a comprehensive summary record of the hearing, including an exact record of motions, votes and other official action;
 - (7) Shall set forth in writing and in detail any denial, approval, conditional approval, or order and the facts supporting such decision;
 - (8) Shall file the record, written testimony, or documents submitted with regard to the hearing, and the decision with the city clerk, and maintain an affidavit of mailing for each mailing made under this section;
 - (9) Shall comply with all other requirements under the law; and
 - (10) Shall have all administrative actions recorded in the official zoning orders book and map.
- (c) Wherever a discretionary decision is authorized in this chapter, such as, but not limited to, the issuance of conditional use permits, conditions (including, but not limited to greater setbacks, parking, screening, drainage, access control and other similar requirements) may be imposed provided they are:
 - (1) Designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed use or activity, and the community as a whole;
 - (2) Related to the valid exercise of the police power, and the purposes which are affected by the proposed use or activity;
 - (3) Necessary to meet the intent and purpose of this chapter, are related to standards established in this chapter for the land use or activity under consideration, and are necessary to insure compliance with those standards; and
 - (4) 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. A record of changed condition shall also be maintained.
 - (d) All administrative guides or rules developed to assist the planning commission or the zoning board of appeals in the administration of this chapter shall be filed with the city clerk and be open to public inspection.

(Ord. No. 299 of 2011, § 902, 2-14-2011)

Sec. 50-244. - Zoning administrator.

The city assessor/building inspector shall serve as zoning administrator, and shall administer the provisions of this chapter and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. He shall have no power to vary or waive chapter requirements.

(Ord. No. 299 of 2011, § 903, 2-14-2011)

Sec. 50-245. - Duties of zoning administrator.

- (a) The zoning administrator shall have the power to issue a zoning compliance permit and to conduct a preliminary review site plans to determine whether they are in proper form contain all of the required information. The zoning administrator shall make inspections of premises and collect such investigative data deemed necessary to carry out his/her duties in the enforcement of this chapter.
- (b) If the zoning administrator shall find that any provision of this chapter is being violated, the Administrator shall order discontinuance of any illegal work being done; or shall take such action as authorized to insure or prevent violation of the provisions of this chapter.
- (c) The zoning administrator shall not vary, change or grant exceptions to any terms of this chapter, or to any person making application under the requirements of this chapter.
- (d) It shall be unlawful for the zoning administrator to issue a zoning compliance permit, or other such permits, for any construction or use until he has inspected such plans and found them to conform to this chapter.

(Ord. No. 299 of 2011, § 904, 2-14-2011)

Sec. 50-246. - Zoning compliance permit.

- (a) It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a zoning compliance permit shall have been issued therefore by the zoning administrator. The permit shall state that the building, structure, and lot, and use thereof, conform to the requirements of this chapter.
- (b) The zoning administrator shall maintain a record of all zoning compliance permits and said record shall be open for public inspection. Failure to obtain a zoning compliance permit shall be a violation of this chapter.

(Ord. No. 299 of 2011, § 905, 2-14-2011)

Sec. 50-247. - Enforcement and violation.

Notice of violation:

- (1) Whenever the zoning administrator determines that a violation of this chapter exists, said zoning administrator shall issue a notice of violation.
- (2) Such notice shall be directed to each owner of or a party in interest in whose name the property appears on the last local tax assessment records.
- (3) All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.

- (4) All violations shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the city manager who shall initiate prosecution procedures.

(Ord. No. 299 of 2011, § 906, 2-14-2011)

Sec. 50-248. - Special zoning orders book and map.

The zoning administrator shall keep a special zoning orders book, which shall list, with a brief description, all variances, conditional use permits, zoning amendments, designations of Class A nonconformance, and any terminations of any of them. Each item shall be assigned a number when entered. The zoning administrator shall also keep a map, to be known as the special zoning orders map, on which shall be recorded the numbers in the special zoning orders book to indicate the locations affected by the items in the book. The special zoning orders book and map shall be open to public inspection.

(Ord. No. 299 of 2011, § 907, 2-14-2011)

Sec. 50-249. - Fees.

The city council shall periodically establish by resolution a schedule of fees for administering this chapter. The schedule of fees shall be made available in the office of the zoning administrator and the city clerk, and may be changed only by the city council. No permit shall be issued unless such fees have been paid in full.

(Ord. No. 299 of 2011, § 908, 2-14-2011)

Secs. 50-250—50-276. - Reserved.

ARTICLE X. - ZONING BOARD OF APPEALS⁶

Footnotes:

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State Law reference— Zoning board of appeals, MCL 125.3601 et seq.

Sec. 50-277. - Creation and membership.

The zoning board of appeals is hereby established in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.). The board shall consist of three members, each to be appointed by the city council for a term of three years. The city council may appoint two alternate members for the same term as regular members of the board of appeals. The alternate members, if appointed, shall be called on a rotating basis to sit as regular members of the board of appeals in the absence of a regular member. An alternate member shall also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the board of appeals.

(Ord. No. 299 of 2011, § 1001, 2-14-2011)

Sec. 50-278. - Procedures.

- (a) The zoning board of appeals may adopt rules and regulations to govern its procedures. The zoning board of appeals shall appoint one of its members as chairman. The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to revise any order, requirements, decision or interpretation of the zoning administrator or to decide in favor of an applicant any matter upon which they are required to pass under this chapter or to effect any variation in this chapter, except that a vote of two-thirds of the members of the board shall be necessary to grant a variance from uses of land permitted in an ordinance.
- (b) Meetings of the zoning board of appeals shall be held at the call of the chairman and at such times in its rules of procedure may specify. Minutes shall be kept of each meeting and the board shall record into the minutes all findings, conditions, facts and other relevant factors, including the vote of each member upon any question or if absent or failing to vote indicating such fact, and all of its official actions. All meetings and records shall be open to the public. All minutes shall be filed in the office of the city clerk.
- (c) The zoning board of appeals shall hold a hearing within 90 days of receipt of application. The board shall give due notice of the hearing by regular mail to the parties of interest and to owners of adjacent property in accordance with the provisions of section 50-243.

(Ord. No. 299 of 2011, § 1002, 2-14-2011)

Sec. 50-279. - Duties and powers.

- (a) The zoning board of appeals shall perform its duties and exercise its powers as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.). The board of appeals shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the enforcement of this chapter. The zoning board of appeals shall also hear and decide matters referred to the board or upon which the board is required to pass under this chapter.
- (b) The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this chapter, but does have power to act on those matters specifically provided for in this chapter.
- (c) In exercising the above mentioned powers, the zoning board of appeals may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and may make such order, requirements, decision, or determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal was taken.

(Ord. No. 299 of 2011, § 1003, 2-14-2011)

Sec. 50-280. - Administrative review.

- (a) The zoning board of appeals shall hear and decide appeals from and review any order, requirements, decision or determination of the zoning administrator.
- (b) The zoning board of appeals shall have the power to:
 - (1) Interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter;
 - (2) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the zoning administrator; and

- (3) Determine the parking space requirements of any use not specifically mentioned either by classifying it with one of the groups listed in section 50-103 or by an analysis of the specific needs.

(Ord. No. 299 of 2011, § 1004, 2-14-2011)

Sec. 50-281. - Variances.

- (a) If there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the board of appeals may in passing upon appeals vary or modify any of its rules or provisions relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of the chapter shall be observed, public safety secured, and substantial justice done.
- (b) Any nonconforming use of neighboring lands, structures, or buildings shall not be considered grounds for the issuance of a variance.
- (c) The zoning board of appeals shall make findings that the requirements of this section have been met by the applicant.
- (d) The zoning board of appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- (e) The zoning board of appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.
- (f) In granting any variance, the zoning board of appeals may prescribe appropriate conditions and safeguards consistent with section 50-243(c). Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted shall be deemed a violation of this chapter.

(Ord. No. 299 of 2011, § 1005, 2-14-2011)

Sec. 50-282. - Appeals.

- (a) Appeals concerning interpretation or the administration of this chapter shall be made by filing a notice of appeal specifying the grounds thereof with the zoning administrator within a period of 30 days from the occurrence of the contested action. The zoning administrator shall transmit to the board copies of all papers constituting the record upon which the action appealed was taken from.
- (b) A fee shall be paid to the city at the time of filing the notice of appeal. The appeal fee shall be established by the city council.
- (c) Any party may appear at the hearing in person or by agent or attorney.
- (d) The zoning board of appeals shall hold a hearing within 90 days of receipt of application. The decision of the board shall be in the form of a resolution containing a full record of its findings and determinations in each case.
- (e) An appeal shall stay all proceedings in furtherance of the action appealed, unless the zoning administrator certifies to the board, that a stay would in his opinion, cause imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order granted by the courts.

(Ord. No. 299 of 2011, § 1006, 2-14-2011)

Sec. 50-283. - Duties on matters of appeal.

All questions concerning application of the provisions of this chapter shall first be presented to the zoning administrator. Such questions shall be presented to the zoning board of appeals only on appeal from the decisions of the zoning administrator. Recourse from decisions of the zoning board of appeals shall be to the circuit court of the county, as provided by law.

(Ord. No. 299 of 2011, § 1007, 2-14-2011)

Secs. 50-284—50-314. - Reserved.

ARTICLE XI. - PLANNING COMMISSION: PLANNING AND ZONING AUTHORITY^[7]

Footnotes:

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State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

Sec. 50-315. - Designation.

The city planning commission has been created in accordance with the provisions of Public Act No. 33 of 2008 (MCL 125.3801 et seq.) and Public Act No. 110 of 2006 (MCL 125.3101 et seq.), and in accordance with section 301 (MCL 125.3301) of the above-referenced Act shall assume the powers and duties of the zoning commission as described in Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

(Ord. No. 299 of 2011, § 1101, 2-14-2011)

Sec. 50-316. - Changes and amendments.

Only the city council may adopt or amend this chapter. Proposals for amendments or changes may be initiated by the city council on its own motion, by the planning commission or by an individual.

- (1) Each application or amendment shall be submitted to the zoning administrator, accompanied by the proper fee, and then referred to the planning commission for their review at a public hearing, which is held in conformance with section 50-243.
- (2) Following the public hearing, the planning commission shall submit the proposed zoning ordinance amendment and any applicable maps to the city council, along with a summary of the comments received at the public hearing.
- (3) Upon receipt of the recommended amendment, the city council at a regular meeting or at a special meeting called for the purpose, shall consider the recommendations and vote upon the adoption of the amendment. Any amendments shall be approved by a majority vote of the members of the city council, except in the case of a petition as discussed in subsection (4) of this section. The city council shall not make a change or departure from the plans, text, or maps as certified by the planning commission unless the proposed change or departure is first submitted to the planning commission for its advice or suggestions. The planning commission shall have 30 days from and after receipt of the proposed change or departure to send its report to the city council.
- (4) Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a

two-thirds vote of the legislative body. The protest petition shall be presented to the legislative body before final legislative action on the amendment, and shall be signed by one of the following:

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

Publicly owned land shall be excluded in calculating the 20 percent land area requirement.

- (5) No application for amendment, which has been disapproved by the city council, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the city council after learning of new and significant facts or conditions which might result in favorable action upon resubmittal. Resubmittal shall follow the same procedure as outlined in this section.
- (6) If the amendment is to change the text of the ordinance, the applicant shall transmit proposed language for consideration by the planning commission. When the application involves a change in the zoning map, the applicant shall submit the following information:
 - a. A legal description of the property;
 - b. A scaled map of the property, correlated with the legal description, and clearly showing the property's location;
 - c. The name and address of the applicant;
 - d. The applicant's interest in the property;
 - e. Date of filing with the zoning administrator;
 - f. Signature of the applicant and owner certifying the accuracy of the required information; and
 - g. The desired change and reasons for such change.
- (7) In viewing any application for a zoning amendment, the planning commission shall identify and evaluate all factors relevant to the application, and shall report its findings in full, along with its recommendations for disposition of the application, to the city council within 30 days. All findings of fact shall be made a part of the public records of the meetings of the planning commission and the city council.
- (8) The general standards to be considered by the planning commission shall include, but not be limited to, the following:
 - a. Whether the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance;
 - b. Whether the requested zoning change is consistent with local plans and policies;
 - c. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the application;
 - d. The ability of the city or other government agencies to provide any services, facilities, and/or programs that might be required if the application is approved;
 - e. Whether there are any significant and negative environmental impacts which would potentially occur if the requested zoning change occurred and resulting permitted structures were built, including but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources;
 - f. Effect of approval of the application on adopted development policies of the city and other governmental units.
- (9) Notice of adoption of amendment shall be published in accordance with section 401 of Public Act No. 110 of 2006 (MCL 125.3401).

(Ord. No. 299 of 2011, § 1102, 2-14-2011)

Secs. 50-317—50-335. - Reserved.

ARTICLE XII. - INTERPRETATION, SEVERABILITY, VESTED RIGHT, PENALTIES AND EFFECTIVE DATE

Sec. 50-336. - Interpretation and conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by the chapter to repeal, abrogate, annul or in any way impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this chapter imposes a greater restriction upon the courtyards or other open spaces that are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this chapter shall control.

(Ord. No. 299 of 2011, § 1201, 2-14-2011)

Sec. 50-337. - Severability.

This chapter and the various parts, sections, subsections, and clauses, thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional, or invalid as applied to a particular property; building, or structure, it is hereby provided that the application of such portion of the chapter to other property, buildings or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing any conditional use permit, variance, zoning compliance permit, site plan approval, or designation of Class A nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirement of some provision thereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

(Ord. No. 299 of 2011, § 1202, 2-14-2011)

Sec. 50-338. - 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. 299 of 2011, § 1203, 2-14-2011)

Sec. 50-339. - Penalties and remedies.

- (a) *Civil law.* Any building, structure, or use constructed, altered, moved or maintained in violation of the provisions of this chapter is hereby declared to be a nuisance per se.
- (b) *Criminal law.* Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with

variances and conditional uses and violations of approved site plans, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 and imprisoned for not more than 90 days, or both, and in addition, shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

- (c) *Remedies.* The city manager may also institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this chapter. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine or jail sentence of both shall not exempt the violator from compliance with the provisions of this chapter.

(Ord. No. 299 of 2011, § 1204, 2-14-2011)

Sec. 50-340. - Repealing clause.

The city zoning ordinance, Ordinance 253 of 2000, and subsequent amendments, is hereby repealed.

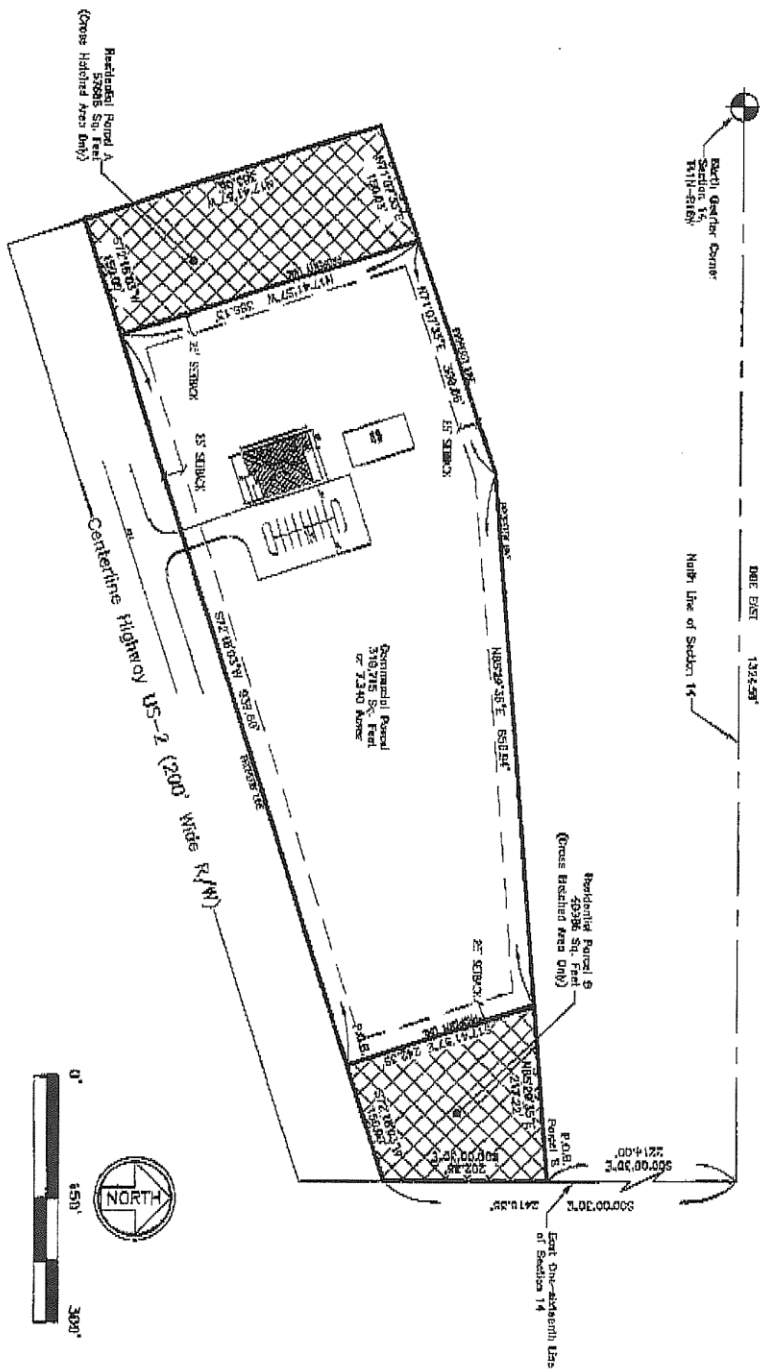
(Ord. No. 299 of 2011, § 1205, 2-14-2011)

Sec. 50-341. - Effective dates.

The ordinance from which this chapter is derived shall become effective upon publication of the notice of adoption in the Pioneer Tribune.

(Ord. No. 299 of 2011, § 1206, 2-14-2011)

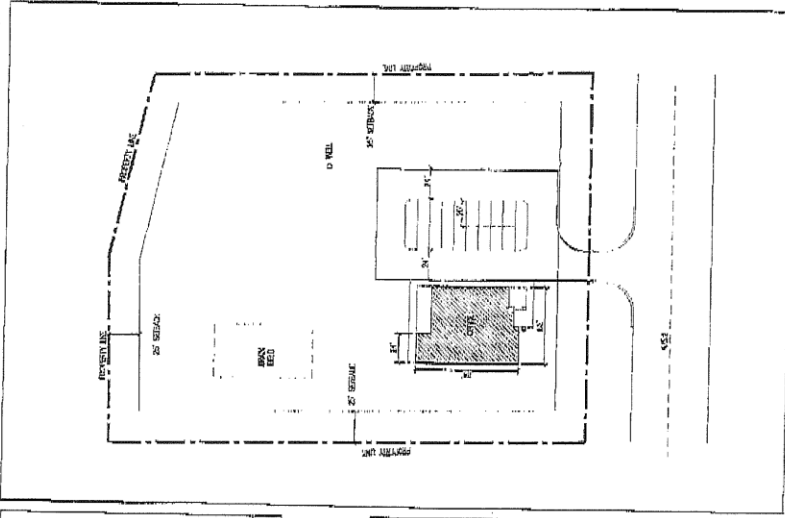
Sec. 50-342. - Exhibit "A."



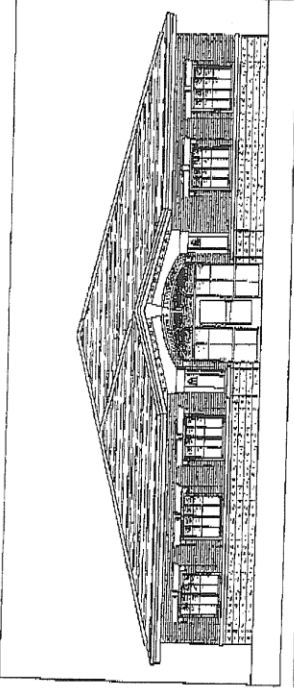
(Ord. No. 299 of 2011, app. A, exh. A, 2-14-2011)

Sec. 50-343. - Exhibit "B."

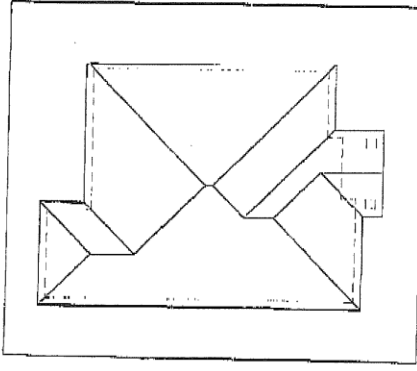
PRELIMINARY



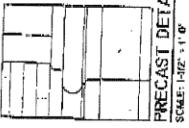
SITE PLAN
NO SCALE



FRONT ELEVATION
SCALE: 1/8" = 1' 0"



ROOF PLAN
SCALE: 3/32" = 1' 0"



PRECAST DETAIL
SCALE: 1/4" = 1' 0"

DR. BAKER OFFICE BUILDING

AUGUST 7, 2009



(Ord. No. 299 of 2011, § app. A, exh. B, 2-14-2011)