

Chapter 44 - 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. - SHORT TITLE

Sec. 44-1. - Short title.

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

(Ord. No. 401, § 100, 5-2-2005)

Secs. 44-2—44-20. - Reserved.

ARTICLE II. - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Sec. 44-21. - Construction of language.

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

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The term "shall" is always mandatory and not discretionary. The term "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The term "used for" includes the term "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (7) The term "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - a. The term "and" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. The term "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. The term "either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (9) Terms not herein defined shall have the meaning customarily assigned to them.

(Ord. No. 401, § 200, 5-2-2005)

Sec. 44-22. - Definitions.

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

Accessory use or *accessory* means a use of a zoning lot which is clearly incidental to the principal use of the lot and customarily found in connection with such principal use, provided this definition has no reference to off-street parking spaces or off-street loading. When the term "accessory" is used in this text, it shall have the same meaning as "accessory use." The term "accessory use" includes, but is not limited to, the following:

- (1) Residential accommodations for servants and/or caretakers.
- (2) Swimming pools for the use of the occupants of a residence or their guests.
- (3) Domestic or agricultural storage in a barn, shed, tool room or similar accessory building or other structure.
- (4) A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays.
- (5) Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- (6) Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- (7) Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
- (8) Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

Adult foster care family home means a private residence licensed under Public Act No. 218 of 1979 (MCL 400.701 et seq.) for six or fewer adults to be provided with foster care for five or more days a week for two or more consecutive weeks. The adult foster care family home licensee is 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.) to provide foster care for at least 13 but not more than 20 adults to be provided foster care.

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 at least 13 but not more than 20 adults to be provided with foster care.

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

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

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

Auto repair station means a place where, along with the sale of engine fuels, the following services may be carried out: general repair; engine rebuilding; rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; or overall painting and undercoating of automobiles.

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

Bed and breakfast means a use which is subordinate to the principal use of a single-family dwelling unit where three or less sleeping rooms have been converted for guests' use for compensation. A continental breakfast may be served.

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

Body shop means a place for the repair of automobile bodies, including bumping, painting and frame repair.

Building means any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind.

Building height means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs.

Building line means a line formed by the face of the building, and for the purposes of this chapter, a minimum building line is the same as a front setback line.

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

Communication antenna means any system of wires, poles, rods, reflecting disks, or similar devices used for the provision of cellular, broadband PCS, wide-area SMR, satellite system and other wireless transmitting and receiving services. Communication antennae may be attached to the top of a structure or to a communication tower which is affixed to the ground.

Communication tower means a structure affixed to the ground which functions to provide an elevated base for one or more communication antennae.

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

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

Court means an uncovered space enclosed wholly or on three sides by buildings or walls.

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

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

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

Drive-through means a business establishment so developed that its retail or service character is partially or totally dependent on providing a driveway approach so as to serve patrons while in their motor vehicle.

Drive-up automated teller machine means an automated device that performs banking or financial functions at a location remote from the controlling financial institution. It provides banking/financial functions that are operated by a customer. This is a structure/use that is an independent traffic generator

and shall be located in a zoned district designated with an emphasis on customers who use autos to travel to the site.

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

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

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

Dwelling unit means a building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.

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

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

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

Family means one of the following, when living in a single dwelling unit:

- (1) A single individual.
- (2) A group of two or more persons related by blood, marriage or adoption.
- (3) A group of up to six unrelated individuals operating as a single housekeeping unit.

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

Farm means the carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.

Floor area, residential, for the purpose of computing the minimum allowable floor area in a residential dwelling unit, means the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

Floor area, usable, for the purposes of computing parking, mean that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area.

Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

Garage, private, means an accessory building or portion of a main building designed or used solely for the storage of motor driven vehicles, boats, and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garage, service, means any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale, including major engine repair but excluding bumping and painting.

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

General common area means the common elements of a condominium development other than the limited common elements.

Grade means the ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

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.

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

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

Kennel, commercial, means any lot or premises on which three or more dogs, cats or other household pets over six months of age are either permanently or temporarily kept for sale, boarding, breeding or training for a fee. The keeping of nine or more dogs, cats or other household pets over six months of age, whether for a fee or not, shall constitute a commercial kennel.

Kennel, private, means any lot or premises on which between four and eight dogs, cats, or other household pets over six months of age are maintained by a resident on their residential lot.

Limited common area means the portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

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

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

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

Lot, corner, means a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this 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 a building including accessory buildings.

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

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

Lot lines means the lines bounding a lot, as defined below:

Front lot line, in the case of an interior lot, means that line separating said lot from the street. In the case of a through lot, is that line separating said lot from either street.

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

Side lot line means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

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

Lot, through, means any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the cases of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

Lot width means the horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

Lot, zoning, means a single tract of land, located within a single block which, at the time of filing for a zoning permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A zoning lot shall satisfy this chapter with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the county register of deeds, but may include one or more lots of record.

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

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

Master deed means the condominium documents recording the condominium project which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plans for the project.

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

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.

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.

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

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

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

Nuisance factor means any offensive, annoying, unpleasant, or obnoxious thing or practice, any cause or source of annoyance, any continuing or repeated physical invasion, activity or use across a property line perceivable by or affecting a human being, or any generation of excessive or concentrated movement of people or things, such as, but not limited to:

- (1) Noise;
- (2) Dust;
- (3) Smoke;
- (4) Odor;
- (5) Glare;
- (6) Fumes;
- (7) Flashes;
- (8) Vibration;
- (9) Shock waves;
- (10) Heat;
- (11) Electronic or atomic radiation;
- (12) Objectionable effluent;
- (13) Noise of congregation of people;
- (14) Passenger traffic;
- (15) Invasion of nonabutting street frontage by traffic.

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

Nursing care facility for the elderly means comprised of establishments primarily engaged in providing inpatient nursing and rehabilitative services. The care is generally provided for an extended period to individuals requiring nursing care. These establishments have a permanent core staff of registered or licensed practical nurses, who along with other staff, provide nursing and continuous

personal care services. Examples are homes for the elderly with nursing care, nursing homes, and rest homes with nursing care (except psychiatric).

Off-street parking lot means a facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

Open front store means a business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations or automobile service stations.

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

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

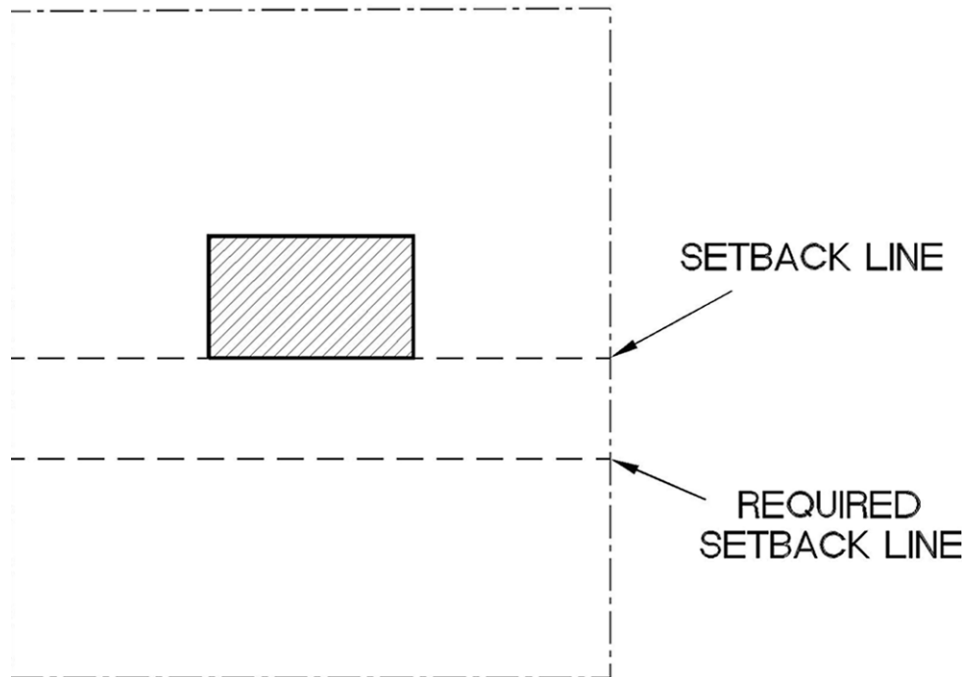
Public utility means a person, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing to the public under federal, state or municipal regulations, gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

Room, for the purpose of determining lot area requirements and density in a multiple-family district, means a room is a living room, dining room or bedroom equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing one-, two-, or three-bedroom units and including a "den," "library" or other extra room shall count such extra room as a bedroom for the purpose of computing density.

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

Setback line means a line formed by the face of the building, unless the roof eaves overhang more than two feet, in which case the setback shall be to the edge of the eaves.

Setback line, required. A required setback line is established by the minimum setback requirements of this chapter.



Sexually oriented business means any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing or presenting specified sexual activities or specified anatomical areas, as defined below:

Display, as used in this definition, means any single motion or still picture, presentation, dance or exhibition, live act, or collection of visual materials such as books, films, slides, periodicals, pictures, videocassettes or any other printed or recorded matter which is open to view or available to the general population whether for free or otherwise.

Sexually oriented business use means and includes, but shall not be limited to, the following:

- (1) An adult motion picture theater is an enclosed building with a capacity of 50 or more persons used for presenting material which has a significant portion of any motion picture or other display depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- (2) An adult mini-motion picture theater is an enclosed building with a capacity for less than 50 persons used for presenting material which has as a significant portion of any motion picture or other display depicting, describing or presenting specified anatomical areas for observation by patrons therein.
- (3) An adult motion picture arcade is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe or relate to specified sexual activities or specified anatomical areas.
- (4) An adult book store is a use which has a display containing books, magazines, periodicals, slides, pictures, cassettes, or other printed or recorded material which has as a significant portion of its content or exhibit matter or actions depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a (substantial) segment or section devoted to the sale or display of such material.
- (5) An adult cabaret is a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe specified sexual activities or specified anatomical areas.
- (6) An adult motel is a motel wherein matter, actions or other displays are presented which contains a significant portion depicting, describing, or relating to specified sexual activities or specified anatomical areas.
- (7) An adult massage parlor is any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatment or any other treatment or manipulation of the human body occurs as part of or in connection with specified sexual activities or where any person providing such treatment, manipulation or service related thereto exposes specified anatomical areas.
- (8) An adult model studio is any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar education institution.
- (9) An adult sexual encounter center is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.

Significant portion, as used in this definition, means and includes:

- (1) Any one or more portions of the display having continuous duration in excess of five minutes; and/or
- (2) The aggregate of portions of the display having duration equal to ten percent or more of the display.
- (3) The aggregate of portions of the collection of any materials or exhibits composing the display equal to ten percent or more of the display.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered:
 - a. Human genitals, pubic region;
 - b. Buttock; and
 - c. Female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Sign means a lettered board, or other notice or token, advertising an individual, firm, profession, business or other thing and visible to the general public.

Sign, off-premises, means a sign related to an activity conducted, a service rendered or a commodity sold at a location other than where the sign is located.

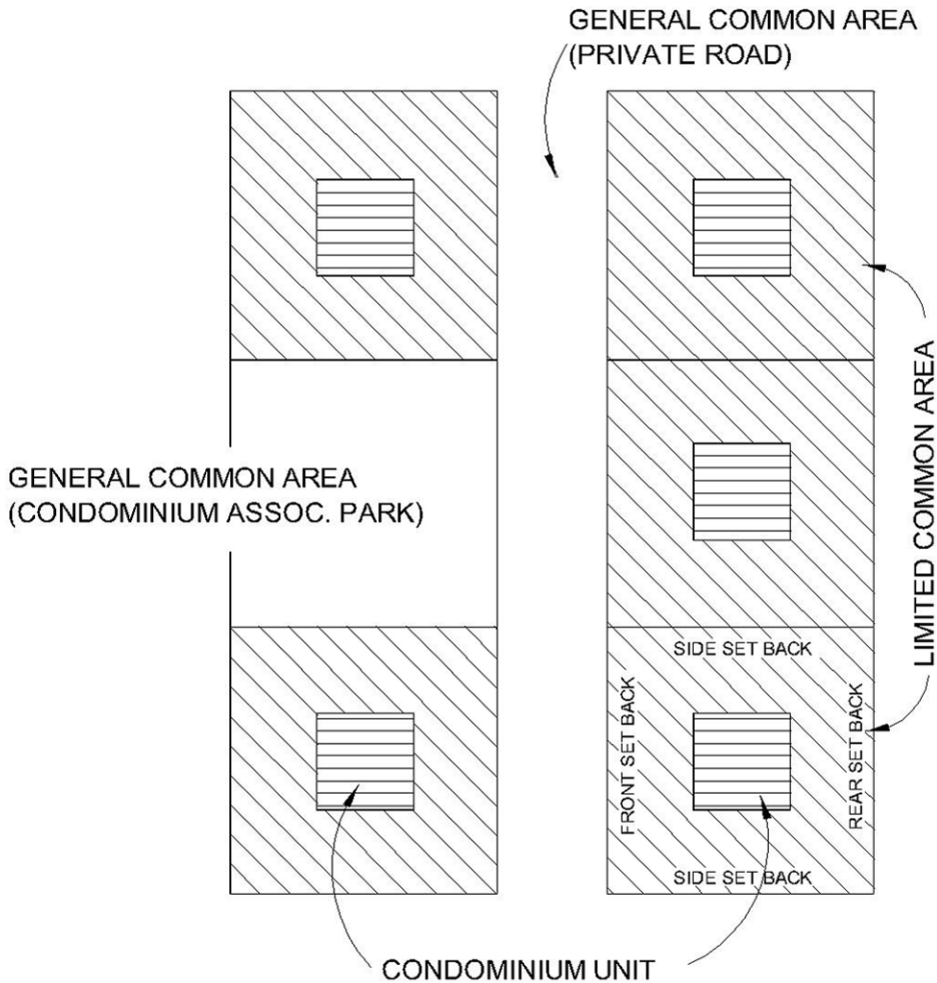
Sign, on-premises, means a sign which is accessory to the principal use of the premises.

Sign, sandwich board, means any sign that is constructed of two flat pieces joined at the top with a hinge device so that the sign stands up as an inverted "V."

Sign, temporary banner, means any sign of lightweight fabric or similar material that is temporarily mounted to a pole or similar or a fence or a wire at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Site condominium means the division of land into separate building sites under the authority of the Condominium Act, Public Act No. 59 of 1978 (MCL 559.101 et seq.).

SITE CONDOMINIUM DEFINITIONS



CONDOMINIUM UNIT + LIMITED COMMON AREA = LOT

State licensed residential facility means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, Public Act No. 218 of 1979 (MCL 400.701 et seq.), or Public Act No. 116 of 1973 (MCL 722.111 et seq.), and provides residential services for six or fewer individuals under 24-hour supervision or care, and is required to be a permitted use by Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

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

Story, half, means an uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purposes of this chapter, the usable floor area is only that area having at least four feet clear height between floor and ceiling.

Street means a public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

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

Temporary use or building means a use or building permitted by the city council to exist during periods of construction of the main building or use, or for special events, as a special condition use.

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

Variance means a departure from the literal provisions of this chapter authorized by the zoning board of appeals (ZBA). Use variances are allowed uses not specifically listed as permitted allowed uses in a given district. Non-use variances allow for departures from other requirements of this chapter, including lot size, depth or width, building setbacks, etc.

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

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

Front yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

Rear yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

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

(Ord. No. 401, § 201, 5-2-2005; Ord. No. 403, 6-6-2005; Ord. No. 406, § 1, 2-20-2006)

Sec. 44-23. - Interpretation and application.

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

(Ord. No. 401, art. 30, 5-2-2005)

Sec. 44-24. - Vested right.

Nothing in this chapter shall 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 all rights are hereby declared to be subject so such subsequent amendment, change or modification hereof as may be necessary to the preservation or protection of public health, safety and welfare.

(Ord. No. 401, art. 31, 5-2-2005)

Secs. 44-25—44-47. - Reserved.

ARTICLE III. - ZONING DISTRICTS AND MAP

Sec. 44-48. - Districts established.

For the purpose of this chapter, the city is hereby divided into the following districts:

<i>Residential Districts</i>	
RA-1	One-Family Low Density Residential District
RA-2	One-Family Medium Density Residential District
RB	Two-Family Residential District
RC	Multiple-Family Residential District
RD	Mobile Home Park Residential District
<i>Nonresidential Districts</i>	
OS-1	Office Service District
B-1	Community Business District
B-2	General Business District
I-1	Light Industrial District
I-2	General Industrial District
P-1	Vehicular Parking District
<i>Overlay Districts</i>	
RA-1	with Office Overlay Only
RA-1	with Commercial/Office Overlay
RA-2	with Office Overlay Only
RA-2	with Commercial/Office Overlay

RB	with Office Overlay Only
RC	with Office Overlay Only

(Ord. No. 401, § 300, 5-2-2005)

Sec. 44-49. - District boundaries.

The boundaries of these districts are hereby established as shown on the zoning map, which is on file in the city clerk's office, and which map with all notations, references, and other information shown thereon shall be as much a part of this chapter as if fully described herein.

(Ord. No. 401, § 301, 5-2-2005; Ord. No. 462, § 1, 3-8-2016; Ord. No. 463, § 1, 4-18-2016; Ord. No. 466, § 1, 7-7-2017; Ord. No. 467, § 1, 10-2-2017)

Sec. 44-50. - District boundaries interpreted.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following city limits shall be construed as following city limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.
- (5) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerline of rivers, lakes or other bodies of water shall be construed to follow such centerlines.
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (7) Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (1) through (6) of this section, the board of appeals shall interpret the district boundaries.
- (8) Insofar as some or all of the various districts may be indicated on the zoning map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

(Ord. No. 401, § 302, 5-2-2005)

Sec. 44-51. - Zoning of annexed areas.

Whenever any area is annexed to the city, one of the following rules shall apply:

- (1) Land zoned previous to annexation shall be a district of the class to which it most nearly conforms under this chapter. The planning commission shall recommend the classification. The city council shall, by resolution, determine the classification.
- (2) Land not zoned prior to annexation shall be automatically classified as a RA-1 district until a zoning map for the area shall have been adopted by the city council. The planning commission shall recommend the appropriate zoning districts for such area within three months after the city council shall have referred the matter to the commission.

(Ord. No. 401, § 303, 5-2-2005)

Sec. 44-52. - Zoning of vacated areas.

Whenever a street, alley or other public way or part thereof shall be vacated, the same shall automatically become a part of the district to which it attaches.

(Ord. No. 401, § 304, 5-2-2005)

Sec. 44-53. - District requirements.

All buildings and uses in any district shall be subject to the provisions of article XVIII, General Provisions, and article XIX, General Exceptions, of this chapter.

(Ord. No. 401, § 305, 5-2-2005)

Secs. 44-54—44-79. - Reserved.

ARTICLE IV. - RA-1 ONE-FAMILY LOW DENSITY RESIDENTIAL DISTRICT

Sec. 44-80. - Intent.

The RA-1 One-Family Low Density Residential District is designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.

(Ord. No. 401, § 400, 5-2-2005)

Sec. 44-81. - Principal uses permitted.

In an RA-1 One-Family Low Density Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) One-family detached dwellings.
- (2) State-licensed residential facilities.
- (3) Farms on those parcels of land separately owned outside the boundaries of either a proprietary or assessor's plat, having an area of not less than five acres, all subject to the health and sanitation provisions of the city, provided that no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the

premises for at least a period of one year immediately prior thereto for use and consumption by persons residing on the premises.

- (4) Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.
- (5) Publicly owned and operated libraries, parks, parkways and recreational facilities.
- (6) Cemeteries which have been lawfully established land at the time of adoption of the ordinance from which this chapter is derived.
- (7) Public, parochial and other private elementary schools offering courses in general education, and not operated for profit.
- (8) Home occupations, provided any business carried on by one or more members of a family residing on the premises:
 - a. Is operated in its entirety within the principal dwelling and not within any garage or accessory building located upon the premises, except for the incidental storage in use of a residential type garage.
 - b. Is only conducted by the persons occupying the premises.
 - c. Has no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.
 - d. Does not involve alteration or construction not customarily found in dwellings.
 - e. Is clearly incidental and subordinate to the principal use of the premises for residential purposes.
 - f. Does not constitute an annoyance or nuisance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting and shall not generate more than ten additional vehicle trips per day.
 - g. Does not use more than 25 percent of the total actual floor area of the dwelling.
 - h. Does not display or create outside the structure any external evidence of the home occupation except for one unanimated, non-illuminated wall sign having an area of two square feet.
 - i. No outside employees other than the residents of the dwelling unit are permitted.
- (9) Family child care home, provided that the operation is licensed by the state.
- (10) Private pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
 - a. There shall be a minimum distance of not less than ten feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. Side yard setbacks shall apply to side yards if greater than ten feet.
 - b. There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - c. No swimming pool shall be located less than 35 feet from any front lot line.
 - d. No swimming pool shall be located in an easement.
 - e. For the protection of the general public, all yards containing swimming pools shall be completely enclosed by a solid wall or fence or chainlink fence not less than four feet in height. The gates shall be of a self-closing and latching type, with the latch on the inside of the gate not easily opened by children. Gates shall be so constructed that they may be securely locked when the pool is not in use for extended periods. For pools constructed partially or wholly above the ground, a fence shall not be required provided that the wall of

the pool is at least four feet in height and provided that no ladder, deck or other structure provides access to the pool while it is unattended.

- (11) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 401, 5-2-2005; Ord. No. 406, § 2, 2-20-2006)

Sec. 44-82. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

- (1) Churches and other facilities normally incidental thereto subject to the conditions of section 44-711(4).
- (2) Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with section 44-510.
- (3) Utility and public service buildings and uses (without storage yards).
- (4) Nursery schools, group day care homes and child care centers (not including dormitories) subject to the conditions of section 44-711(17).
- (5) Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool clubs, subject to the conditions of section 44-711(22).
- (6) Golf courses whether operated for profit or not, subject to the conditions of section 44-711(12).
- (7) Planned unit developments, subject to the conditions of section 44-711(20).
- (8) Bed and breakfasts, subject to the provisions of section 44-711(2).
- (9) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (10) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 402, 5-2-2005)

Sec. 44-83. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 401, § 403, 5-2-2005)

Secs. 44-84—44-109. - Reserved.

ARTICLE V. - RA-2 ONE-FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT

Sec. 44-110. - Intent.

The RA-2 One-Family Medium Density Residential District is designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly medium-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.

(Ord. No. 401, § 500, 5-2-2005)

Sec. 44-111. - Principal uses permitted.

In an RA-2 One-Family Medium Density Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) One-family detached dwellings.
- (2) State licensed residential facilities.
- (3) Farms on those parcels of land separately owned outside the boundaries of either a proprietary or assessor's plat, having an area of not less than five acres, all subject to the health and sanitation provisions of the city, provided that no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto for use and consumption by persons residing on the premises.
- (4) Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.
- (5) Publicly owned and operated libraries, parks, parkways and recreational facilities.
- (6) Cemeteries which have been lawfully established land at the time of adoption of the ordinance from which this chapter is derived.
- (7) Public, parochial and other private elementary schools offering courses in general education, and not operated for profit.
- (8) Home occupations, provided any business carried on by one or more members of a family residing on the premises:
 - a. Is operated in its entirety within the principal dwelling and not within any garage or accessory building located upon the premises, except for the incidental storage in use of a residential type garage.
 - b. Is only conducted by the persons occupying the premises.
 - c. Has no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.
 - d. Does not involve alteration or construction not customarily found in dwellings.
 - e. Is clearly incidental and subordinate to the principal use of the premises for residential purposes.
 - f. Does not constitute an annoyance or nuisance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting and shall not generate more than ten additional vehicle trips per day.
 - g. Does not use more than 25 percent of the total actual floor area of the dwelling.
 - h. Does not display or create outside the structure any external evidence of the home occupation except for one unanimated, non-illuminated wall sign having an area of two square feet.

- i. No outside employees other than the residents of the dwelling unit are permitted.
- (9) Family child care homes, provided that the operation is licensed by the state.
- (10) Private pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
 - a. There shall be a minimum distance of not less than ten feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. Side yard setbacks shall apply to side yards if greater than ten feet.
 - b. There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - c. No swimming pool shall be located less than 35 feet from any front lot line.
 - d. No swimming pool shall be located in an easement.
 - e. For the protection of the general public, all yards containing swimming pools shall be completely enclosed by a solid wall or fence or chainlink fence not less than four feet in height. The gates shall be of a self-closing and latching type, with the latch on the inside of the gate not easily opened by children. Gates shall be so constructed that they may be securely locked when the pool is not in use for extended periods. For pools constructed partially or wholly above the ground, a fence shall not be required provided that the wall of the pool is at least four feet in height and provided that no ladder, deck or other structure provides access to the pool while it is unattended.
- (11) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 501, 5-2-2005; Ord. No. 406, § 3, 2-20-2006)

Sec. 44-112. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

- (1) Churches and other facilities normally incidental thereto subject to the conditions of section 44-711(4).
- (2) Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with section 44-510.
- (3) Utility and public service buildings and uses (without storage yards).
- (4) Nursery schools, group day care homes and child care centers (not including dormitories) subject to the conditions of section 44-711(17).
- (5) Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool clubs, subject to the conditions of section 44-711(22).
- (6) Golf courses whether operated for profit or not, subject to the conditions of section 44-711(12).
- (7) Planned unit developments, subject to the conditions of section 44-711(20).
- (8) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (9) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 502, 5-2-2005)

Sec. 44-113. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 401, § 503, 5-2-2005)

Secs. 44-114—44-139. - Reserved.

ARTICLE VI. - RB TWO-FAMILY RESIDENTIAL DISTRICTS

Sec. 44-140. - Intent.

The RB Two-Family Residential Districts are designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential and commercial, office, thoroughfares or other uses which would affect residential character. This district also recognizes the existence of older residential areas of the city where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district also allows the construction of new two-family residences where slightly greater densities are permitted.

(Ord. No. 401, § 600, 5-2-2005)

Sec. 44-141. - Principal uses permitted.

In an RB Two-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) All uses permitted by right and as regulated in the one-family low density residential district. The standards of the schedule of regulations applicable to the RA-1 One-Family Residential District shall apply as minimum standards when one-family detached dwellings are erected.
- (2) Two-family dwellings and adult foster care small group homes.
- (3) Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (4) Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.

(Ord. No. 401, § 601, 5-2-2005; Ord. No. 406, § 4, 2-20-2006)

Sec. 44-142. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 401, § 602, 5-2-2005)

Sec. 44-143. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

- (1) Planned unit developments, subject to the conditions of section 44-711(20).
- (2) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, and overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.

(Ord. No. 401, § 603, 5-2-2005)

Secs. 44-144—44-169. - Reserved.

ARTICLE VII. - RC MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 44-170. - Intent.

The RC Multiple-Family Residential Districts are designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and lower density single-family districts. The multiple-family district is further provided to serve the limited needs for the apartment type of unit in an otherwise medium density, single-family community.

(Ord. No. 401, § 700, 5-2-2005)

Sec. 44-171. - Principal uses permitted.

In an RC Multiple-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) All uses permitted and as regulated in the RB Two-Family Residential District.
- (2) Multiple-family dwellings and adult foster care large group homes.
- (3) Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (4) Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.

(Ord. No. 401, § 701, 5-2-2005; Ord. No. 406, § 5, 2-20-2006)

Sec. 44-172. - Required conditions.

- (a) In the case of multiple dwelling developments, all site plans shall be submitted to the planning commission for its review and approval prior to issuance of a building permit. Approval shall be contingent upon a finding that:
 - (1) The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways and parking areas to promote pedestrian and vehicular traffic safety; and
 - (2) All the development features including the principal building or buildings and any accessory buildings, or uses, open spaces, and any service roads, driveways and parking areas are so located and related as to minimize the possibility of any adverse effects upon adjacent property,

such as, but not limited to, channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulation routes located so as to interfere with police or fire equipment access.

(b) All access to the site shall be in accordance with section 44-510.

(Ord. No. 401, § 702, 5-2-2005)

Sec. 44-173. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

- (1) General hospitals, subject to the conditions of section 44-711(11).
- (2) Private offices for doctors or dentists, or similar professions.
- (3) Housing for the elderly subject to the conditions of section 44-711(13).
- (4) Convalescent homes and orphanages subject to the conditions of section 44-711(7).
- (5) Communication towers affixed to existing structures, subject to the conditions of section 44-711(5).
- (6) Planned unit developments, subject to the conditions of section 44-711(20).
- (7) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, and overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (8) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 703, 5-2-2005)

Sec. 44-174. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and providing minimum yard setback requirements.

(Ord. No. 401, § 704, 5-2-2005)

Secs. 44-175—44-201. - Reserved.

ARTICLE VIII. - RD MOBILE HOME PARK RESIDENTIAL DISTRICT²¹

Footnotes:

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State Law reference— Mobile Home Commission Act, MCL 125.2301 et seq.

Sec. 44-202. - Intent.

The RD Mobile Home Park Residential District is designed to provide mobile home sites in the city within the mobile home park framework. No other uses except those accessory uses directly relating to the primary use are permitted in the district.

(Ord. No. 401, § 800, 5-2-2005)

Sec. 44-203. - Principal uses permitted.

In an RD Mobile Home Park Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter.

- (1) Mobile homes.
- (2) State-licensed residential facilities.
- (3) Accessory uses and those uses directly relating to mobile home park usage.
- (4) Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.

(Ord. No. 401, § 801, 5-2-2005)

Sec. 44-204. - Required conditions.

All conditions required by this article shall be pursuant to Public Act No. 96 of 1987 (MCL 125.2301 et seq.) and to the Michigan Mobile Home Code, being MAC R 125.1101 et seq. and R 325.3311 et seq., which act and code are hereby adopted by reference and made a part hereof of this chapter.

(Ord. No. 401, § 802, 5-2-2005)

Secs. 44-205—44-231. - Reserved.

ARTICLE IX. - OS-1 OFFICE SERVICE DISTRICTS

Sec. 44-232. - Intent.

The OS-1 Office Service Districts are designed to accommodate uses such as offices, banks, and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.

(Ord. No. 401, § 900, 5-2-2005)

Sec. 44-233. - Principal uses permitted.

In an OS-1 Office Service District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

- (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained in section 44-235, Required conditions.
- (2) Medical and dental offices, including clinics.

- (3) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.
- (4) Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.
- (5) Personal service establishments including barbershops, beauty shops, and health salons.
- (6) Off-street parking lots.
- (7) Churches.
- (8) Other uses similar to the above uses.
- (9) Accessory structures and uses customarily incidental to the above-permitted uses.

(Ord. No. 401, § 901, 5-2-2005)

Sec. 44-234. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

- (1) Mortuary establishments subject to the conditions of section 44-711(15).
- (2) Publicly owned buildings, telephone exchange buildings, and public utility offices, but not including storage yards, transformer stations, substations, or gas regulator stations.
- (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.

(Ord. No. 401, § 902, 5-2-2005)

Sec. 44-235. - Required conditions.

- (a) No interior display shall be visible from the exterior of the building.
- (b) The outdoor storage of goods or material is prohibited.
- (c) Warehousing or indoor storage of goods or material, beyond that normally incidental to the above-permitted uses, is prohibited.

(Ord. No. 401, § 903, 5-2-2005)

Sec. 44-236. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 904, 5-2-2005)

Secs. 44-237—44-265. - Reserved.

ARTICLE X. - B-1 COMMUNITY BUSINESS DISTRICTS

Sec. 44-266. - Intent.

The B-1 Community Business Districts, as herein established, are designed to meet the day-to-day convenience and comparison shopping and service needs of persons residing in adjacent residential areas.

(Ord. No. 401, § 1000, 5-2-2005)

Sec. 44-267. - Principal uses permitted.

In a B-1 Community Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this article:

- (1) Generally recognized retail businesses which supply commodities on the premises, such as, but not limited to, groceries, meats, dairy products, baked goods or other food, drugs, dry goods, clothing and notions or hardware.
- (2) Personal service establishments which perform services on the premises, such as, but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barbershops, photographic studios, and self-service laundries and drycleaners.
- (3) Dry cleaning establishments, or pickup stations, dealing directly with the consumer. Central dry cleaning plants serving more than one retail outlet shall be prohibited.
- (4) Business establishments which perform services on the premises, such as but not limited to, banks, loan companies, insurance offices and real estate offices.
- (5) Professional services including the following: offices of doctors, dentists, osteopaths, and similar or allied professions.
- (6) Business schools and colleges or private schools operated for profit.
- (7) Private clubs, fraternal organizations and lodge halls.
- (8) Restaurants or other places serving food or beverages, except those having the character of a drive-in.
- (9) Hotels.
- (10) Theaters, assembly halls, concert halls or similar places of public assembly when conducted within enclosed buildings.
- (11) Mortuaries or funeral homes, subject to the conditions of section 44-711(15).
- (12) Post office and similar governmental office buildings, serving persons living in the adjacent residential area.
- (13) Off-street parking lots.
- (14) Other uses similar to the above uses.
- (15) Accessory structures and uses customarily incidental to the above-permitted uses, as determined by the city council.

(Ord. No. 401, § 1001, 5-2-2005)

Sec. 44-268. - Required conditions.

- (a) All business establishments shall be retail or service establishments dealing directly with customers.
- (b) All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building, with the exception of one outdoor display area per business.

- (c) Outdoor display areas shall meet the following requirements:
- (1) The outdoor display area shall not exceed 15 square feet in area.
 - (2) The outdoor display area shall not exceed four feet in height.
 - (3) The outdoor display area shall not be further than three feet from the front wall of the business.
 - (4) A maximum of three items shall be on display in an outdoor display area.
 - (5) The zoning administrator or his or her designee shall have the authority to require that an outdoor display area be moved or removed if it is deemed to be a potential safety hazard.

(Ord. No. 401, § 1002, 5-2-2005)

Sec. 44-269. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

- (1) Gasoline service stations for the sale of gasoline, oil and minor accessories only where no work, except incidental service, is rendered, subject to the conditions of section 44-711(10). Such incidental service does not include steam cleaning, undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstering, auto glass work, or other operations of the sort.
- (2) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations.
- (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (4) Residential units within commercial structures, except on the main floor and basement of those structures.
- (5) Dance studio, dance academy, and/or dance school. A building or a portion of a building where dancing is permitted only by students (four or more at a time) and instructors engaged in dancing instruction. A dance studio is not an educational institution. A dance studio is not a dancing establishment wherein dancing is allowed and participated in on a recurring basis by one or more persons whether or not they are compensated for their dancing. Subject to sections 44-709 and 44-710.
- (6) Gym. A building or a portion of a building designed for the major purpose of physical exercise, fitness or weight reducing which includes, but is not limited to, exercise equipment such as weight resistance machines, stationary bicycles, and/or space for the purpose of physical exercise. Whirlpools, saunas, and/or massages must be ancillary, not the primary source of business. Private instructional rooms are not allowed. Subject to sections 44-709 and 44-710.
- (7) Bowling alleys, billiard halls, indoor archery ranges, indoor tennis courts, indoor skating rinks, arcades with both electronic aided gaming or non-electronic gaming or similar facilities for indoor recreation subject to the conditions of section 44-711(3).
- (8) Provisioning centers and safety compliance facilities, as medical marihuana facilities, and subject to the conditions of article IV, chapter 8 of City of Caro Ordinances, sections 8-29 to 8-30.

(Ord. No. 401, § 1003, 5-2-2005; Ord. No. 402, 6-6-2005; Ord. No. 415, § 2, 10-1-2007; Ord. No. 475, § 4, 12-2-2019)

Sec. 44-270. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1004, 5-2-2005)

Secs. 44-271—44-288. - Reserved.

ARTICLE XI. - B-2 GENERAL BUSINESS DISTRICTS

Sec. 44-289. - Intent.

The B-2 General Business Districts are designed to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the community business district.

(Ord. No. 401, § 1100, 5-2-2005)

Sec. 44-290. - Principal uses permitted.

In a B-2 General Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this article:

- (1) Any retail business or service establishment permitted in B-1 districts as principal uses permitted and uses permitted subject to special conditions.
- (2) Farm equipment and machinery sales.
- (3) Auto wash, when completely enclosed in a building.
- (4) Bus passenger stations.
- (5) Laundry and dry cleaning establishments performing their operation on the site.
- (6) New and used car salesroom, showroom, office and repair garages.
- (7) Publicly owned buildings, telephone exchange buildings and public utility offices, but not including storage yards, transformer stations, substations, or gas regulator stations.
- (8) Other uses similar to the above uses.
- (9) Accessory structures and uses customarily incidental to the above-permitted use, as determined by the city council.
- (10) Nursing care facility for the elderly, subject to section 44-520.

(Ord. No. 401, § 1101, 5-2-2005)

Sec. 44-291. - Principal uses permitted subject to special conditions.

The following uses shall be permitted subject to the conditions hereinafter imposed for each use and subject to the review and approval of the planning commission:

- (1) Outdoor sales space for exclusive sale of new or used automobiles, farm equipment and machinery, house trailers or rental of trailers and/or automobiles, subject to the conditions of section 44-711(18).
- (2) Motels, subject to the conditions of section 44-711(16).
- (3) Drive-in or open front stores, subject to the conditions of section 44-711(9).
- (4) Veterinary hospitals or clinics, subject to the conditions of section 44-711(25).
- (5) Plant material nurseries for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment and garden supplies, subject to the conditions of section 44-711(21).
- (6) Recreational areas, subject to the conditions of section 44-711(23).
- (7) Sexually oriented businesses, subject to the conditions of section 44-711(24).
- (8) Communication towers affixed directly to the ground, subject to the conditions of section 44-711(6).
- (9) Communication towers affixed to existing structures, subject to the conditions of section 44-711(5).
- (10) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (11) Provisioning centers and safety compliance facilities, as medical marijuana facilities, and subject to the conditions of article IV, chapter 8 of City of Caro Ordinances, sections 8-29 to 8-30.
- (12) Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (13) Drive-up automated teller machine (ATM) shall provide an on-site area for the stacking of six vehicles per ATM with, at a minimum, the first space shall be concrete. The drive-up automated teller machine must comply with articles XVII, XVIII, and XXIV of this chapter and section 44-711.
- (14) Ministorage facilities, subject to the condition of section 44-711(28).

(Ord. No. 401, § 1102, 5-2-2005; Ord. No. 403, 6-6-2005; Ord. No. 415, § 1, 10-1-2007; Ord. No. 433, § 1102, 9-20-2010; Ord. No. 475, § 4, 12-2-2019)

Sec. 44-292. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1103, 5-2-2005)

Secs. 44-293—44-317. - Reserved.

ARTICLE XII. - I-1 LIGHT INDUSTRIAL DISTRICTS

Sec. 44-318. - Intent.

- (a) The I-1 Light Industrial Districts are so designed as to primarily accommodate wholesale activities, warehouses and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I-1 district is so structured as to permit along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, or treatment of finished or semi-finished products from previously prepared materials. It is intended that the processing of raw material for shipment in bulk form for use in an industrial operation at another location shall not be permitted.
- (b) The general goals of this use district include, among others, the following specific purposes:
 - (1) To provide sufficient space, in appropriate locations, to meet the future needs of the city for all types of manufacturing and related uses.
 - (2) To protect abutting residential district by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development.
 - (3) To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards, and from offensive, noise, vibration, smoke, odor and other objectionable influences.
 - (4) To protect the most desirable use of land in accordance with a well considered plan.
 - (5) To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures and to conserve the city tax base.

(Ord. No. 401, § 1200, 5-2-2005)

Sec. 44-319. - Principal uses permitted.

In an I-1 Light Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this article:

- (1) Any use charged with the principal function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building.
- (2) Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building. That portion of the land used for facilities for storage of materials or equipment used in the manufacturing, compounding, or processing shall be totally obscured by a wall on those sides abutting RA-1 and RA-2, RB, RC, OS-1, B-1, and B-2 districts, and on any front yard abutting a public thoroughfare, except as otherwise provided in section 44-509. In I-1 districts, the extent of such a wall may be determined by the planning commission on the basis of usage. Such a wall shall not be less than four feet six inches in height and may, depending upon land usage, be required to be eight feet in height and shall be subject to the requirements of article XVIII of this chapter, General Provisions. A chainlink fence, with intense evergreen shrub planting, shall be considered an obscuring wall. The height shall be determined in the same manner as the wall height is above set forth.
 - a. Warehousing and wholesale establishments, and trucking facilities.
 - b. The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.
 - c. The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns.
 - d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.

- e. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
- f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.
- g. Laboratories—experimental, film or testing.
- h. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
- i. Central dry cleaning plants or laundries provided that such plants shall not deal directly with consumer at retail.
- j. All public utilities, including buildings, necessary structures, storage yards and other related uses.
- k. Ministorage facilities.
 - 1. The area used for all structures must occupy less than 50 percent of the property. Access to the facility shall be from a public street. The storage units shall be arranged so that the ends of the units are parallel with the front of the lot, however, alternate arrangement could be considered by the planning commission. Internal driveway aisles shall be designed with one ten-foot-wide loading/unloading lane and one 15-foot travel lane. The use of the ministorage units shall be limited to storage only, and shall not be used for any auction other than four auctions per year held by the owner of the ministorage facility for the purpose of disposing of material forfeited by clients of that facility. Nor shall it be used for sales or transfer business; for the servicing, repair or fabricating of any vehicle, boat, trailer, appliance or similar item; or for the operation of power tools, compressors, kilns or other similar equipment.
 - 2. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire code, or toxic materials is expressly prohibited.
- (3) Warehouse, storage and transfer and electric and gas service buildings and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations. Water supply and sewage disposal plants. Water and gas tank holders. Railroad transfer and storage tracks. Railroad rights-of-way. Freight terminals.
- (4) Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided the same are enclosed within a building or within an obscuring wall or fence on those sides abutting all residential or business districts, and on any yard abutting a public thoroughfare. In any I-1 district, the extent of such fence or wall may be determined by the planning commission on the basis of usage. Such fence or wall shall not be less than four feet six inches in height, and may, depending on land usage, be required to be eight feet in height. A chainlink type fence, with heavy evergreen shrubbery inside of said fence, shall be considered an obscuring fence.
- (5) Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings and uses, including outdoor storage.
- (6) Commercial kennels.
- (7) Greenhouses.
- (8) Trade or industrial schools.
- (9) Freestanding nonaccessory signs.
- (10) Other use of a similar and no more objectionable character to the above uses.
- (11) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 1201, 5-2-2005; Ord. No. 433, § 1201, 9-20-2010)

Sec. 44-320. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject to the review and approval of the planning commission:

- (1) Auto engine and body repair, and undercoating shops when completely enclosed.
- (2) Automobile or other machinery assembly plants subject to adequate control of noise and/or other nuisances.
- (3) Lumber and planing mills subject to the conditions of section 44-711(14).
- (4) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
- (5) Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities such as, but not limited to, lumber yard, building materials outlet, upholsterer, cabinet maker, outdoor sales of boats, house trailers, automobile garages, or agricultural implements.
- (6) Communication towers affixed directly to the ground, subject to the conditions of section 44-711(6).
- (7) Communication towers affixed to existing structures, subject to the conditions of section 44-711(5).
- (8) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (9) Other uses of a similar character to the above uses.
- (10) Medical marihuana facilities subject to the conditions of article IV, chapter 8 of City of Caro Ordinances, sections 8-29 to 8-30.
- (11) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 1202, 5-2-2005; Ord. No. 475, § 4, 12-2-2019)

Sec. 44-321. - Design requirements.

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

(Ord. No. 401, § 1203, 5-2-2005)

Sec. 44-322. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use and providing minimum yard setback requirements.

(Ord. No. 401, § 1204, 5-2-2005)

Secs. 44-323—44-347. - Reserved.

ARTICLE XIII. - I-2 GENERAL INDUSTRIAL DISTRICTS

Sec. 44-348. - Intent.

I-2 General Industrial Districts are designed primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts. The I-2 district is so structured as to permit the manufacturing, processing, and compounding of semi-finished or finished products from raw materials as well as from previously prepared material.

(Ord. No. 401, § 1300, 5-2-2005)

Sec. 44-349. - Principal uses permitted.

In an I-2 General Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this article:

- (1) Any principal use first permitted in an I-1 district.
- (2) Heating and electric power generating plants.
- (3) Any of the following production or manufacturing uses (not including storage of finished products) provided that any structures or storage areas are located not less than 800 feet from any residential district and not less than 300 feet from any other district:
 - a. Blast furnace, steel furnace, blooming or rolling mill.
 - b. Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris.
 - c. Petroleum or other inflammable liquids, production, refining, or storage.
 - d. Smelting of copper, iron or zinc ore.
- (4) Any other use which shall be determined by the city council, after recommendation from the planning commission, to be of the same general character as the permitted uses in section 44-319. The city council, after recommendation from the planning commission, may impose any required setback or performance standards so as to insure public health, safety and general welfare.
- (5) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 1301, 5-2-2005)

Sec. 44-350. - Design requirements.

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

(Ord. No. 401, § 1302, 5-2-2005)

Sec. 44-351. - Area and bulk requirements.

For area and bulk requirements, see article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land uses, and providing minimum yard setback requirements.

(Ord. No. 401, § 1303, 5-2-2005)

Sec. 44-352. - Principal uses permitted subject to special conditions.

The following principal uses shall be permitted, subject to special conditions:

- (1) Outdoor theaters, subject to the conditions of section 44-711(19).
- (2) Correctional facilities, subject to the conditions of section 44-711(8).
- (3) Communication towers affixed directly to the ground, subject to the conditions of section 44-711(6).
- (4) Communication towers affixed to existing structures, subject to the conditions of section 44-711(5).
- (5) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, and overhead lines, poles and towers and, further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (6) Medical marijuana facilities subject to the conditions of article IV, chapter 8 of City of Caro Ordinances, sections 8-29 to 8-30.
- (7) Accessory buildings and uses customarily incidental to any of the above-permitted uses.

(Ord. No. 401, § 1303, 5-2-2005; Ord. No. 475, § 4, 12-2-2019)

Secs. 44-353—44-377. - Reserved.

ARTICLE XIV. - P-1 VEHICULAR PARKING DISTRICTS

Sec. 44-378. - Intent.

The P-1 Vehicular Parking Districts are intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities.

(Ord. No. 401, § 1400, 5-2-2005)

Sec. 44-379. - Principal uses permitted.

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

(Ord. No. 401, § 1401, 5-2-2005)

Sec. 44-380. - Required conditions.

The following conditions shall be required:

- (1) The parking area shall be accessory to, and for use in connection with one or more businesses, or industrial establishments, located in adjoining business or industrial districts, or in connection with one or more existing professional or institutional office buildings or institutions.
- (2) Such parking lots shall be contiguous to an RC or nonresidential district. Parking areas may be approved when adjacent to said districts, or on the end of a block where such areas front on a street which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P-1 district and above-listed districts.
- (3) Parking area shall be used solely for parking of private passenger vehicles, for periods of less than one day and shall not be used as an off-street loading area.
- (4) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area.
- (5) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area.
- (6) No building other than those for shelter or attendants shall be erected upon the premises and they shall not exceed 15 feet in height.
- (7) Applications for P-1 district rezoning shall be made by submitting a dimensional layout of the area requested showing the intended parking plans in accordance with section 44-596 and article XXIV of this chapter.

(Ord. No. 401, § 1402, 5-2-2005)

Sec. 44-381. - Minimum distances and setbacks.

- (a) *Required wall.* The off-street parking area shall be provided with a continuous and obscuring wall not less than four feet six inches in height measured from the surface of the parking area. This wall shall be provided on all sides where the next zoning district is designated as a residential district.
- (b) *Side and rear yards.* Where the P-1 district is contiguous to the side or rear lot lines of premises within a residentially zoned district, the required wall shall be located along said lot line.
- (c) *Front yards.* Where the P-1 district is contiguous to a residentially zoned district which has a common frontage in the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for said residential district, or a minimum of 25 feet, or whichever is the greater. The required wall shall be located on this minimum setback line unless, under usual circumstances, the planning commission finds that no good purpose would be served. The land between said setback and street right-of-way line shall be kept free from refuse and debris and shall be planted with shrubs, trees, or lawn and shall be maintained in a healthy, growing condition, neat and orderly in appearance.

(Ord. No. 401, § 1403, 5-2-2005)

Sec. 44-382. - Parking space layout, standards, construction and maintenance.

P-1 Vehicular Parking Districts shall be developed and maintained in accordance with the requirements of article XVIII of this chapter, General Provisions.

(Ord. No. 401, § 1404, 5-2-2005)

Secs. 44-383—44-407. - Reserved.

ARTICLE XV. - OVERLAY DISTRICTS

Sec. 44-408. - Intent.

- (a) Overlay districts are zoning districts which are applied only in conjunction with other zoning districts, and permit those uses allowed in the base zoning district. The effect is to have both the overlay district and the base zoning controlling the use and development of a lot. Overlay districts are applicable only as to the uses permitted in that overlay zoned district to support specific public policy objectives and should be consistent with the master plan. The purpose of the overlay district is to achieve over a period of time the permitted uses in that zoned district to meet the goals of the master plan. The overlay zoned district represents a new future use that the city wishes to facilitate. The base zoned district allows retention of the underlying zoning classification that reflects the existing use. The desired redevelopment use is reflected only in the overlay. Either the base zone or the overlay zone may be used, but once the property owner opts to go to the overlay zone the property shall remain in the overlay zone classification. In effect this eliminates the need for a rezoning request because the overlay zone reflects the master plan and the ability to change the use is as of right. Once the property owner notifies the city in writing of their right use of the permitted use allowed in the overlay zone, that property is then subject to the zone requirements in that overlay zone and is not allowed to use the property for the base use zone.
- (b) An overlay district may be initiated as an amendment by the city council, planning commission or property owner.

(Ord. No. 401, § 1500, 5-2-2005)

Sec. 44-409. - RA-1 with Office (OS-1 only) Overlay.

All uses permitted in the RA-1 are permitted in the base zone. All uses permitted in the Office (OS-1) zoned district are permitted in the overlay zone. To use the property in the permitted uses in the overlay zone, the property owner must notify the city that they are opting to go to the overlay zone.

- (1) *RA-1 Base District Zone.* The RA-1 One-Family Low Density Residential Base District Zone is designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.
- (2) *Principal uses permitted.* In an RA-1 One-Family Low Density Residential Base District Zone, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this article:
 - a. One-family detached dwellings.
 - b. Farms on those parcels of land separately owned outside the boundaries of either a proprietary or assessor's plat, having an area of not less than five acres, all subject to the health and sanitation provisions of the city, provided that no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto for use and consumption by persons residing on the premises.
 - c. Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.
 - d. Publicly owned and operated libraries, parks, parkways and recreational facilities.
 - e. Cemeteries which have been lawfully established land at the time of adoption of the ordinance from which this chapter is derived.

- f. Public, parochial and other private elementary schools offering courses in general education, and not operated for profit.
 - g. Home occupations, provided that:
 - 1. A home occupation shall occupy no more than 25 percent of the residence.
 - 2. A home occupation may not occupy an accessory structure.
 - 3. A home occupation shall not generate more than ten additional vehicle trips per day.
 - 4. The home occupation does not change the appearance of the home from that of a single-family residence.
 - h. Family child care home, provided that the operation is licensed by the state.
 - i. Private pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
 - 1. There shall be a minimum distance of not less than ten feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. Side yard setbacks shall apply to side yards if greater than ten feet.
 - 2. There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - 3. No swimming pool shall be located less than 35 feet from any front lot line.
 - 4. No swimming pool shall be located in an easement.
 - 5. For the protection of the general public, all yards containing swimming pools shall be completely enclosed by a solid wall or fence or chainlink fence not less than four feet in height. The gates shall be of a self-closing and latching type, with the latch on the inside of the gate not easily opened by children. Gates shall be so constructed that they may be securely locked when the pool is not in use for extended periods. For pools constructed partially or wholly above the ground, a fence shall not be required provided that the wall of the pool is at least four feet in height and provided that no ladder, deck or other structure provides access to the pool while it is unattended.
 - j. Adult foster care family homes and small group homes.
 - k. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (3) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- a. Churches and other facilities normally incidental thereto subject to the conditions of section 44-711(4).
 - b. Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with section 44-510.
 - c. Utility and public service buildings and uses (without storage yards).
 - d. Nursery schools, group day care homes and child care centers (not including dormitories) subject to the conditions of section 44-711(17).
 - e. Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool, clubs, subject to the conditions of section 44-711(22).
 - f. Golf courses whether operated for profit or not, subject to the conditions of section 44-711(12).
 - g. Planned unit developments, subject to the conditions of section 44-711(20).

- h. Bed and breakfasts, subject to the provisions of section 44-711(2).
 - i. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
 - j. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (4) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 401, § 1501, 5-2-2005)

Sec. 44-410. - Office Service-1(OS-1) Overlay Zone.

In an OS-1 Office Service District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained below in section 44-235, Required conditions.
 - (2) Medical and dental offices, including clinics.
 - (3) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.
 - (4) Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.
 - (5) Personal service establishments including barbershops, beauty shops, and health salons.
 - (6) Off-street parking lots.
 - (7) Churches.
 - (8) Other uses similar to the above uses.
 - (9) Accessory structures and uses customarily incidental to the above-permitted uses.
- a. Principal uses permitted subject to special conditions. The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
 - 1. Mortuary establishments subject to the conditions of section 44-711(15).
 - 2. Publicly owned buildings, telephone exchange buildings, and public utility offices, but not including storage yards, transformer stations, substations, or gas regulator stations.
 - 3. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
 - b. Required conditions.
 - 1. No interior display shall be visible from the exterior of the building.
 - 2. The outdoor storage of goods or material is prohibited.

3. Warehousing or indoor storage of goods or material, beyond that normally incidental to the above-permitted uses, is prohibited.
- c. Area and bulk requirements. See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1502, 5-2-2005)

Sec. 44-411. - RA-1 with B-1 Community Business/OS-1 Office Service District Overlay.

All uses permitted in RA-1 Base District are permitted in the base zone. All uses permitted in the Business (B-1 Community Business)/Office (OS-1) are permitted in the overlay zone. To use the property in the permitted uses in the overlay zone the property owner must notify the city of that they are opting to go to the overlay zone.

(1) *RA-1 One-Family Low Density Residential District (Base District).*

- a. *Intent.* The RA-1, One-Family Low Density Residential Base District Zone is designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.
- b. *Principal uses permitted.* In an RA-1 One-Family Low Density Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 1. One-family detached dwellings.
 2. Farms on those parcels of land separately owned outside the boundaries of either a proprietary or assessor's plat, having an area of not less than five acres, all subject to the health and sanitation provisions of the city, provided that no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto for use and consumption by persons residing on the premises.
 3. Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.
 4. Publicly owned and operated libraries, parks, parkways and recreational facilities.
 5. Cemeteries which have been lawfully established land at the time of adoption of this chapter.
 6. Public, parochial and other private elementary schools offering courses in general education, and not operated for profit.
 7. Home occupations, provided that:
 - (i) A home occupation shall occupy no more than 25 percent of the residence.
 - (ii) A home occupation may not occupy an accessory structure.
 - (iii) A home occupation shall not generate more than ten additional vehicle trips per day.
 - (iv) The home occupation does not change the appearance of the home from that of a single-family residence.
 8. Family child care home, provided that the operation is licensed by the state.

9. Private pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
 - (i) There shall be a minimum distance of not less than ten feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. Side yard setbacks shall apply to side yards if greater than ten feet.
 - (ii) There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - (iii) No swimming pool shall be located less than 35 feet from any front lot line.
 - (iv) No swimming pool shall be located in an easement.
 - (v) For the protection of the general public, all yards containing swimming pools shall be completely enclosed by a solid wall or fence or chainlink fence not less than four feet in height. The gates shall be of a self-closing and latching type, with the latch on the inside of the gate not easily opened by children. Gates shall be so constructed that they may be securely locked when the pool is not in use for extended periods. For pools constructed partially or wholly above the ground, a fence shall not be required provided that the wall of the pool is at least four feet in height and provided that no ladder, deck or other structure provides access to the pool while it is unattended.
10. Adult foster care family homes and small group homes.
11. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- c. *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
 1. Churches and other facilities normally incidental thereto subject to the conditions of section 44-711(4).
 2. Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with section 44-510.
 3. Utility and public service buildings and uses (without storage yards).
 4. Nursery schools, group day care homes and child care centers (not including dormitories) subject to the conditions of section 44-711(17).
 5. Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool clubs, subject to the conditions of section 44-711(22).
 6. Golf courses, whether operated for profit or not, subject to the conditions of section 44-711(12).
 7. Planned unit developments, subject to the conditions of section 44-711(20).
 8. Bed and breakfasts, subject to the provisions of section 44-711(2).
 9. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
 10. Accessory buildings and uses customarily incidental to any of the above-permitted uses.

- (2) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 401, § 1503, 5-2-2005)

Sec. 44-412. - B-1 Community Business Districts (Overlay).

- (a) *Intent.* The B-1 Community Business Overlay Districts, as herein established, are designed to meet the day-to-day convenience and comparison shopping and service needs of persons residing in adjacent residential areas.
- (b) *Principal uses permitted.* In a B-1 Community Business Overlay District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 - (1) Generally recognized retail businesses which supply commodities on the premises, such as, but not limited to, groceries, meats, dairy products, baked goods or other food, drugs, dry goods, clothing and notions or hardware.
 - (2) Personal service establishments which perform services on the premises, such as, but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barbershops, photographic studios, and self-service laundries and drycleaners.
 - (3) Dry cleaning establishments, or pickup stations, dealing directly with the consumer. Central dry cleaning plants serving more than one retail outlet shall be prohibited.
 - (4) Business establishments which perform services on the premises, such as, but not limited to, banks, loan companies, insurance offices and real estate offices.
 - (5) Professional services including the following: offices of doctors, dentists, osteopaths, and similar or allied professions.
 - (6) Business schools and colleges or private schools operated for profit.
 - (7) Private clubs, fraternal organizations and lodge halls.
 - (8) Restaurants or other places serving food or beverages, except those having the character of a drive-in.
 - (9) Hotels.
 - (10) Theaters, assembly halls, concert halls or similar places of public assembly when conducted within enclosed buildings.
 - (11) Mortuaries or funeral homes, subject to the conditions of section 44-711(15).
 - (12) Post office and similar governmental office buildings, serving persons living in the adjacent residential area.
 - (13) Off-street parking lots.
 - (14) Other uses similar to the above uses.
 - (15) Accessory structures and uses customarily incidental to the above-permitted uses, as determined by the city council.
- (c) *Required conditions.*
 - (1) All business establishments shall be retail or service establishments dealing directly with customers.
 - (2) All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building.

- (d) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- (1) Gasoline service stations for the sale of gasoline, oil and minor accessories only where no work, except incidental service, is rendered, subject to the conditions of section 44-711(10). Such incidental service does not include steam cleaning, undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstery, auto glass work, or other operations of the sort.
 - (2) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations.
 - (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
 - (4) Dance studio, dance academy, and/or dance school. A building or a portion of a building where dancing is permitted only by students (four or more at a time) and instructors engaged in dancing instruction. A dance studio is not an educational institution. A dance studio is not a dancing establishment wherein dancing is allowed and participated in on a recurring basis by one or more persons whether or not they are compensated for their dancing. Subject to sections 44-709 and 44-710.
 - (5) Gym. A building or a portion of a building designed for the major purpose of physical exercise, fitness or weight reducing which includes, but is not limited to, exercise equipment such as weight resistance machines, stationary bicycles, and/or space for the purpose of physical exercise. Whirlpools, saunas, and/or massages must be ancillary, not the primary source of business. Private instructional rooms are not allowed. Subject to sections 44-709 and 44-710.
- (e) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1504, 5-2-2005; Ord. No. 402, 6-6-2005)

Sec. 44-413. - OS-1 Office Service Districts (Overlay).

- (a) *Intent.* The OS-1 Office Service Overlay Districts are designed to accommodate uses such as offices, banks, and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.
- (b) *Principal uses permitted.* In an OS-1 Office Service Overlay District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 - (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained below in section 44-235, Required conditions.
 - (2) Medical and dental offices, including clinics.
 - (3) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.
 - (4) Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.

- (5) Personal service establishments including barbershops, beauty shops, and health salons.
 - (6) Off-street parking lots.
 - (7) Churches.
 - (8) Other uses similar to the above uses.
 - (9) Accessory structures and uses customarily incidental to the above-permitted uses.
- (c) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- (1) Mortuary establishments subject to the conditions of section 44-711(15).
 - (2) Publicly owned buildings, telephone exchange buildings, and public utility offices, but not including storage yards, transformer stations, substations, or gas regulator stations.
 - (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (d) *Required conditions.*
- (1) No interior display shall be visible from the exterior of the building.
 - (2) The outdoor storage of goods or material is prohibited.
 - (3) Warehousing or indoor storage of goods or material, beyond that normally incidental to the above-permitted uses, is prohibited.
- (e) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1505, 5-2-2005)

Sec. 44-414. - RA-2 Base Zone with Office (OS-1 Office Service District) Overlay.

All uses permitted in RA-2 are permitted in the base zone. All uses permitted in the Office (OS-1) are permitted in the overlay zone. To use the property in the permitted uses in the overlay zone the property owner must notify the city they are opting to go to the overlay zone.

- (1) *RA-2 One-Family Medium Density Residential District (Base).*
 - a. *Intent.* The RA-2 One-Family Medium Density Residential Base District is designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly medium density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.
 - b. *Principal uses permitted.* In an RA-2 One-Family Low Density Residential Base District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 - 1. One-family detached dwellings.
 - 2. Farms on those parcels of land separately owned outside the boundaries of either a proprietary or assessor's plat, having an area of not less than five acres, all subject to the health and sanitation provisions of the city, provided that no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants,

or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto for use and consumption by persons residing on the premises.

3. Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.
 4. Publicly owned and operated libraries, parks, parkways and recreational facilities.
 5. Cemeteries which have been lawfully established land at the time of adoption of the ordinance from which this chapter is derived.
 6. Public, parochial and other private elementary schools offering courses in general education, and not operated for profit.
 7. Home occupations, provided that:
 - (i) A home occupation shall occupy no more than 25 percent of the residence.
 - (ii) A home occupation may not occupy an accessory structure.
 - (iii) A home occupation shall not generate more than ten additional vehicle trips per day.
 - (iv) The home occupation does not change the appearance of the home from that of a single-family residence.
 8. Family child care homes, provided that the operation is licensed by the state.
 9. Private pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
 - (i) There shall be a minimum distance of not less than ten feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. Side yard setbacks shall apply to side yards if greater than ten feet.
 - (ii) There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - (iii) No swimming pool shall be located less than 35 feet from any front lot line.
 - (iv) No swimming pool shall be located in an easement.
 - (v) For the protection of the general public, all yards containing swimming pools shall be completely enclosed by a solid wall or fence or chainlink fence not less than four feet in height. The gates shall be of a self-closing and latching type, with the latch on the inside of the gate not easily opened by children. Gates shall be so constructed that they may be securely locked when the pool is not in use for extended periods. For pools constructed partially or wholly above the ground, a fence shall not be required provided that the wall of the pool is at least four feet in height and provided that no ladder, deck or other structure provides access to the pool while it is unattended.
 10. Adult foster care family homes and small group homes.
 11. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- c. *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
1. Churches and other facilities normally incidental thereto subject to the conditions of section 44-711(4).

2. Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with section 44-510.
 3. Utility and public service buildings and uses (without storage yards).
 4. Nursery schools, group day care homes and child care centers (not including dormitories) subject to the conditions of section 44-711(17).
 5. Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool clubs, subject to the conditions of section 44-711(22).
 6. Golf courses whether operated for profit or not, subject to the conditions of section 44-711(12).
 7. Planned unit developments, subject to the conditions of section 44-711(20).
 8. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
 9. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (2) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 401, § 1506, 5-2-2005)

Sec. 44-415. - OS-1 Office Service Districts (Overlay).

- (a) *Intent.* The OS-1 Office Service Overlay Districts are designed to accommodate uses such as offices, banks, and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.
- (b) *Principal uses permitted.* In an OS-1 Office Service Overlay District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 - (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained below in section 44-235, Required conditions.
 - (2) Medical and dental offices, including clinics.
 - (3) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.
 - (4) Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.
 - (5) Personal service establishments including barbershops, beauty shops, and health salons.
 - (6) Off-street parking lots.
 - (7) Churches.
 - (8) Other uses similar to the above uses.
 - (9) Accessory structures and uses customarily incidental to the above-permitted uses.

- (c) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- (1) Mortuary establishments subject to the conditions of section 44-711(15).
 - (2) Publicly owned buildings, telephone exchange buildings, and public utility offices, but not including storage yards, transformer stations, substations, or gas regulator stations.
 - (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (d) *Required condition.*
- (1) No interior display shall be visible from the exterior of the building.
 - (2) The outdoor storage of goods or material is prohibited.
 - (3) Warehousing or indoor storage of goods or material, beyond that normally incident al the above-permitted uses, is prohibited.
- (e) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1507, 5-2-2005)

Sec. 44-416. - RA-2 (One-Family Medium Density Residential Base District) with Business (B-1 Community Business)/Office (OS-1 Office Service District) Overlay.

All uses permitted in RA-2 are permitted in the base zone. All uses permitted in the Business (B-1 Community Business)/Office (OS-1 Office Service District) are permitted in the overlay zone. To use the property in the permitted uses in the overlay zone, the property owner must notify the city they are opting to go to the overlay zone.

- (1) *RA-2 One-Family Medium Density Residential Base District.*
 - a. *Intent.* The RA-2 One-Family Medium Density Residential Base District is designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly medium density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.
 - b. *Principal uses permitted.* In an RA-2 One-Family Low Density Residential Base District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 1. One-family detached dwellings.
 2. Farms on those parcels of land separately owned outside the boundaries of either a proprietary or assessor's plat, having an area of not less than five acres, all subject to the health and sanitation provisions of the city, provided, that no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto for use and consumption by persons residing on the premises.

3. Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.
 4. Publicly owned and operated libraries, parks, parkways and recreational facilities.
 5. Cemeteries which have been lawfully established land at the time of adoption of the ordinance from which this chapter is derived.
 6. Public, parochial and other private elementary schools offering courses in general education, and not operated for profit.
 7. Home occupations, provided that:
 - (i) A home occupation shall occupy no more than 25 percent of the residence.
 - (ii) A home occupation may not occupy an accessory structure.
 - (iii) A home occupation shall not generate more than ten additional vehicle trips per day.
 - (iv) The home occupation does not change the appearance of the home from that of a single-family residence.
 8. Family child care homes, provided that the operation is licensed by the state.
 9. Private pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
 - (i) There shall be a minimum distance of not less than ten feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. Side yard setbacks shall apply to side yards if greater than ten feet.
 - (ii) There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - (iii) No swimming pool shall be located less than 35 feet from any front lot line.
 - (iv) No swimming pool shall be located in an easement.
 - (v) For the protection of the general public, all yards containing swimming pools shall be completely enclosed by a solid wall or fence or chainlink fence not less than four feet in height. The gates shall be of a self-closing and latching type, with the latch on the inside of the gate not easily opened by children. Gates shall be so constructed that they may be securely locked when the pool is not in use for extended periods. For pools constructed partially or wholly above the ground, a fence shall not be required provided that the wall of the pool is at least four feet in height and provided that no ladder, deck or other structure provides access to the pool while it is unattended.
 10. Adult foster care family homes and small group homes.
 11. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- c. *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
1. Churches and other facilities normally incidental thereto subject to the conditions of section 44-711(4).
 2. Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with section 44-510.
 3. Utility and public service buildings and uses (without storage yards).

4. Nursery schools, group day care homes and child care centers (not including dormitories) subject to the conditions of section 44-711(17).
 5. Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool clubs, subject to the conditions of section 44-711(22).
 6. Golf courses, whether operated for profit or not, subject to the conditions of section 44-711(12).
 7. Planned unit developments, subject to the conditions of section 44-711(20).
 8. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
 9. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (2) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Ord. No. 401, § 1508, 5-2-2005)

Sec. 44-417. - B-1 Community Business Districts (Overlay).

- (a) *Intent.* The B-1 Community Business Overlay Districts, as herein established, are designed to meet the day-to-day convenience and comparison shopping and service needs of persons residing in adjacent residential areas.
- (b) *Principal uses permitted.* In a B-1 Community Business Overlay District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 - (1) Generally recognized retail businesses which supply commodities on the premises, such as, but not limited to, groceries, meats, dairy products, baked goods or other food, drugs, dry goods, clothing and notions or hardware.
 - (2) Personal service establishments which perform services on the premises, such as, but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barbershops, photographic studios, and self-service laundries and drycleaners.
 - (3) Dry cleaning establishments, or pickup stations, dealing directly with the consumer. Central dry cleaning plants serving more than one retail outlet shall be prohibited.
 - (4) Business establishments which perform services on the premises, such as, but not limited to, banks, loan companies, insurance offices and real estate offices.
 - (5) Professional services including the following: offices of doctors, dentists, osteopaths, and similar or allied professions.
 - (6) Business schools and colleges or private schools operated for profit.
 - (7) Private clubs, fraternal organizations and lodge halls.
 - (8) Restaurants or other places serving food or beverages, except those having the character of a drive-in.
 - (9) Hotels.

- (10) Theaters, assembly halls, concert halls or similar places of public assembly when conducted within enclosed buildings.
 - (11) Mortuaries or funeral homes, subject to the conditions of section 44-711(15).
 - (12) Post office and similar governmental office buildings, serving persons living in the adjacent residential area.
 - (13) Off-street parking lots.
 - (14) Other uses similar to the above uses.
 - (15) Accessory structures and uses customarily incidental to the above-permitted uses, as determined by the city council.
- (c) *Required conditions.*
- (1) All business establishments shall be retail or service establishments dealing directly with customers.
 - (2) All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building.
- (d) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- (1) Gasoline service stations for the sale of gasoline, oil and minor accessories only where no work, except incidental service, is rendered, subject to the conditions of section 44-711(10). Such incidental service does not include steam cleaning, undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstering, auto glass work, or other operations of the sort.
 - (2) Publicly owned buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations.
 - (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (e) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1509, 5-2-2005)

Sec. 44-418. - OS-1 Office Service Districts (Overlay).

- (a) *Intent.* The OS-1 Office Service Overlay Districts are designed to accommodate uses such as offices, banks, and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.
- (b) *Principal uses permitted.* In an OS-1 Office Service Overlay District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained below in section 44-235, Required conditions.
 - (2) Medical and dental offices, including clinics.
 - (3) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.
 - (4) Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.
 - (5) Personal service establishments including barbershops, beauty shops, and health salons.
 - (6) Off-street parking lots.
 - (7) Churches.
 - (8) Other uses similar to the above uses.
 - (9) Accessory structures and uses customarily incidental to the above-permitted uses.
- (c) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- (1) Mortuary establishments subject to the conditions of section 44-711(15).
 - (2) Publicly owned buildings, telephone exchange buildings, and public utility offices, but not including storage yards, transformer stations, substations, or gas regulator stations.
 - (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (d) *Required conditions.*
- (1) No interior display shall be visible from the exterior of the building.
 - (2) The outdoor storage of goods or material is prohibited.
 - (3) Warehousing or indoor storage of goods or material beyond that normally incidental to the above-permitted uses is prohibited.
- (e) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1510, 5-2-2005)

Sec. 44-419. - RB (Two Family Residential) Base District with Office (OS-1 Office Service District) Overlay.

All uses permitted in RB are permitted in the base zone. All uses permitted in the Office (OS-1 Office Service District) are permitted in the overlay zone. To use the property in the permitted uses in the overlay zone the property owner must notify the city they are opting to go to the overlay zone.

- (1) *RB Two-Family Residential Districts (Base).*
 - a. *Intent.* The RB Two-Family Residential Base Districts are designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential and commercial, office, thoroughfares or other uses which would affect residential character. This district also recognizes the existence of older

residential areas of the city where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district also allows the construction of new two-family residences where slightly greater densities are permitted.

- b. *Principal uses permitted.* In an RB Two-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 - 1. All uses permitted by right and as regulated in the One-Family Low Density Residential District. The standards of the schedule of regulations applicable to the RA-1 One-Family Residential Base District, shall apply as minimum standards when one-family detached dwellings are erected.
 - 2. Two-family dwellings.
 - 3. Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.
 - 4. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (2) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.
- (3) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
 - a. Planned unit developments, subject to the conditions of section 44-711(20).
 - b. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.

(Ord. No. 401, § 1511, 5-2-2005)

Sec. 44-420. - OS-1 Office Service Overlay Districts.

- (a) *Intent.* The OS-1 Office Service Overlay Districts are designed to accommodate uses such as offices, banks, and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.
- (b) *Principal uses permitted.* In an OS-1 Office Service Overlay District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 - (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained below in section 44-235, Required conditions.
 - (2) Medical and dental offices, including clinics.
 - (3) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.
 - (4) Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.

- (5) Personal service establishments including barbershops, beauty shops, and health salons.
 - (6) Off-street parking lots.
 - (7) Churches.
 - (8) Other uses similar to the above uses.
 - (9) Accessory structures and uses customarily incidental to the above-permitted uses.
- (c) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- (1) Mortuary establishments subject to the conditions of section 44-711(15).
 - (2) Publicly owned buildings, telephone exchange buildings, and public utility offices, but not including storage yards, transformer stations, substations, or gas regulator stations.
 - (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (d) *Required conditions.*
- (1) No interior display shall be visible from the exterior of the building.
 - (2) The outdoor storage of goods or material is prohibited.
 - (3) Warehousing or indoor storage of goods or material, beyond that normally incidental to the above-permitted uses, is prohibited.
- (e) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1512, 5-2-2005)

Sec. 44-421. - RC (Multiple-Family Residential Base District) with Office (OS-1 Office Service District) Overlay.

All uses permitted in RC are permitted in the base zone. All uses permitted in the Office (OS-1 Office Service District) are permitted in the overlay zone. To use the property in the permitted uses in the overlay zone the property owner must notify the city they are opting to go to the overlay zone.

- (1) *RC Multiple-Family Residential Base Districts.*
 - a. *Intent.* The RC Multiple-Family Residential Base Districts are designed to provide sites for Multiple-Family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and lower density single-family districts. The Multiple-Family Base District is further provided to serve the limited needs for the apartment type of unit in an otherwise medium density, single-family community.
 - b. *Principal uses permitted.* In an RC Multiple-Family Residential Base District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
 - 1. All uses permitted and as regulated in the RB Two-Family Residential Base District.
 - 2. Multiple-Family dwellings.

3. Dogs are allowed, but limited to three adult dogs per household, and one litter of puppies can be kept not longer than six months. No kennels are permitted.
 4. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- c. *Required conditions.*
1. In the case of multiple dwelling developments, all site plans shall be submitted to the planning commission for its review and approval prior to issuance of a building permit. Approval shall be contingent upon a finding that:
 - (i) The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways and parking areas to promote pedestrian and vehicular traffic safety; and
 - (ii) All the development features including the principal building or buildings and any accessory buildings, or uses, open spaces, and any service roads, driveways and parking areas are so located and related as to minimize the possibility of any adverse affects upon adjacent property, such as, but not limited to, channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulation routes located so as to interfere with police or fire equipment access.
 2. All access to the site shall be in accordance with section 44-510.
- (2) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- a. General hospitals, subject to the conditions of section 44-711(11).
 - b. Private offices for doctors or dentists, or similar professions.
 - c. Housing for the elderly subject to the conditions of section 44-711(13).
 - d. Convalescent homes and orphanages subject to the conditions of section 44-711(7).
 - e. Communication towers affixed to existing structures, subject to the conditions of section 44-711(5).
 - f. Planned unit developments, subject to the conditions of section 44-711(20).
 - g. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
 - h. Accessory buildings and uses customarily incidental to any of the above-permitted uses.
- (3) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and providing minimum yard setback requirements.

(Ord. No. 401, § 1512, 5-2-2005)

Sec. 44-422. - OS-1 Office Service Overlay Districts.

- (a) *Intent.* The OS-1 Office Service Overlay Districts are designed to accommodate uses such as offices, banks, and personal services which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.

- (b) *Principal uses permitted.* In an OS-1 Office Service Overlay District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:
- (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained below in section 44-235, Required conditions.
 - (2) Medical and dental offices, including clinics.
 - (3) Facilities for human care such as hospitals, sanitariums, rest and convalescent homes.
 - (4) Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.
 - (5) Personal service establishments including barbershops, beauty shops, and health salons.
 - (6) Off-street parking lots.
 - (7) Churches.
 - (8) Other uses similar to the above uses.
 - (9) Accessory structures and uses customarily incidental to the above-permitted uses.
- (c) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:
- (1) Mortuary establishments subject to the conditions of section 44-711(15).
 - (2) Publicly owned buildings, telephone exchange buildings, and public utility offices, but not including storage yards, transformer stations, substations, or gas regulator stations.
 - (3) Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the city. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and, further, shall consider injurious affects on property abutting or adjacent thereto and on the orderly appearance of the city. Essential services primarily for residents of the city shall be subject to the provisions of section 44-538.
- (d) *Required conditions.*
- (1) No interior display shall be visible from the exterior of the building.
 - (2) The outdoor storage of goods or material is prohibited.
 - (3) Warehousing or indoor storage of goods or material, beyond that normally incidental to the above-permitted uses, is prohibited.
- (e) *Area and bulk requirements.* See article XVII of this chapter, Schedule of Regulations. limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 401, § 1513, 5-2-2005)

Secs. 44-423—44-442. - Reserved.

ARTICLE XVI. - LANDSCAPE STANDARDS^[3]

Footnotes:

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State Law reference— Municipal forests, MCL 324.52701 et seq.

Sec. 44-443. - Intent.

- (a) The intent of this article is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping as buffer zones between zoning districts, along roadways, between adjacent buildings and in parking lots. All landscaping shall be subject to approval by the planning commission.
- (b) The standards of this article are intended to guide and encourage the protection and enhancement of the environment through requirements for site design and the use of landscape materials. Applicants are encouraged to provide landscaping in addition to the minimum requirements of this chapter to improve the function, appearance and value of their property.

(Ord. No. 401, § 1600, 5-2-2005)

Sec. 44-444. - Application.

- (a) The requirements set forth in this article shall apply to all lots, sites, and parcels which are developed or expanded following the effective date of the ordinance from which this chapter is derived and/or are subject to local site plan review. No site plan or land use shall be approved unless said site plan shall show landscaping consistent with the provisions of this article.
- (b) The planning commission may also determine that dimensional conditions unique to the parcel would prevent development of required buffer zones, off street parking area, landscaping or greenbelts. If such a determination is made, the planning commission may grant an exception from the landscaping provisions of this article.

(Ord. No. 401, § 1601, 5-2-2005)

Sec. 44-445. - Minimum buffer requirements.

- (a) *Buffer zone.* A buffer zone shall be provided within the setback between the subject site and all adjacent properties according to the table below. Walls shall typically be prohibited along a public street right-of-way or in a front yard unless specifically approved by the planning commission. The height of the wall or berm shall be measured from the surface of the parking area or land on the nonresidential side of the wall. All walls shall meet the standards described in subsection (b) of this section.

		Zoning or Use of Adjacent Site			
		Single-family*	Multiple Family	Commercial	Industrial

Zoning or use of subject site	Multiple Family	B	B	A or a 5-foot high wall/berm	A or an 8-foot high wall/berm
	Commercial	A or a 6-foot high wall/berm with landscape	A or a 5-foot high wall/berm with landscape	None	B
	Industrial	A or an 8-foot high wall/berm	A or an 8-foot high wall/berm	B	None

A = Two deciduous canopy trees and four large shrubs, or one canopy tree, one evergreen tree and four large shrubs per each 25 linear feet along the property line. All property line distances shall be rounded upward to the nearest foot.

B = One deciduous canopy tree and four large shrubs, or one evergreen tree and four large shrubs per each 25 linear feet along the property line. All property line distances shall be rounded upward to the nearest foot.

*Where the adjacent property, including property across a public street or private road, is zoned or used as single-family residential, the planning commission may require additional landscaping (trees, shrubs, wall or berm) along the property line or within the site to sufficiently screen the parking lot, vehicle headlights, loading zones, outdoor display areas, storage yards or accessory structures.

(b) *Wall standards.* Required walls shall comply with the standards listed below.

- (1) Walls shall be located on the lot line except where underground utilities interfere and/or where this chapter requires conformance with yard setback lines.
- (2) Walls shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter, unless specifically approved by the planning commission.
- (3) Walls shall be constructed of face brick, pressure treated wood, or comparable nonporous facing materials on the exterior sides facing an affected district.
- (4) Walls shall be durable, weather resistant, rustproof and easily maintainable. Wood or wood products shall be high quality durable materials as approved by the building department. Wood fences shall be sight obscuring sufficient to shield light and block blowing debris. Masonry walls may be constructed with openings which do not in any square section (height and width) exceed 20 percent of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required and shall not reduce minimum height requirement.
- (5) Walls must be maintained in good condition by the property owner.
- (6) Bumper blocks shall be required where parking is adjacent to walls.

(c) *Berm standards.* Required berms shall be constructed as landscaped earth mounds with a crest area at least four feet in width. The exterior face of the berm shall be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other means acceptable to the building department. Whenever an earthen slope is provided, it shall be constructed with a slope not to exceed one foot of vertical rise to three feet of horizontal distance (1:3).

(Ord. No. 401, § 1602, 5-2-2005)

Sec. 44-446. - Required parking lot trees and parking lot islands.

- (a) *Tree location.* All of the required parking lot trees shall be placed within the parking lot envelope, described as the area including the parking lot surface and extending 15 feet from the edge of the parking lot. A minimum of one-third of the required trees shall be placed within the interior of the parking area. Landscaping and canopy tree placement shall be dispersed throughout the parking lot in order to balance and soften large areas of pavement and help direct traffic flow within lot.
- (b) *Tree base.* Each tree shall be surrounded by an area of grass or living ground cover at least 150 square feet in size to provide for adequate resources of air and water. Tree plantings shall also be protected from automobiles with curbing or other suitable device.
- (c) *Credit.* Required parking lot trees shall not be credited towards required greenbelt or buffer trees.
- (d) *Design of parking lot islands.* All parking lot islands shall be curbed. Islands shall be at least 150 feet in area. Each island shall be at least ten feet wide, with a depth two feet shorter than the depth of the adjacent parking space. Islands shall have a minimum of ten feet at the ends facing main aisles. A minimum radius shall be one foot where island is not adjacent to main traffic aisle.

Zoning District	0—100 parking spaces	101—200 parking spaces	Over 200 spaces
Multiple-Family	1 canopy tree per 8 spaces	1 canopy tree per 8 spaces	1 canopy tree per 10 spaces
Commercial	1 canopy tree per 10 spaces	1 canopy tree per 10 spaces	1 canopy tree per 12 spaces
Industrial	1 canopy tree per 12 spaces	1 canopy tree per 15 spaces	1 canopy tree per 15 spaces

(Ord. No. 401, § 1603, 5-2-2005)

Sec. 44-447. - Greenbelts required along and within right-of-way.

A greenbelt shall be planted along the right-of-way of any public street. If planting in the right-of-way is not permitted by the road agency with jurisdiction in the right-of-way, or is not acceptable to a utility company, the greenbelt plantings shall be planted within the required parking lot setback. The planning commission may allow such planting to be placed anywhere within the front yard if there is no front yard parking. The greenbelt shall meet the following standards:

- (1) The greenbelt shall include only living materials and planting beds, except for approved sidewalks, signs, driveways and essential services.
- (2) The greenbelt shall include one deciduous canopy tree per 30 linear feet of the frontage including any openings for driveways, sidewalks, or easements.

- (3) The planning commission may approve substitution of evergreen trees for up to 50 percent of the required greenbelt trees upon determining evergreens would be consistent with the existing character of the area.
- (4) Greenbelt trees should be arranged to simulate a natural setting such as massing or staggered rows, except where a more formal arrangement is determined to be more consistent with the existing character of the city.
- (5) Landscaping materials' arrangement shall insure adequate site visibility for motorists, adequate clearance for pedestrians and vehicles and accessibility to fire hydrants. Plant materials within the 25-foot site distance triangle shall not be more than 30 inches in height.

(Ord. No. 401, § 1604, 5-2-2005)

Sec. 44-448. - Plant material specifications.

All plant material shall be free of disease and insects at time of planting, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen ANSI Z60.1.

- (1) *Minimum plant material planting size.*
 - a. Evergreen trees shall be a minimum of six feet in height.
 - b. Narrow evergreens shall be a minimum of four feet in height.
 - c. Ornamental trees shall be a minimum of ten feet in height or two-inch caliper.
 - d. Large deciduous shrubs shall be a minimum of four feet in height.
 - e. Small deciduous shrubs shall be a minimum of two feet in height.
 - f. Deciduous canopy trees shall be a minimum of 15 feet in height or 2½-inch caliper.
 - g. Small evergreen or deciduous ornamental shrubs shall be a minimum of 18-inch to 24-inch spread.
- (2) *Plant material spacing.*
 - a. Plant materials shall not be placed closer than four feet from the fence line or property line.
 - b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows and/or grouped informally to create a naturalistic appearance.
 - c. Evergreen trees shall be planted not more than 15 feet on center.
 - d. Narrow evergreens shall be planted not more than six feet on center.
 - e. Deciduous canopy trees shall be planted not more than 25 feet on center.
 - f. Ornamental trees shall be planted not more than ten feet on center.
 - g. Large deciduous shrubs shall be planted not more than four feet on center.
- (3) *Plant material and design variety.* The overall landscape plan shall demonstrate a variety of plant material with not more than 50 percent of any one species utilized throughout the design.
- (4) *Suggested (not required) plant materials.*
 - a. *Evergreen trees.*
 1. Juniper.
 2. Fir.
 3. Pine.*
 4. Spruce.

5. Douglas-Fir.

*Dwarf, Globe, Pendulous, species/Cultivars are not permitted.

b. *Narrow evergreens.**

1. Column Hinoki Cypress.
2. Blue Columnar Chinese Juniper.
3. Pyramidal Red-Cedar.
4. Swiss Stone Pine.
5. Pyramidal White Pine.
6. Irish Yew.
7. Douglas Arbor-Vitae.
8. Columnar Giant Arbor-Vitae.

*Dwarf, Globe, Pendulous, species/Cultivars are not permitted.

c. *Ornamental trees.*

1. Flowering crabs (disease resistant).
2. Service Berry.
3. Dogwood (Chinese only).
4. Hornbeam.
5. Magnolia.

d. *Large deciduous shrubs.*

1. Viburnum.
2. Forsythia.
3. Lilac.
4. Ninebark.
5. Hazelnuts.
6. Euonymus.
7. Privet.
8. Buckthorn.
9. Sumac.

e. *Deciduous canopy trees.*

1. Oaks.
2. Hard Maples.
3. Hackberry.
4. Beech.
5. Ginkgo (male species only).
6. Honeylocust (thornless and seedless cultivars only).
7. Hop Hornbeam.

8. Linden.

(5) *Trees not permitted.*

- a. Box Elder.
- b. Soft Maples (Silver).
- c. Elms (no Chinese Elm).
- d. Poplars.
- e. Willows.
- f. Horse Chestnut (Nut Bearing).
- g. Tree of Heaven.
- h. Catalpa.

(Ord. No. 401, § 1605, 5-2-2005)

Sec. 44-449. - Existing tree preservation incentives.

The standards outlined below are intended to encourage the preservation of quality and mature trees by providing credits, at planning commission approval, toward the required trees for greenbelts, buffer zones and within parking lots:

- (1) All trees over eight inches in caliper shall be identified on the site plan with notations of trees to be preserved and trees to be removed.
- (2) Trees intended to be preserved shall be noted with a unique symbol on the site plan and be protected during construction through the use of construction fencing at or beyond the dripline of the tree or trees to be preserved.
- (3) Trees to be preserved shall be considered for credit only if they are located on the developed portion of the site as determined by the planning commission. The planning commission pursuant to site plan approval may allow credit for such plant material preservation if it will maintain and encourage the intent of this chapter. To obtain credit consideration the preserved trees shall be of a high quality and at least two inches caliper.
- (4) Credit consideration for preserved trees shall be:

Preserved Tree Caliper* (inches)	Number of Trees to be Credited
12 and over	3
8 to 11.99	2
2½ to 7.99	1

*Caliper is the diameter of a tree trunk and shall be measured at a height six inches above the existing grade up to and including four-inch caliper size and 12 inches above the existing grade for larger sizes.

- (5) To protect and encourage the continued health and vitality of the preserved trees, the ground within the dripline of the trees shall be maintained in the existing natural state. Storage of soils or other materials during or after construction within the tree dripline is prohibited.
- (6) If preserved trees die within three years after construction the property owner shall replace with trees required before credit was allowed. Said trees shall be replaced within 60 days of written notice from the city or within an extended time period as specified in said notice.
- (7) The minimum number of required trees shall not be reduced by less than 50 percent through the use of approved tree credits. However, during site plan review the planning commission may determine existing landscaping or screening intended to be preserved would provide comparable required landscaping, buffering or screening.

(Ord. No. 401, § 1606, 5-2-2005)

Sec. 44-450. - Minimum standard for installation and maintenance.

- (a) *Installation.* Landscaping shall be installed in a sound workman-like manner and conform to the American Standard for Nursery Stock ANSI Z60.1. If building or paving construction is completed during a planting season, then no certificate of occupancy will be issued unless the landscaping meets the requirements herein provided. If building or paving construction is completed in an off planting season, the certificate of occupancy will be issued only after the owner provides a performance bond to ensure installation of required landscaping in the next planting season.
- (b) *Material removal.* Tree stakes, guy wires and tree wrap are to be removed after one year.
- (c) *Maintenance.* Greenbelt areas and plant materials required by this chapter shall be kept free from refuse and debris. Plant materials shall be maintained in a healthy growing condition, neat and orderly in appearance. If any plant material required by this chapter dies or becomes diseased, they shall be replaced within 30 days of written notice from the city or within an extended time period as specified in said notice.

(Ord. No. 401, § 1607, 5-2-2005)

Sec. 44-451. - Compliance for preexisting sites.

In any case where the building and/or parking area is being increased by at least 25 percent over the originally approved site plan or the use is being changed to a more intense use, as determined by the planning commission, the site shall be brought into full compliance with the landscape standards herein. In situations where the increase in building and/or parking area is less than percent over the original site plan, the requirement of new landscaping shall be equal to four percent of compliance for every one percent of increase in building or parking footprint. For example, a building or parking area increase of ten percent requires a 40 percent compliance with the landscape standards. If any development or principal use requiring a certificate of occupancy is destroyed by any means beyond 50 percent of the appraised replacement value, the site shall be brought into full compliance with the landscape standards herein.

(Ord. No. 401, § 1608, 5-2-2005)

Secs. 44-452—44-470. - Reserved.

ARTICLE XVII. - SCHEDULE OF REGULATIONS

Sec. 44-471. - Schedule limiting height, bulk, density and area by zoning district.

The following table represents the schedule of regulations limiting height, bulk, density and area, by district:

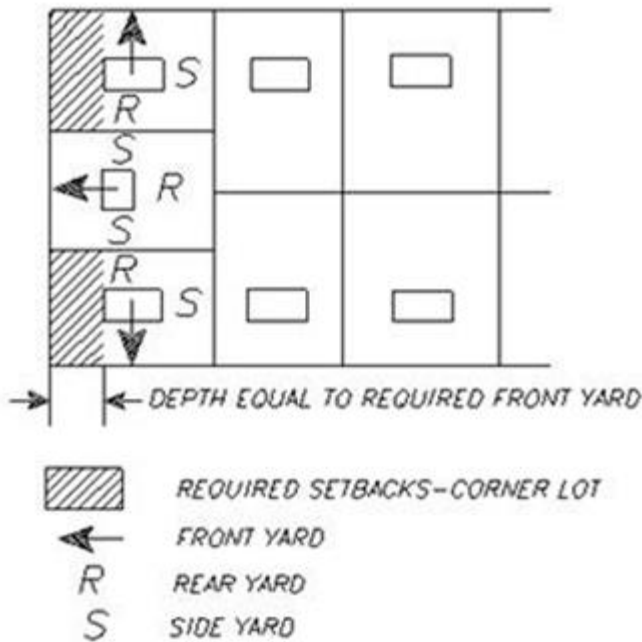
Zoning District	Minimum Zoning Lot Size Per Unit		Maximum Height of Structures		Minimum Yard Setback (Per Lot In Feet)			Minimum Floor Area Per Unit (sq. ft.)	Maximum % of Lot Area Covered (By All Buildings)
	Area In Square Feet	Width In Feet	In Stories	In Feet	Front	Each Side	Rear		
RA-1 One-Family Residence	12,000 (a)	80 (a)	2	25	30 (b)	10 (b, c)	35 (b)	1,200	35%
RA-2 One-Family Residence	7,200 (a)	60 (a)	2	25	20 (b)	6 (b, c)	35 (b)	960	35%
RB Two-Family Residence	4,000	40	2	25	25 (b)	10 (b, c)	35 (b)	960	30%
RC Multiple-Family Residence	(d, f)	(d)	2	25	25 (e)	10 (e, j)	35 (e)	1 BR - 500 2 BR - 700 3 BR - 900 4 BR - 1,100	30%
OS-1 Office Service	—	—	—	30	20 (g)	15 (j)	20 (i)	—	—
B-1 Community Business	—	—	—	30	3 (g, n)	(h, j)	20 (i)	—	—
B-2 General Business	—	—	—	40	30 (g)	(h, j)	20 (i)	—	—
I-1 Light Industrial	—	—	—	30	40 (k)	20 (j, m)	(l, m)	—	—
I-2 General Industrial	—	—	—	40	80 (k)	30 (j, m)	(l, m)	—	—

Notes to schedule of regulations:

- (a) See section 44-472, Averaged lot size, and section 44-473, Subdivision open space plan, regarding flexibility allowances.
- (b) For all uses permitted, other than single-family residential, the setback shall equal the height of the main building or the setback required in this section, whichever is greater.
- (c) In the case of a rear yard abutting a side yard, the side yard setback abutting a street shall not be less than the minimum front yard setback of the district in which located, and all regulations applicable to a front yard shall apply.
- (d) The area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads.
- (e) Where more than one building occupies a single lot or parcel, the following building relationships shall be maintained:

Building Relationships	Overall Distance Between Buildings
Front to front	50 feet
Front to side	45 feet
Front to rear	60 feet
Rear to rear	60 feet
Rear to side	45 feet
Side to side	20 feet
Corner to corner	15 feet

SIDE YARDS ABUTTING A STREET



The front and rear of the multiple-family building shall be considered the distance along the longest dimension of said building. The builder may designate the front and rear of his structures.

Every lot on which a multiple dwelling is erected shall be provided with a side yard on each side of the lot. The width of each side yard shall be increased by one foot for each ten feet or part thereof, by which the length of the multiple dwelling exceeds 40 feet in overall dimension along the adjoining lot line. No multiple dwelling shall exceed 180 feet in length. The depth of any court shall not be greater than three times the width.

(f) For the purpose of computing the permitted number of dwelling units per acre, the following lot area assignments shall control:

Unit Type	Lot Area/Units
Efficiency	1,800 sq. ft.
1 Bedroom	2,400 sq. ft.
2 Bedroom	3,600 sq. ft.
3 Bedroom	4,800 sq. ft.
4 Bedroom	6,000 sq. ft.

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

- (g) Off-street parking shall be permitted to occupy a portion of the required front yard provided that there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line as indicated on the major thoroughfare plan.
- (h) No side yards are required when two similarly zoned parcels share interior side lot lines, except as otherwise specified in the state construction code, provided that if the walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than ten feet shall be provided. On a corner lot which has a common lot line with a residential district, there shall be provided a setback of 20 feet on the side or residential street. Where a lot borders on a residential district or a street, there shall be provided a setback of not less than ten feet on the side bordering the residential district or street.
- (i) Off-street parking shall be permitted in a required side yard setback.
- (j) Off-street parking for visitors, over and above the number of spaces required under section 44-595, may be permitted within the required front yard provided that such off-street parking is not located within 20 feet of the front lot line.
- (k) No building shall be located closer than 50 feet or the height of the building, whichever is the greater to the outer perimeter (property line) of such district when said property line abuts any residential district.
- (l) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than six feet high, or with a chainlink type fence and a greenbelt planting so as to obscure all view from any adjacent residential, office, or business district or from a public street.
- (m) The front of the building may be built closer than three feet to the property line as long as its setback is no more than the average of the setback of buildings within 100 feet on either side.
- (n) See section 44-711(27).

(Ord. No. 401, § 1700, 5-2-2005; Ord. No. 417, § 1a, 11-19-2007)

Sec. 44-472. - Averaged lot size.

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

- (1) In meeting the average minimum lot size, the subdivision shall be so designed as not to create lots having an area or width greater than ten percent below that area or width required in this article and shall not create an attendant increase in the number of lots.
- (2) Each final plat submitted as part of a preliminary plat shall average the minimum lot sizes required for all lots in the district in which it is located.
- (3) All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.

(Ord. No. 401, § 1701, 5-2-2005)

Sec. 44-473. - Subdivision open space plan.

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

- (1) Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.
 - (2) Encourage developers to use a more creative approach in the development of residential areas.
 - (3) Encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and allowing the developer to bypass natural obstacles on the site.
 - (4) Encourage the provision of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreational facilities.
- (b) Modifications to the standards as outlined in this article may be made in the one-family residential districts when the following conditions are met:
- (1) The lot area in all one-family residential districts, which are served by a public sanitary sewer system, may be reduced up to 20 percent. In the RA-2 district, this reduction may be accomplished in part by reducing lot widths up to five feet. In the RA-1 districts, this reduction may be accomplished in part by reducing lot widths up to ten feet. These lot area reductions shall be permitted provided that the dwelling unit density shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required for each one-family district under this article. All calculations shall be predicated upon the one-family districts having the following gross densities (including roads):
 - a. RA-1 = 2.7 dwelling units per acre.
 - b. RA-2 = 3.8 dwelling units per acre.
 - (2) Rear yards may be reduced to 30 feet when such lots border on land dedicated for park, recreation, and/or open space purposes, provided that the width of said dedicated land shall not be less than 100 feet measured at the point at which it abuts the rear yard of the adjacent lot.
 - (3) Under the provisions of subsection (b)(1) of this section, for each square foot of land gained within a residential subdivision through the reduction of lot size below the minimum requirements as outlined in this article, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision in a manner approved by the city.
 - (4) The area to be dedicated for subdivision open space purposes shall in no instance be less than two acres and shall be in a location and shape approved by the planning commission.
 - (5) The land area necessary to meet the minimum requirements of this section shall not include bodies of water, regulated wetlands or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. Part or all of the area may, however, be located in a floodplain.
 - (6) This plan, for reduced lot sizes, shall be permitted only if it is mutually agreeable to the legislative body and the subdivider or developer.
 - (7) This plan, for reduced lot sizes, shall be started within six months after having received approval of the final plat, and must be completed within two years unless a longer period is agreed to by the city at time of approval of the development. The term "starting" constitutes installation of public infrastructure including roads, sewer lines and/or water lines. Failure to start within this period shall void all previous approval.
 - (8) Under this planned unit approach, the developer or subdivider shall dedicate the total park area (see subsection (a) of this section) at the time of filing of the final plat on all or any portion of the plat.

(Ord. No. 401, § 1702, 5-2-2005)

State Law reference— Open space preservation, MCL 125.3506.

Secs. 44-474—44-499. - Reserved.

ARTICLE XVIII. - GENERAL PROVISIONS

Sec. 44-500. - Conflicting regulations.

Whenever any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such ordinance shall govern.

(Ord. No. 401, § 1800, 5-2-2005)

Sec. 44-501. - Scope.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

(Ord. No. 401, § 1801, 5-2-2005)

Sec. 44-502. - Accessory buildings.

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

- (1) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to the main building.
- (2) Accessory buildings shall not be erected in any minimum side yard setback nor in any front yard.
- (3) An accessory building shall not occupy more than 25 percent of a required rear yard, provided that in a residential district the total lot coverage of the accessory building shall not exceed the ground floor area of the main building. Accessory buildings shall not exceed 14 feet in total height.
- (4) No detached accessory building shall be located closer than ten feet to any main building nor shall it be located closer than eight feet to any side or rear lot line to the exterior wall of the structure.
- (5) No more than one attached or detached accessory building shall be permitted for each lot, excluding garages, either attached or detached.
- (6) Dwelling units with attached garages may be allowed not more than one detached accessory building not to exceed 250 square feet in total area. Dwelling units without an attached garage may be allowed not more than one detached accessory building not to exceed 790 square feet in total area. On a parcel of one acre or more, no detached accessory building shall exceed 1,500 square feet.
- (7) When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot to the rear of such corner lot. In no instance shall an accessory building be located nearer than ten feet to a street right-of-way line.
- (8) A detached accessory building, when located on the same or adjoining lot, shall not involve any business, profession, trade or occupation.

- (9) Side walls may not exceed eight feet in height. Accessory buildings shall not exceed 14 feet in total height.
- (10) All structures must meet the building construction type of manufactured wood or steel and cannot consist of vinyl, plastic, or canvass material for the primary construction covering for the exterior walls and/or roofs.
- (11) Any and all said structures, canopies, pop-up canopies and/or shelters must within 60 days from the effective date of [Ordinance No. 472] be removed or be in compliance with all of the terms and provisions of section 44-502 regarding accessory buildings.
- (12) Failure to receive from the city all of the required permits and approvals for an accessory building, and to comply with the provisions regarding accessory building will be deemed a violation of section 44-654.

(Ord. No. 401, § 1802, 5-2-2005; Ord. No. 454, § 1, 10-20-2014; Ord. No. 472, § 1, 10-7-2019)

Sec. 44-503. - Exterior lighting.

- (a) All outdoor lighting in all use districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences.
- (b) All outdoor lighting in all use districts shall be directed toward and confined to the ground areas of lawns or parking lots.
- (c) All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
- (d) Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property.
- (e) All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

(Ord. No. 401, § 1803, 5-2-2005)

Sec. 44-504. - Residential entranceway.

In all residential districts, so-called entranceway structures, including, but not limited to, walls, columns, and gates marking entrances to single-family subdivisions or multiple housing projects, may be permitted and may be located in a required yard, except as provided in section 44-506, Corner clearance, provided that such entranceway structures shall comply to all codes of the city and shall be approved by the building department and a permit issued.

(Ord. No. 401, § 1804, 5-2-2005)

Sec. 44-505. - Garage sales, estate sales, rummage sales, and the like.

Garage (yard, porch, rummage, basement, estate, etc.) sales are permitted as an accessory use to any attached or detached single-family residence, provided that any one garage sale does not last more than three days and only two garage sales are permitted per residence per year. A permit must be purchased from the city and must be attached to the premises of the garage sale. No signs advertising a garage sale or similar activity shall be placed upon public property. A sign advertising a garage sale is

permitted to be placed upon private property with the consent of the owner of the said property. All signs must conform to the city off-premises sign ordinance.

(Ord. No. 401, § 1805, 5-2-2005)

Sec. 44-506. - Corner clearance.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(Ord. No. 401, § 1806, 5-2-2005)

Sec. 44-507. - Screening walls or fences.

(a) For those use districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall or fence as required below (except otherwise required in subsection (d) of this section):

	Use	Requirements
a.	P-1 Vehicular Parking District	4' 6"-high wall or fence
b.	Off-street parking area (other than P-1 districts)	4' 6"-high wall or fence
c.	B-1, B-2 and OS-1 districts	4' 6"-high wall or fence
d.	I-1 and I-2 districts - open storage areas, loading or unloading areas, service areas	4'- to 8'-high wall (Height shall provide the most complete obscuring possible)
e.	Auto wash drive-in restaurants	6' 0"-high wall or fence
f.	Hospital-ambulance and delivery areas	6' 0"-high wall or fence
g.	Utility buildings, stations and/or substations	6' 0"-high wall, and/or a 6' 0"-high greenbelt complying with section 44-545.

(b) Required walls or fences shall be located on the lot line except where underground utilities interfere and except in instances where this chapter requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the planning commission may approve an alternate location for the wall or fence or may waive the wall requirement if in specific cases it would not serve the purpose of screening the parking area effectively. Required walls may, upon approval of the board of appeals, be located on the opposite side of an alley right-of-way from a nonresidential

zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the board of appeals in reviewing such request.

- (c) Such walls or fences and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except such openings as may be approved by the chief of police and the zoning administrator. All walls herein required shall be constructed of materials approved by the zoning administrator to be durable, weather resistant, rust proof and easily maintained. Masonry walls may be constructed with openings which do not in any square section (height and width) exceed 20 percent of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the zoning administrator.
- (d) The requirement for an obscuring wall or fence between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than 200 feet from such abutting residential district.
- (e) The board of appeals may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than four feet in height, except where this section applies.
- (f) In consideration of request to waive wall requirements between nonresidential and residential districts, the board shall refer the request to the planning commission for a determination as to whether or not the residential district is considered to be an area in transition and will become nonresidential in the future.
- (g) In such cases as the planning commission determines, the residential district to be a future nonresidential area, the board may temporarily waive wall requirements for an initial period not to exceed 12 months. Granting of subsequent waivers shall be permitted, provided that the planning commission shall make a determination as hereinafter described, for each subsequent waiver prior to the granting of such waiver by the board.

(Ord. No. 401, § 1807, 5-2-2005)

Sec. 44-508. - Residential fences.

Fences are permitted or required, subject to the following:

- (1) Fences on all lots of record in all residential districts which enclose property or are within a required side or rear yard, shall not exceed six feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater.
- (2) Recorded lots having a lot area in excess of two acres and a frontage of at least 200 feet, and acreage or parcels not included within the boundaries of a recorded plat, in all residential districts, are excluded from these regulations.
- (3) Fences shall not contain barbed wire, electric current or charge of electricity.
- (4) Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total area.
- (5) Decorative or ornamental fences such as, but not limited to, split rail or picket fences no higher than 36 inches from grade are permitted in the front yard.
- (6) The property owner erecting the fence is responsible for maintaining both sides of the fence.
- (7) If there is a good side to the fence, it shall be situated so as to face the neighbor's residence.

(Ord. No. 401, § 1808, 5-2-2005)

Sec. 44-509. - Frontage on a public street.

No lot shall be used for any purpose permitted by this chapter unless said lot abuts a public street the width of the minimum lot width in the district it is located in or unless this chapter otherwise provides such as in the case of permitted access drives as outlined in article XXIV of this chapter.

(Ord. No. 401, § 1809, 5-2-2005)

Sec. 44-510. - Access to major thoroughfare or collector street.

For uses making reference to this section, vehicular access shall be provided only to an existing or planned major thoroughfare, or collector street; provided, however, that access driveways may be permitted to other than a major thoroughfare, or collector street where such access is provided to a street where the property directly across the street from such driveway and the major thoroughfare or collector street is zoned for multiple-family use or any nonresidential uses, is developed with permanent uses other than single-family purposes in the future. This exception shall only apply if the planning commission finds that there are special circumstances which indicate that there will be a substantial improvement in traffic safety by reducing the number of driveways to a thoroughfare.

(Ord. No. 401, § 1810, 5-2-2005)

Sec. 44-511. - Standards for single-family mobile home residences.

- (a) Any mobile home shall be placed on a concrete slab (wire meshed) which extends at least six inches above the outside dimensions of the mobile home. This slab shall be at least four inches thick on sandy soil or six inches thick on clay soil. The mobile home shall be anchored to this slab in compliance with mobile home manufacturer's specs.
- (b) Any premanufactured or precut residential structures shall be supported and attached agreeable to the state construction code.
- (c) For residences without basements, a masonry skirting, brick or concrete blocks shall be erected between the slab and lower edge of any home on all sides and shall be sufficiently vented. An access panel of sufficient size to allow full access to utility hook-ups shall be installed in the rear section of the masonry skirting.
- (d) Permanently attached steps or a porch shall be constructed where an elevation differential requires same.
- (e) Any mobile home shall bear the Michigan State Construction Inspection Seal.
- (f) The minimum ceiling height shall be 7.5 feet.
- (g) The minimum width of any exterior side shall be 20 feet.
- (h) There shall be no exposed wheels, towing mechanism, undercarriage or chassis.
- (i) The dwelling shall be connected to public water and sewer as provided by local ordinance.
- (j) Any single-family mobile home residence shall be constructed to be compatible aesthetically and in design with other single-family structures within a 300-foot radius of it. Characteristics used in comparing compatibility shall include roof pitch, roofing and siding material, length of eaves and location and arrangement of windows, doors and porches. A dwelling may be approved as aesthetically compatible in design and appearance to homes in the neighborhood in which it is located, even if all of the above conditions do not exist, provided that the dwelling or site has other design features that make it compatible.

- (k) There shall be no additions of any less quality construction than the original construction.
- (l) The dwelling shall comply with all building and fire codes including those pertaining to newly manufactured mobile homes or other homes and such other standards as may be hereafter developed.
- (m) The foregoing standards shall not apply to mobile homes located within a mobile home park.

(Ord. No. 401, § 1811, 5-2-2005)

Sec. 44-512. - Recreational vehicles and trailers.

- (a) The term "recreational vehicle" means vehicles, whether or not motorized, used primarily for recreational purposes including motor homes, campers, trailers, jet skis, boats, snowmobiles, buses and trailers used to transport the same or similar vehicles.
- (b) The term "trailer" means any wheeled vehicle, with or without motor power, that may be drawn over the roadway by a motor vehicle, including camping trailers, utility trailers and boat trailers.
- (c) The term "bus" means any motor vehicle designed for carrying more than 15 passengers including the driver and used for the transportation of persons.
- (d) Recreational vehicle, trailer or bus parked in an RA-1 or RA-2 district shall be parked off of public streets in the following locations:
 - (1) Inside an accessory building;
 - (2) On gravel or other all-weather surface; or
 - (3) In the front yard on a driveway. Front yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building,
- (e) Recreational vehicle, trailer or bus parked on public streets in RA-1 or RA-2 districts shall be issued a written warning by officers of the Caro Police Department. If the recreational vehicle is not moved off of the public street within 48 hours after the said written warning, then said recreational vehicle shall be towed. The owner shall be responsible for payment for the towing and storage of the recreational vehicle trailer or bus. If the recreational vehicle, trailer or bus is moved prior to the expiration of said 48 hour written warning and is later parked on the public street again, then the initial warning shall still be in effect and the recreational vehicle, trailer or bus shall still be towed. The warning is valid for one year after the date of the initial warning. In addition to being responsible for the costs associated with towing and storage, the owner shall also be responsible for a \$100.00 fine to be paid to the city within 14 days if the recreational vehicle, trailer or bus is not removed within the said 48 hour period. Each additional violation within one year of the date of the initial warning will result in an increasing fine of multiples of \$100.00 equal to the number of violations (\$200.00 for the second violation, \$300.00 for the third violation, etc.) Failure to pay said fine within said 14 days will be deemed to be a violation and subject the owner to penalties as set forth in section 44-654.
- (f) Recreational vehicles, trailers or buses shall not be used as living quarters for a period exceeding 14 days within any 90 day period.
- (g) On each lot or contiguous lot(s) there shall be not more than a total of three recreational vehicles, trailers or buses in any combination thereof.

(Ord. No. 401, § 1812, 5-2-2005; Ord. No. 456, § 1, 11-17-2014; Ord. No. 473, § 1, 10-7-2019)

Sec. 44-513. - Trash enclosures.

- (a) Dumpsters are required for all developments other than single-family residential. All dumpsters shall be located in trash enclosures placed at the rear of a site, in an area obscured from adjacent properties and thoroughfares and shall meet the following requirements:
 - (1) Trash enclosures shall be six feet high and shall be gated and screened in a manner consistent with the color and materials on the building(s).
 - (2) Trash enclosures in any residential, office and commercial zoning districts shall be constructed of decorative masonry to match the building.
 - (3) For all uses, the trash receptacle area shall be screened at the opening with a six-foot high metal-framed wood screening gate.
- (b) Where the planning commission determines that the type of operation does not necessitate a dumpster, the commission may vary the requirements of this section to facilitate the trash storage needs of the development.
- (c) No dumpster shall be allowed within the front yard.
- (d) If no dumpster is required or needed for a proposed use, this shall be noted on any site plan.
- (e) Bollards will be required to protect the structure.
- (f) All trash enclosures shall have a six-inch reinforced concrete floor and apron.

(Ord. No. 401, § 1813, 5-2-2005)

Sec. 44-514. - Wind energy.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Anemometer means a temporary wind speed indicator constructed for the purpose of analyzing the potential of utilizing a wind energy system at a given site.

On-site use wind energy system means a wind energy system that is intended to primarily serve the needs of the consumer. This system may be connected to the electric utility grid.

Roof-mounted wind energy system means a wind energy system that is intended to primarily serve the needs of the consumer and is installed on a building roof. This system may be connected to the electric utility grid.

Utility grid wind energy system means a wind energy system that is designed and built primarily to provide electricity to the electric utility grid.

Wind energy system means a system that converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower or roof mount pedestal.

- (b) *General requirements in all zoning districts.*

- (1) *Utility grid wind energy system.* Utility grid wind energy system is not a permitted use.
- (2) *Anemometer.* Installation of an anemometer is not a permitted use.
- (3) *On site use and roof mounted wind energy system.* On site use and roof mounted wind energy systems are a permitted use in B-1, B-2, I-1, I-2, OS-1, RA-1, RA-2, RB, RC, and all overlay zones.
- (4) *Noise.* Sound pressure levels shall not exceed 50 dB(A) at the property line closest to the wind energy system.
- (5) *Setback.* The base of the tower shall be set back one times the height of the tower including the top of the blade in its vertical position from the nearest property line and to any overhead utility

wire. In addition, no part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the nearest property line. In the case of a roof mounted wind energy system, the base of the pedestal mounted to the roof shall be set back 1½ times the height of the pedestal and unit including the top of the blade in its vertical position from the nearest property line and to any overhead utility wire.

- (6) *Codes and standards.* Wind energy systems shall comply with all applicable construction and electrical codes and local building permit requirements. Wind energy systems shall comply with Federal Aviation Administration requirements, the Michigan Tall Structures Zoning Act, and local jurisdiction airport zoning ordinances. On site wind energy systems that are connected to the electric utility grid shall comply with Michigan Public Service Commission and utility interconnection requirements.
 - (7) *Safety.* Wind energy systems shall have an automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind energy systems shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet.
 - (8) *Wiring.* All wiring between the tower and the building being serviced shall be located underground.
- (c) *Residential and B-1 districts.* A tower mounted on site use wind energy system may only be located in a rear yard. A roof-mounted on-site wind energy system may not be located on the front side of the main residence roof.
 - (d) *Special land use.* A special land use permit shall be required for all zoning districts for an on site use wind energy system with a height of more than 60 feet including the top of the blade in its vertical position.

(Ord. No. 427, §§ A—D, 9-8-2008)

Sec. 44-515. - Rental storage boxes and shipping containers on residential properties.

- (a) The provisions of this section apply to residential properties within the city which is defined as any property which has been or can be used as a dwelling for any person or persons.
- (b) Shipping containers that are or have been used for shipping on a railroad, ship/boat, or road truck are strictly prohibited, at any time and for any amount of time.
- (c) A storage container that is rented from a vendor that rents the containers strictly for temporary storage of household goods and is constructed and built primarily for the rental industry shall be allowed for a period not to exceed 30 days in any time span of twelve months on a revolving calendar.
- (d) All allowed rental containers must be placed on the front driveway of any property.
- (e) A rental container shall not qualify as an accessory building or garage, and shall never be allowed to house humans or animals of any sort for any amount of time.
- (f) A person, corporation or entity that has a shipping container presently existing on residential property prior to the effective date of [the ordinance from which this section derives] shall have 60 days after notification in writing by the code enforcement officer to remove said shipping container to comply with the terms of this section.
- (g) Failure to comply with said written notice will be deemed to be a violation of section 44-654.

(Ord. No. 474, § 1, 10-7-2019)

Secs. 44-516—44-536. - Reserved.

ARTICLE XIX. - GENERAL EXCEPTIONS

Sec. 44-537. - Area, height and uses exceptions.

The regulations in this chapter shall be subject to the following interpretations and exceptions.

(Ord. No. 401, § 1900, 5-2-2005)

Sec. 44-538. - Essential services.

Essential services to the city shall be permitted as authorized and regulated by law and other ordinances of the city.

(Ord. No. 401, § 1901, 5-2-2005)

Sec. 44-539. - Voting place.

The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

(Ord. No. 401, § 1902, 5-2-2005)

Sec. 44-540. - Height limit.

The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments or wireless transmission towers; provided, however, that the city council may specify a height limit for any such structure when such structure requires authorization as a special condition use.

(Ord. No. 401, § 1903, 5-2-2005)

Sec. 44-541. - Lot area.

Any lot existing and of record on the effective date of the ordinance from which this chapter is derived may be used for any principal use, other than conditional uses for which special lot area requirements are specified in this chapter, permitted in the district in which such lot is located whether or not such lot complies with the lot area and width requirements of this chapter. Such use may be made provided that all requirements other than lot area and width prescribed in this chapter are complied with, and provided that not more than one dwelling unit shall occupy any lot except in conformance with the provisions of this chapter for required lot area for each dwelling unit.

(Ord. No. 401, § 1904, 5-2-2005)

Sec. 44-542. - Lots adjoining alleys.

In calculating the area of a lot that adjoins an alley for the purpose of applying lot area requirements of this chapter, one-half the width of such alley abutting the lot shall be considered as part of such lot.

(Ord. No. 401, § 1905, 5-2-2005)

Sec. 44-543. - Yard regulations.

When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.

(Ord. No. 401, § 1906, 5-2-2005)

Sec. 44-544. - Porches.

An open, unenclosed, and uncovered porch or paved terrace may project into a front yard for a distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies.

(Ord. No. 401, § 1907, 5-2-2005)

Sec. 44-545. - Projections into yards.

Architectural features, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three feet.

(Ord. No. 401, § 1908, 5-2-2005)

Sec. 44-546. - Access through yards.

For the purpose of this chapter, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered structural violations in front and side yards. Further, any walk, terrace or other pavement servicing a like function, and not in excess of nine inches above the grade upon which placed, shall for the purpose of this chapter, not be considered to be a structure and shall be permitted in any required yard.

(Ord. No. 401, § 1909, 5-2-2005)

Sec. 44-547. - Lots having water frontage.

Those residential lots or parcels having water frontage and abutting a public thoroughfare shall maintain the yard on the water side as an open unobscured yard, excepting that a covered and/or uncovered boat well shall be permitted after review and approval of plans by the zoning board of appeals. Accessory structures shall be permitted in the setback between the abutting road right-of-way and the main building provided that the front yard setback required in article XVII of this chapter is met.

(Ord. No. 401, § 1910, 5-2-2005)

Secs. 44-548—44-572. - Reserved.

ARTICLE XX. - NONCONFORMING USES⁴¹

Footnotes:

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

Sec. 44-573. - Nonconforming lots; nonconforming uses of land; nonconforming structures; nonconforming uses of structures and premises.

(a) *Intent.*

- (1) It is the intent of this article to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.
- (2) It is recognized that there exists within the districts established by this chapter and subsequent amendments, lots, structures and uses of land and structures which were lawful before the ordinance from which this chapter is derived was passed or amended which would be prohibited, regulated or restricted under the terms of this chapter or further amendments.
- (3) Such uses are declared by this article to be incompatible with permitted uses in the districts involved. It is further the intent of this article that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (4) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of the ordinance from which this chapter is derived by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.
- (5) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance from which this chapter is derived and upon which actual building construction has been diligently carried on, or when a legal zoning permit was acquired prior to the date of adoption or amendment and construction begins within 90 days of adoption of the amendment. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(b) *Nonconforming lots.*

- (1) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance from which this chapter is derived. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the board of appeals.
- (2) If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of the ordinance from which this chapter is derived, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

(c) *Nonconforming uses of land.* Where, at the effective date of adoption or amendment of the ordinance from which this chapter is derived, lawful use of land exists that is made no longer permissible under

the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
 - (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived.
 - (3) If such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- (d) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.
 - (2) Should such structure be destroyed by any means to an extent of more than 60 percent of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this chapter.
 - (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.
- (e) *Nonconforming uses of structures and land.* If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of the ordinance from which this chapter is derived that would not be permitted in the district under the terms of this chapter, the lawful uses may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of the ordinance from which this chapter is derived, but no such use shall be extended to occupy any land outside such building.
 - (3) If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification provided that the board of appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require conditions and safeguards in accord with the purpose and intent of this chapter. Where a nonconforming use of a structure, land or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
 - (4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
 - (5) When a nonconforming use of a structure, or structures and land in combination, is discontinued or ceases to exist for 12 consecutive months, the structure, or structure and land combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be excepted from this provision.

- (6) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- (f) *Repairs and maintenance.* On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months or ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of the ordinance from which this chapter is derived shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- (g) *Uses subject to special conditions not nonconforming uses.* Any use permitted subject to special conditions under the terms of this chapter shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district. However, if this chapter changes so as to no longer permit that use subject to special conditions in the district it is located in, that use shall become nonconforming.
- (h) *Change of tenancy or ownership.* There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures and land in combination.

(Ord. No. 401, § 2000, 5-2-2005)

Secs. 44-574—44-594. - Reserved.

ARTICLE XXI. - OFF-STREET PARKING AND LOADING/UNLOADING

Sec. 44-595. - Off-street parking requirements.

There shall be provided in all districts, at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, and may be provided by the city, as hereinafter prescribed:

- (1) Off-street parking spaces may be located within a rear yard or within a side yard which is in excess of the minimum side yard setback unless otherwise provided in this chapter. Off-street parking shall not be permitted within a front yard nor within a minimum side yard setback unless otherwise provided in this chapter.
- (2) Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots of parcels intended for use as parking by the applicant.
- (3) Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve, and subject to the provisions of section 44-502, Accessory buildings.
- (4) Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere.
- (5) Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- (6) In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the board of appeals may grant an exception.
- (7) The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.

- (8) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the planning commission considers is similar in type.
- (9) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- (10) For the purpose of computing the number of parking spaces required, the definition of usable floor area in section 44-22 shall govern.
- (11) The minimum number of off-street parking spaces by type of use, including applicable accessory uses shall be determined in accordance with the following schedule:

	Use	Number of Minimum Parking Spaces Per Unit of Measure
a.	RESIDENTIAL	
(1)	Residential, one-family and two-family	Two for each dwelling unit
(2)	Residential, multiple-family	Two for each dwelling unit
(3)	Housing for the elderly	One for each two units, and one for each employeeShould units revert to general occupancy, then two spaces per unit shall be provided
(4)	Mobile home park	Two for each mobile home site, one for each employee of the mobile home park and one for visitors for every three mobile homes
b.	INSTITUTIONAL	
(1)	Churches or temples	One for each three seats or six feet of pews in the main unit of worship
(2)	Hospitals	One for each one bed
(3)	Homes for the aged and convalescent homes	One for each six beds, plus one for each staff member
(4)	Elementary and junior high schools	One for each one teacher, employee or administrator, in addition to the requirements of the auditoriumOne space per two classrooms if there is no required auditorium parking

(5)	Senior high schools	One for each one teacher, employee, or administrator and one for each ten students, in addition to the requirements of the auditorium
(6)	Private clubs or lodge halls	One for each three persons allowed within the maximum occupancy load as established by local county, or state fire, building or health codes
(7)	Private golf clubs, swimming pool clubs, tennis clubs, or other similar or bar	One for each two member families or individuals plus spaces required for each accessory use, such as a restaurant
(8)	Golf courses open to the general public except miniature or "par-3" courses	Six for each one golf hole and one for each one employee, plus spaces required for each accessory use, such as a restaurant or bar
(9)	Stadium, sports arena, or similar place of out door assembly	One for each three seats or six feet of benches
(10)	Theaters and auditoriums	One for each three (seats) plus one for each two employees
(11)	Nursery school, day nurseries or child care centers	One for each staff member per state license plus one for every three children
(12)	Par 3 golf course	Four for each one golf hole and one for each one employee, plus spaces required for each accessory use, such as a restaurant or bar
(13)	Miniature golf courses	Two for each one golf hole and one for each one employee, plus spaces required for each accessory use, such as a restaurant or bar
c.	BUSINESS AND COMMERCIAL	
(1)	Auto wash (self-service or coin-operated)	Four spaces or stacking spaces for each washing stall in addition to the stall itself

(2)	Beauty parlor or barbershop	Three spaces for each of the first two beauty or barber chairs, and 1½ spaces for each additional chair
(3)	Bowling alleys	Five for each one bowling lane plus accessory uses
(4)	Dancehalls, or billiard parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed assets	One for each two persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes
(5)	Establishment for sale and consumption on the premises of beverages, food or refreshments	One for each 75 square feet of usable floor space or one for each two persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes, whichever is greater
(6)	Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair, and other similar uses	One for each 800 square feet of usable floor area (For that floor area used in repair, assembly or other processes, one additional space shall be provided for each two persons employed therein)
(7)	Gasoline service stations	Two for each lubrication stall or rack, and one for each gasoline pump
(8)	Laundromats and coin-operated dry cleaners	One for each two washing and/or dry-cleaning machines
(9)	Mortuary establishments	One for each 50 square feet of parlor area floor space
(10)	Motel, hotel, or other commercial lodging establishments	One for each one occupancy unit plus one for each one employee
(11)	Motor vehicle sales and service establishments	One for each 200 square feet of usable floor space of sales room and two for each one auto service stall in the service room
(12)	Retail stores	One for each 150 square feet of useable floor space except as otherwise specified herein

d.	OFFICES	
(1)	Banks	One for each 100 square feet of usable floor space and six stacking spaces per drive-through window
(2)	Business offices or professional offices except as indicated in the following item (3)	One for each 200 square feet of usable floor space
(3)	Professional offices of doctors, dentists or similar professions	One for each 50 square feet of useable floor area in waiting rooms, and one for each examining room, dental chair or similar use area
e.	INDUSTRIAL	
(1)	Industrial or research establishment, and related accessory offices	Five plus one for every 1½ employees in the largest working shiftSpace on site shall also be provided for all construction workers during periods of plant construction
(2)	Warehouses and wholesale establishments and related accessory offices	Five plus one for every one employee in the largest working shift, or one for every 1,700 square feet of useable floor space, whichever is greater

(Ord. No. 401, § 2100, 5-2-2005)

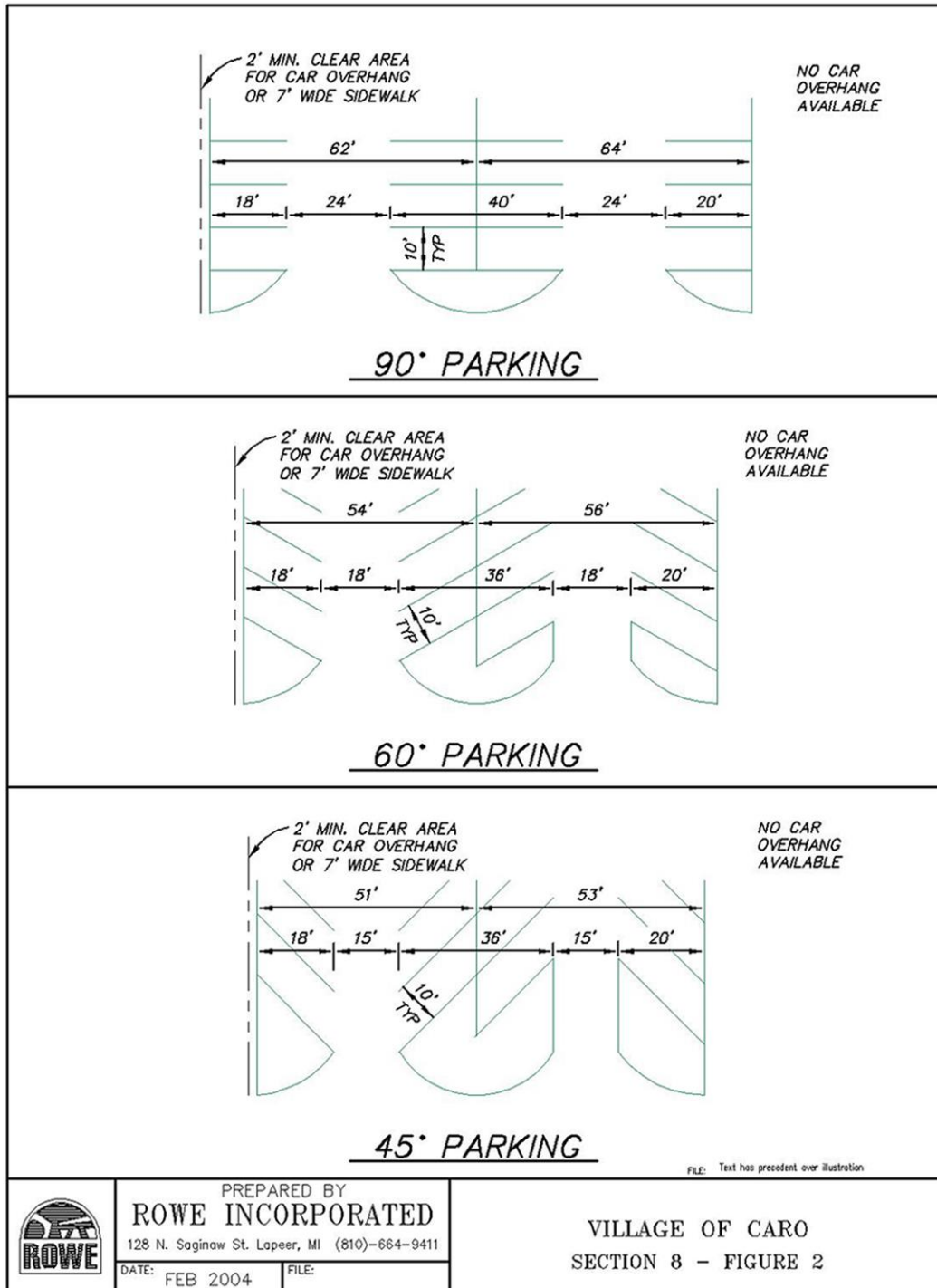
Sec. 44-596. - Off-street parking space layout, standards, construction and maintenance.

Whenever an off-street parking area for a use other than a single-family or two-family dwelling unit is constructed or expanded (including paving an unpaved parking lot) such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefor is issued by the zoning administrator. Applications for a permit shall be submitted to the zoning administrator in such form as may be determined by the city council. The zoning administrator shall determine whether the application requires site plan review (see subsection (2) of this section) or zoning administrator (see subsection (3) of this section). If the application requires only zoning administrator approval, it shall be accompanied with two sets of site plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with. If the application requires site plan approval it shall be submitted with a site plan application as required by article XXIV of this chapter.
- (2) A parking lot construction or expansion project shall require site plan review in the following instances:

- a. The parking lot is expanded by at least 20 percent in area.
 - b. The property is zoned any district except RA-1, RA-2 or RB and is adjacent to property that is zoned either RA-1, RA-2 or RB.
 - c. The parking lot construction or expansion project requires the demolition or removal of a building or structure greater than 50 square feet in area.
 - d. If the parking lot is being developed as part of a project requiring site plan review, these drawings will be incorporated into the site plan required under article XXIV of this chapter.
- (3) A project which involves the repair or resurface of an existing parking lot shall be reviewed and approved by the zoning administrator and shall not require site plan review, provided:
- a. None of subsection (2) of this section applies.
 - b. The applicant adequately demonstrates that the project will not increase runoff.
 - c. The applicant adequately demonstrates that the project will not negatively impact the city's storm sewer system.
 - d. The zoning administrator reserves the right to have the plans reviewed by the city engineer in instances where subsections (3)a through (3)c of this section are questionable or he feels it is in the interest of public health, safety and welfare to do so.
- (4) Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:
- a. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
 - b. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
 - c. All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit two-way movement.
 - d. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet from adjacent property located in any single-family residential district, and shall also be at least 25 feet from the intersection of right-of-way lines on a corner lot.
 - e. The off-street parking area shall be provided with a continuous and obscuring wall not less than four feet six inches in height measured from the surface of the parking area. This wall shall be provided on all sides where the next zoning district is designated as a residential district.
 - f. When a front yard setback is required, all land between said wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with grass, deciduous shrubs, evergreen material and ornamental trees. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.
 - g. The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be paved with a concrete or bituminous surface in accordance with specifications approved by the city engineer.
 - h. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
 - i. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.

- j. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
- k. The planning commission or zoning administrator, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual circumstances no good purpose would be served by compliance with the requirements of this section.



PREPARED BY
ROWE INCORPORATED
 128 N. Saginaw St. Lapeer, MI (810)-664-9411
 DATE: FEB 2004 FILE:

VILLAGE OF CARO
 SECTION 8 - FIGURE 2

(Ord. No. 401, § 2101, 5-2-2005)

Sec. 44-597. - Off-street loading and unloading.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles, 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 rights-of-way. Such space shall be provided as follows:

- (1) Within the office and commercial districts, loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements; except in the instance of OS-1 districts loading space shall be provided in the ratio of five square feet per front foot of building. Where an alley exists, setback and loading requirements may be computed from the center of said alley.
- (2) Within an I district, all spaces shall be laid out in the dimension of at least ten by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a pavement having an asphalt or Portland cement binder so as to provide a permanent, durable and dustless surface. All spaces in I-1 and I-2 districts shall be provided in the following ratio of spaces to floor area:

Gross Floor Area (in square feet)	Loading and Unloading Space Required
0—1,400	None
1,401—20,000	One space
20,001—100,000	One space plus one space for each 20,000 square feet in excess of 20,001 square feet.
100,001 and over	Five spaces

- (3) All loading and unloading in an office, commercial or industrial district shall be provided off-street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least 50 feet.

(Ord. No. 401, § 2102, 5-2-2005)

Secs. 44-598—44-627. - Reserved.

ARTICLE XXII. - SIGNS⁵¹

Footnotes:

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

Sec. 44-628. - Conditions applying to all signs.

- (a) The following conditions shall apply to all signs erected or located in any use district:
- (1) All signs shall conform to all applicable codes and ordinances of the city and, where required, shall be approved by the zoning administrator, and a permit issued.
 - (2) No sign except those established and maintained by the city, county, state, or federal governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, except in the B-1 district, in which case the sign shall not extend more than one foot into the right-of-way.
 - (3) No sign otherwise permitted shall project above or beyond the maximum height limitation of the use district in which located.
 - (4) All directional signs required for the purpose of orientation, when established by the city, county, state, or federal government shall be permitted in all use districts.
 - (5) Off-premises signs shall be permitted only in I-1 and I-2 industrial districts, except that off-premises signs pertaining to real estate development located within the city and designed to promote the sale of lots or homes within a subdivision located within the city may be permitted on a temporary basis in any use district, but shall not be located upon subdivided land unless such land is part of the subdivision being advertised for sale and shall be subject to the requirements and conditions of all applicable codes and ordinances of the city, approved by the zoning administrator and a temporary permit issued. Non-premises signs located along M-81 or M-24 shall be regulated under the Highway Advertising Act of 1972 (MCL 252.301 et seq.).
 - a. Signs shall not be put on trees or utility poles.
 - b. Signs shall not be in the public right-of-way.
 - c. All signs must have a date and cannot be posted for more than 72 hours.
 - d. No signs shall be allowed that announce a sale outside the city.
 - e. The maximum size of the sign cannot exceed 18 inches by 24 inches.
 - (6) Signs used for advertising land or buildings for rent, lease, and/or for sale shall be permitted when located on the land or building intended to be rented, leased and/or sold.
 - (7) Freestanding accessory signs may be located in the required front yard except as otherwise provided herein.
 - (8) Seasonal banners owned and maintained by the city or governmental entities established by the city and approved by the city, shall be exempt from the provisions of this section, provided all banners shall comply with the following standards:
 - a. The banner shall be attached to a wall and shall not extend more than 20 inches from the wall.
 - b. The bottom of the banner shall be located at least seven feet from the ground.
 - c. The banner shall not exceed 48 inches in length.
- (b) In addition to subsection (a) of this section, the following requirements shall apply to signs in the various use districts as follows:

Use District	Requirements
R Districts (RA-1 through RC)	For each dwelling unit, one name plate not exceeding two square feet in area, indicating name of occupant.
R Districts (RA-1 through RC)	For structures other than dwelling units, one identification sign not exceeding 18 square feet in area.
RC Districts	For rental and/or management offices, one identification sign not exceeding six square feet in area.
	In RC districts, signs indicating the name of multiple housing projects shall be permitted provided that no such sign shall be located closer than 100 feet to any property line in any adjacent single-family district.
OS-1 Districts	For each office unit occupying a building, one sign not exceeding six square feet in area.
	For each office building, one wall sign and/or one freestanding sign, not to exceed 18 square feet in area.
OS-1, B-1, B-2, P-1, I-1 and I-2 Districts	No sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than one foot, and shall not project above or beyond the highest point of the roof or parapet. Signs shall not cover more than ten percent of the total wall area unless greater coverage is permitted by the ZBA.
OS-1, B-1 Districts	Freestanding signs shall not exceed 100 square feet in area and shall not exceed 20 feet in height.
B-2, I-1 Districts	Freestanding signs shall not exceed 200 square feet in area and shall not exceed 30 feet in height.
I-2 Districts	Freestanding signs shall not exceed 300 square feet in area and shall not exceed 40 feet in height.
OS-1, B-1 Districts	Freestanding accessory signs or advertising pylons shall not be placed closer than 100 feet to any adjacent residential district.

B-2, I-1 and I-2 Districts	Freestanding accessory signs or advertising pylons shall not be placed closer than 200 feet to any adjacent residential district.
I-1 and I-2 Districts	Non-premises signs shall be permitted but shall be spaced no closer than 1,000 feet between signs on the same side of the right-of-way.
I-1 and I-2 Districts	Freestanding, non-accessory signs, are allowed but shall comply with all requirements of Article XVII of this chapter, Schedule of Regulations.

- (c) The following provisions shall apply to sandwich board signs in the B-1 district:
- (1) Each face of a sandwich board shall not exceed three feet in height or two feet in width.
 - (2) The bottom shall be weighted or anchored so that the sign is stable and wind-proof.
 - (3) There shall be only one sign at each customer entrance, regardless of the number of tenants on the premises.
 - (4) Each sign shall be placed outside only during the hours when business is open to the general public, and shall otherwise be stored inside.
 - (5) Each sign shall be placed next to the building wall or adjacent to the curb in a manner which is safe for and does not interfere with normal pedestrian or automobile traffic movement.
 - (6) Sandwich board signs shall not have more than two sign faces.
 - (7) All signs shall comply with the design specifications for sandwich board signs adopted by the city.
 - (8) Signs shall not project more than three feet from the building.

(Ord. No. 401, § 2200, 5-2-2005)

Sec. 44-629. - Temporary banner signs.

- (a) Temporary banner signs may be allowed in OS-1, B-1, B-2, I-1, I-2, P-2 zoned districts by permit only.
- (b) A temporary banner sign may be erected after a permit is obtained for a period of time not to exceed three weeks. The permit cannot be renewed. No more than two permits per 12-month period shall be issued for any one zoned lot. No permit shall be issued in an R zone.
- (c) A temporary banner sign shall have a maximum height with the top of the temporary banner sign not to exceed 30 feet above the grade level of the normal grade level of the ground. The bottom of the temporary banner sign shall be a minimum of ten feet above the normal grade level of the ground unless the temporary banner sign is located above a traffic area in which case the bottom of the temporary banner sign shall be a minimum of 18 feet above the highest point of the traffic area.
- (d) A temporary banner sign cannot interfere with traffic and must conform to all ordinances and rules, and cannot resemble or simulate traffic control devices or signs, and cannot trespass on another's property. A temporary banner sign cannot be placed so as to obscure another business or structure.
- (e) Maximum size of a temporary banner sign shall be 400 square feet.

- (f) The temporary banner sign shall be designed and constructed and properly mounted so it will be stable.
- (g) Sign permits.
 - (1) No temporary banner sign shall be placed without first securing a permit from the zoning administrator and payment of the permit fee. Applications for a permit shall be on a form provided by the zoning administrator and shall contain the following information:
 - a. Name, address and telephone of the applicant;
 - b. Owner of the sign, their name, address and telephone number;
 - c. Name of the organization, organization federal ID number, name of person representing the organization, their address, and telephone number;
 - d. Location and zone classification where the temporary banner sign will be located; and
 - e. Position of the sign in relation to nearby buildings, structures, property lines, rights-of-way and any other information deemed necessary by the zoning administrator.
 - (2) Before such permit is issued, an inspection of the sign and proposed location shall take place and such information necessary shall be provided to the zoning administrator in order to ensure that the sign will be installed in a safe and workmanlike manner and complies with all provisions of this chapter and all other city and state laws, rules and regulations. The zoning administrator may require additional information and documentation as necessary to determine the safety of the temporary banner sign.
 - (3) The permits shall be issued for three weeks only. The permit cannot be renewed. No more than three permits per year shall be issued for any one zoned lot. No permit shall be issued in an R zone.

(Ord. No. 401, § 2201, 5-2-2005)

Sec. 44-630. - Temporary off-premises portable illuminated signs.

Temporary off-premises portable, illuminated signs are permitted in the OS-1, B-1, B-2, I-1, I-2 and P-2 districts by permit only and shall be subject to the following restrictions:

- (1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited if such signs interfere with traffic safety. Reflective surfaces or devices on sign faces, and multiple-face signs with illumination are permitted, provided such signs do not interfere with traffic ordinances and rules, and do not resemble or simulate traffic control devices or signs, and the illumination does not trespass on another's property.
- (2) Electronic variable message signs giving public information such as, but not limited to, time, date, temperature, weather, or other similar information, and electric variable-message signs which function in the same manner as multiple-faced signs are permitted, provided such signs do not interfere with traffic ordinances and rules, and do not resemble or simulate traffic control devices or signs.
- (3) Signs must be effectively shielded to prevent light beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle.
- (4) No sign shall be so illuminated or placed so that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.
- (5) The sign must be portable, temporary, stable when placed in position, designed to be transported by trailer or with wheels, and cannot be anchored or affixed to a structure, the ground or any solid object on a permanent basis. The sign shall be no larger than four feet wide by six feet high,

including wheels and/or temporary support. The top shall be no higher than six feet from the normal grade of the ground.

- (6) The sign shall meet all applicable electric codes, state laws rules and regulations.
- (7) Four-foot by eight-foot illuminated signs are allowed by permit. Only two permits will be issued per year for a maximum time limit of three days in any residential district.
- (8) Sign permits.
 - a. No off-premises portable, illuminated signs shall be placed without first securing a permit from the zoning administrator and payment of the permit fee. Applications for a permit shall be on a form provided by the zoning administrator and shall contain the following information:
 1. Name, address and telephone of the applicant;
 2. Owner of the sign, their name, address and telephone number;
 3. Name of the organization, organization federal ID number, name of person representing the organization, their address, and telephone number;
 4. Location and zone classification where the temporary sign will be located; and
 5. Position of the sign in relation to nearby buildings, structures, property lines, rights-of-way and any other information deemed necessary by the zoning administrator.
 - b. Before such permit is issued, an inspection of the sign and proposed location shall take place and such information necessary shall be provided to the zoning administrator in order to ensure that the sign will be set up in a safe, workmanlike manner, and complies with all provisions of this chapter and all other city and state laws, rules and regulations. The permits shall be issued for one week only. The permit cannot be renewed. No more than three permits per 12-month period shall be issued for any one zoned lot. No permit shall be issued in an R zone.

(Ord. No. 401, § 2202, 5-2-2005)

Secs. 44-631—44-648. - Reserved.

ARTICLE XXIII. - ADMINISTRATION AND ENFORCEMENT

Sec. 44-649. - Enforcement.

The provisions of this chapter shall be administered and enforced by the zoning administrator or by such deputies of his department as the zoning administrator may delegate to enforce the provisions of this chapter.

(Ord. No. 401, § 2300, 5-2-2005)

Sec. 44-650. - Duties of zoning administrator.

- (a) The zoning administrator shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. It shall be unlawful for the zoning administrator to approve any plans or issue any permits for any excavation or construction until he has inspected such plans in detail and found them to conform to this chapter.
- (b) The zoning administrator shall record all nonconforming uses existing at the effective date of the ordinance from which this chapter is derived for the purpose of carrying out the provisions of section 44-410.

- (c) Under no circumstances is the zoning administrator permitted to make changes to this chapter nor to vary the terms of this chapter in carrying out his duties.
- (d) The zoning administrator shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

(Ord. No. 401, § 2301, 5-2-2005)

Sec. 44-651. - Plot plan.

The zoning administrator shall require that all applications for zoning permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- (1) The actual shape, location and dimensions of the lot.
- (2) The shape, size and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
- (3) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(Ord. No. 401, § 2302, 5-2-2005)

Sec. 44-652. - Permits.

The following shall apply in the issuance of any permit:

Permits for new use of buildings. No building or structure, or part thereof, shall be hereafter erected, altered, moved or enlarged, and no parcel or building will change use unless a zoning permit shall have been first issued for such work.

(Ord. No. 401, § 2304, 5-2-2005)

Sec. 44-653. - Fees.

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter may be collected by the zoning administrator in advance of issuance. The amount of such fees shall be established by resolution of the city council and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(Ord. No. 401, § 2305, 5-2-2005)

Sec. 44-654. - Violations.

Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$500.00 and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the county jail for a period not to exceed 90 days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the costs of such prosecution.

(Ord. No. 401, § 2306, 5-2-2005)

Sec. 44-655. - Public nuisance per se.

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of the ordinance from which this chapter is derived and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

(Ord. No. 401, § 2307, 5-2-2005)

Sec. 44-656. - Fines, imprisonment.

The owner of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be subject to a fine of not more than \$500.00 and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the county jail for a period not to exceed 90 days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the costs of such prosecution.

(Ord. No. 401, § 2308, 5-2-2005)

Sec. 44-657. - Each day a separate offense.

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

(Ord. No. 401, § 2309, 5-2-2005)

Sec. 44-658. - Rights and remedies are cumulative.

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Ord. No. 401, § 2310, 5-2-2005)

Secs. 44-659—44-689. - Reserved.

ARTICLE XXIV. - SITE PLAN REVIEW^[6]

Footnotes:

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

Sec. 44-690. - Intent and purpose; requests and procedure for site plan approval.

- (a) The intent of this section is to provide for consultation and cooperation between the land developer and the planning commission in order that the developer may accomplish his objectives in the utilization of his land within the regulations of this chapter and with minimum adverse affect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

- (b) Except as set forth below, the zoning administrator shall not issue a zoning permit for construction of any buildings, structures or uses until a site plan, submitted in accordance with this chapter, shall have been reviewed and approved by the planning commission.
- (c) Preliminary sketches of proposed site and development plans may be submitted for review to the planning commission prior to final approval. The purpose of such procedure is to allow discussion between a developer and the planning commission of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall include as a minimum the following:
 - (1) The name and address of the applicant or developer, including the names and addresses of any officer of a corporation or partners of a partnership.
 - (2) A legal description of the property.
 - (3) Sketch drawings showing tentative site and development plans. The planning commission shall not be bound by any tentative approval given at this time.
- (d) Requests for final site plan review shall be made by filing with the zoning administrator the following:
 - (1) A review fee as determined by resolution of the planning commission based upon the cost of processing the review. The resolution shall be on file with the city clerk for public information.
 - (2) Fifteen copies of the completed application form for site plan review which shall contain, as a minimum, the following:
 - a. The name and address of the applicant.
 - b. The legal description of the subject parcel of land.
 - c. The area of the subject parcel of land stated in acres, or if less than one acre, in square feet.
 - d. The present zoning classification of the subject parcel.
 - e. A general description of the proposed development.
 - (3) Fifteen copies of the proposed site plan which shall include the following, as a minimum:
 - a. The plan shall be drawn to a scale of not greater than one inch equals 20 feet for a development of not more than three acres and a scale of not less than one inch equals 100 feet for a development in excess of three acres.
 - b. The plan shall show an appropriate description legend, north arrow, scale, date of preparation and the name and address of the individual or firm preparing the same.
 - c. The property shall be identified by lot lines and general location together with dimensions, angles, and size correlated with the legal description of the property.
 - d. The topography of the site with at least two-foot contour intervals and all natural features such as wood lots, streams, rivers, lakes, wetlands, unstable soils and similar features shall be shown.
 - e. Existing manmade features upon the site and within 100 feet of the same shall be disclosed.
 - f. The location, proposed finished floor and grade line elevations, size of proposed main and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, the height of all buildings and square footage of floor space therein shall be disclosed. Site plans for multiple-family residential developments shall also include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each such unit.
 - g. Existing and proposed acceleration/deceleration or passing lanes.
 - h. All proposed and existing streets, driveways, sidewalks and other vehicle or pedestrian circulation features upon and adjacent to the site shall be shown, and driveways within 150

feet of the site, together with the location, size and number of parking spaces in off-street parking areas, service lanes thereto, and service parking and delivery or loading areas.

- i. The location, use and size of open spaces together with landscaping, screening, fences, walls and proposed alterations of topography or other natural features shall be indicated.
 - j. The proposed operations on the site shall be described in sufficient detail to indicate the effect, if any, upon adjoining lands and occupants, together with any special features which are proposed to relieve any adverse effects to adjoining land and occupants. Any potential demands for future community services will also be described, together with any special features which will assist in satisfying such demands.
 - k. Any earth-change plans required by state law, including sedimentation control plans, shall also be submitted with the application.
 - l. On site lighting, surface water drainage for the site and proposed sanitary sewage disposal and water supply shall be included in the plans.
 - m. Location of any areas or structures designed for the storage, loading/unloading, recycling or disposal of hazardous waste.
 - n. Location of any areas which are known or suspected to be contaminated, together with the status of any site cleanup.
 - o. Must conform to city engineering design standards.
 - p. Such other information as may be determined to be necessary by the planning commission because of any peculiar features of the proposed development.
 - q. Location of all exterior mechanical equipment and screening of equipment.
 - r. Designation of fire and emergency access lanes, if needed, consult with fire chief.
 - s. The planning commission may waive those informational items that they identify as not necessary to determine compliance with the requirements of this chapter.
- (e) The following action shall be taken on applications and plans:
- (1) The zoning administrator shall record the date of the receipt of the application and plans, and transmit one copy to each member of the planning commission. Copies shall also be sent to the fire department, police department, department of public works, building inspector and, in the case of development along a state highway, Michigan Department of Transportation (MDOT).
 - (2) The hearing shall be part of the regularly scheduled meeting unless the applicant requests and pays for a special meeting. Members of the planning commission shall be delivered copies of the application and plans at least seven days prior to the hearing for their preliminary information and study. The hearing shall be scheduled within not more than 45 days following the date of the receipt of the plans and application by the zoning administrator.
 - (3) The applicant shall be notified of the date, time and place of the hearing on his application not less than seven days prior to such date.
 - (4) Following the hearing, the planning commission shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the purpose of the site plan review provisions of this chapter and the criteria contained therein. Any required modification or alteration shall be stated in writing, together with the reasons for such modification, and delivered to the applicant. The planning commission may either approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the same have been included in the proposed plans for the application. The decision of the planning commission shall be made by said body within 100 days of receipt of the application by the building inspector.
 - (5) Two copies of the approved final site plan, including any required modification or alterations, shall be maintained as part of the city records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed by the chairperson of the planning

commission for identification of the finally approved plans. If obtained from the zoning board of appeals, the minutes concerning the variance duly signed shall also be filed with the city records as a part of the site plan and delivered to the applicant for his information and direction.

- (f) In reviewing the application and site plan and approving, disapproving or modifying the same, the planning commission shall be governed by the following standards:
- (1) That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to insure the safety and convenience of pedestrian and vehicular traffic.
 - (2) That the buildings and structures proposed to be located upon the premises are so situated as to minimize adverse effects upon owners and occupants of adjacent properties.
 - (3) That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood.
 - (4) That any adverse effects of the proposed development and activities emanating therefrom which affect adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback and location of buildings, structures and entryways.
 - (5) That the layout of buildings and improvements will minimize any harmful or adverse affect which the development might otherwise have upon the surrounding neighborhood.
 - (6) Adequate precautions to protect groundwater and other natural features from hazardous materials will be provided including:
 - a. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
 - b. Secondary containment for aboveground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - c. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a state groundwater discharge permit.
 - d. State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
 - (7) That shared access drives will be used where possible to reduce the number of driveways along state highways.
 - (8) That all provisions of this chapter are complied with unless an appropriate variance therefrom has been granted by the zoning board of appeals.
- (g) The following requirements must be met upon site plan approval:
- (1) Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which have received the approval of the planning commission. If construction and development does not conform with such approved plan, the approval of the site plan shall be revoked by the building inspector by written notice of such revocation posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of such approval, all construction activities shall cease upon the site until such time as the violation has been corrected or the planning commission has, upon proper application of the developer and after hearing, approved a modification in the site plan to coincide with the developer's construction or altered plans for construction as being in compliance with the

criteria contained in the site plan approval provisions and with the spirit, purpose and intent of this chapter.

- (2) Approval of the site plan shall be valid for a period of one year. If a building permit has not been obtained and on-site development actually commenced within one year, the site plan approval shall be required and new approval obtained before any construction or earth change is commenced upon the site.
- (h) A proposed amendment, modification or alteration to a previously approved site plan may be submitted to the planning commission for review in the same manner as the original application was submitted and reviewed.
- (i) The planning commission shall have the right and authority to require the developer to file with the city zoning administrator at the time of application for a zoning permit, a performance bond or bank letter of credit in such amounts as may be determined by the planning commission to insure the development of the site in accordance with the approved site plan, conditioned upon such proper construction and development. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in a face amount which is a reasonable percentage of the estimated total cost of construction and site development.

(Ord. No. 401, § 2400, 5-2-2005; Ord. No. 412, § 1, 2-5-2007)

Secs. 44-691—44-708. - Reserved.

ARTICLE XXV. - SPECIAL CONDITION USES^[7]

Footnotes:

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

Sec. 44-709. - Purpose.

- (a) In order to make this chapter a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the city, the city council upon the recommendation of the planning commission, in addition to its other functions, is authorized to approve the location of certain uses within the various zone classifications which uses are designated in this chapter as special condition uses.
- (b) Such special condition uses have been selected because of the unique characteristic of the use which, in the particular zone involved, under certain physical circumstances and without proper controls and limitations, could cause it to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto.
- (c) With this in mind, such special condition uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the city council in its absolute discretion, is satisfied that the following minimal standards are met in addition to those specified for a particular special condition use:
 - (1) That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety or general welfare.
 - (2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor shall it substantially diminish and impair property values within its neighborhood.

- (3) That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) That adequate utilities, access roads, drainage and necessary facilities have been or are being provided.
- (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public street.
- (6) That the special condition use shall, in all other respects conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in this article.

(Ord. No. 401, § 2500, 5-2-2005)

Sec. 44-710. - Special condition use procedure.

- (a) All applications for special condition use permits shall be filed with the zoning administrator and shall include all pertinent plans, specifications and other data upon which the applicant intends to rely for a special condition use permit. The information required under article XXIV of this chapter, Site Plan Review, is also required for a special condition use, if applicable.
- (b) The planning commission shall, upon receipt of a written application in proper form, schedule and hold a public hearing. Notice of the public hearing shall be given as provided below to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the city. 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 persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
- (c) The notice required above is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- (d) A notice under this section shall do all of the following:
 - (1) Describe the nature of the request.
 - (2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (3) State when and where the request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.
- (e) This hearing shall be held not more than 45 days subsequent to the date of receipt of the application by the zoning administrator.
- (f) Following such hearing the planning commission shall either recommend granting or denying a permit for such special exception use and shall state its reasons for its decisions in the matter within 100 days subsequent to the date of receipt of the application by the zoning administrator. Final decision by the city council shall be taken within 30 days of the planning commission's recommendation. All conditions,

limitations and requirements upon which any such permit is granted shall be specified in detail by the council in its decision and shall be filed with the zoning enforcement officer of the city.

- (g) The plot plan and specifications, and all conditions, limitations and requirements imposed by the city council shall be incorporated as a part of the special condition permit and violations of any of these at any time will cause revocation of said permit and said special condition use shall cease to be a lawful use.
- (h) Any property which is the subject of a special condition permit which has not been used for a period of 12 months (without just cause being shown which is beyond the control of the owner and which is acceptable to the city council) for the purpose for which such special condition use was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification and the permit for such special condition use shall thereupon terminate.

(Ord. No. 401, § 2501, 5-2-2005; Ord. No. 412, § 2, 2-5-2007)

Sec. 44-711. - Special condition uses permitted.

The following special condition uses may be allowed as permitted in specific zoning districts when the city council determines that application for such use meets all the restrictions and requirements of this chapter:

- (1) All principal uses permitted subject to special conditions listed in district regulations articles IV through XXIV of this chapter, but without specific design standards listed in this section.
- (2) Bed and breakfast operations as a subordinate use to a single-family dwelling shall be permitted subject to the following conditions:
 - a. Shall be operated in its entirety within the principal dwelling and not within any garage or accessory building located upon the premises, except for incidental storage in use of a residential type garage.
 - b. Is only conducted by persons owning and living within the premises.
 - c. Has no exterior evidence, other than a permitted sign, to indicate same is being utilized for any purpose other than a dwelling. Said permitted sign not to exceed four square feet in area and to be placed no further than four feet from the dwelling.
 - d. Does not involve alteration or construction not customarily found in dwellings.
 - e. Is clearly incidental and subordinate to the principal use of the premises for residential purposes.
 - f. Does not constitute an annoyance or nuisance to adjoining residents by reason of noise, smoke, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises.
 - g. Does not use more than three bedrooms of the dwelling.
 - h. A smoke detector is placed in each sleeping room designated for the bed and breakfast.
 - i. Must provide for one off-street parking space for each bedroom designated as bed and breakfast.
 - j. Each operator shall keep a guest register which contains a list of names of all persons staying at the bed and breakfast operation.
 - k. The maximum stay for any occupants of the bed and breakfast shall be 14 days.
- (3) Bowling alleys, billiard halls, indoor archery ranges, indoor tennis courts, indoor skating rinks, arcades with both electronic aided gaming or non-electronic gaming or similar facilities for indoor recreation shall be permitted subject to the following conditions:

- a. The facility is located at least 100 feet from any front, rear or side yard of any residential lot in an adjacent residential district.
- (4) Churches and other facilities normally incidental thereto shall be permitted subject to the following conditions:
 - a. Buildings of greater than the maximum height allowed in article XVII of this chapter, Schedule of Regulations, may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
 - b. All access to the site shall be in accordance with section 44-510.
- (5) Communication antennas affixed to existing structures. To minimize the negative aesthetic impacts associated with ground-based communication towers, the placement of communication antennas on preexisting structures such as water towers, church steeples, and commercial and industrial buildings, shall be encouraged by the city planning commission. Antennas located on structures do not have to meet the more stringent height and distance requirements associated with ground based towers, provided the applicant can demonstrate the following:
 - a. The antenna will be aesthetically compatible with the surrounding area.
 - b. The antenna and any associated structures and guy wires shall be inaccessible to the general public.
- (6) Communication towers affixed directly to the ground shall be permitted, subject to the following conditions:
 - a. The tower is located no closer to any residential district than the height of the tower plus 50 feet.
 - b. The tower is located no closer to any structure not associated with the operation of the tower than the height of the tower plus 50 feet.
 - c. All wiring between the tower and other structures shall be placed underground whenever possible.
 - d. The tower, any accessory structures and any guy wires which are fixed to the ground shall be completely enclosed by appropriate fencing as determined by the planning commission.
 - e. In order to maximize the efficiency of the telecommunications services, while also minimizing the impact of such facilities on the city, co-location, or the provision of more than one facility in a single location shall be encouraged by the planning commission. In this regard the applicant may be required to provide information regarding the feasibility of co-location at proposed sites. Further, the applicant may be required to provide a letter of intent to lease excess space on a facility and commit itself to:
 1. Respond to any requests for information from another potential shared use applicant;
 2. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically possible; and
 3. Make no more than a reasonable charge for a shared use lease.
- (7) Convalescent homes and orphanages shall be permitted subject to the following conditions:
 - a. There shall be provided on the site, not less than 1,000 square feet of open space for each bed in the home. The 1,000 square feet of land area shall provide for landscape setting, off-street parking, service drives, loading space, yard requirement and accessory uses, but shall not include the area covered by main or accessory buildings.
 - b. No building shall be closer than 25 feet to any property line.
- (8) Correctional facilities shall be permitted subject to the following conditions:

- a. The proposed site shall be at least ten acres in area.
 - b. The proposed site shall have at least one side abutting a public street. All ingress and egress to the off-street parking area shall be directly from the public street.
 - c. All two-story structures shall be at least 100 feet from all boundary lines or street lines. Buildings less than two stories shall be no closer than 50 feet to any property or street line. For buildings above two stories, the building shall be set back an additional one foot for each foot of additional height above two stories.
 - d. No more than 25 percent of the gross site shall be occupied by buildings.
 - e. Ambulance and delivery areas shall be obscured from residential view by a solid masonry wall six feet in height. Access to and from the delivery and ambulance area shall be directly from a major thoroughfare.
 - f. All signs shall be in compliance with the provisions of this chapter.
 - g. Off-street parking and loading shall be provided in compliance with the provisions of this chapter.
- (9) Drive-in or open front stores shall be permitted subject to the following conditions:
- a. A setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
 - b. Access points shall be located at least 60 feet from the intersection of any two streets.
 - c. All lighting shall be shielded from adjacent residential districts.
 - d. A six-foot-high completely obscuring wall shall be provided when abutting or adjacent districts are zoned for RA, OS-1, B-1 or B-2 districts. The height of the wall shall be measured from the surface of the ground. Said wall shall meet the requirements of article XVIII of this chapter, General Provisions.
- (10) Gasoline service stations for the sale of gasoline, oil and minor accessories only where no work, except incidental service, is rendered shall be permitted subject to the following conditions:
- a. The curb cuts for access to service stations shall not be permitted at locations where the cuts will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from adjacent residential districts.
 - b. The minimum lot area shall be 15,000 square feet, and so arranged that ample space shall be available for motor vehicles waiting. Gasoline service stations intended solely for sale of gasoline, oil and minor accessories and having no lubrication facilities or facilities for the repair or other servicing of automobiles may be permitted on lots of 10,000 square feet, subject to all other provisions hereof.
 - c. Such incidental service does not include steam cleaning, undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstery, auto glass work, or other operations of the sort.
- (11) General hospitals shall be permitted subject to the following conditions:
- a. All such hospitals shall be developed only on sites consisting of at least ten acres in area.
 - b. All access to the site shall be in accordance with section 44-510.
 - c. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 100 feet for front, rear and side yards for all two-story structures. For every story above two, the minimum yard distance shall be increased by at least 20 feet.
 - d. Maximum height of the building shall be established based on firefighting and rescue capabilities of the city.

- (12) Golf courses whether operated for profit or not, shall be permitted subject to the following conditions:
 - a. The site shall be so planned as to provide all access in accordance with section 44-510.
 - b. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways, and parking areas which will encourage pedestrian and vehicular traffic safety.
 - c. Development features including the principal and accessory buildings and structures shall be so located and related as to minimize the possibilities of any adverse affects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than 200 feet from any property line abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the planning commission may modify this requirement.
 - d. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six feet in height, and entry shall be by means of a controlled gate.
- (13) Housing for the elderly shall be permitted subject to the following conditions:
 - a. All dwellings shall consist of at lease 350 square feet per unit (not including kitchen and sanitary facilities).
 - b. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed 25 percent of the total site exclusive of any dedicated public right-of-way.
- (14) Lumber and planing mills shall be permitted subject to the following conditions:
 - a. The facility shall be completely enclosed.
 - b. The facility shall be located in the interior of the district so that no property line shall form the exterior boundary of the I-1 district.
- (15) Mortuary establishments shall be permitted subject to the following conditions:
 - a. In addition to any required off-street parking area, there is adequate off-street assembly area for funeral procession vehicles.
- (16) Motels shall be permitted subject to the following conditions:
 - a. Access shall be so provided as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare, as defined in the comprehensive plan.
 - b. Each unit shall contain not less than 250 square feet of floor area.
- (17) Nursery schools, group day care homes and child care centers (not including dormitories) shall be permitted subject to the following conditions:
 - a. For each child so cared for, there shall be provided and maintained a minimum of 150 square feet of outdoor play area. Such play space shall have a total minimum area of not less than 5,000 square feet and shall be fenced and screened from any adjoining lot in any residential district.
- (18) Outdoor sales space for exclusive sale of new or used automobiles, farm equipment and machinery, house trailers, or rental of trailers and/or automobiles, shall be permitted subject to the following:
 - a. The lot or area shall be provided with a permanent, durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulated within the area.
 - b. Access to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
 - c. No major repair or major refinishing shall be done on the lot.

- d. All lighting shall be shielded from adjacent residential districts.
- (19) Outdoor theaters. Because outdoor theaters possess the unique characteristics of being used only after darkness and since they develop a concentration of vehicular traffic in terms of ingress and egress from their parking area, they shall be permitted in I-2 districts only. Outdoor theaters shall further be subject to the following conditions:
- a. The proposed internal design shall receive approval from the building inspector and the city engineer as to adequacy of drainage, lighting and other technical aspects.
 - b. Outdoor theaters shall abut a major or secondary thoroughfare and points of ingress and egress shall be available only from such major or secondary thoroughfare.
 - c. All vehicles, waiting or standing to enter the facility shall be provided off-street waiting space. No vehicle shall be permitted to wait or stand within a dedicated right-of-way.
 - d. The area shall be so laid out as to prevent the movie screen from being viewed from residential areas or adjacent major or secondary thoroughfares. All lighting used to illuminate the area shall be so installed as to be confined within, and directed onto, the premises of the outdoor theater site.
- (20) Planned unit development (PUD). The following requirements shall apply in addition to all other applicable requirements of this chapter for the residential districts in which such uses are located. Control of such PUD developments shall be the ultimate responsibility of the city council with the planning commission acting in an advisory capacity.
- a. Purpose. The purpose of these regulations is to permit greater flexibility in the development of the RA-1, RA-2, RB and RC residential districts than is generally possible under conventional zoning regulations. It is further intended to promote more efficient use of the land while providing a harmonious variety of housing choices, the integration of necessary commercial and community facilities and the preservation of open space for park and recreational use. A permit may be issued for construction and occupancy of a PUD subject to compliance with the requirements, standards and procedures set forth in this chapter.
 - b. General requirements for planned unit developments.
 - 1. Minimum area. The minimum area for a PUD special exception permit shall not be less than five contiguous acres of land. However, an area bounded on all sides by a public street, railroad, or other external barriers shall be considered for a PUD regardless of minimum acreage.
 - 2. Ownership. The tract of land for a project must be either in one ownership or the subject of an application filed jointly by the owners of all properties included.
 - 3. Location. Planned unit developments shall be allowed only within the RA-1, RA-2, RB and RC districts providing the applicant can demonstrate that the proposed character of development will meet the objectives of PUDs.
 - 4. Utilities. Public water, sanitary sewer and storm drainage facilities shall be provided as part of the site development. All electric and telephone transmission wires shall be placed underground.
 - 5. Approval. Approval by the planning commission and city council of a sketch plan and detailed site plan for all planned use developments is required.
 - c. Permitted uses. No structure or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following regardless of the zoning district in which the same is located.
 - 1. Residential uses permitted.
 - (i) Single-family detached dwellings;
 - (ii) Two-family dwellings;

- (iii) Townhouses;
 - (iv) Apartment buildings.
2. Nonresidential uses permitted. Nonresidential uses of a religious, educational, commercial, or recreational character to the extent that they are to be designed or intended for the use of the residents of the PUD. The burden shall be on the landowner to show that the nonresidential uses of a commercial character are intended to serve principally the residents of the PUD. The nonresidential permitted uses shall be allowed only to the extent that the city council finds them to be designed to serve primarily the residents of the PUD and compatibly and harmoniously incorporated into the unitary design of the PUD. Buildings designed and intended to be used, in part or whole, for nonresidential uses shall be constructed according to the following:
- (i) If the PUD contains from one to 50 dwelling units, 75 percent of said dwelling units must be physically constructed prior to any nonresidential use construction.
 - (ii) If the PUD contains 50 or more dwelling units, 50 percent of said dwelling units shall be physically constructed prior to any nonresidential use construction.
 - (iii) The only nonresidential uses permitted within a PUD are:
 - A. Bakery and dairy products, retail sales only;
 - B. Barbershops and beauty shops;
 - C. Books, stationery, and newspapers;
 - D. Drugstores;
 - E. Groceries, food stuffs, and meat markets;
 - F. Laundromat;
 - G. Shoe repair;
 - H. Tailoring and dressmaking;
 - I. Schools, public or private;
 - J. Churches;
 - K. Public parks, forest preserves, and recreational areas.
 - L. Golf courses;
 - M. Real estate office only in conjunction with a new PUD limited to selling or renting of units of such development
 - N. Temporary buildings for construction purposes for a period not to extend beyond the completion date of such construction.
 - O. Accessory uses. Uses which are customarily accessory and incidental to permitted principal uses, such as non-take-out eating establishments.
 - P. Other uses as determined similar by the city council.
 - (iv) Nonresidential uses permitted under review shall only be allowed when the PUD development is of such a scale to reasonably accommodate such uses, and only after consideration has been given to all other development needs, including, but not limited to, an adequate mix of dwelling types; necessary local shopping facilities and off-street parking; parks, playgrounds, and/or common open spaces; education facilities, if appropriate; and other development requirements which may be unique to the site.
 - (v) All nonresidential uses permitted shall be desirable or convenient for the users of the PUD or the immediate neighborhood and provided such users are planned so

as to assure they will not materially alter the existing character of the neighborhood, and provided further that such uses are integrated by design as an accessory element of the PUD development.

- (vi) All nonresidential uses allowed in the PUD shall occupy no more than ten percent of the PUD net projects area, nor more than ten percent of all building floor area.
- d. Design requirements. Within the multiple use development approved under this section, the requirements hereinafter set forth shall apply in lieu of any conflicting regulations set forth in the district in which the development is located:
1. Number of dwelling units permitted. The maximum number of dwelling units permitted within the project shall be determined by dividing the net PUD area by the minimum residential lot area per dwelling unit required by the district in which the project is located. In the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately.
 2. Lot area requirements. The minimum lot area shall not be reduced for any permitted use more than 33 percent below that required in the district in which the project is located.
 3. Setback and yards. The minimum setback and yard or open space requirements for buildings and structures may be reduced or increased in the discretion of the city council to avoid unnecessary disruption of the environment where reasonably equivalent open space is provided elsewhere upon the site.
 4. Minimum lot frontage and width. The minimum lot frontage and width for any lot designated for single-family dwelling may be reduced 33 percent below the requirements of the district in which the multiple use development is located.
 5. Screening. A screening area may be required by the city council along the perimeter of the development if deemed necessary to protect the values of adjoining property under separate ownership.
 6. Amount of open space required. Within every multiple use development there shall be planned and set aside permanently as part of the total development an amount of open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the development as a whole. Before accepting the open space as meeting the requirements of this provision, the city council must find the land thus designated to be:
 - (i) Sufficient in size, suitably located, with adequate access; and
 - (ii) That evidence is given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the city of future maintenance thereof.
 7. Arrangement of open space. All required open space within multiple use development shall be arranged so as to provide benefit to the maximum number of dwelling units. Separate tracts of open space shall have adequate access from at least one point along a public street.
 8. Sign standards. All signs in planned use developments shall be subject to the following requirements:
 - (i) General regulations for all signs.
 - A. The erection, construction, location retention, or placement of any sign in or over a public or private right-of-way shall be prohibited.
 - B. Merchandise such as tires, produce and any other articles for display, sale or lease shall not be located in any manner outside the principal building.
 - C. Signs which are not completely related to the development are prohibited.

- D. No roof signs shall be allowed.
 - E. Any series of flags, flashing and moving signs, fluttering devices, strings of lights and other similar attention-gathering devices are prohibited.
 - F. Only indirect lighting shall be permitted of a subdued nature. Signs with interior lighting or neon signs shall be prohibited.
 - G. All signs which are erected must relate to a current use; in the event that the use is discontinued, then the sign must be removed within 30 days of the termination of the use.
- (ii) Permitted signs.
- A. One freestanding permanent development sign per entrance to the development shall be permitted not to exceed 50 square feet in area for the purpose of identifying the name of the development; provided, however, that not more than two such signs shall be permitted per total completed PUD development. As an alternative to one of the foregoing development signs, a directory-type sign not exceeding 80 square feet in area identifying the name of the development and any nonresidential uses therein, shall be permitted at the entrance which is the primary entrance for more than one nonresidential use; provided, that any identification of an individual nonresidential use shall not exceed ten percent of the total area of such directory-type sign. Any such sign shall be within the PUD and where adjacent to any contiguous residential classification or use shall be located at least 50 feet from the interior boundary between the PUD and such residential classification or use.
 - B. In the event that a directory-type sign is not used as hereinbefore provided, one commercial sign not exceeding 80 square feet in area and 16 feet in height shall be permitted identifying an aggregate of nonresidential uses within the development; provided that not more than ten percent of the total sign area is allocated to any individual nonresidential use. This sign shall be within the PUD and at least 50 feet from any boundary of the PUD.
 - C. Identification nameplates not exceeding 20 square feet in area identifying residential and nonresidential uses within the development shall be permitted flat against the wall of a building within the development and at the entrance of each designated parking area for such building. The total display surface of all such identification nameplates for a particular building within the development shall not exceed 20 square feet in area and shall not consist of more than one such identification nameplate per building and per parking area entrance.
 - D. Signs of an informational, non-advertising nature, such as street signs and signs concerning public or quasi-public areas shall be permitted.
 - E. Temporary real estate signs not exceeding six square feet in area nor four feet in height shall be permitted provided no illumination is permitted concerning the same.
- (iii) The general theme, plan or policy for all such signs proposed in a PUD shall be submitted with a sketch plan to the city council for its review and approval before any signs are installed. After such review and approval, no signs shall be installed which do not comply with such approved plans. The city council shall consider compliance with the following criteria before making any decision in this connection.
- A. The aesthetic qualities of any proposal.
 - B. The harmonious relationship of signs to buildings and landscaping within and adjacent to the PUD.

- C. The contour of the land and the total acreage involved in the PUD.
 - D. The distance of any proposed sign from the boundaries of the PUD and its visibility from adjacent properties or public highways.
 - E. The number, quality, character and location of entrances to the development as well as the uses served by such entrances.
- (iv) The city council. The city council is hereby delegated the right and authority to authorize variations from the foregoing provisions which will be compatible with the purposes of the PUD or the foregoing criteria and will not be obstructive of view, light, or air, or hazardous or otherwise a nuisance or annoyance to adjacent developments, highway motorists or the general public. The purpose of this delegation is to provide for some flexibility in the regulations and for new aesthetically pleasing concepts which in all cases would comply with the purpose and intent of the PUD to permit a harmonious intermix of land uses aesthetically attractive to both the occupants thereof and the general public.
- (v) Application procedure and approval process.
9. General. Whenever any PUD is proposed, before any building permit is granted, the developer shall apply for and secure approval of a special condition use in accordance with the following procedures and obtain approval of a special condition use in accordance with the following procedures and obtain approval of a detailed site plan from the city council.
10. Application for sketch plan approval. So that the city and the developer can reach an understanding of what is being proposed, and what is required, the developer shall submit a sketch plan to the planning commission. The sketch plan shall be drawn to approximate scale and shall clearly show the following information:
- (i) Boundaries of property;
 - (ii) Location and height of all buildings;
 - (iii) Interior roadway system including parking facilities and existing rights-of-way;
 - (iv) The interior open space system;
 - (v) The overall stormwater drainage system;
 - (vi) Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal;
 - (vii) Delineation of the various residential and/or commercial areas, including size, number, location, and number of housing units;
 - (viii) Construction phases if applicable;
 - (ix) General statement as to how common open space is to be owned and maintained.
11. Public hearing. The planning commission shall hold a public hearing or hearings on the application for multiple use development in accordance with the provisions of section 44-538.
12. Following the public hearing. The planning commission shall within 45 days, recommend approval or disapproval of the sketch plan or recommend modification thereto and so notify the applicant and city council of its decision. The city council shall approve or deny the sketch plan within 45 days of receipt of the planning commission's recommendation.
13. Approval of sketch plan. An approval of the sketch plan shall not constitute approval of the detailed site plan, but shall be deemed an expression of approval of the layout

as a guide to the preparation of the detailed plan and shall indicate approval of the special condition use in conceptual form.

14. Request of changes in sketch plan. If it becomes apparent that certain elements of the sketch plan, as it has been approved by the city council, becomes unfeasible and in need of modification, the applicant shall then resubmit his entire sketch plan, as amended, to the planning commission and city council pursuant to the above procedures.
 15. Application for detailed site plan approval. After receiving approval of a sketch plan from the city council, the applicant may within six months prepare a detailed site plan and submit it to the city for approval, following the procedures and information requirements established for site plan approval. If the applicant fails to submit a detailed site plan within six months of approval of the sketch plan, approval of the sketch plan shall expire.
- (21) Plant material nurseries for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment and garden supplies shall be permitted subject to the following conditions:
- a. The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
 - b. All loading and parking shall be off-street.
 - c. The storage of any soil, fertilizer, or other loose, unpackaged materials shall be so contained as not to affect adjacent uses.
- (22) Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool clubs shall be permitted subject to the following conditions:
- a. Any use permitted herein shall be developed only on an area of not less than one acre, and shall not be permitted on a lot or group of lots that are part of a recorded plat.
 - b. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare as designated on the major thoroughfare plan, and the site shall be so planned as to provide all access in accordance with section 44-510.
 - c. Front, side and rear yards shall be at least 80 feet wide and shall be landscaped in trees, shrubs and grass. All such landscaping and planting shall be maintained in a healthy, growing condition neat and orderly in appearance.
 - d. Buildings erected on the premises shall not exceed one story in height except where due to topography a lower level shall be permitted when said lower level is entirely below the grade of the major thoroughfare abutting the parcel in question.
 - e. Off-street parking shall be provided so as to accommodate at least one-half of the member families and/or individual members. Bylaws of the organization shall be provided to the board of appeals in order to establish the membership involved for computing parking requirements.
 - f. Where storm sewers are nonexistent or capacity is not ample, adequate on site run-off facilities shall be provided and shall be reviewed and approved by the city engineer as being adequate.
- (23) Recreational areas shall be permitted subject to the following conditions:
- a. Such areas for children shall not be established at the intersection of two major thoroughfares.
 - b. Such recreation space shall be enclosed on all sides with a four-foot chainlink type fence.

- (24) Sexually oriented businesses are permitted by conditional use permit but are required to comply with the following locational criteria in order to mitigate the secondary effects of such uses:
- a. The sexually oriented business shall be located at least 500 feet from any residential district, a school, a church, a family child care home, child day care center or group day care home as measured from the boundary of district or parcel to the structure housing the sexually oriented business.
 - b. The sexually oriented business shall be located at least 1,000 feet from another sexually oriented business.
- (25) Veterinary hospitals or clinics shall be permitted subject to the following conditions:
- a. All activities must be conducted within a totally enclosed main building.
 - b. All buildings must be set back at least 200 feet from abutting residential districts on the same side of the street.
- (26) Residential units within commercial structures on the second floor and above are permitted. Residential units on the main floor and in the basement of commercial structures are prohibited. Overnight, weekly or monthly transient living quarters in commercial structures are prohibited. Efficiency apartments in commercial structures are prohibited. The residential area shall have a minimum of 600 usable square feet, containing separate rooms for living, sleeping, cooking (complete kitchen facilities with stove, sink, refrigerator and storage facilities) for occupancy. Shared bathroom and/or kitchen facilities with other residential units are not allowed. The residential area shall have two means of ingress and egress and shall be separate from any other means of ingress and egress in the building. There shall be a clearly defined separation between the residence and the nonresidential portion of the building. There shall be no means of access between the commercial portion of the building with any of the residential portion of the building. Private off-street parking must be provided within 100 feet of either the ingress and egress ways. The city manager or his or her designee shall refer the plans to the building inspector, health department, fire chief, police chief, zoning administrator. Their comments and recommendation shall be provided to the planning commission to assist in their decision. Articles XVII, XVIII, and XIX of this chapter shall apply where applicable.
- (27) Conditions for additional building height allowance in the I-1 and I-2 district. An applicant may request an increase in building height subject to the following conditions:
- a. The total height may be no greater than the distance from the structure to the nearest lot line. The planning commission may limit the height to less than this maximum based on other site factors.
 - b. Landscaping standards meet ordinance requirements and a detailed landscaping plan shows proper screening of adjacent properties.
 - c. The additional building height will not place an increased burden on public service officials including, but not limited to, the fire department, police department, first responders and other public service officials as well as increase danger to employees or near by residents or businesses. The site plan shall be reviewed by the fire chief and police chief for comment to this effect.
 - d. The additional height will not conflict with the existing character of the community nor jeopardize the spirit and intent of this chapter.
 - e. Any additional height shall comply with the requirements of the airport layout plan currently filed with the city.
- (28) Ministorage facilities. The area used for all structures must occupy less than 50 percent of the property. Access to the facility shall be from a public street. The storage units shall be arranged so that the ends of the units are parallel with the front of the lot, however, alternate arrangement could be considered by the planning commission. The entire site, exclusive of access drives, may be enclosed with a wall or fence, the extent of which may be determined by the planning

commission based on adjacent zoning. Maximum building height shall be 20 feet with pitched roof. A landscaped greenbelt shall be provided between the property line and required barrier along all street frontages. A landscaped greenbelt shall be provided between the property line and barrier where the site abuts any residential district. All materials shall be planted in conformance with landscaping ordinances. Internal driveway aisles shall be designed with one ten-foot-wide loading/unloading lane and one 15-foot travel lane. All storage on the property shall be kept within an enclosed building. The use of the ministorage units shall be limited to storage only, and shall not be used for any auction other than four auctions per year held by the owner of the ministorage facility for the purpose of disposing of material forfeited by clients of that facility. Nor shall it be used for sales or transfer business; for servicing, repair or fabricating of any vehicle, boat, trailer, appliance or similar item; or for the operation of power tools, compressors, kilns or other similar equipment. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire code or toxic materials are expressly prohibited.

(Ord. No. 401, § 2502, 5-2-2005; Ord. No. 412, § 3, 2-5-2007; Ord. No. 415, § 3, 10-1-2007; Ord. No. 417, § 1, 11-19-2007; Ord. No. 433, § 2502, 9-20-2010)

Secs. 44-712—44-735. - Reserved.

ARTICLE XXVI. - CONDOMINIUMS^{B1}

Footnotes:

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State Law reference— Condominium act, MCL 559.101 et seq.

Sec. 44-736. - Intent.

The intent of this article is to regulate the division and development of land under the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.) so that the development is comparable in quality of design to property divided and developed by other methods.

(Ord. No. 401, § 2600, 5-2-2005)

Sec. 44-737. - Review requirements.

In order to ensure compliance with this chapter, all condominium developments shall go through the site plan review process, including developments consisting solely of single-family or duplex residences that may otherwise not be required to prepare a site plan. In addition to the information required in article XXIV of this chapter, all applicants for condominium site plan review shall submit the following information:

- (1) A copy of the proposed condominium master deed.
- (2) A copy of the proposed condominium subdivision plan (this may replace the site plan normally required for site plan review).
- (3) A copy of the proposed condominium bylaws.

(Ord. No. 401, § 2601, 5-2-2005)

Sec. 44-738. - Zoning chapter standards.

- (a) *Lot size.* In conventional condominium development the entire site must meet the minimum lot size requirements for the zoning district the parcel is located in. For site condominium developments, each condominium unit and its associated limited common area are considered equivalent to a "lot" and must meet the minimum lot size requirements for the zoning district the parcel is located in.
- (b) *Setbacks.* In conventional condominium development the buildings must be setback from the site's boundaries as required in the zoning district the parcel is located in while the setback from other buildings must meet the building setback requirements of the multiple-family district. For site condominium developments the setbacks shall be from the outer edge of the "lot" consisting of a condominium unit and its associated limited common area, and shall be consistent with the setbacks for principal structures in the zoning district in which it is located in.

(Ord. No. 401, § 2602, 5-2-2005)

Sec. 44-739. - Condominium design standards.

Conventional and site condominium developments shall comply with the site plan review design requirements in article XXIV of this chapter. In addition, site condominiums shall comply with the design standards contained in other city ordinances.

(Ord. No. 401, § 2603, 5-2-2005)

Sec. 44-740. - Survey requirements.

- (a) Conventional condominiums shall comply with the monumenting requirements contained in the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.).
- (b) Site condominiums shall comply with the following requirements:
 - (1) Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within their traveled portion of a street to mark angles in the boundary of the subdivision if the angles points can be readily reestablished by reference to monuments along the sidelines of the streets.
 - (2) All monuments used shall be made of solid iron or steel at least one-half inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
 - (3) Monuments shall be located in the ground at all angles in the boundaries of the site condominium; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the site condominium and at the intersection of alleys with the boundaries of the site condominium; at the points of curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
 - (4) If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plat and referenced to the true point.
 - (5) If a point required to be monumented is on a bedrock outcropping, a steel rod at least one-half inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
 - (6) All required monuments shall be placed flush with the ground where practicable.
 - (7) The corner of each area consisting of a unit and the associated limited common area reserved for that unit, and treated as a "lot" under this chapter shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and one-half-inch diameter, or other approved markers.

- (8) The city council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the city cash or a certified check, or irrevocable bank letter of credit running to the city, whichever the proprietor selects, in an amount not less than as currently established or as hereafter adopted by resolution of the city council from time to time. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the proprietor defaults the city shall promptly require a surveyor to locate the monuments and markers in the grounds as certified on the plat, at a cost not to exceed the amount of the security deposited and shall pay the surveyor.

(Ord. No. 401, § 2604, 5-2-2005)

Secs. 44-741—44-763. - Reserved.

ARTICLE XXVII. - AMENDMENTS⁹¹

Footnotes:

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State Law reference— Zoning adoption and enforcement, MCL 125.3401 et seq.

Sec. 44-764. - Intent.

Amendments to this chapter may be made from time to time in the same manner as provided under state statute for enactment of the original ordinance from which this chapter is derived.

(Ord. No. 401, § 2700, 5-2-2005)

Sec. 44-765. - Planning commission.

The city planning commission is hereby designated as the commission specified in section 301 of Public Act No. 110 of 2006 (MCL 125.3103), and shall perform the zoning duties of said commission as provided in the statute in connection with the amendment of this chapter.

(Ord. No. 401, § 2701, 5-2-2005)

Sec. 44-766. - Initiation of zoning chapter amendment.

- (a) Any proposal for an amendment to the zoning chapter text or map may be initiated by any qualified voter residing in the city upon the filing with the city clerk of a petition containing the proposed text or map change and endorsed by a number of qualified and registered voters residing in the city equal to not less than eight percent of the total vote cast for all candidates for governor, at the last preceding general election at which a governor was elected. Text amendments may also be initiated by payment of the required fee.
- (b) Any proposal for an amendment to the zoning map may be initiated by any owner of an interest in the lot as to the zoning of such lot upon the filing with the city clerk and application on forms provided by the city proposing the zone change, accompanied by a map at an appropriate scale showing the subject parcel in relation to adjoining parcels of land, and the necessary fees for such zoning change.

- (c) Any proposal for an amendment to the zoning chapter text or map may be initiated by the city council or the city planning commission, upon filing with the city clerk a resolution, duly adopted and proposing an amendment.

(Ord. No. 401, § 2702, 5-2-2005)

Sec. 44-767. - Procedure.

The procedure for making amendments shall be as follows:

- (1) All zoning amendments, whether originating with the planning commission, or some other body or individual shall be reviewed by the commission.
- (2) a. As provided by section 103(3) of Public Act No. 110 of 2006 (MCL 125.3103(3)), notice of a public hearing on a rezoning of property shall be given by one publication in a newspaper of general circulation in the city, to appear not less than 15 days prior to the date of such hearing. In addition, not less than 15 days notice of time and place of the hearing shall be given by mail to each electric, gas, pipeline, telecommunication and telephone public utility company and to each railroad operating within the district or zone affected that registers its name and mailing address with the city planning commission for the purpose of receiving such notice. The city planning commission shall also transmit a notice of the proposed rezoning personally or by mail to the owner of the property in question and to all property owners and occupants within 300 feet including those outside of the city's boundaries if applicable, not less than 15 days before the public hearing. An affidavit of mailing shall be maintained where relevant. 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 persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The notice is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- b. Notices shall include the places and times at which text and tentative maps of this chapter may be examined; state the date, place, time and purpose of the public hearing, describe the nature of the request; indicate the property that is the subject of the request in the case of rezoning, by property street address if applicable, as well as when and where written comments regarding the hearing can be sent for review. Any other public hearing held on an amendment proposal shall follow the notification procedure above. Notice will not need to be sent to owners of property within 300 feet if the application for rezoning is to rezone 11 or more adjacent parcels of land.
- (3) Following its deliberations, the proposal, including any changes thereto which the planning commission deems advisable, shall be submitted to at least one public hearing as provided by section 306(1) of Public Act No. 110 of 2006 (MCL 125.3306(1)), and as specified in section 44-595.
- (4) Immediately after the proposal has been acted on as described in subsections (1) and (2) of this section, the planning commission shall transmit a summary of comments received at the public hearing with the proposed amendment to the city council.
- (5) The city council at its discretion may hold a public hearing(s) on the zoning amendment. Notice for the public hearing shall meet the requirements for the planning commission's public hearing outlined in subsection (2) of this section.

- (6) Prior to making a decision on a proposed amendment, the city council shall grant a hearing on a proposed amendment to a property owner who requests a hearing by certified mail, addressed to the city clerk.
- (7) If the city council decides to make changes to the proposed amendment prior to taking action, it may, at its option refer the request back to the planning commission for its recommendation.
- (8) Adoption of the amendment must be a majority of the membership of the city council unless there is an abutter's challenge as outlined below, in which case a two-thirds vote is required.
- (9) The amendment must be filed with the city clerk and one notice of its adoption with complete text or summary of regulatory effect must be published within 15 days after adoption. An amendment will become effective seven days after publication.

(Ord. No. 401, § 2703, 5-2-2005; Ord. No. 412, § 4, 2-5-2007)

Sec. 44-768. - Abutters challenge.

As required under section 403 of Public Act No. 110 of 2006 (MCL 125.3403), if a qualifying protest petition is submitted to the city council before the final vote on approval of an amendment, the amendment requires a vote of two-thirds of the members of the city council to approve it. A qualifying petition must be signed by:

- (1) The owners of at least 20 percent of the area of land included in the proposed change, or
- (2) The owners of at least 20 percent of the area of land within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

For the purposes of subsection (1) of this section, publicly owned land is excluded from the calculations.

(Ord. No. 401, § 2704, 5-2-2005)

Sec. 44-769. - Conditional rezoning.

- (a) *Intent.* It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of section 405(1)—(5) of Public Act No. 110 of 2006 (MCL 125.3405(1)—(5)) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- (b) *Application and offer of conditions.*
 - (1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 - (2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
 - (3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 - (4) Approval of a conditional rezoning does not guarantee approval of any special use permit which may be required as part of the conditional rezoning project, and review of the special use permit must follow the procedures outlined in article XXV of this chapter before development can begin.

- (5) Approval of a conditional rezoning does not guarantee approval of any variance which may be required as part of the conditional rezoning project, and review of the variance must follow the procedures outlined in article XXVIII of this chapter before development can begin.
 - (6) Approval of a conditional rezoning does not guarantee approval of any site plan which may be required as part of the conditional rezoning project, and review of the site plan must follow the procedures outlined in article XXIV of this chapter before development can begin.
 - (7) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the city council provided that, if such withdrawal occurs after the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing and a new recommendation, with notice as required by this section.
- (c) *Planning commission review.* The planning commission, after public hearing and consideration of the factors for rezoning set forth in section 44-767, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
- (d) *City council review.* After receiving the planning commission's recommendation, the city council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The city council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in section 44-767. Should the city council propose amendments to the proposed conditional rezoning and amendments are acceptable to and offered by the owner, then the rezoning application shall be referred to the planning commission for a new public hearing and a new recommendation, with notice as required by this section.
- (e) *Approval.*
- (1) If the city council finds the owner's rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions provided said conditions conform with this section. The statement of conditions shall be incorporated into the ordinance adopted by the city council.
 - (2) The statement of conditions shall:
 - a. Be prepared as a notarized affidavit prepared and signed by the owner.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land unless otherwise specified by this section.
 - d. Include any diagram, plans or other documents submitted that are necessary to illustrate the implementation of the statement of conditions.
 - e. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
 - (3) Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The zoning map shall also include a listing of all lands rezoned with a statement of conditions.
- (f) *Compliance with conditions.*
- (1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall be deemed a nuisance per se and shall constitute a violation of this chapter and be punishable accordingly.

- (2) No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.
- (g) *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the site plan for approved development shall be submitted within two years after the rezoning took effect. In cases where a site plan is not required, the approved use of land or buildings must have commenced within one year unless another time period is specified in the ordinance rezoning the subject land. These time limitations may upon written request be extended by the city council if:
- (1) It is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion; and
 - (2) The city council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy. All applicable project completion deadlines in this chapter related to site plans, special use permits and variances shall apply.
- (h) *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection (g) of this section, then the land shall revert to its former zoning classification as set forth in section 405(2) of Public Act No. 110 of 2006 (MCL 125.3405(2)). The reversion process shall be initiated by the city council requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.
- (i) *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to subsection (h) of this section or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. If a statement of conditions has been recorded, upon the owner's written request, the city clerk shall record with the county register of deeds a notice that the statement of conditions is no longer in effect.
- (j) *Amendment of conditions.*
- (1) During the time period for commencement of an approved development or use specified pursuant to subsection (g) of this section or during any extension granted by the city council, the city shall not add to or alter the conditions in the statement of conditions.
 - (2) The statement of conditions may be amended in the same manner as was prescribed for the original rezoning and statement of conditions.
- (k) *City right to rezone.* Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.).
- (l) *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. No. 401, § 2705, 5-2-2005; Ord. No. 412, § 5, 2-5-2007)

Secs. 44-770—44-791. - Reserved.

ARTICLE XXVIII. - BOARD OF APPEALS^[10]

Footnotes:

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

Sec. 44-792. - Creation and membership.

- (a) There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided in section 601 of Public Act No. 110 of 2006 (MCL 125.3601), and in such a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done.
- (b) The board shall consist of five members appointed by the city council. Appointments shall be as follows:
 - (1) One member appointed for a period of one year;
 - (2) Two members appointed for a period of two years; and
 - (3) Two members appointed for a period of three years, respectively;
 - (4) Thereafter, each member to hold office for the full three-year term. Any vacancies in the board shall be filled by appointment by the council for the remainder of the unexpired term.
- (c) The zoning board of appeals shall annually elect its own chairperson, vice-chairperson and secretary.
- (d) The compensation of the appointed members of the zoning board of appeals may be fixed by the city council.

(Ord. No. 401, § 2800, 5-2-2005; Ord. No. 412, § 6, 2-5-2007)

Sec. 44-793. - Meetings.

All meetings of the board of appeals shall be held at the call of the chairperson and at such times as such board may determine. All hearings conducted by said board shall be open to the public. The city clerk or his representative shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Three members of the board shall constitute a quorum for the conduct of its business.

(Ord. No. 401, § 2801, 5-2-2005)

Sec. 44-794. - Fees.

The city council may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the zoning board of appeals. At the time the notice for appeal is filed, said fee shall be paid to the secretary of the board of appeals, which the secretary shall forthwith pay over to the city treasurer to the credit of the general revenue fund of the city.

(Ord. No. 401, § 2802, 5-2-2005)

Sec. 44-795. - Jurisdiction.

The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have power to act on those matters where this chapter provides for an administrative review, interpretation, special permit and site plan and to authorize a variance as defined in this section and laws of the state. Said powers include:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the building inspector or any other administrative official in carrying out or enforcing any provisions of this chapter. An appeal may be taken to the board of appeals by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision on a site plan by the planning commission or a decision on a special condition permit by the city council or zoning administrator. Such appeal shall be taken within 30 days of issuance of the decision, such time as shall be prescribed by the board of appeals by general rule, by filing with the person or body whose decision is being appealed and with the board of appeals a notice of appeal, specifying the grounds thereof. The person or body whose decision is being appealed shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the person or body whose decision is being appealed certifies to the board of appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise then by a restraining order, which may be granted by a court of record.
- (2) *Variance.* In granting a variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance.
 - a. Variances shall be classified as either use variances or non-use variances. A use variance shall be any variance which permits a use not specifically permitted by this chapter for the district in which it is located. Any other variance shall be a dimensional variance, including variances from regulations relating to signs and parking requirements. Use variances shall not be approved in the city.
 - b. Dimensional variances shall be approved only upon a ZBA finding that strict application of the regulations would result in practical difficulties to the owner of such property. Such a finding shall be made only when all of the following criteria are met:
 1. Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements unnecessarily burdensome or would unreasonably prevent the owner from using the property.
 2. The characteristics which make compliance with dimensional requirements difficult must be related to unique characteristics of the property.
 3. The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
 4. The proposed variance would do substantial justice to the applicant as well as other property owners in the district and will be the minimum necessary, and no variance shall be granted where a different solution not requiring a variance would be possible.
 - c. The ZBA must insure in issuing a variance that the spirit of the chapter is observed, public safety secured and substantial justice done.
 - d. Any variance which authorizes construction contrary to the requirements of this chapter shall be void unless the construction so authorized is commenced within 12 months of the granting of the variance and diligently pursued until completion.
- (3) *Interpretation of zoning chapter and map.*

- a. The ZBA shall have the authority to interpret the provisions of this chapter when a requirement, standard, or other text is unclear. When determining if a particular use is included in the definition of a type or group of uses permitted in a district, it shall not interpret a use specifically listed in one district as being inferred as permitted in another district.
 - b. Interpretation of ZBA district boundaries. In interpreting the boundaries of zoning district boundaries, the ZBA shall assume, unless there is information indicating otherwise, that zoning district boundaries follow lot lines, the centerline of creeks, streets, or alleys, railroad rights-of-way, section lines one-quarter or one-eighth section lines, or corporate boundary lines as they existed when the zoning boundary line was established.
- (4) *Authority to alter or change chapter or map.* Nothing herein contained shall be construed to give or grant to the board the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the city council, in the manner provided by law.

(Ord. No. 401, § 2803, 5-2-2005)

Sec. 44-796. - Orders.

In exercising the powers listed in section 44-795, the board may reverse or affirm, wholly or partly, or may modify the orders, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the building inspector from whom the appeal is taken.

(Ord. No. 401, § 2804, 5-2-2005)

Sec. 44-797. - Notice.

- (a) Notice of hearing shall be published not less than 15 days prior to the hearing. In the case of requests involving specific parcels such as a variance, a written notice shall be given as provided below to the owners of property that is the subject of the request. Notice shall also be given to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the city. 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 persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
- (b) The notice required above is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- (c) A notice under this section shall do all of the following:
 - (1) Describe the nature of the request.
 - (2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (3) State when and where the request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.

(Ord. No. 401, § 2805, 5-2-2005; Ord. No. 412, § 7, 2-5-2007)

Sec. 44-798. - Voting requirements.

The concurring vote of three members of the board shall be necessary to reverse any order, requirements, decision or determination of the building inspector, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. The zoning board of appeals shall state the grounds for any determination made by the board to be recorded within the meeting minutes.

(Ord. No. 401, § 2806, 5-2-2005; Ord. No. 412, § 8, 2-5-2007)

Sec. 44-799. - Time limit.

- (a) No order of the board permitting the erection or alteration of a building shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (b) No order of the board permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Ord. No. 401, § 2807, 5-2-2005)