

Chapter 44 ZONING

ARTICLE I. IN GENERAL

Sec. 44-1. Intent and purpose.

The city is primarily a small residential community surrounded by a waterfront on one side and by industries and industrial property on the other three sides. It is essential that all use areas be given adequate protection, so that the residential area may develop in an orderly manner, so that industrial properties may expand with new developments and compete with other similar industries in the greater metropolitan area. It is essential that commercial uses have an equal degree of protection to promote and preserve the retail shopping developments and provide adequate off-street parking facilities which will tend to keep customers coming to said shopping areas. It is also recognized that the purpose of industry and commerce is to provide the means for a decent and respectable life for the citizens of a community. With regard to the interests of public health, safety, morals and general welfare, it is essential that the residential areas be suitably located in relationship to industry and commerce, and that they be protected against the intrusions which will interfere with decent living conditions. It is essential that all of the uses of land and buildings within the city be so related as to provide for economy in government in such a manner that they may mutually support each other and each derive the greatest benefit from industry, commercial and residential areas.

(Code 1969, § 5.1; Code 1977, § 28-1)

Secs. 44-2—44-20. Reserved.

ARTICLE II. DEFINITIONS

Sec. 44-21. Purpose; rules of construction.

For the purpose of this chapter certain terms and words are herewith defined. When not inconsistent with the context, words used in the singular shall include the plural, the plural shall include the singular, and the present tense shall include the future.

(Code 1969, § 5.2; Code 1977, § 28-16)

Sec. 44-22. Definitions (a, b).

Accessory buildings means a building on the same lot with the main building or part of the main building subordinate or accessory to and occupied by or devoted exclusively to an accessory or subordinate use to the principal building.

Accessory use means a use of land or portion of the building customarily incidental to the actual principal use of the land or building and located on the same parcel of property with such principal use.

Alley means a public thoroughfare or way, providing only a secondary means of access to abutting premises, generally located at the rear of the land.

Alteration means any change or rearrangement in the structural parts or in the existing facilities; or an enlargement, whether by extending on a side or by increasing in height; or in the moving from one location or position to another.

Apartment house means an apartment house is a dwelling for three or more families, living independently of each other and doing their cooking upon the premises. An efficiency apartment is a one-story building with all living units on the ground floor level and each living unit having its own outside entrance.

Basement means that portion of a building partly below grade, but so located that the vertical distance from grade to the floor is not greater than the vertical distance from the grade to the ceiling; provided, however, that if the vertical distance from the grade to the ceiling is five feet or more, such basement shall be counted as a story.

Benefit, recognizable and substantial means a clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and use; including, without limitation:

- (1) Long-term protection;
- (2) Preservation of natural resources and natural features;
- (3) Historical and/or architectural features of a significant quantity;
- (4) Quality in need of protection or preservation on a local, state; and/or
- (5) National basis; reducing to a significant extent the nonconformity of a nonconforming use or structure (i.e., modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated).

Block, includes the property having frontage on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way. In case of a cul-de-sac street, a block shall include the property on one side of the street lying between the one intersecting street and the extension of the centerline of the cul-de-sac street through the property facing the turnaround at the closed end of the street.

Boardinghouse or roominghouse means any dwelling occupied in any such manner that certain rooms in excess of those used by members of the family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any attempt to provide therein or therewith cooking or kitchen accommodations for individuals leasing or renting rooms.

Boat port means a building or structure having a roof and is open on all four sides.

Building means a structure having a roof supported by columns or walls for shelter, support or enclosure of persons, animals or chattels. When any portion thereof is completely separated from every other part thereof by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

Building line means the front line of the principal building or legally established line which determines the location of the building with respect to the street line.

(Code 1969, § 5.3; Code 1977, § 28-17; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-23. Definitions (c, d).

Canal means a connecting body of water not less than four feet deep at low water stage and not less than 60 feet wide at water level at the four foot depth.

Carport means an accessory structure attached to a principal building, having a roof with one or more open sides and for the prime purpose of sheltering motor vehicles.

Certified survey means a certificate of survey performed by a registered surveyor, delineating the line along which the fence is to be erected.

Clinic means a public or proprietary institution providing diagnostic, therapeutic or preventive treatment of ambulatory patients by a group of doctors acting conjointly and in the same building for the purpose aforesaid.

Common open space means real estate preserved for passive or active purposes which is void of nonrecreational structures and is under common ownership for the use and enjoyment of a community of individuals.

Community impact statement means an assessment of the developmental, ecological, social, economic and physical impacts of the project on the natural environment and physical improvements on and surrounding the development site. Information required for compliance with other ordinances shall not be required to be duplicated in the community impact statement.

Deck means a roofless outdoor platform constructed of any material, commonly projecting from the wall of a building, and typically supported by means other than the building.

Domestic help means only those persons hired by the householder for the purpose of providing domestic services and maintenance of the household.

Dwelling means any house or building or portion thereof which is occupied wholly as the home, residence or sleeping place of one or more human beings, either permanently or transiently. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings. Garage space, whether in an attached or detached garage, shall not be deemed a part of a dwelling. Automobile trailers or similar portable dwellings, tourist cabins or tents, shall not be considered dwellings.

Dwelling, efficiency unit, means a dwelling unit consisting of one room, exclusive of bathroom, kitchen, closets or dining alcove directly off the principal room, providing not less than 350 square feet of floor area.

Dwelling, multiple, means a building used or intended to be used as a dwelling by three or more families, or as an apartment house.

Dwelling, one-family, means a dwelling so designed and arranged to provide sleeping, cooking and kitchen accommodations and toilet facilities for occupancy by one family only, together with such domestic help as are necessary to service and maintain the premises and their occupants.

Dwelling, single-family terrace, means a building or structure occupied by three or more families, where each dwelling unit is divided from the one adjacent to it by a party wall extending the full height of the building. Each dwelling unit is capable of individual use and maintenance without trespassing upon adjoining properties, and utilities and service facilities are independent for each property and not more than two stories in height.

Dwelling, two-family, means a dwelling so designed and arranged to provide sleeping, cooking and kitchen accommodations, and toilet facilities for occupancy of two families only, together with such domestic help as are necessary to service and maintain the premises and their occupants.

(Code 1969, § 5.4; Code 1977, § 28-18; Ord. No. 23-Q, 9-28-1970; Ord. No. 107, § 1, 4-16-1980; Ord. No. 23-QQ, 3-14-1988; Ord. No. 362, 7-27-2011; Ord. No. 387, 8-14-2017)

Sec. 44-24. Definitions (e, f).

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, communication, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in

connection therewith (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare.

Family means to constitute a man and wife or a father or a mother and their children by natural birth or adoption and the parents of either or both and may also include two additional persons who occupy rooms for which compensation may or may not be paid; provided any group of persons, not so related, but inhabiting a single housekeeping unit, shall be considered to constitute one family for each five persons, exclusive of domestic employees in each group.

Fence means an artificially constructed barrier constructed of any manufactured material or combination of materials which are durable, weather resistant, easily maintained, ornamental in nature, and commonly available for purchase for use on private property which is erected for providing security, privacy screening, enclosing, dividing, or separating yard areas, or to mark a boundary or property line of any sort as determined by the city. Examples of such fences include chain link, wrought iron, lattice, board on board, and stockade. Agricultural fences such as, but not necessarily limited to, barbed wire fences, woven wire fences, cable wire fences, mesh wire fences, and high tensile wire fences, are expressly prohibited.

Fence, decorative means an artificially constructed barrier constructed of any manufactured material or combination of materials which are durable, weather resistant, easily maintained, ornamental in nature, and commonly available for purchase, for use on private property and which is constructed so that the surface area of any fence segment or fence panel is less than 50 percent opaque as viewed perpendicularly to its vertical surface. Examples of such fences include picket, split rail, wrought iron, rope and post, and post and rail. Agricultural fences, natural fences, and fences consisting of chain link, sheet metal or pipe are expressly prohibited.

Fence, natural, means a naturally growing or intentionally planted grouping of trees, shrubs, or other woody landscaping materials that has the effect of enclosing, screening, or separating areas and/or marking a boundary or line of any sort and that, based on typical growing conditions, will form a visual or physical barrier at a point at or above 30 inches above grade.

Fence, panel means an artificially constructed barrier constructed of any manufactured material or combination of materials which are durable, weather resistant, easily maintained, ornamental in nature, and commonly available for purchase on private property which is erected for solely for providing privacy screening and not for security, enclosing, dividing, or separating yard areas, or to mark a boundary of property.

Fence, protective measures means a fence erected for the express purpose of protection of the enclosed area other than residential areas.

First floor means the first floor is the floor of a building approximately at or at the first floor above the mean level of the established grade.

Floor area means:

- (1) For computing the allowable floor area in one-family residential, two-family residential and single-family terrace units, floor area shall be the sum of the horizontal areas of the one or more floors of a building measured from the exterior walls, exclusive of basements, unfurnished rooms or attics, attached garages, breezeways, enclosed or unenclosed porches and utility rooms having three exterior walls.
- (2) Floor area for multiple-family units shall be the area included between the outside face of the exterior walls, excluding basements, utility or accessory rooms, common hallways and common stairways.
- (3) Floor area for other than residential purposes shall be the area enclosed between the outside face of the exterior walls of the building or structure.

Floor area, liveable, means the area of the first floor, the area of the floor next above and/or the area under a sloping roof having a minimum height of five feet when one-half of the room has a ceiling height of seven feet six inches.

(Code 1969, § 5.5; Code 1977, § 28-19; Ord. No. 23-Q, 9-28-1970; Ord. No. 287, § 1, 7-8-2002; Ord. No. 379, 3-29-2015; Ord. No. 387, 8-14-2017)

Sec. 44-25. Definitions (g, h).

Garage, community, means a space or structure or series of structures for the storage of motor vehicles having no public shop or service therewith, for the use of two or more owners or occupants of property in the vicinity.

Garage, private, means a space or structure for the storage of not more than three motor vehicles, having no public shop or services in connection therewith for the use solely of the owner or occupant of the principal building on a lot for his family or domestic employees.

Garage, public, means a space or structure, other than a private or a community garage, for the storage, repair or refinishing of motor vehicle for a profit.

Gasoline service station means a building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles or boats and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for facilities for the storage, repair or servicing, but not including bumping, painting or refinishing thereof.

Grade means:

- (1) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of all walks adjoining the street.
- (2) For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the center of the walls adjoining the streets.
- (3) For buildings having no walls adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street.

Greenbelt means an eight foot planting strip composed of deciduous trees, spaced not more than 40 feet apart and not less than one row of shrubs, spaced not more than five feet apart and which grow at least five feet or more in height after one full growing season, which shall be planted and maintained in a healthy growing condition by the property owner or lessee. A 20 foot greenbelt shall be a planting strip composed of two rows of deciduous and/or evergreen trees, spaced alternately at not more than 40 feet apart and not less than three rows of shrubs, spaced at not more than eight feet apart and which grow at least to a height of five feet or more after one full growing season and which shrubs will eventually grow to a height of not less than 12 feet at maturity, which shall be planted and maintained in a healthy growing condition by the property owner or lessee.

Hazardous uses means all uses which involve the storage, sale, manufacture or processing of materials which are risky and combustible and are likely to burn with moderate rapidity and with a considerable volume of smoke, but from which neither poisonous fumes nor explosions are to be anticipated in the event of fire, and as listed by the Basic Building Code 1954 amended edition prepared by the Building Officials Conference of America, Inc.

Height of a building means the vertical distance from the established grade of the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line for a mansard roof, to the mean height level between the eaves and ridge for hip, gabled and gambrel roofs.

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

Hospital means a building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department of the state.

Hotel means a building occupied as a more or less temporary abiding place for individuals who are lodged, with or without meals, in rooms occupied singly for hire, in which provision is not made for cooking on any individual plan and in which there are more than ten sleeping rooms, a public dining room for the accommodation of at least 20 guests and a general kitchen.

(Code 1969, § 5.6; Code 1977, § 28-20; Ord. No. 195, 6-14-1993)

Sec. 44-26. Definitions (i—l).

Industrial, heavy, means a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage or manufacturing processes that potentially involve hazardous materials or commonly recognized offensive conditions.

Industrial, light, means a use engaged in research and development activities or the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted entirely within an enclosed, substantially constructed building.

Industrial, medium, means a use engaged in the production of goods and materials from raw materials, usually for sale to wholesalers or other industrial or manufacturing uses and whose external, physical effects are restricted to the area of the district.

Kennel means any lot or premises on which three or more dogs are kept, or either permanently or temporarily boarded.

Lot means a piece or parcel of land occupied or to be occupied by a building and its accessory building, or by any other activity permitted thereon and including the open spaces required under this chapter. A lot may or may not be a lot of existing record.

Lot, corner, means a corner lot is a lot of which at least two adjacent sides abut for their full length upon a street.

Lot, double frontage, means an interior lot having a street line for both front lot line and rear lot line.

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

Lot, waterfront, means a waterfront lot is a piece or parcel of land having one side which faces or adjoins a street or right-of-way and having the opposite side which adjoins a body of navigable water.

Lot coverage means the part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot line, front, means in the case of a lot abutting upon one street, the front lot line is the line separating such lot from such street. In case of any other lot, one such line shall be elected to be the front lot line for the purpose of this chapter, provided it is so designated in the building plans filed for approval with the building inspector.

Lot line, rear, means the rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line, not less than ten feet long, lying most distant from the front lot line and wholly within the lot.

Lot line, side, means a side lot line is any lot boundary line not a front lot line or a 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 is an interior lot line.

Lot of record. A lot of record is a lot the dimensions of which are shown on a plat record in the office of the register of deeds and which actually exists as so shown.

(Code 1969, § 5.7; Code 1977, § 28-21; Ord. No. 23-Q, 9-28-1970; Ord. No. 349, 5-10-2010)

Sec. 44-27. Definitions (m—p).

Marina means an establishment which provides wharf or dock space, and individual boat dockage areas or slips for privately owned and operated watercraft such as sailboats, power boats, and other recreation sport-boats or craft, not to exceed a draft of 7½ feet, and the incidental servicing of such watercraft, including the furnishing of electricity and disposal of bilge waste, sales of fuel, food and equipment incidental to such recreational boating use. Also the providing of fresh water, temporary lighting and/or automobile parking facilities for the convenience of watercraft owners making use of such facilities.

- (1) The term "marina" also includes the sale of watercraft and the display thereof in showrooms, and the winter storage of boats in water or out of water.
- (2) The term "marina" does not apply to an establishment that provides for the rental of space to any moored watercraft, which is used primarily as a dwelling by its owner or occupant.

Medical marihuana home occupation means a medical marihuana primary caregiver activity as described and regulated in section 44-109.

Mobile home means a portable unit designed and built to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed without a permanent foundation for year-round living.

Motel or motor court means a building or a group of buildings in which overnight lodging is provided and offered to the public for compensation and catering primarily to the public traveling by motor vehicle.

Natural feature includes soils, wetlands, floodplains, water bodies, topography, vegetative cover and geologic formations.

Occupancy load means the number of individuals normally occupying the building or part thereof or for which the existing facilities have been designed.

Off-street parking lot means a facility other than for single-family dwellings 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.

Ordinary high water mark means that point on a bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, deconstruction of terrestrial vegetation, or other easily recognizable characteristic. Where the bank or shore at any particular place is of such character that it is difficult to ascertain where the point of the ordinary high water mark is, recourse may be had to other places on the bank or shore of the same stream, river, or lake to determine whether a given stage of water is above or below the ordinary high water mark.

Parking space means a paved surface at least nine feet wide by 18 feet long, that is accessible and can be used at all times for parking a motor vehicle. Except as otherwise provided under article VI of this chapter, parking spaces shall be defined exclusive of driveways, fire and sanitary lanes and commercial loading areas.

Planned development means the land area with a specified minimum acreage which is to be developed as a single entity according to a plan, consisting of one or more concentrations of structures.

Planned unit development means a planned unit development may include such concepts as cluster development, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of this chapter through a land

development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

Plaza (or patio) means an open space that may be improved, landscaped or paved usually surrounded by buildings or streets.

Portable storage container means any box-like and weather-resistant container transported by truck or trailer to a desired location, intended as an accessory use for the temporary storage or shipment of goods, wares or merchandise. A commonly accepted name for portable storage containers are PODS, an acronym for portable on-demand storage.

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

(Code 1969, § 5.8; Code 1977, § 28-22; Ord. No. 23-Q, 9-28-1970; Ord. No. 107, § 1, 4-16-1980; Ord. No. 23-QQ, 3-14-1988; Ord. No. 23-VV, 5-31-1988; Ord. No. 190, 6-22-1992; Ord. No. 355, 10-25-2010; Ord. No. 363, 6-27-2011; Ord. No. 377, 2-23-2015; Ord. No. 387, 8-14-2017)

Sec. 44-28. Definitions (q—s).

Recognizable and substantial benefit. See the term "benefit, recognizable and substantial."

Recreational space means real estate devoted to recreational purposes which contains city-approved site improvements, including, but not limited to, shelters, swimming pools, tennis courts, and playground fixtures.

Salvage yard means a use or facility engaged in the storing, keeping, selling, dismantling, shredding, compressing, or salvaging of scrap or discarded material or equipment including, but not necessarily limited to, metal, bottles, machinery, structural steel, and appliances. This term also includes facilities for separating trash and debris from recoverable resources, such as paper products, glass, metal cans and other products, commonly referred to as recyclable materials, which can be returned to a condition in which they may again be used in production.

Sign means any device, structure, fixture, flag, balloon, or placard which uses words, numbers, figures, graphic designs, logos or trademarks for the purpose of informing, identifying, displaying, directing or attracting the attention of persons to an object, establishment, institution, organization, product, goods, services, or other message to the general public by means including words, letters, figures, symbols, colors, illuminated or other projected images. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible from any public street, sidewalk, alley, park, or public property, but not signs which are primarily directed at persons within the premises upon which the sign is located.

Sign, accessory, means a sign which pertains to the use of the premises on which it is located.

Sign, animated, means a sign which uses lights, moving parts, or other means to depict action, create an image of a living creature or person, or create a special effect or scene.

Sign, awning, means a sign which is painted on, printed on, or attached flat against the surface of an awning.

Sign, banner, means a sign made of fabric, cloth, paper, or other non-rigid material that is typically not enclosed in a frame.

Sign, billboard. See the term "sign, off-premises advertising."

Sign, bulletin board, means a type of "changeable copy" sign which displays the name of an institution, school, library, community center, fraternal lodge, golf course, country club, park or other recreational facility, and which displays announcements of its services and activities upon the premises.

Sign, changeable copy, means a permanent sign or a portion thereof with letters, characters or graphics that are not permanently affixed to the structure, framing or background, allowing the letters, characters or graphics to be modified manually.

Sign, changeable copy (automatic), means a sign on which the message changes automatically (for example, electronic or electric time and temperature signs).

Sign, changeable copy (manual), means a sign on which the message is changed manually (for example, by physically replacing the letters).

Sign, community identification, means a sign placed at or near the entrance to a unified residential or nonresidential project consisting of at least five dwelling units or three acres in the case of nonresidential projects, and displaying the name of a residential community or other unified development such as a college, an apartment complex, condominium community, senior citizens housing complex, manufactured housing park, or similar use, excluding business centers.

Sign, community or special event, means temporary signs and banners, including decorations and displays celebrating a traditionally-accepted patriotic or religious holiday, or special municipal or school activities.

Sign, construction, means a temporary sign identifying the designer, contractors and subcontractor, and material suppliers participating in construction on the property on which the sign is located.

Sign, directional, means a sign which is intended to direct the flow of vehicular and pedestrian traffic to, from, and within a development site. Specifically enter, exit and parking signs. Business identification or logo on such a sign may be considered and calculated as part of the allowable square footage for a wall or freestanding sign.

Sign, electronic message center, means a changeable copy sign that utilizes computer-generated message or some other electronic means of changing copy.

Sign, festoon, means a string of ribbons, tinsel, small flags, pinwheels or lights, typically strung overhead in loops.

Sign, flashing, means a sign which contains an intermittent or sequential flashing light source.

Sign, freestanding, means a sign which is erected upon or supported by the ground, including "pole signs" and "ground signs."

Sign, gasoline price, means a sign which is used to advertise the price of gasoline. In the event that the brand identification sign is attached to or is a part of the sign advertising price, that portion of the sign used for advertising price shall be considered the gasoline price sign.

Sign, ground, means a three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two or more sides extending up from the base, and upon which a message is painted or posted. A ground sign may also consist of a base-mounted cylindrical structure upon which a message is painted or posted.

Sign, illegal, means a sign which does not meet the requirements of this chapter and which has not received legal nonconforming status.

Sign, incidental, means a small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises. Examples of incidental signs include credit card signs, signs indicating the hours of business, no smoking signs, signs used to designate bathrooms, and signs providing information on credit cards and business affiliations.

Sign, mansard, means a type of wall sign mounted on the face of a sloped roof or roof-like facade.

Sign, marquee, means a sign attached to or supported by a permanent roof-like structure or canopy, supported by and extending from the face of the building.

Sign, monument, means a sign extending upward from grade, which is attached to a permanent foundation, for a distance not less than 75 percent of its length, and which may be attached or dependent for support from any pole, posts, or similar uprights, provided that such supports are concealed within the sign structure.

Sign, moving, means a sign in which the sign itself or any portion of the sign physically moves or revolves. A "rotating sign" is a type of moving sign.

Sign, mural, means a design or representation which is painted or drawn on the exterior surface of a structure and which does not advertise a business, product, service, or activity.

Sign, nameplate, means a non-electric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

Sign, nautical theme, means a sign graphically depicting or resembles or makes reference to boating or yachting related activities, navigation of bodies of water, accessories, water-sports, and other concepts typical of waterfront communities, maritime ports and shipping activities.

Sign, neon. See the term "sign, outline tubing."

Sign, noncommercial, means a sign that contains noncommercial messages such as the designation of public telephones, rest rooms, restrictions on smoking, political or religious philosophy or opinion.

Sign, nonconforming, means:

- (1) A sign which is prohibited under the terms of this chapter, but was erected lawfully and was in use on the date of enactment of this chapter, or amendment thereto.
- (2) A sign which does not conform to the requirements of this chapter, but for which a variance has been granted.

Sign, obsolete, means a sign that advertises a product that is no longer made or that advertises a business that has closed.

Sign, off-premises advertising, means a sign which contains a message unrelated to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where such signs are located. A billboard is a common example of an off-premises sign.

Sign, on-premises advertising, means a sign which contains a message related to a business or profession conducted or to a commodity, service, or activity sold or offered upon the premises where the sign is located.

Sign, outline tubing, means a sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it.

Sign, parapet, means a type of "wall" sign mounted on the face of an extension of a false front or wall above a roofline.

Sign, pole, means a type of freestanding sign that is elevated above the ground on poles or braces.

Sign, political, means a temporary sign relating matters to be voted on in a local, county, state, or national election or referendum.

Sign, portable, means a sign designed to be moved easily from place to place and not permanently affixed to the ground or to a structure. This includes hot-air and gas filled balloons, sandwich boards, banners, pennants, streamers, festoons, ribbons, tinsel, pinwheels, non-governmental flags and searchlights; but excludes political signs, real estate signs, construction signs, permanent changeable message signs, and regulatory/government signs.

Sign, poster, means a type of temporary sign that is used to draw attention to matters that are temporary in nature, such as price changes or sales. An "A" frame or sandwich signs are types of poster panel signs.

Sign, projecting, means a sign, other than a flat wall sign, that projects more than 12 inches from the face of the building or structure upon which it is located. A projecting roof sign is one that projects beyond the face or exterior wall surface of the building upon which the roof sign is mounted.

Sign, public, means a sign erected in the public interest by or upon orders from a local, county, state, or federal public official. Examples of public signs include: legal notices, safety signs, traffic signs, memorial plaques, signs of historical interest, and similar signs.

Sign, real estate, means an on-premises temporary sign which makes it known that real estate upon which the sign is located is for sale, lease, or rent.

Sign, real estate development, means a sign that is designed to promote the sale or rental of lots, homes, or building space in a real estate development (such as a subdivision or shopping center) which is under construction on the lot where the sign is located.

Sign, residential entranceway, means a sign which marks the entrance to a subdivision, apartment complex, condominium development, or other residential development.

Sign, roof, means any sign that extends above the roofline, or top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections, or that is erected over the surface of the roof.

Sign, rotating. See the term "sign, moving."

Sign, temporary, means a sign not constructed or intended for long term use. Examples of temporary signs include signs which announce a coming attraction, a new building under construction, a community or civic project, or other special events that occur for a limited period of time.

Sign, time and temperature, means a sign which displays the current time and/or temperature.

Sign, vehicle, means a sign painted or mounted on the side of a vehicle, including signs on the face of a truck trailer.

Sign, wall, means a sign attached parallel to and extending not more than 12 inches from the wall of a building. Painted signs, signs which consist of individual letters, cabinet signs, and signs mounted on the face of a mansard roof shall be considered wall signs. Permanent signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside, shall also be considered wall signs.

Sign, window, means a sign located in or on a window which is intended to be viewed from the outside. Permanent window signs which are not affixed directly to a window or are positioned next to a window so that they are visible from the outside, shall be considered wall signs.

Sound level, in decibels, is defined as the reading of a sound level meter, and associated octave band filter which conforms to the latest standards of the American Standards Association. The decibel reading shall be based on the 70 db weighting network and shall be the average of five readings taken at intervals approximately five feet apart, at a height of five feet above the established grade.

Story means a story is that part of a building included between the surface of one floor and the surface of the next floor. A story thus defined shall not be counted as a story when more than 50 percent of the height is below the established grade.

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

Street means a public thoroughfare or way affording a principal means of access to abutting property, for the purpose of this chapter, 60 feet or more in width.

Substantial benefit, recognizable and. See the term "benefit, recognizable and substantial."

(Code 1969, § 5.9; Code 1977, § 28-23; Ord. No. 107, § 1, 4-16-1980; Ord. No. 23-QQ, 3-14-1988; Ord. No. 293, § 1, 12-9-2002; Ord. No. 332, § 1, 8-11-2008; Ord. No. 348, § 5-10-2010; Ord. No. 359, 2-14-2011)

Sec. 44-29. Definitions (t—z).

Tourist home means any dwelling occupied in such a manner that certain rooms in excess of those used by members of the family, as hereinbefore provided, and occupied as a home or family unit, are rented without cooking facilities, to the public for compensation and catering primarily to the public traveling by motor vehicle.

Trailer park, a mobile home or trailer coach park means any site, lot, field or tract of land upon which three or more occupied mobile homes or trailer coaches are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home or trailer coach park.

Travel trailer means a vehicular portable structure built on a chassis, which can be towed by an automobile, can be operated independently of utility connections, is limited in width to eight feet in length to 32 feet, and is designed to be used principally as a temporary vacation dwelling.

Underlying zoning means the zoning classification and regulations applicable to the property immediately preceding the grant of an application to designate the property planned unit development.

Use means the purposes for which land or buildings are designed, arranged or intended to be occupied or used, or for which they are occupied or maintained.

Use, nonconforming, means a building or premises occupied by a use that does not conform with the use regulations of the district in which it is located, shall be considered a nonconforming use. Existing buildings or structures shall not be deemed nonconforming, because they do not meet the area, height, yard requirements or size of buildings as specified in the district regulations.

Yard means an open space at grade line between a building and the adjoining lot lines, unoccupied and unobstructed from the ground upward, except for certain architectural features specified in section 44-86. Yard measurements shall be the minimum horizontal distance between a lot line and the nearest line of the main building.

Yard, front, means a yard extending across the full width of the lot between the front street lot line and the nearest line of the main building.

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

Yard, side, means a yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building.

(Code 1969, § 5.10; Code 1977, § 28-24; Ord. No. 23-Q, 9-28-1970; Ord. No. 23-QQ, 3-14-1988)

Secs. 44-30—44-46. Reserved.

ARTICLE III. DISTRICT REGULATIONS

Sec. 44-47. Classification of districts.

For the purpose of this chapter the city is hereby divided into the following districts, which shall be known by the following symbols:

R-1	One-family residential districts
R-2	Two-family residential districts
R-3	Multiple-family residential districts
R-3-A	Low density multiple-family residential districts
PRD	Planned residential development districts
R-4	Mobile home parks
R-1-T	One-family residential transitional districts
C-1	Local business districts
C-2	General commercial districts
PCD	Planned commercial development districts
C-3	Marine commercial districts
M-1	Light manufacturing districts
M-2	Medium manufacturing districts
M-3	Heavy manufacturing districts
	Planned unit development districts

(Code 1969, § 5.15; Code 1977, § 28-36; Ord. No. 23-V, 11-8-1971; Ord. No. 17, §§ 2, 3, 4-16-1980; Ord. No. 23-QQ, 3-14-1988; Ord. No. 350, 5-10-2010)

Sec. 44-48. Zoning map.

The boundaries of districts are shown upon the map attached hereto and made a part of this chapter, which map is designated as the zoning map of the city. The zoning map attached hereto and all notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the zoning map and all such notations, references and other information shown thereon were fully set forth and described herein.

(Code 1969, § 5.16; Code 1977, § 28-37)

Editor's note(s)—The zoning map is on file in the office of the city clerk.

Sec. 44-49. Amendment of zoning map.

The zoning map of the city may be amended from time to time, in whole or in part, by chapter to which there shall be attached a map of the section or any part thereof affected by the amendment set forth in such chapter. Each map showing an amendment shall be designated "Amendment Number ____" to the zoning map of the city altar and shall be given a number. Whenever the city council shall cause the zoning map of the city to be amended as a whole, such map shall contain and show all prior amendments. Each amendment stating or describing a change in the districts, areas or boundaries established by the provisions of this article shall be considered and designated as an additional paragraph of this section.

(Code 1969, § 5.17; Code 1977, § 28-38)

Sec. 44-50. Boundaries of districts.

Unless otherwise shown, the district boundaries are the centerlines of streets, alleys or the subdividing or boundary lines of recorded plats, or the extensions thereof, and where the districts designated on the map accompanying and made a part of this chapter are approximately bounded by the centerlines of streets, alleys or

the subdividing or boundary lines of recorded plats, such lines or the extension thereof shall be considered to be the district boundaries.

(Code 1969, § 5.18; Code 1977, § 28-39)

Sec. 44-51. Boundary lines after street vacation.

The boundary line of districts affected by street or alley vacation shall remain at the centerline of said street or alley before vacation, unless this conflicts with the lot boundary line thus affected by the vacation in which case the district boundary line shall follow the boundary line of the lots created most nearly to the boundary.

(Code 1969, § 5.19; Code 1977, § 28-40)

Sec. 44-52. Annexed area.

Territory which may hereafter be annexed to the city shall remain as zoned previous to annexation and if not zoned, shall be placed in the R-1 district until the required amendments of this chapter have been adopted.

(Code 1969, § 5.20; Code 1977, § 28-41)

Secs. 44-53—44-77. Reserved.

ARTICLE IV. GENERAL PROVISIONS

Sec. 44-78. Scope.

All land, buildings or structures, or parts thereof, shall hereafter be erected, constructed, reconstructed, altered, maintained, used or occupied in conformity with the provisions of this chapter.

(Code 1969, § 5.25; Code 1977, § 28-53)

Sec. 44-79. Buildings under construction.

Nothing in this chapter shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of Ordinance No. 23, July 8, 1957, and upon which building actual construction has been diligently carried on, and provided, further, that such building was completed within two years from the date of passage and publication of Ordinance No. 23.

(Code 1969, § 5.26; Code 1977, § 28-54)

Sec. 44-80. Building grades.

- (a) *Sloping grade for new construction without established grade.* Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. A sloping grade, beginning at the sidewalk level, shall be maintained and established from the center of the front lot line to the finished grade line at the front of the building and from the rear wall of the building to the rear lot line; however, this shall not prevent the grading of a yard

space to provide sunken or terraced areas provided proper means are constructed and maintained to prevent the runoff of surface water to flow onto the adjoining properties.

- (b) *Existing established grade.* When a new building is constructed on a vacant lot between the existing buildings or adjacent to an existing building, the existing established grade shall be considered in determining the grade around the new building and the yard around the new building shall be graded in such a manner as to meet existing grades and not to permit runoff of surface water to flow onto the adjacent properties.
- (c) *Approval.* Grades shall be approved by the building inspector.

(Code 1969, § 5.27; Code 1977, § 28-55)

Sec. 44-81. Building to be moved.

- (a) *Permit required within city limits.* No building or structure which is either wholly or partially constructed may be moved from outside the city limits. Any building or structure, which has been wholly or partially erected on any premises, located within the city, shall not be moved to and be placed upon any other premises in this city until a permit to use such building or structure, after being moved, shall have been secured under article XXIX of this chapter. Any such building or structure shall fully conform to all the provisions of this chapter, in the same manner as a new building or structure.
- (b) *Inspection required for permit.* Before a permit may be issued for moving a building or structure, the building inspector shall inspect same and shall determine if it is in a safe condition to be moved, whether it may be reconditioned to comply with the building code and other city requirements for the use and occupancy for which it is to be used and whether it will be of similar character with the buildings in the area where it is to be moved. Providing these conditions can be complied with, a permit shall be issued for the moving of said building or structure.

(Code 1969, § 5.28; Code 1977, § 28-56)

Sec. 44-82. Location of buildings.

Except where otherwise provided for in this chapter, every dwelling shall be located on a lot abutting upon a street or permanent easement of access to a street, other than an alley. No dwelling shall be built upon a lot having a frontage of less than 20 feet upon a street or upon a permanent easement of access to a street. Such easement of access shall have a width throughout of not less than 40 feet, except Island Drive which now exists at 20 feet.

(Code 1969, § 5.29; Code 1977, § 28-57)

Sec. 44-83. Ultimate erection.

A building or structure constructed to a less height, area or bulk than originally planned, prior to the effective date of the ordinance from which this chapter is derived, may be erected to its full height, area and bulk, provided the board of appeals approves such extension, enlargement or additions as being in accordance with the original intent when such building or structure was erected.

(Code 1969, § 5.30; Code 1977, § 28-58)

Sec. 44-84. Temporary garage dwellings; basement dwellings; cabin dwellings or trailer dwellings.

All substandard basement dwellings, as defined in the State Housing Law of Michigan (MCL 125.401 et seq.), or garage, cabin or trailer dwellings, which have been heretofore erected or occupied, are hereby declared to be unlawful dwellings and shall be vacated within a period of two years or otherwise altered so as to comply with the provisions of this chapter. Buildings erected as garages shall not be occupied for dwelling purposes unless they comply with all the provisions of this chapter.

(Code 1969, § 5.31; Code 1977, § 28-59)

Sec. 44-85. Construction business and dwelling buildings.

When a dwelling occupies a space above a business use, such dwelling unit shall provide a minimum floor area of not less than 720 square feet and a useable lot area of not less than 7,200 square feet. The business use shall provide an additional lot area for the commercial building and the required loading space and off-street parking as provided under sections 44-166 and 44-167.

(Code 1969, § 5.32; Code 1977, § 28-60)

Sec. 44-86. Accessory building in residence districts.

- (a) *Compliance with all requirements.* An accessory building, including carports attached to the principal building, on a lot, shall be made structurally a part thereof, and shall comply in all respects with the requirements of this chapter applicable to the principal building. Breezeways, for the purpose of this chapter, as an attachment between the garage or carport and the main building, shall be considered as part of the main building, but breezeways shall not be considered as constituting livable floor area.
- (b) *Unattached accessory building nearness to principal building.* An accessory building and garage unless attached and made a part of the principal building on a lot as provided in subsection (a) of this section shall not be nearer than ten feet from the principal building.
- (c) *Detached accessory building requirements.* Except for chicken coops otherwise regulated under chapter 4, article III, detached accessory building and garages shall not exceed one story or 15 feet in height and shall not occupy more than 30 percent of the area of any rear yard, and when located on the rear one-quarter of the lot, shall not be nearer than two feet from any lot line, and when otherwise located on the lot, the accessory buildings shall conform to all requirements for side yards set forth in the requirements for each residential district, provided, that where the side yard abuts upon a side street, such accessory building shall not extend nearer to the side street lot line than the main portion of the principal building, and in no case shall the entrance door to a garage be less than eight feet from a street line.
- (d) *Canal and waterway requirements.* Detached accessory buildings and garages on a lot which abuts a canal or waterway, may be located not less than 20 feet from the street or front lot line.
- (e) *Erection.* No accessory building or structure shall be erected before the erection of the principal building or structure on any residential lot.

(Code 1969, § 5.33; Code 1977, § 28-61; Ord. No. 404, 3-11-2019)

Sec. 44-87. Accessory uses and buildings in business and industrial districts.

In business and industrial districts, accessory buildings and uses, if not for dwelling purposes, may occupy any of the ground area which the principal building is permitted to cover. Accessory buildings, such as buildings for parking attendants, guard shelters, gate houses and transformer buildings, may be located in the front or side yard in M-2 and M-3 districts; parking of automobiles and other motor vehicles is permitted in the front and side yards in M-2 and M-3 districts if screened from a public street by a greenbelt, eight feet in width. Uses such as railroad sidings may be located in the side or rear yard in M-2 and M-3 districts.

(Code 1969, § 5.34; Code 1977, § 28-62)

Sec. 44-88. Yard area for a building cannot be used for another building.

- (a) No space which for the purpose of a building has been counted or calculated as part of a side yard, rear yard, front yard or other open space required by this chapter, may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard or other open space requirement of or for any other building.
- (b) The minimum yards or other open spaces, including lot area per family or percentage of lot coverage required by this chapter for each and every building existing at the time of passage of the ordinance from which this chapter is derived or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building.

(Code 1969, § 5.35; Code 1977, § 28-63)

Sec. 44-89. Fence regulations.

- (a) *Purpose.* The purpose of this section is to permit fences, decorative fences, natural fences, fence panels, and protective measures fencing without impeding necessary views and safe visibility to and from public rights-of-way and any intersections thereof, and without impeding scenic views of public lands or waterways from adjacent properties. Fencing shall conform to all applicable requirements listed in this section.
- (b) *Existing fences.* Legally established nonconforming fences erected prior to the effective date of the ordinance from which this section is derived shall be exempt from the provisions of this section. Growing vegetation originally established as a natural fence shall be presumed to be a legally established nonconformity.
- (c) *Permit required.*
 - (1) Except as provided below, it shall be unlawful for any person to construct or cause to be constructed any fence upon any property within the city without first obtaining a permit for it. The application for such permit shall contain or have attached as exhibits thereto, any and all information including drawings, required and necessary for the determination of whether the erection of such fencing would be contrary to the provisions of this section.
 - (2) A fence permit fee in an amount established by city council, as they may amend from time to time by resolution, shall be paid in full and accompany the fence permit application.
 - (3) A permit is not required for a decorative fence if it is not intended to enclose, divide, or separate yard areas and further complies with the requirements of this section.
 - (4) A certified survey shall be submitted as part of the fence permit application. The city building inspector may grant an exception from this submittal requirement for the repair or replacement of a fence

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- segment where it can be demonstrated that such repair or replacement will not change design character or the alignment of the pre-existing fence.
- (5) It shall be the duty of the city building inspector to review the fence permit application and the premises where the fence is proposed to be erected. If the proposed fence is found in compliance with the requirements of this section, he or she shall issue the fence permit. The fence permit shall become invalid if the work authorized under a fence permit has not been commenced within 90 days after its date of issuance.
- (d) *Shared fences.* All fences must be located entirely on the private property of the person seeking the fence permit. However, a fence may be erected along a shared property line where adjoining property owners jointly apply for a fence permit to erect a fence on their common border.
- (e) *Prohibited fencing.*
- (1) It shall be unlawful to erect any fence charged or connected with an electrical current.
 - (2) Except as provided below, the use of barbed wire, razor wire, spikes, nails, or any other sharp point or instrument of any kind made part of a fence is prohibited.
 - (3) The attaching of one fence to another for purpose of support is expressly prohibited. This shall not be defined to prohibit the extension of, or connection to, an established fence.
 - (4) No fence shall be erected upon a vacant lot.
 - (5) No fence shall be erected upon a lot or parcel of land which obstructs the view of drivers in vehicles approaching an intersection of two roads or the intersection of a road and driveway. At a minimum, an unobstructed sight triangle meeting the following requirements shall be maintained:
 - a. The area formed at the corner intersection of two public right-of-way lines, with two sides of the triangular area being 25 feet in length, measured from the point of intersection between the public right-of-way lines and the third side being a line connecting these two sides.
 - b. The area formed at the intersection of a public right-of-way line and a driveway, with two sides of the triangular area being ten feet in length, measured from the point of intersection between the right-of-way line and the edge of the driveway, and the third side being a line connecting these two sides.
- (f) *Fence and yard maintenance.*
- (1) All fences shall be maintained in good repair. Fences in a deteriorated state needing repair or replacement shall be deemed a nuisance. The city building inspector shall inform the property owner upon which such fence is located of the existence of the nuisance and order the repairs or modifications to be made to render the fence safe or require that such unsafe fence or any portion thereof be removed. Notice of the order shall be given by personal delivery or via U.S. mail. The nuisance shall be abated within 30 days after the receipt of such order by the property owner.
 - (2) Reserved.
- (g) *Exterior appearance.* All supporting members of any fence shall be placed on the interior side of the fence to conceal them from view from the exterior side of the fence. Posts may only be exposed to view on the exterior side of the fence when they are an integral part of the architectural appearance of the fence and not just for supporting the fence.
- (h) *Conflicting regulations.* Where a subdivision or condominium development regulates fencing through a restrictive covenant, deed restriction, or similar legal instrument in a manner which imposes a greater or more restrictive requirement or standard than is enumerated in this section, such greater restriction shall prevail.

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- (i) *Appeals.* Under authority of section 44-924, the zoning board of appeals shall have the authority to hear and decide questions which arise in the administration of this section, and to hear and decide appeals taken by any person aggrieved or by an officer department, board or bureau of the state or city affected by a decision of the building inspector or administrative official charged with the enforcement of this section.
- (j) *Fences in nonresidential districts.*
- (1) Barbed wire and razor wire may be placed on the top of fences greater than eight feet in height to protect public infrastructure sites, or facilities deemed by the building inspector to require a secured site because of the equipment, materials, or products used, produced, or stored on the premises. The barbed wire or razor wire shall consist of not more than three strands of wire and shall project toward the exterior of the site. In no instance, however, shall such barbed wire or razor wire extend over a property line or public right-of-way.
 - (2) Public or private parks, playgrounds, fields, and similar recreation or public assembly areas may contain fencing not greater than eight feet in height. Such fencing may only be installed upon a determination by the building inspector that such fencing is needed for public safety, protection of property from vandalism, or to prohibit unwanted trespass. Backstops and similar barriers used in conjunction with an athletic field or court are exempt from the height restrictions imposed herein.
 - (3) Fences shall be permitted in the M-1 district, M-2 district, and M-3 district and the C-1 district, C-2 district, and C-3 district subject to the following conditions:
 - a. Fences shall not exceed a height of eight feet.
 - b. No fence may extend beyond the front building line.
- (k) *Residential fences on waterfront lots.* It is the intent of this subsection to regulate the placement of residential fencing on private property in a manner which does not obstruct views to abutting water by neighboring residences. Residential fences on lots abutting water shall be permitted subject to the following requirements:
- (1) For purposes of this section, the following definitions shall apply. A front yard shall be defined to mean that portion of the lot located between the primary residence and a public or private road. A rear yard shall be defined to mean that portion of the lot located between the primary residence and abutting water. (See also section 44-95.)
 - (2) No fence or natural fence shall be installed in the front yard.
 - (3) A decorative fence not exceeding a height of 30 inches shall be allowed in the front yard.
 - (4) Decorative fencing not exceeding a height of 42 inches shall be allowed in the side yard and in the rear yard and may extend to the seawall or ordinary high water mark of abutting water.
 - (5) A fence and natural fence not exceeding a height of 48 inches is allowed in the side and rear yard; however, such fencing must be set back at least 24 feet from the seawall or ordinary high water mark of abutting water. Notwithstanding the above, fencing not exceeding a height of 48 inches and having an opacity of 50 percent or less may be extended to the water's edge.
 - (6) In addition to the above, a property owner shall be entitled to install not more than two privacy fence panels not exceeding 72 inches in height and which are perpendicular to, and extend not more than, 12 feet from the rear face of the primary residence.
 - (7) Swimming pool fences shall comply with section 6-517 of chapter 6 [buildings and building regulations] of this Code and the International Swimming Pool and Spa Code (2015).
- (l) *Residential fences on lots not abutting water.* Residential fences on lots not abutting water shall be permitted subject to the following conditions:

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- (1) No fence or natural fence shall be installed in the front yard.
 - (2) A decorative fence not exceeding a height of 30 inches shall be allowed in the front yard.
 - (3) A fence, decorative fence, or natural fence not exceeding a height of 48 inches shall be allowed in the side and rear yards. In addition to the above, a privacy fence not exceeding a height of 72 inches may be allowed in the side and rear yards by way of a permit issued by the city building inspector, for cause shown.
 - (4) Swimming pool fences shall comply with section 6-517 of chapter 6 [buildings and building regulations] of this Code and the International Swimming Pool and Spa Code (2015).

(Ord. No. 388, 8-14-2017; Ord. No. 394, 1-8-2018)

Editor's note(s)—Ord. No. 388, adopted Aug. 14, 2017, repealed the former § 44-89 and enacted a new § 44-89 as set out herein. The former § 44-89 pertained to fences; decorative and natural and derived from Code 1969, § 5.36; Code 1977, § 28-64; Ord. No. 23FF, § 1, adopted Oct. 12, 1982; Ord. No. 287, § 2, adopted July 8, 2002; and Ord. No. 373, adopted Feb. 24, 2014.

Sec. 44-90. Front yard exception.

When a majority of the buildings in any particular block have been built at the time of the adoption of the ordinance from which this chapter is derived, no building thereafter erected or altered shall project beyond the minimum building line thus established, provided, that no residential building shall be required by this chapter to be set back more than 40 feet; and provided, further, that this regulation shall not be interpreted to reduce the buildable width of a corner lot facing an intersecting street.

(Code 1969, § 5.37; Code 1977, § 28-65)

Sec. 44-91. Residential rear yard measurements.

Wherever there is a public alley at the rear of a residential lot upon which the lot abuts for the full width, measurements of the depth of any abutting rear yard required under this chapter may be made to the centerline of such alley.

(Code 1969, § 5.38; Code 1977, § 28-66)

Sec. 44-92. Yard encroachments.

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building and shall not encroach into the required space for yards or courts or occupied space. However, there shall be permitted certain exceptions to this requirement as limited and restricted hereinafter:

- (1) Permitted exceptions for such projections shall be:
 - a. One chimney or one fireplace, limited to not more than eight feet in length and projecting not more than 12 inches into the allowable side yard space.
 - b. Cornices, limited to not more than 16 inches in width, including the gutter.
 - c. Platforms, terraces, steps below the first floor level.
 - d. Unenclosed porches or other ground-level, unenclosed projections not over one story in height.

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- (2) Limitations governing the projections, as so permitted, shall be:
- a. Provided, however, that in an R-1, R-1-T or R-3 district, such excepted projections:
 1. Shall not extend more than eight feet beyond the established front building line;
 2. Shall not extend beyond any building line established across the rear of the lot;
 3. Shall not extend nearer than three feet from an interior side lot line or nearer than five feet from a side lot line abutting upon a street;
 - b. And in no case shall any projection extend beyond any established building line in a C-1, C-2, C-3, M-1, M-2 or M-3 district.
- (3) A special exception for deck projections is also hereby permitted but, as in this subsection, limited and restricted:
- a. On waterfront lots, a deck will be allowed on the water side. The deck must be constructed with approved materials. Side rails may not exceed 36 inches and shall be of open construction which does not obstruct the adjacent property's view of the water. The deck will be limited to the width of the house, and allowed only in the yard area behind the house.
 - b. A deck may be built over the protective berm if the condition of the berm is certified by the city engineer. Residents must maintain the berm according to city specifications (577.2 feet, at sea level), subject to yearly inspection by the city engineer. A deck shall not be built over a protective berm in such a manner if such would prevent inspection and maintenance of the berm.
 - c. A deck attached to the house may extend to the water, or provide walkways to water side dock or deck; it may not overhang on the water side. Providing that the total coverage of deck and walkways does not exceed 40 percent of the water side yard coverage. The deck may not be nearer than three feet from interior side lot line or nearer than five feet from side lot line where abutting upon a street.
 - d. Construction of all decks will require a building permit, submission of detailed plan of construction, and site plan approval.

(Code 1969, § 5.39; Code 1977, § 28-67; Ord. No. 170, 6-26-1989)

Sec. 44-93. Front yards for business, industrial and residential buildings.

In all business and industrial districts, and residential areas as specified herein, there shall be provided a front yard in addition to that which is specified for each specific district, as follows:

- (1) Fort Street as established by the Wayne County Road Commissioner's Fort Street Right-of-Way Plan, dated June 1948 and revised October 11, 1955.
- (2) One hundred sixty feet from the centerline of West Jefferson (River Road) between Woodruff and Vreeland Roads.
- (3) Sixty feet from the centerline of Vreeland, North Gibraltar Road, South Gibraltar Road, between West Jefferson (River Road) and the Frank and Poet Drain and Woodruff Road.
- (4) Forty-three feet from centerline of Ostreich, South Gibraltar Road east of Frank and Poet Drain, and Stoefflet Road.
- (5) One hundred sixty feet from the centerline of Middle Gibraltar Road from Old Fort Street to West Jefferson Avenue (River Road).

(Code 1969, § 5.40; Code 1977, § 28-68; Ord. No. 23-Q, 9-28-1970; Ord. No. 172, 6-26-1989)

Sec. 44-94. Front yard uses.

Any portion of a residential lot located in front of a building line, or between a front street lot line and the adjacent building line, shall be used only for ornamental purposes, and nothing other than trees and shrubs shall be placed, erected or planted thereon.

(Code 1969, § 5.41; Code 1977, § 28-69)

Sec. 44-95. Double frontage lots.

On double street frontage lots, a front yard, as prescribed for the district, as herein established, shall be provided on both streets. On double frontage lots having frontage on a street and on the water a front yard, as prescribed for the district, as herein established, shall be provided on both the street and on the water frontage.

(Code 1969, § 5.42; Code 1977, § 28-70)

Sec. 44-96. Lot limitations.

No residential structure shall be erected upon the rear of a lot or a lot with another dwelling; with the exception of parcels of record described and designated as "outlots" which may be so arranged or subdivided as to provide for one or more principal buildings when the land area allocated to each building is equal to or greater than the lot area required for the district, and the building and land complies with all the other requirements of the districts in which it is located.

(Code 1969, § 5.43; Code 1977, § 28-71)

Sec. 44-97. Excavations or holes.

The construction, maintenance or existence within the city of any unprotected, unbarricaded open or dangerous excavations, holes, pits or wells, or of any excavations, holes or pits which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare, are hereby prohibited. Provided, however, this section shall not prevent construction of excavations under a permit issued pursuant to this chapter or the building code of the city where such excavations are properly protected and warning signs posted in such manner as may be approved by the building inspector; and, provided further, that this section shall not apply to lakes, streams or other natural bodies of water, or to ditches, streams, reservoirs, or other major bodies of water created or existing by authority of the state, county, city or other governmental agency.

(Code 1969, § 5.44; Code 1977, § 28-72)

Sec. 44-98. Drainage channels and floodplains.

Drainage channels and floodplains, which exist and which are indicated on the master plan of the city are essential for the maintenance of the health and general welfare of the people of the city. Any encroachment, filling or destruction of these drainage channels or floodplains is a violation of this chapter; provided, however, this shall not prevent the development of the property for its best use, such as new subdivisions, etc., when adequate facilities, as shall be determined by the building inspector, are provided to maintain the prime purpose of the drainage channel or floodplain, i.e., the uninterrupted flow of surface water. Said development shall be, among other things, done in compliance with chapter 18 and subsequent amendments.

(Code 1969, § 5.45; Code 1977, § 28-73; Ord. No. 119, § 1, 7-27-1981)

Sec. 44-99. Regulation and control of all outdoor signs.

- (a) *Purpose.* These regulations are intended to permit signs and other displays that are needed for the purposes of identification or advertising subject to the following objectives:
- (1) By reason of their size, location, spacing, construction or manner of display, signs shall not endanger life or limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety.
 - (2) Signs should enhance the aesthetic appeal of the city. Thus, these regulations are intended to regulate oversized signs that are out of scale with surrounding buildings and structures, and prevent an excessive accumulation of signs which cause visual clutter.
 - (3) The placement and design of signs should further the land use planning objectives of the city. Signs should protect neighborhood character and the value of surrounding properties.
 - (4) Signs located within the boundaries of the city downtown development authority (DDA) district, as now existing or hereafter amended in the DDA's tax increment financing and development plan, shall also be subject to the rules established in section 44-893, downtown development authority (DDA) district development standards. Where conflict exists between the rules established in this section and the rules established in section 44-893, the rules established in section 44-893 shall govern.
- (b) *Scope of requirements.* It shall be unlawful for any person, firm, or corporation to erect, construct, or alter any sign in the city except in conformance with the provisions of this chapter, subject to issuance of a permit, except as otherwise provided herein.
- (c) *Enforcement.*
- (1) *Plans, specifications, and permits.*
 - a. *Permits.* It shall be unlawful for any person to erect, alter, relocate, or structurally change a sign or other advertising structure, unless specifically exempted by this chapter, without first obtaining a permit in accordance with the provisions set forth herein. A permit shall require payment of a fee, as noted on a fee schedule as may be established, adopted, and amended from time to time by the city council.
 - b. *Applications.* Application for a sign permit shall be made upon forms provided by the building official. The following information shall be required:
 1. Name, address, and telephone number of the applicant.
 2. Location of the building, structure, or lot on which the sign is to be attached or erected.
 3. Position of the sign in relation to nearby buildings, structures, and property lines. The building department may require information to be provided for on a certified survey or drawing sealed by a registered engineer.
 4. Plans showing the dimensions, materials, method of construction, and attachment to the building or in the ground.
 5. Copies of stress sheets and calculations, if deemed necessary, showing the structure as designed for dead load and wind pressure.
 6. Name and address of the person, firm, or corporation owning, erecting, and maintaining the sign.
 7. Information concerning required electrical connections.
 8. Insurance policy or bond, as required in this chapter.

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9. Written consent of the owner or lessee of the premises upon which the sign is to be erected.
 10. Other information as required by the building official to make the determination that the sign is in compliance with all applicable laws and regulations.
- c. *Review of application.*
1. *Planning commission review.* Sign permit applications submitted in conjunction with the proposed construction of a new building or addition to an existing building shall be reviewed by the planning commission as a part of the required site plan review. Proposed sign locations, dimensions, designs, and content must be shown on the site plan. Planning commission review shall be required for any new or modified sign, regardless of whether or not any related site plan review is also required.
 2. *Issuance of a permit.* Following review and approval of a sign application by the planning commission or building official, as appropriate, the building official shall have the authority to issue a sign permit.
- d. *Exceptions.* A sign shall not be enlarged or relocated except in conformity with the provisions set forth herein for new signs, nor until a proper permit has been secured. However, a new permit shall not be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on a changeable copy sign. Furthermore, a permit shall not be required for certain exempt signs listed in subsection (d)(1) of this section.
- (2) *Inspection and maintenance.*
- a. *Inspection of new signs.* All signs for which a permit has been issued shall be inspected by the building official when erected. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable zoning chapter and building code standards. In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the building official when such fastenings are to be installed so that inspection may be completed before enclosure.
 - b. *Inspection of existing signs.* The building official shall have the authority to routinely enter onto property to inspect existing signs. In conducting such inspections, the building official shall determine whether the sign is adequately supported, painted to prevent corrosion, and so secured to the building or other support to safely bear the weight of the sign and pressure created by the wind.
 - c. *Correction of defects.* If the building official finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, or otherwise in violation of this chapter, the sign erector, owner of the sign, or owner of the land shall make the sign safe, secure, and in conformance with this chapter by completing any necessary reconstruction or repairs, or entirely remove the sign in accordance with the timetable established by the building official.
- (3) *Removal of obsolete signs.* Any sign that no longer identifies a business that is in operation, or that identifies an activity or event that has already occurred, shall be considered abandoned and shall be removed by the owner, agent, or person having use of the building or structure. Upon vacating a commercial or industrial establishment, the proprietor shall be responsible for removal of all signs used in conjunction with the business. However, where a conforming sign structure and frame are typically reused by a current occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in good condition.

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- (4) *Nonconforming signs.* No nonconforming sign shall be altered or reconstructed, unless the alteration or reconstruction is in compliance with this chapter, except that nonconforming signs shall comply with the following regulations:
- a. *Repairs and maintenance.* Normal maintenance shall be permitted, provided that any nonconforming sign that is destroyed by any means to an extent greater than 50 percent of the sign's pre-catastrophe fair market value, exclusive of the foundation, shall not be reconstructed. Normal maintenance shall include painting of chipped or faded signs; replacement of faded or damaged surface panels; or, repair or replacement of electrical wiring or electrical devices.
 - b. *Nonconforming changeable copy signs.* The message on a nonconforming changeable copy sign may be changed provided that the change does not create any greater nonconformity.
 - c. *Substitution.* No nonconforming sign shall be replaced with another nonconforming sign.
 - d. *Modifications to the principal building.* Whenever the principal building on a site on which a nonconforming sign is located is modified to the extent that site plan review and approval is required, the nonconforming sign shall be removed.
- (5) *Appeal to the zoning board of appeals.* Any party who has been refused a sign permit for a proposed sign may file an appeal with the zoning board of appeals, in accordance with article XXVIII of this chapter. In determining whether a variance is appropriate, the zoning board of appeals shall, in addition to other review criteria specified in said article XXVIII of this chapter, study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify granting a variance; however, the zoning board of appeals may decline to grant a variance even if certain of the following circumstances are present:
- a. Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions.
 - b. Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the zoning board of appeals shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.
 - c. Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the subject parcel.
 - d. Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.
 - e. Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passersby.
 - f. Variances from certain sign regulations would be offset by increased building setback, increased landscaping, or other such enhancements, so that the net effect is an improvement in appearance of the parcel, compared to the result that would be otherwise achieved with construction of a conforming sign.
 - g. A sign which exceeds the permitted height or area standards of this chapter would be more appropriate in scale because of the large size or frontage of the parcel or building.
- (d) *Exempt; prohibited; temporary signs.*
- (1) *Permitted exempt signs.* A sign permit shall not be required for the following signs, which shall be permitted subject to applicable provisions herein:

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- a. Address numbers with a numeral height no greater than six inches for residences and 18 inches for businesses.
 - b. Nameplates identifying the occupants of the building, not to exceed two square feet.
 - c. Memorial signs or tablets.
 - d. Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business, provided that the primary uses of the vehicle displaying the sign shall not be for the purpose of advertising a business on the premises where the vehicle is parked.
 - e. Public signs, including the authorized signs of a government body or public utility, including traffic signs, legal notices, railroad crossing signs, warnings of a hazard, and similar signs.
 - f. Flags bearing the official design of a nation, state, municipality, educational institution, or noncommercial organization.
 - g. Incidental signs, provided that total of all such signs shall not exceed two square feet.
 - h. Private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
 - i. One private parking lot and driveway identification sign, not to exceed three square feet per sign and six feet in height.
 - j. Permanent signs on vending machines, gas pumps, or ice containers indicating only the contents of such devices, provided that the sign area of each device shall not exceed six square feet.
 - k. Portable real estate "open house" signs with an area no greater than four square feet.
 - l. "Help wanted" signs soliciting employees for the place of business where posted, provided that the maximum area for all such signs shall be six square feet.
 - m. Any sign which is located completely within an enclosed building, and which is not visible from outside the building.
 - n. Plaques or signs designating a building as a historic structure.
 - o. "No Trespassing", "No Hunting", and "No Dumping" signs.
 - p. Signs used to direct vehicular or pedestrian traffic to parking areas, loading areas, or to certain buildings or locations on the site, subject to the following conditions:
 - 1. Directional signs shall not contain logos or other forms of advertising.
 - 2. Directional signs shall not exceed four square feet in area, or four feet in height.
 - 3. Directional signs may be located in the front setback area, provided they are setback at least 15 feet from the existing or planned right-of-way line.
- (2) *Prohibited signs.* The following signs are prohibited in all districts:
- a. Any sign not expressly permitted.
 - b. Signs which incorporate flashing or moving lights; including time and temperature or stock market signs.
 - c. Banners, pennants, festoons, spinners, and streamers, unless specifically permitted elsewhere in this chapter.
 - d. String lights used for commercial purposes, other than holiday decorations.

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- e. Moving signs, including any sign which has any visible moving parts, visible revolving parts, visible mechanical movement, or other visible movement achieved by electrical, electronic, or mechanical means, including intermittent electric pulsations or movement caused by normal wind current.
 - f. Any sign or sign structure which:
 - 1. Is structurally unsafe;
 - 2. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
 - 3. Is capable of causing electric shock to person who comes in contact with it; or
 - 4. Is not kept in good repair, such that it has broken parts, missing letters, or non-operational lights.
 - g. Any sign erected on a tree or utility pole, except signs of a government or utility.
 - h. Obsolete signs, as specified in this subsection (c)(3) of this section.
 - i. Portable signs, except where expressly permitted in this chapter.
 - j. Signs affixed to a parked vehicle or truck trailer which is being used principally for advertising purposes, rather than for transportation purposes.
 - k. Any sign which obstructs free access to or egress from a required door, window, fire escape, or other required exit.
 - l. Any signs which makes use of the words "Stop", "Look", or "Danger", or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
 - m. Any sign containing obscene, indecent, or immoral matter.
 - n. Any sign unlawfully installed, erected, or maintained.
 - o. Roof signs.
 - p. Projecting signs.
 - q. Sandwich signs.
 - r. Signs on street furniture, such as benches and trash receptacles.
 - s. Real estate signs no longer valid due to the sale, rental, or lease of the property.
- (3) *Temporary signs.* Temporary signs shall be permitted subject to the following requirements:
- a. *Construction signs.* Construction signs shall be permitted in all districts, shall be ground or wall mounted, shall not exceed 64 square feet in area, shall not exceed 15 feet in height, shall be permitted at a rate not exceeding one sign per corresponding building permit, shall require a sign permit, shall comply with the setback requirements for the district in which they are located, and shall be permitted from the time of building permit issuance until the time of certificate of occupancy issuance.
 - b. *Residential real estate signs.* Residential real estate signs shall be permitted in residential districts, shall be ground mounted, shall not exceed six square feet in area, shall not exceed six feet in height, shall be permitted at a rate not exceeding one sign per parcel (with two signs permitted on a corner parcel), shall not require a sign permit, shall comply with the setback requirements for the district in which they are located, and shall be permitted during the time of sale or lease and not later than 30 days thereafter.

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- c. *Business or vacant lot real estate signs.* Business or vacant lot real estate signs shall be permitted in commercial and industrial districts, shall be ground or wall mounted, shall not exceed 16 square feet in area, shall not exceed ten feet in height, shall be permitted at a rate not exceeding one sign per parcel (with two signs permitted on a corner parcel), shall not require a sign permit, shall comply with the setback requirements for the district in which they are located, and shall be permitted during the time of sale or lease and not later than 30 days thereafter.
 - d. *Unplatted vacant land real estate signs.* Unplatted vacant land real estate signs shall be permitted in all districts, shall be ground mounted, shall not exceed 64 square feet in area, shall not exceed ten feet in height, shall be permitted at a rate not exceeding one sign per parcel, with two signs permitted on a corner parcel, shall require a sign permit, shall comply with the setback requirements for the district in which they are located, and shall be permitted during the time of sale or lease and not later than 30 days thereafter.
 - e. *Real estate development signs.* Real estate development signs shall be permitted in all districts, shall be ground mounted, shall not exceed 64 square feet in area, shall not exceed ten feet in height, shall be permitted at a rate not exceeding one sign per frontage on a major or secondary thoroughfare, shall require a sign permit, shall comply with the setback requirements for the district in which they are located, and shall be permitted during the time of sale or lease of all lots or units and not later than 30 days thereafter.
 - f. *Grand opening signs.* Grand opening signs shall be permitted in commercial districts, shall be ground or wall mounted, shall not exceed 16 square feet in area, shall not exceed ten feet in height, shall be permitted at a rate not exceeding one sign per corresponding business, shall not require a sign permit, shall comply with the setback requirements for the district in which they are located, and shall be permitted for a single period not exceeding 60 days.
 - g. *Garage sale signs.* Garage sale signs shall be permitted in residential districts, shall be ground or wall mounted, shall not exceed two square feet in area, shall not exceed five feet in height, shall be permitted at a rate not exceeding two signs per corresponding garage sale, shall not require a sign permit, may be located within the setback required by the district in which they are located, but may not be located within a public right-of-way, and shall be permitted only during the corresponding garage sale.
 - h. *Community or special event signs.* Community or special event signs may include ground or wall signs, banners, pennants, or similar displays, shall be permitted in all districts, shall be subject to planning commission approval, shall require a no-fee sign permit, shall comply with the setback requirements for the district in which they are located, and shall be permitted only during the corresponding community or special event.
 - i. *Political signs.* Political signs shall be permitted in all districts, shall be ground or wall mounted, shall not exceed 16 square feet in area for ground signs in residentially zoned districts or 32 square feet in area for wall/ground signs in all other districts, shall not exceed ten feet in height, shall be permitted at a rate not exceeding two signs per parcel, may be located within the setback required by the district in which they are located, but may not be located within a public right-of-way, and shall be permitted during the period 30 days prior before and seven days after the date of the corresponding election.
 - j. *Window signs.* Window signs may include paper or fabric displays, shall be permitted in commercial districts, shall be counted along with permanent window signs in terms of total area for window signs and total area for wall signs, shall (along with permanent window signs) not exceed one-third of the corresponding total window area, shall not require a sign permit, and shall be permitted for a single period not exceeding 30 days, with faded, yellowed, ripped, or otherwise damaged signs to be removed immediately.

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- (4) *Off-premises advertising signs.* Freestanding off-premises advertising signs shall be permitted in M-2 districts, subject to the following provisions:
- a. *Maximum size.* No such sign shall exceed 300 square feet in area per sign face.
 - b. *Maximum height.* The maximum height for such signs shall be 25 feet.
 - c. *Setbacks.*
 - 1. Off-premises advertising signs shall comply with the setback requirements for the district in which they are located.
 - 2. No part of any such sign shall be located closer than 300 feet to any park, school, church, hospital, cemetery, convention center, or government building.
 - d. *Distance from other signs.*
 - 1. There shall be a minimum of 1,500 feet between off-premises advertising signs along an interstate freeway and a minimum of 1,000 feet between off-premises advertising signs along any other public road or highway.
 - 2. There shall be a minimum of 100 feet between any off-premises advertising sign and any other on-premises sign.
 - e. *Location.* Off-premises advertising signs shall not be located on or over the roofs of buildings.
 - f. *Number.* No additional nonaccessory advertising signs shall be permitted at any time when there are ten or more billboard faces in the city.
- (5) *Church signs.* Church signs shall be permitted subject to the same standards as other signs in the district in which the church is located. However, churches in residential districts may erect signs for the purposes of; identification of the church or church affiliated school, parsonage, or other facility; advertising the time or subject of church services; or, presenting other related information. Such signs shall be subject to the following standards:
- a. *Number.* There shall be no more than one sign per parcel, except on a corner parcel, two signs, one facing each street shall be permitted. One additional sign shall be permitted for each school, parsonage, or other related facility.
 - b. *Size.* The maximum size of each such sign shall be 20 square feet.
 - c. *Location.* Signs shall comply with the setback requirements for the district in which they are located.
 - d. *Height.* The maximum height of church signs shall be eight feet.
- (e) *Design standards.*
- (1) *Construction standards.*
- a. *General requirements.* All signs shall be designed and constructed in a safe and stable manner in accordance with the city's adopted building code and electrical code. All electrical wiring associated with a freestanding sign shall be installed underground.
 - b. *Building code.* All signs shall be designed to comply with minimum wind pressure and other requirements set forth in the adopted building code.
 - c. *Framework.* All signs shall be designed so that the supporting framework, other than the supporting poles on a freestanding sign, is contained within or behind the face of the sign or within the building to which it is attached so as to be totally screened from view.

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- d. *Nautical theme.* Signs which are subject to review by the planning commission as outlined in this chapter shall be designed using a nautical theme, as defined in this chapter.
- (2) *Illumination.*
- a. *General requirements.* Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it.
 - b. *Non-glare, shielded lighting.* Use of glaring, unshielded or unfiltered lights or bulbs shall be prohibited. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.
 - c. *Traffic hazards.* Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
 - d. *Bare bulb illumination.* Illumination by bare bulbs or flames is prohibited.
 - e. *Exceptions.* Signs constructed of translucent material and lit wholly from within do not require shielding, dark backgrounds with light lettering are preferred.
- (3) *Location.*
- a. *Within a public right-of-way.* No sign shall be located within, project into, or overhang a public right-of-way, except as otherwise permitted herein.
 - b. *Compliance with setback requirements.* All signs shall comply with the setback requirements for the district in which they are located, except as otherwise permitted herein.
 - c. *Motorist and pedestrian visibility.* Signs shall be located so as not to interfere with or otherwise obstruct motorist or pedestrian visibility.
- (4) *Measurement.*
- a. *Sign area.* Sign area shall be computed as follows:
 - 1. *General requirements.* Where a sign consists of a generally flat surface or sign face on which lettering and other information is affixed, the sign area shall be computed by measuring the entire face of the sign.
 - 2. *Individual letters.* Where a sign consists of individual letters and logos affixed directly to a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
 - 3. *Freestanding sign.* The area of a double-faced freestanding sign shall be computed using only one face of the sign provided that the outline and dimensions of both faces are identical, and the faces are back-to-back so that only one face is visible at any given time.
 - 4. *Ground sign.* The area of a ground sign shall be computed by measuring the entire vertical surface of a face upon which the letters and logo are attached. In the case of a multi-faced ground sign, the area of the sign shall be computed using only one face of the sign.
 - 5. *Cylindrical sign.* The area of a cylindrical ground sign shall be computed by multiplying the diameter of the cylinder by its height.
 - b. *Setback and distance measurements.* The following guidelines shall be used to determine compliance with setback and distance measurements:
 - 1. *Distance between signs.* The distance between two signs shall be measured along a straight horizontal line that represents the shortest distance between the two signs.

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2. *Distance between sign, parking lot and building.* The distance between a sign and a parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the outer edge of the parking lot or building.
 3. *Distance between sign, building and property line.* The distance between a sign and a building or property line shall be measured along a straight horizontal line that represents the shortest distance between the sign and the building.
- (5) *Materials.* Unless exempt from the provisions of this chapter or otherwise determined by the planning commission, all commercial and business signs shall be constructed of a carved or sandblasted wood finish, or similar construction as determined by the planning commission, and shall further be designed to include a nautical theme. For the purposes of this chapter, a nautical theme shall be interpreted as a style of design that resembles or make reference to boating or yachting related activities, accessories, water-sports, and other concepts typical of waterfront communities and activities.
- (f) *Residential district signs.* The following signs shall be permitted in all districts zoned for residential use, as well as in any planned development where residential uses do exist or would be permitted:
- (1) *Nameplate and street address.* A nameplate sign and street address shall be permitted in accordance with the provisions of subsection (d)(1) of this section.
 - (2) *Real estate signs.* Real estate signs shall be permitted in accordance with the provisions of subsection (d)(3) of this section.
 - (3) *Garage sale signs.* Garage sale signs shall be permitted in accordance with the provisions of subsection (d)(3) of this section.
 - (4) *Church signs.* Church signs shall be permitted in accordance with the provisions of subsection (d)(5) of this section.
 - (5) *Residential entranceway signs.* Permanent entranceway signs shall be permitted in accordance with the following requirements:
 - a. If located on an entranceway structure, then the sign shall cover no more than 50 percent of the entranceway structure, with the structure not to exceed five feet in height or 60 square feet in area. If the sign is freestanding and not on an entranceway structure then it shall not exceed 36 square feet in area, with the sign not to exceed five feet in height.
 - b. There shall be no more than one such sign located at each entrance to a subdivision or development.
 - c. Signs shall be located on private property and outside any rights-of-way, but may be located in the median of a boulevard entrance to a subdivision or other residential development (in the road right-of-way), subject to approval by the county department of public services and subject to compliance with city motorist and pedestrian visibility requirements.
 - (6) *Signs for nonconforming uses.* Each nonconforming nonresidential use in a residential district shall be permitted one wall-mounted sign, subject to the following requirements:
 - a. The maximum size for such a sign shall be two square feet.
 - b. No such sign shall be intentionally lighted.
- (g) *Nonresidential district signs.* The following signs shall be permitted in all districts (office, commercial, and industrial) zoned for other than residential use, as well as in any planned development where residential uses do not exist or would not be permitted:

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- (1) *Signs for residential district uses in a nonresidential district.* Signs for nonconforming residential district uses in a nonresidential district shall be governed by the sign regulations for residential district uses set forth in subsection (d)(3) of this section.
 - (2) *Signs for nonconforming nonresidential uses.* Signs for nonconforming nonresidential uses in an office, commercial, or industrial district (for example, a nonconforming commercial use in an industrial district) shall be governed by the sign regulations which are appropriate for the type of use, as specified in subsection (g) of this section.
 - (3) *Wall signs.* Wall signs shall be permitted in office, commercial, and industrial districts, subject to the following regulations:
 - a. *Number.* One wall sign shall be permitted per street or highway frontage on each parcel. Tenants who occupy a corner space in a multi-tenant structure shall be permitted to have one sign on each side of the building. Where several tenants use a common entrance in a multi-tenant structure, only one wall sign shall be permitted, but the total sign area should be allocated on an equal basis to all tenants.
 - b. *Size.* The total area of a wall sign shall not exceed five percent of the ground floor building facade area or 24 square feet, whichever is less.
 - c. *Location.* One wall sign may be located on each side of a building that faces a street or highway.
 - d. *Vertical dimensions.* The maximum vertical dimension of any wall sign shall not exceed one-third of the building height.
 - e. *Horizontal dimensions.* The maximum horizontal dimension of any wall-mounted sign shall not exceed three-fourths of the width of the building.
 - f. *Height.* The top of a wall sign shall not be higher than whichever of the following is lowest:
 1. Fifteen feet above the front sidewalk elevation and not extending above the base of the second floor window sill, parapet, eave or building facade.
 2. The maximum height specified for the district in which the sign is located.
 3. The top of the sills at the first level on windows above the first story.
 4. The height of the building facing the street on which the sign is located.
 - (4) *Freestanding signs.* Freestanding signs shall be permitted in office, commercial, and industrial districts subject to the following regulations:
 - a. *Number.* One freestanding sign shall be permitted per street or highway frontage on each parcel. In multi-tenant buildings or shopping centers the sign area may be allocated for use by individual tenants.
 - b. *Size.* The total area of the freestanding sign shall not exceed one square foot per two lineal feet of lot frontage, but in no case shall the freestanding sign exceed 50 square feet in area.
 - c. *Setback from the right-of-way.* Freestanding signs may be located in the required front yard, provided that no portion of any such sign shall be located closer than 15 feet to the existing or planned right-of-way line. If a parcel is served by a private road or service road, no portion of a freestanding sign shall be closer than five feet to the edge of the road. No portion of a freestanding sign shall be located closer than 25 feet to the right-of-way of an interstate freeway.
 - d. *Setback from residential districts.* Freestanding signs shall be located no closer to any residential district than as follows:
 1. From a C-1, C-2, C-3, M-1, M-2, M-3, or PCD district no closer than 100 feet.

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2. From a POD district, no closer than 50 feet.
- e. *Height.* The height of a freestanding sign in any nonresidential district shall not exceed ten feet.
- (5) *Marquee signs.* Marquee signs shall be permitted for theaters located in commercial districts, subject to the following requirements:
- a. *Construction.* Marquee signs shall consist of hard incombustible materials. The written message shall be affixed flat to the vertical face of the marquee.
 - b. *Vertical clearance.* A minimum vertical clearance of ten feet shall be provided beneath any marquee.
 - c. *Projection.* Limitations imposed by this chapter concerning projection of signs from the face of a wall or building shall not apply to marquee signs, provided that marquee signs shall comply with the setback requirements for the district in which they are located.
 - d. *Number.* One marquee shall be permitted per street frontage.
 - e. *Size.* The total size of a marquee sign shall not exceed 1½ square feet per lineal foot of building frontage.
 - f. *Compliance with size requirements for wall signs.* The area of permanent lettering on a marquee sign shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.
- (6) *Awnings and canopies.* Signs on awnings and canopies in commercial, office, and industrial districts shall be permitted, subject to the following standards:
- a. *Coverage.* The total area of the lettering and logo shall not exceed 25 percent of the total area of the awning or canopy that is visible from the street.
 - b. *Compliance with size requirements for wall signs.* The area of signs on awnings or canopies shall be counted in determining compliance with the standards for total area of wall signs permitted on the parcel.
 - c. *Projection.* Limitations imposed by this chapter concerning projection of signs from the face of a wall or building shall not apply to awning and canopy signs, provided that such signs shall comply with the setback requirements for the district in which they are located.
- (7) *Gasoline price signs.* Gasoline price signs shall be permitted subject to the following standards:
- a. *Number.* One gasoline price sign shall be permitted for each gas station.
 - b. *Size.* Gasoline price signs shall not exceed 20 square feet in area. Gasoline price signs shall be counted in determining compliance with the standards for total area of wall or freestanding signs permitted on the parcel.
 - c. *Setback.* Gasoline price signs shall comply with the setback and height requirements specified for freestanding signs in the district in which the signs are located.
- (8) *Temporary signs.* Temporary signs shall be permitted in accordance with the provisions of subsection (d)(3) of this section.
- (9) *Window signs.* Temporary and permanent window signs shall be permitted on the inside in commercial and office districts provided that the total combined area of such signs (including incidental signs) shall not exceed one-fourth of the total window area. The area of permanent window signs shall be counted in determining compliance with standards for total area of wall signs on the parcel. Temporary window signs shall comply with the provisions of subsection (d)(3) of this section.

(10) *Entranceway signs.* Permanent entranceway signs shall be permitted in accordance with the following requirements:

- a. If located on an entranceway structure, then the sign shall cover no more than 50 percent of the entranceway structure, with the structure not to exceed five feet in height or 60 square feet in area. If the sign is freestanding and not on an entranceway structure then it shall not exceed 36 square feet in area, with the sign not to exceed five feet in height.
- b. There shall be no more than one such sign located at each entrance to a subdivision or development.
- c. Signs shall be located on private property and outside any rights-of-way, but may be located in the median of a boulevard entrance to a subdivision or other residential development (in the road right-of-way), subject to approval by the county department of public services and subject to compliance with city motorist and pedestrian visibility requirements.

(Code 1969, § 5.46; Code 1977, § 28-74; Ord. No. 171, 6-26-1989; Ord. No. 293, § 2, 12-9-2002; Ord. No. 332, § 2, 8-11-2008)

Sec. 44-100. Removal of soil, sand or other material.

Removal of soil, sand, gravel, etc., from the land, is controlled by chapter 10.

(Code 1969, § 5.47; Code 1977, § 28-75)

Sec. 44-101. Unlawful dumping.

The dumping of any waste, scrap, rubbish, fill dirt, fill material or commercial refuse, is controlled by ordinance.

(Code 1969, § 5.48; Code 1977, § 28-76)

Sec. 44-102. Circuses, fairs, carnivals and similar uses.

Circuses, fairs, carnivals and similar uses may be allowed in any district on approval of the board of appeals.

(Code 1969, § 5.49; Code 1977, § 28-77)

Sec. 44-103. Essential services.

Essential services shall be permitted as authorized under any franchise or as may be regulated by any law of the state or any provision of this Code, it being the intention hereof to except such essential services from the application of this chapter.

(Code 1969, § 5.50; Code 1977, § 28-78)

Sec. 44-104. Size of dwelling.

Every building or structure hereafter erected or structurally altered for use as a dwelling shall have the following minimum residential unit floor areas:

- (1) One-family dwellings:

a. One story 1,200 square feet

b. 1½ story:

First floor 800 square feet

Total floor area 1,300 square feet

c. Two story:

First floor 800 square feet

Total floor area 1,400 square feet

(2) Efficiency unit 450 square feet

(3) Two-, multiple- and single-family terrace units:

a. One bedroom 750 square feet

b. For each additional bedroom, library, recreation or family room, add 250 square feet

Provided further, however, that where the dwelling is to be constructed on a previously platted lot, which is under 4,800 square feet in area, the size of such dwelling shall be required to have a first floor area within the range of 20 percent to 25 percent of the square foot area of said previously platted lot. That is to say, the first floor shall occupy a minimum of 20 percent or a maximum of 25 percent of said lot area.

(Code 1969, § 5.51; Code 1977, § 28-79; Ord. No. 23-Q, 9-28-1970; Ord. No. 23-UU, 5-31-1988)

Sec. 44-105. Special regulation of adult motion picture theatres and adult mini-motion picture theatres—Purpose.

In the development and execution of this section and sections 44-106 and 44-107, it is recognized that there are some uses which because of their very nature are recognized as having serious objectionable operational characteristics. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting and downgrading of the surrounding neighborhood. These special regulations are itemized in these sections. The primary control or regulation is for preventing such uses from intruding into residential districts or areas, or areas occupied by churches, parks or schools.

(Code 1977, § 28-80; Ord. No. 167, 5-8-1989)

Sec. 44-106. Same—Limitation on location.

No adult motion picture theatre or adult mini-motion picture theatre, as defined in section 8-69, shall be permitted within 500 feet of any residential zone, single-family or multifamily dwelling, church, park or school.

(Code 1977, § 28-81; Ord. No. 167, 5-8-1989)

Sec. 44-107. Same—Zoning board of appeals.

The zoning board of appeals may, in its sole discretion, waive the 500 feet restriction upon a finding:

(1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of sections 44-105, 44-106 and this section will be observed.

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- (2) That the proposed use will not enlarge or encourage the development of blighted areas.
 - (3) That the establishment of the proposed use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal.
 - (4) That all applicable regulations of sections 44-105, 44-106 and this section will be observed.

(Code 1977, § 28-82; Ord. No. 167, 5-8-1989)

Sec. 44-108. Regulation of portable storage containers.

Portable storage containers shall be allowed by permit issued by the building official, in any yard, on lots containing a permitted principal use, subject to all of the following:

- (1) Portable storage containers shall be permitted for a period not to exceed 60 days within a six-month period; however, the building official may grant an extension provided the property owner has demonstrated that extenuating circumstances exist which are outside of the ordinary control of the property owner. Extenuating circumstances shall include, but are not necessarily limited to, property damage produced by any force of nature which is irresistible such as lightning, fires, flooding, tornadoes, or earthquakes, or delays during bona fide construction activity allowed by permit for a building or structure caused by difficulties in securing tradesmen, building materials or equipment.
- (2) The property owner, as well as the supplier, shall be responsible for ensuring that any portable storage container is maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, tearing, or other holes or breaks, at all times.
- (3) No portable storage container may be used for flammable or explosive materials, solid waste, construction debris, demolition, debris, recyclable materials, or materials related to a business, home occupation, or home-based business located off the premises.
- (4) Any portable storage container shall be placed on private property in the least conspicuous location available to minimize disturbance to any neighboring property owner, resident or use, and in a manner that does not endanger the safety of persons or property in its immediate vicinity. In no instance shall any portable storage container be located within any public easement or right-of-way, or in any location which blocks or interferes with the safe ingress and egress to dwellings, prevents access to essential services, or impedes public safety operations.
- (5) Portable storage containers shall not exceed a height of 8½ feet, a length of 20 feet, and a width of eight feet.
- (6) Portable storage containers shall be placed on a concrete or asphalt paved surface, or be elevated not less than six inches, to prevent the harboring of rodents.

(Ord. No. 356, 10-25-2010)

Sec. 44-109. Medical marihuana home occupation regulations.

- (a) *Intent.* It is the intent of this section to give effect to the intent of the Michigan Medical Marihuana Act, Public Act 2008 Initiated Law, MCL 333.26421 et seq. (hereinafter "Act") as approved by the electors and not to determine and establish an altered policy with regard to marihuana. These provisions are designed to recognize the fundamental intent of the Act to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, storage, distribution and use of marihuana for medical purposes; and to regulate this fundamental intent in a manner that does not conflict with the Act so as to address issues that would otherwise expose the city and

its residents to significant adverse conditions. In consideration of this concern, local regulations enumerated below generally provide that: the primary caregiver must reside in the dwelling where his/her medical marihuana is cultivated and/or stored; medical marihuana primary caregiver activity only occur within a single-family dwelling located in the R-1 one-family residential district except as otherwise set forth herein; and, the distribution and use of medical marihuana occur on the lot, parcel, or site condominium unit occupied by the qualifying patient. Nothing in this section shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow the use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the Act and these regulations; and nothing in this section shall be construed to undermine or provide immunity from federal and state law as it may be enforced by the federal or state government relative to the cultivation, storage, distribution or use of marihuana.

(b) *Definitions.* The following definitions shall apply for purposes of this section:

- (1) *Dispensary* means any operation where marihuana is distributed to a qualifying patient by someone other than his or her designated primary caregiver.
- (2) *Marihuana* means the substance defined as such in Section 7106 of the Public Health Code, Public Act No. 368 of 1978 PA 368, MCL 333.7106.
- (3) *Michigan Medical Marihuana Act or Act* means the Michigan Initiated Law 1 of 2008, MCL 333.26421 et seq.
- (4) *Primary caregiver* means a primary caregiver as defined under MCL 333.26423(h) of the Act, and who has been issued and possesses a registry identification card under the Act.
- (5) *Qualifying patient* means a qualifying patient as defined under MCL 333.26423(i) of the Act, and who has been issued and possesses a registry identification card under the Act.
- (6) *Registry identification card* means the document defined as such under MCL 333.26423(j) of the Act and which is issued by the State of Michigan to identify a person as a registered qualifying patient or registered primary caregiver.
- (7) *Collective ingestion facility* means a facility that allows multiple qualifying patients to consume or ingest medical marihuana upon the premises. This term does not encompass the consumption or ingestion of medical marihuana by a qualifying patient at his/her residence or at a hospital or hospice at which the qualifying patient is receiving care.
- (8) *Enclosed locked facility* means a facility as defined by MCL 333.26423(d) of the Act.

(c) *Remainder of article; effect of permit approval.* In recognition of the unique nature of the medical marihuana home occupation provided for hereunder, the conditions and requirements set forth in section 44-288(10) for home occupations shall not be applicable to medical marihuana home occupations. In addition, the issuance of a medical marihuana home occupation permit hereunder shall relieve the applicant from any obligation of site plan review or a land use permit for the activity authorized thereunder.

(d) *Regulations.*

(1) *Medical marihuana home occupation permit requirement.*

- a. The cultivation, storage and/or distribution of marihuana by a primary caregiver conducted in accordance with the Act shall only occur within a single-family dwelling located in the R-1 one-family residential zoning district subject to the terms and conditions set forth in this section. Except as set forth in subsection (f) below, no such cultivation, storage and/or distribution shall be lawful in this city unless and until the location of the premises in which such primary caregiver activity is conducted has received a medical marihuana home occupation permit under this section.

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- b. *Application for permit.* The requirement of this section is to require a permit for a location and not to license persons. A confidential application for a medical marihuana home occupation permit on a form approved by the city shall be submitted to the city police chief. An application shall:
1. Not require the name, home address or date of birth of a qualifying patient.
 2. Include the name of the primary caregiver (or medical marihuana home occupation permit holder, if different), and the address of the premises (lot, parcel, or site condominium unit).
 3. Describe the enclosed locked facility in which any and all cultivation of marihuana is proposed to occur or where marihuana will be stored, with such description including the location of the facility in the building.
 4. For safety and other code inspection purposes, it shall describe and provide detailed specifications of equipment proposed to be used to facilitate the cultivation and harvesting of marihuana plants including, but not necessarily limited to, lighting, HVAC, electrical service, and plumbing.
 5. Contain such other information as the city determines is needed for the administration of this section or to ascertain satisfaction of the standards for the granting of a permit hereunder.
- c. *Permit application and administrative fees.* No application shall be approved for a medical marihuana home occupation permit, and no annual inspection of the premises as required under section 44-109(d)(2)j. shall occur, without payment of a nonrefundable application fee to help defer the cost of administering and enforcing the provisions of this section. Fees shall be set by resolution of the city council and may be adjusted from time to time thereafter as the city council deems appropriate.
- d. *Confidentiality.* It is the intent of this section that the information acquired through the permitting procedure prescribed herein shall be accessible to the city, Michigan construction code, fire code enforcement officials, and law enforcement officials and their support personnel, in the performance of their duties and shall otherwise remain confidential and not subject to public disclosure except as otherwise required by law.
- e. *Prior use.* Any use which purports to have engaged in the medical use or distribution of marihuana prior to the enactment of this section shall be deemed not to have been a legally established use under the provisions of the zoning ordinance, and such use shall not be entitled to claim legal nonconforming status.
- (2) *Requirements and standards for approval of permit and for the activity permitted.*
- a. There shall be not more than one primary caregiver operating upon the lot, parcel, or site condominium unit for which a permit is requested. The primary caregiver shall reside within the dwelling located upon the lot, parcel, or site condominium unit for which a permit is requested. A primary caregiver may assist not more than five qualifying patients with their medical use of marihuana.
 - b. The lot, parcel, or site condominium unit for which a permit is requested shall not be located:
 1. Within 1,000 feet of a public or private elementary or secondary school, public or private preschool or licensed daycare facility.
 2. Within 500 feet of a public park, public beach, public recreational area, or place of worship (church).

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3. Within 500 feet of another lot, parcel, or site condominium unit for which a medical marihuana home occupation permit has been issued pursuant to this section.
 4. Measurements for purposes of this subsection shall be made from the parcel or lot line, or site condominium unit boundary, to the applicable property or boundary line of the preschool, school, daycare facility, public park, public beach, public recreational area, or a lot, parcel or site condominium unit which previously received a medical marihuana home occupation permit.
- c. Subject to the exceptions set forth in subsection 44-109(f) below, the medical marihuana primary caregiver activity shall occur only within a single-family dwelling located in the R-1 one-family residential zoning district under the ownership of the primary caregiver. The primary caregiver activity shall at all times be subordinate and incidental to the use of the dwelling as a residence.
 - d. The primary caregiver shall be allowed to cultivate not more than 12 marihuana plants for each of his/her qualifying patients. All marihuana and marihuana plants shall be contained inside the main residential structure except when being delivered by the primary caregiver to a qualifying patient off-site.
 - e. That portion of the single-family dwelling unit used for the growing, processing, or storage of medical marihuana shall not exceed a gross floor area of 150 square feet.
 - f. All medical marihuana must be kept in an enclosed locked facility to which only the registered patient and/or primary caregiver have access.
 - g. The primary caregiver shall not distribute or allow the use of marihuana by the qualifying patients he/she is designated to serve upon the lot, parcel, or site condominium unit for which a permit is issued hereunder unless the qualifying patient resides therein.
 - h. The distribution of ancillary products by the primary caregiver shall be permitted, subject to any city business licensing requirements.
 - i. If a residential room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 10:00 p.m. and 6:00 a.m. shall employ shielding methods to prevent ambient light spillage that causes or creates a distraction or nuisance to any adjacent residential properties.
 - j. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a premises in which electrical wiring, lighting and/or watering devices are located, installed or modified that support the cultivation or harvesting of marihuana. Prior to a permit issued hereunder taking effect and the commencement of primary caregiver activities, the premises shall be inspected for compliance with applicable provisions of the Michigan Construction Code and Fire Code. The premises shall be inspected annually thereafter for continued compliance with all applicable zoning ordinance and construction code and fire code requirements.
 - k. There shall be no sign identifying the premises as a site at which marihuana is cultivated, harvested or distributed.
 - l. The primary caregiver activities conducted on the premises for which a medical marihuana home occupation permit is granted hereunder shall be in conformance with the application approved hereunder, the Act, and the administrative rules promulgated pursuant to the Act.
 - m. Nothing in this section shall be deemed to allow dispensaries or collective ingestion facilities, which are hereby strictly prohibited.

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- (e) *Disclaimer of immunity.* Nothing in this section shall be construed as allowing the use, cultivation, distribution or possession of marihuana not in strict compliance with the express provisions of the Act and the provisions of this section. Further, nothing in this section shall be construed to undermine or provide immunity from federal or state law as it may be enforced by the federal or state government relative to the use, cultivation, distribution or possession of marihuana or to prevent prosecution thereunder.
- (f) *Exceptions.* This section shall not be deemed to prohibit or restrict or require a permit for the following:
- (1) The cultivation, storage and/or use of marihuana by a qualifying patient solely for his/her personal use at his/her residence or at a hospital or hospice at which he/she is receiving care and in accordance with the provisions of the Act and the administrative rules adopted thereunder.
 - (2) The cultivation, storage and/or distribution of marihuana in accordance with the Act by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the primary caregiver's household and whose residence is shared with the primary caregiver.
 - (3) The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marihuana use, including distribution or other assistance, in accordance with the Act and the administrative rules adopted thereunder, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.
- (g) *Enforcement.* Any violation of this section shall be considered a civil infraction.
- (Ord. No. 376, 2-23-2015)

Sec. 44-110. Wireless communications, towers and antennas.

- (a) *Purpose and intent.* The general purpose and intent of these regulations is to regulate the establishment of wireless communications equipment in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within the city. It is the further purpose and intent of these regulations to:
- (1) Provide for the appropriate location and development criteria for wireless communication support structures and wireless communication antennas within the city;
 - (2) Ensure access to reliable wireless communications devices throughout all areas of the city;
 - (3) Minimize the adverse effects of such facilities through careful design, siting and screening criteria;
 - (4) Maximize the use of existing and future wireless communications support structures and encourage multiple uses on such facilities;
 - (5) Protect the character of residential areas throughout the city from the effects of wireless communications equipment and;
 - (6) Promote the public health, safety, welfare, and convenience.
- (b) *Definitions.*

Concealed wireless communications equipment means any wireless communications equipment that is integrated as an architectural feature of an existing building or structure designed so that its purpose is not readily apparent to a casual observer.

Quasi-public use means a use conducted by, or a facility or structure owned or operated by, a nonprofit, religious, or charitable institution that provides educational, cultural, recreational, religious, or other similar types of public services.

Wireless communications antenna (WCA) means any antenna used for the transmission or reception of wireless communications signals excluding those used exclusively for dispatch communications by public emergency agencies, ham radio antennas, satellite antennas, those which receive video programming services via multipoint distribution services which are one meter (39 inches) or less in diameter and those which receive television broadcast signals.

Wireless communications equipment means all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals and may include, but is not limited to radio towers, television towers, telephone devices and exchanges, micro-wave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Citizen band radio facilities, short wave facilities, ham, amateur radio facilities, and satellite dishes, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority are not included in this definition.

Wireless communications support structure (WCSS) means a monopole, guyed, or lattice type tower designed for the attachment of or as support for wireless communications antennas or other antennas.

(c) *Administrative review and approval.* Wireless communications equipment is a permitted use of property in any zoning district after administrative review and approval in accordance with subsection (g) herein and is not subject to special land use approval or any other approval required under chapter 44 [zoning] under the following circumstances.

- (1) The proposed wireless communications equipment will be co-located on an existing WCSS or in an existing compound, subject to the following conditions:
 - a. The existing WCSS or existing equipment compound is in compliance with the city's zoning ordinance or was previously approved by the city.
 - b. The proposed co-location will not do any of the following:
 1. Increase the overall height of the WCSS by more than 20 feet or ten percent of its original height, whichever is greater.
 2. Increase the width of the WCSS by more than the minimum necessary to permit co-location.
 3. Increase the area of the existing equipment compound to greater than 2,500 square feet.
 - c. The proposed co-location complies with the terms and conditions of any previous final approval of the WCSS or equipment compound by the city.
- (2) An existing structure which will serve as an attached WCSS consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the city administrator, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.
- (3) An existing structure of an essential service which will serve as an attached WCSS, where the existing structure is not, in the discretion of the zoning administrator, proposed to be either materially altered or materially changed in appearance.
- (4) Concealed wireless communication equipment that are less than 60 feet in height.
- (5) An existing WCSS which was lawful at the time of its construction proposed to be replaced for purposes of accommodating co-location of additional WCAs, or otherwise, subject to the following:
 - a. The applicant shall cause the existing WCSS to be removed within 90 days of completion of the replacement WCSS and the relocation or installation of the WCA. In any event, the existing WCSS shall be removed within 180 days of the city's final construction inspection of the replacement WCSS.

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- b. If the location of the replacement WCSS is such that the existing WCSS must be moved before the replacement WCSS is constructed, temporary portable antennae support facilities may be used, but must be removed within 30 days of the completion of the replacement WCSS and the relocation or installation of the WCA. In any event, the temporary portable antennae facilities must be removed within 60 days of the city's final construction inspection of the replacement WCSS.
 - c. The replacement WCSS shall meet all the general criteria found in subsection (f) herein for the installation of a new WCSS.
- (d) *Planning commission review and approval.* Wireless communications equipment not permitted by administrative approval shall be permitted in any zoning district upon the approval of a site plan by the planning commission found meeting the standards and requirements set for in this section.
- (e) *Commitment to co-location.* Co-location or the provision of more than one WCA on a single WCSS at a single location shall be required.
- (1) A new WCSS shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSS which cannot be met by placing a WCA on an existing WCSS or on other structures or via the replacement of an existing WCSS. Information concerning the following factors shall be considered in determining that such need exists:
 - a. Insufficient structural capacity of existing WCSSs or other suitable structures and infeasibility of reinforcing or replacing an existing WCSS.
 - b. Unavailability of suitable locations to accommodate system design or engineering on existing WCSSs or other structures.
 - c. Radio frequency interference or other signal interference problems at existing WCSS, or others structures;
 - d. The cost of using an existing WCSS or other structure exceeds the costs of permitting and constructing a new WCSS.
 - e. Other factors which demonstrate the reasonable need for the new WCSS.
 - f. The denial of the application for a proposed WCSS will result in unreasonable discrimination among providers of functionally equivalent personal wireless communication servers and/or will have the effect of prohibiting the provision of personal wireless communications services.
 - g. The refusal of owners or parties who control a WCSS or other structure to permit a WCA to be attached to such WCSS or other structure.
 - (2) In furtherance of the city's objective of requiring co-location, where possible, should it be necessary to erect a new tower or similar structure, the applicant shall provide a letter of intent to lease excess space on a facility and commit itself to:
 - a. Respond to any requests for information from another potential shared-use applicant;
 - b. Negotiate in good faith and allow for leased shared-use, provided it can be demonstrated that it is possible; and
 - c. Make no more than a reasonable charge, based upon fair market value, for a shared-use lease.
- (f) *General criteria.*
- (1) The applicant shall provide written evidence that all wireless communications equipment shall be constructed in compliance with current industry standards and those required by other agencies. These are: the FCC (regarding radio frequency transmission being compliant with 47 C.F.F. § 1.1310); the FAA

(requiring the submittal of a "Determination of No Hazard to Air Navigation" resulting from an aeronautical study conducted under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14, Part 77 of the Code of Federal Regulations); and, the TIA (requiring that communication towers be designed in accordance with the Telecommunications Industry Association ANSI/TIAA-222-G, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures").

- (2) The WCSS shall not be used for advertising purposes and shall not contain any signage except signage which shall show the identity of the service provider and emergency telephone numbers.
- (3) The WCSS may be located on a zoning lot containing other principal uses. The WCSS may be located within an area smaller than the minimum lot size of the applicable zoning district provided the zoning lot complies with the applicable minimum lot size for the existing principal use or is a legal nonconforming lot. The area within which the WCSS is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein.
- (4) The WCSS shall meet all requirements of the zoning district in which it is located which are not inconsistent with this section. Minimum yard requirements shall be measured from the boundary of the zoning lot to the closest portion of the WCSS or the accessory equipment structure or storage area, whichever is closer.
- (5) The WCSS shall have a landscaped buffer so that the base of the WCSS and accessory equipment structure or storage area shall be screened from any right-of-way, residential use or residential zoning district. Such landscaped buffer shall be placed on the site in a manner which will maximize the aesthetic and environmental benefits while at the same time providing the visual buffer required hereby. Such landscaped buffer shall consist of hedges planted leaf to leaf which shall reach a height of not less than six feet at maturity and conifer trees planted on 15-foot centers along the approved buffer of a species approved by the planning commission unless safety requirements of the principal use requires otherwise (i.e., utility substations).
- (6) The construction of the WCSS shall be of monopole design unless it can be demonstrated that such design is not feasible to accommodate the user or co-location.
- (7) A WCSS shall have a non-reflective finish.
- (8) Adequate ingress and egress to the equipment compound shall be provided by means of a clearly limited and defined driveway not less than 12 feet wide and of asphalt or concrete construction.
- (9) A minimum of two parking spaces shall be provided on-site and interior to the perimeter barrier. The parking 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 such parking area.
- (10) All WCSSs shall be equipped with an anti-climbing device to prevent unauthorized access.
- (11) No wireless communications equipment shall be located within a public right-of-way or within a private easement.
- (12) All towers, structures and related equipment shall be designed to be compatible and harmonious in terms of style and building materials to the surrounding area. When necessary to insure compatibility with the surrounding area, a visual simulation may be required of the applicant. A visual simulation consists of an artist's or architect's rendering, or a suitable photo rendering of how the tower will appear in the area proposed, taking into account existing buildings and natural features.
- (13) The maximum height of any new WCSS shall be as determined by the planning commission through the granting of site plan approval. The height permitted shall be the minimum height necessary to meet the applicant's engineering requirements for the site being considered, but in no instance shall it exceed a maximum height of 150 feet. Should co-location be proposed upon an existing structure,

thereby qualifying for administrative approval, the height proposed may be approved by the city administrator.

- (14) Fences shall not exceed a height of eight feet and not contain barbed wire, razor wire, electric current, or charge of electricity.
- (15) Site selection shall be limited to the following hierarchy of sites. Sites shall be selected in descending order based upon their availability and ability to meet the transmission needs of the applicant. In the event a particular parcel is demonstrated to be unavailable and/or functionally inappropriate for transmission purposes, the applicant shall select the next available and appropriate site from the site options listed below.
 - a. City owned site.
 - b. Public or private school site.
 - c. Other governmentally owned site.
 - d. Religious or other quasi-public use site.
 - e. Public park and other large permanent open-space areas.
 - f. Other locations if none of the above is available.

(g) *Administrative review and approval process.*

- (1) All administrative review applications must contain the following information:
 - a. Administrative review application form signed by applicant.
 - b. Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms.
 - c. A site plan detailing proposed improvements which complies with the informational requirements of section 44-888 of the zoning ordinance, and the general criteria of subsection (f) herein.
 - d. Administrative review application fee.
- (2) Approval procedures.
 - a. Within 30 days of the receipt of an application for administrative review, the city administrator shall either: (1) inform the applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete. If the city administrator informs the applicant of an incomplete application within 30 days, the overall timeframe for review is suspended until such time that the applicant provides the requested information.
 - b. An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's unreasonable failure to complete the application within 60 business days after receipt of written notice shall constitute a withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.
 - c. The city administrator must issue a written decision granting or denying the request within 60 days of the submission of the initial application unless:
 - i. The city administrator notified the applicant that its application was incomplete within 30 days of filing. If so, the remaining time from the 60 day total review time is suspended until the applicant provides the missing information; or

ii. An extension of time is agreed to by the applicant.

Failure to issue a written decision within 60 days shall constitute an approval of the application.

- d. Should the city administrator deny the application, he/she shall provide written justification for the denial. The denial must be based on substantial evidence of inconsistencies between the application and local zoning requirements.
- e. An applicant may appeal any decision of the city administrator approving, approving with conditions, or denying an application or deeming an application incomplete, within 30 days to zoning board of appeals in accordance with article XVIII of the city zoning ordinance and subsection (j) herein.

(h) *Planning commission review and approval process.*

(1) All applications must contain the following information:

- a. A site plan review application form signed by the applicant.
- b. Copy of lease or letter of authorization from the property owner evidencing the applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms.
- c. A site plan prepared in accordance with section 44-888 of the zoning ordinance shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment.
- d. The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base and equipment enclosure as required by subsection (f)(5) herein.
- e. The application shall include a signed certification by a state- licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
- f. The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in subsection (i) herein. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the city attorney and recordable at the county office of the register of deeds, to be held by the city and recorded if needed, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the city in securing removal.
- g. The application shall contain information showing the geographic search area within which the proposed WCSS must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.
- h. The application shall include a map showing existing and known proposed wireless communications equipment facilities within the city, and further showing existing and known proposed wireless communications equipment facilities within areas surrounding the borders of the city in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the city, the applicant shall be required only to update it as needed. Any confidential commercial information which, if released would result in commercial disadvantage

to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. (MCL 15.243(1)(g)).

- i. A statement that the applicant has considered the likely effects of the installation of the wireless communications equipment on nearby land use values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure.
 - j. If co-location is not part of the application then the applicant must include a statement in the application as to why co-location is not possible.
 - k. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the wireless communications equipment is on the premises.
- (2) Approval procedures.
- a. Within 30 days of the receipt of an application for site plan review, the city administrator shall either: (1) inform the applicant in writing the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete. If the city administrator informs the applicant of an incomplete application within 30 days, the overall timeframe for review is suspended until such time that the applicant provides the requested information.
 - b. If an application is deemed incomplete, an applicant may submit additional materials to complete the application. An applicant's unreasonable failure to complete the application within 60 business days after receipt of written notice shall constitute a withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.
 - c. An application deemed complete shall be placed on the agenda of the planning commission at their next regularly scheduled meeting for their consideration.
 - d. The planning commission shall review the application pursuant to section 44-886 of the zoning ordinance and within 60 days, either deny, approve, or conditionally approve the site plan.
 - e. The applicant shall be notified of the planning commission's decision in writing by the city administrator within 150 days of the submission of the initial application unless:
 - i. The city administrator notified the applicant that his/her application was incomplete within 30 days of filing. If so, the remaining time from the 150-day total review time is suspended until the applicant provides the missing information; or
 - ii. An extension of time is agreed to by the applicant.Failure to issue a written decision within 150 days shall constitute an approval of the application.
- (i) *Removal of an abandoned WCSS.* Any WCSS which is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSS for 180 days or more. Where the removal or demolition of an abandoned WCSS has not been lawfully completed within 60 days, and after at least 30 days written notice, the city may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the WCSS or the city may place a lien on the property to cover costs for the removal of the WCSS. A lien on the property shall be superior to all other liens except taxes.

(j) *Variances and appeals.* Variances from this section may be requested from the zoning board of appeals in accordance with article XVII of the city zoning ordinance.

(Ord. No. 384, 10-10-2016)

Editor's note(s)—Ord. No. 384, adopted Oct. 10, 2016, amended the Code by adding provisions designated as § 44-109. Inasmuch as there were already provisions so designated, the provisions have been redesignated as § 44-110 at the discretion of the editor.

Secs. 44-111—44-127. Reserved.

ARTICLE V. NONCONFORMING USES

Sec. 44-128. Continuance of nonconforming building.

Any lawful nonconforming building or structure may be continued and maintained provided there is no physical change other than necessary maintenance and repair of such building or structure except as permitted hereinafter.

(Code 1969, § 5.55; Code 1977, § 28-91)

Sec. 44-129. Continuance of nonconforming use.

Any lawful nonconforming use may be continued and maintained, provided there is no increase or enlargement of the area, space or volume occupied by or devoted to such nonconforming use.

(Code 1969, § 5.56; Code 1977, § 28-92)

Sec. 44-130. Continuance of nonconforming use of land.

Any lawful nonconforming use of land may be continued, provided that such use of land shall not be expanded or extended either on the same or adjoining property, and provided further, that if such use or any portion thereof is discontinued or abandoned, any future use of such land shall be in conformity with the provisions of this chapter.

(Code 1969, § 5.57; Code 1977, § 28-93)

Sec. 44-131. Restoration of damaged building.

A nonconforming building or structure having been damaged or partially destroyed by fire or other calamity to an extent not exceeding 60 percent of the assessed valuation, exclusive of foundations, at that time, may be restored and its immediately previous occupancy or use, existing at the time of such partial destruction, may be continued or resumed; provided the work of restoration is commenced within one year of the date of such partial destruction and is diligently carried on to completion. Whenever a nonconforming building or structure is damaged in excess of 60 percent of its assessed valuation, exclusive of foundations, at that time, the repair or reconstruction of such building shall conform to all of the regulations of the district in which it is located and it shall be treated as a new building.

(Code 1969, § 5.58; Code 1977, § 28-94)

Sec. 44-132. Change of use.

Any part of a building, structure or land occupied by a nonconforming use may be changed to a use of the same or a more restricted classification (subject to such permits as may be required for proposed use), but where the use of a nonconforming building, structure or land is hereafter changed to a more restricted classification, it shall not thereafter be changed to a use of less restricted classification.

(Code 1969, § 5.59; Code 1977, § 28-95)

Sec. 44-133. Vacancy; termination of nonconforming use.

In the event that a nonconforming use of land or building is discontinued or abandoned, for a period of six months or more, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

(Code 1969, § 5.60; Code 1977, § 28-96)

Sec. 44-134. Change of tenancy or ownership.

There may be a change of tenancy or ownership or management of an existing lawful nonconforming use, provided there is no change in the nature or character of such nonconforming use.

(Code 1969, § 5.61; Code 1977, § 28-97)

Sec. 44-135. Completion of pending construction.

The adoption of the ordinance from which this chapter is derived shall not limit the construction of any building for which a permit had been obtained and on which work had commenced and had been carried on continuously for at least 30 days.

(Code 1969, § 5.62; Code 1977, § 28-98)

Sec. 44-136. Expansion prohibited.

A nonconforming use of a portion of a building or structure, which building or structure otherwise conforms to the provisions of this chapter, shall not be expanded or extended into any other portion of such conforming building or structure, nor changed except to a conforming use. If the nonconforming use or portion thereof is discontinued or changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity to the regulations of the district in which such building or structure is located.

(Code 1969, § 5.63; Code 1977, § 28-99)

Sec. 44-137. Signs, billboard, commercial advertising structures.

Any sign, billboard, commercial advertising structure or object which lawfully existed and was maintained at the time of the Code became effective may be continued although such use does not conform with the provisions of this chapter, provided that no structural alterations may be made thereto, and provided further, that all such nonconforming signs, billboards, commercial advertising structures and objects and their supporting members located in one-family residence, two-family residence, multiple-family residence, local business districts, should be

completely removed from the premises within three years of the passage of the ordinance from which this chapter is derived.

(Code 1969, § 5.64; Code 1977, § 28-100)

Sec. 44-138. Removal of nonconforming use, building or structure.

The planning commission shall, from time to time, recommend to the city council the acquisition of such private property as does not conform in use or structure to the regulations and restrictions of the various districts defined in this chapter and to recommend the removal of such use or structure pursuant to section 208(3) of the Michigan Zoning Enabling Act (MCL 125.3208(3)). The city council may in its discretion provide that the cost and expense of acquiring such private property be paid from the general fund or the cost and expense or any portion thereof be assessed to a special district.

(Code 1969, § 5.65; Code 1977, § 28-101)

Sec. 44-139. Nonconforming uses—Due to reclassification.

The foregoing provisions shall also apply to uses which hereafter become nonconforming due to any reclassification of districts or zones under this chapter.

(Code 1969, § 5.66; Code 1977, § 28-102)

Sec. 44-140. Same—Record of.

Immediately after the effective date of this Code or amendments thereto, the city shall prepare a complete record of all nonconforming uses and occupations of lands, buildings and structures, including tents and trailer coaches, existing at the time of such chapter or amendment. Such record shall contain the names and addresses of the owners of such nonconforming use and of any occupant, other than the owner, the legal description of the land and the nature and extent of use. The city planning commission shall review the record and make such recommendations to the city council as they deem advisable for the correction or elimination of such nonconforming uses. The record of nonconforming uses and recommendations of the planning commission shall be filed in the office of the city clerk, which record shall constitute prima facie evidence of the number, character and extent of the nonconformances at the time this chapter or an amendment thereto becomes effective. The record of nonconforming uses shall be reviewed and revised annually as the planning commission shall prescribe.

(Code 1969, § 5.67; Code 1977, § 28-103)

Secs. 44-141—44-163. Reserved.

ARTICLE VI. OFF-STREET LOADING AND PARKING

Sec. 44-164. Intent.

The intent of this article is to provide for adequate private passenger vehicular and delivery truck storage space for different types of land uses within the city and to set standards for the construction and use of these off-street parking facilities. Within this article, standards have been identified for:

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- (1) The temporary storage of trucks with the primary intent of delivering goods for storage and/or sale to the general public.
 - (2) The temporary storage of private passenger vehicles as a use incidental to a principal use.
 - (3) The temporary storage of private passenger vehicles as a principal use of the site to serve an adjacent use district which has developed without adequate off-street parking.

(Code 1977, § 28-114; Ord. No. 190, 6-22-1992)

Sec. 44-165. Off-street loading and unloading space.

On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or the distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets or alleys. Such space shall include a ten foot by 55 foot loading space, with 14 foot height clearance for every 10,000 square feet, or fraction thereof, in excess of 2,000 square feet of building floor use or land use for the above-mentioned purposes. A ten by 20 feet loading space with a 14-foot height clearance shall be required for any of the above-mentioned uses for 2,000 or less square feet of building floor use or land use.

(Code 1977, § 28-115; Ord. No. 190, 6-22-1992)

Sec. 44-166. Off-street parking development conditions.

In all zoning districts, off-street parking facilities for the storage or parking of self-propelled motor vehicles hereafter erected, altered or extended after the effective date of the ordinance from which this article is derived shall be provided and maintained as herein prescribed:

- (1) Loading space as required in section 44-165 shall not be construed as supplying off-street parking space.
- (2) When units or measurements used in determining the number of required parking spaces result in requirement of fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one space.
- (3) Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of the ordinance from which this article is derived, additional parking space for additional floor area shall be provided and maintained in amounts hereafter specified for that use. Provided, however, in the existing business districts where the city and various property owners have or may cooperatively develop parking facilities, and additional parking space as required for the increased floor space is not available within the required 300 feet as required in the second sentence of subsection (5) of this section, the planning commission may, through negotiations with the owner of such property, vary the location of such required parking spaces or agree to the owner's participation in other authorized parking facilities which will furnish the same amount of space as required for his increased floor space within a distance of not more than 500 feet of the building.
- (4) For the purpose of this article, "floor area," in the case of offices, merchandising or service types of use, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients or as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise.

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- (5) Off-street parking facilities for one-family and two-family dwellings shall consist of a parking strip, driveway, parking space, carport, or garage, or combination thereof, and shall be located on the same plot of ground as the building they are intended to serve. No parking shall be permitted on lawns or other unpaved areas of residential lots, with the exception of approved gravel parking areas. This prohibition shall not, however, prevent the occasional parking on lawns or other unpaved areas for guests of the residents during private special occasions, to accommodate persons during their period of short-term disability, to provide visitor parking for community festivals, and for other similar temporary events. The location of required off-street parking facilities for other than one- and two-family dwellings shall consist of a parking strip, driveway, parking space, carport, garage, or combination thereof and shall be within 300 feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building.
 - (6) In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use which is so mentioned and which such use is similar shall apply.
 - (7) Nothing in this section shall be construed to prevent collective provision of off-street parking facilities for two or more buildings or uses; provided, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table in section 44-167.
 - (8) Nothing in this section shall prevent the extension of or an addition to a building into an existing parking area which is required for the original building when the same amount of space taken by the extension or addition to a building is provided by an enlargement of the existing parking lot or an additional area within 300 feet of such building.
 - (9) Such parking areas will be used solely for the parking of private passenger vehicles for periods of less than 24 hours and shall not be used as off-street loading areas.
 - (10) No commercial repair work or service of any kind, or sales or display activities, shall be conducted in such parking areas.
 - (11) Such parking lots shall be used only for parking automobiles and no commercial activities, such as washing or greasing, sale of merchandise or purveying of foodstuffs, repair work or servicing of any kind, shall be done thereon.
 - (12) No building or structure shall be hereafter built or permitted, except necessary buildings for attendant of not more than 50 square feet each in area and not more than 15 feet in height.
 - (13) Plans for development of any such parking lot must be approved by the building inspector before construction is started. No such land shall be used or parking until approved by the city engineer/building inspector.
 - (14) Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.
 - (15) Bus parking is not permitted within off-site parking lot.

(Code 1977, § 28-116; Ord. No. 190, 6-22-1992; Ord. No. 264, § 1, 10-11-1999; Ord. No. 375, 12-22-2014)

Sec. 44-167. Off-street parking spaces.

- (a) *Required.* The amount of required off-street parking spaces for new uses or buildings, additions thereto and additions to existing buildings, as specified section 44-166, shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use and/or shall comply with section 44-166(8).

- (b) *Similar type for not specified facilities.* For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which is similar in type.

Use	Required parking space
One-family dwellings.	Two parking spaces for each dwelling units.
Two-family income dwellings, multiple family dwellings, apartment houses, and efficiency apartments.	One per bedroom, with a minimum of two per unit, plus 0.25 parking spaces per unit for visitors calculated on the basis of requiring this standard only for the first 250 units, to be evenly distributed throughout the off-street parking area. Each phase shall comply with these regulations.
Tourist homes, cabins or motels.	One parking space for each guest or sleeping room or suite in a tourist home, tourist cabin or motel, plus two additional spaces for management and/or service personnel.
Nurses home or dormitory.	One parking space for each two bedrooms, plus two additional spaces for manager.
Hospital, sanitariums, nursing and convalescent homes and homes for the aged or similar uses.	One parking space for each four beds, plus one space for each staff or visiting doctor, plus one space for each four employees including nurses.
Orphanage and institutions of a philanthropic and charitable nature or similar use.	One parking space for each ten beds.
Hotels.	One parking space for each guest room, plus one additional space for each employee.
Private clubs, fraternities, boardinghouses and roominghouses.	One parking space for each bedroom, plus two additional spaces for owner or management.
Libraries, museums, post offices.	Provide about each building an improved area, other than the front or side yard, which shall be not less in size than two times the floor space of the building.
Theaters and auditoriums (other than incidental to schools).	One parking space for each four seats, plus additional spaces equal in number to 50 percent of the number of all employees of the theater.
Churches, auditoriums incidental to schools.	One parking space for each four seats in the main assembly unit.

Schools.	One parking space for each two employees (including teachers and administrators), plus sufficient off-street space for the safe and convenient loading and unloading of students.
Dance halls, pool and billiard rooms, assembly halls without fixed seats, community centers, civic clubs, fraternal orders, veterans' organizations, union halls and similar types of occupancy.	One parking space for each four people allowed within the maximum occupancy load as established by the fire marshal.
Stadiums and sports arenas.	One parking space for each four seats.
Bowling alleys.	Five parking spaces for each alley.
Mortuaries or funeral homes.	One parking space for each 50 square feet of floor space in the slumber rooms, parlors or individual funeral service rooms.
Establishments for sale and consumption on the premises of alcoholic beverages, food or refreshments.	One parking space for each 100 square feet of floor area, plus one parking space for each four employees.
Drive-in restaurants.	One parking space for each 15 square feet of floor area.
Medical or dental clinics, banks, business or professional offices.	One parking space for each 200 square feet of floor area.
Drive-in banks.	Four parking spaces for each teller window, in addition to one parking space for each 200 square feet of floor area.
Furniture and appliance stores, personal service shops (not including beauty parlor and barbershops), household equipment or furniture repair shops, clothing or shoe repair or service shops, hardware stores, motor vehicle sales, wholesale stores and machinery sales.	One parking space for each 500 square feet of floor space, plus one space for the owner or management, plus one space for each two employees.
Beauty parlors and barbershops.	One parking space for each employee, plus two parking spaces for each chair.
Boat liveries (including boat trailers) and marine commercial business uses, stores, etc.	One parking space for each two employees, one parking space for each boat well and/or each boat, plus parking space for all cars and all boat trailers using said boat livery services, plus one parking space for each 150 square feet of floor space.

All retail stores, except as otherwise specified herein.	One parking space for each 150 square feet of floor space.
Service garages, auto salesrooms, auto repair, collision or bumping shops.	One parking space for each two of the maximum number of employees on duty at any one time, plus one parking space for each of the maximum number of salesmen on duty at any one time, plus one parking space each for the owner and/or management on duty at any one time, plus two parking spaces for each stall in a collision, bumping or painting shop, plus one parking space for each stall or service area or wash rack in a servicing or repair shop.
Gasoline filling stations.	One parking space for each employee, plus one parking space for the owner and/or management, plus two parking spaces for each grease rack, staff for servicing automobiles or wash rack.
Industrial establishments including manufacturing, research and testing laboratories, creameries, bottling works, printing and engraving shops, warehouses and storage buildings.	Provide about each industrial building, buildings or use an improved area, in addition to the front yard, which shall be sufficient in size to provide adequate facilities for the parking of automobiles and other motor vehicles used by the firm or employees or persons doing business therein. Such space shall not be less than one parking space for each three employees computed on the basis of the greatest number of persons to be employed at any one period during the day or night.

(Code 1977, § 28-117; Ord. No. 190, 6-22-1992; Ord. No. 264, § 2, 10-11-1999)

Sec. 44-168. Municipal facilities.

Wherever the city council shall establish off-street parking facilities by means of a special assessment district or by any other means, the council may determine, upon completion and acceptance of such off-street parking facilities by the council, all existing buildings and uses and all buildings erected or uses established thereafter within the special assessment district shall be exempt from the requirements of this article for privately supplied off-street parking facilities.

(Code 1977, § 28-118; Ord. No. 190, 6-22-1992)

Sec. 44-169. Regulations for the development and maintenance of parking lots.

In all districts where off-street parking lots are the principal use of the site or are permitted as an adjunct to the lawful use of property therein, and such facilities provide parking privileges to owners, occupants, tenants, employees, patrons, customers, members, visitors and invitees therein, such off-street parking lots shall be construed and maintained subject to the following regulations:

- (1) *Application requirements.* An application for a permit to construct such a lot shall include three sets of plans and shall be submitted to the building department. After the city engineer/building inspector has determined that the following mandatory provisions have been provided for, a permit shall be issued to the applicant. The application shall include a site plan along with all applicable construction details and elevations and shall include all items identified in this section. All plans shall be prepared and sealed by a registered engineer.
- (2) *Ingress/egress.* Adequate ingress and egress shall be provided to meet the approval of the director of public safety and the building inspector. Backing directly onto a street shall be prohibited.
- (3) *Construction requirements.* Such parking lots shall be constructed with a hard, smooth, dustproof surface to meet the minimum city standards of:
 - a. One inch asphaltic concrete wearing course over three inches of asphaltic base course over eight inches of aggregate base course or six-inch-thick concrete pavement over four inches of aggregate base course.
 - b. The lots shall be graded and proper drainage facilities provided to dispose of all surface water to meet the approval of the city engineer.
 - c. If adequate stormwater discharge facilities are not available, detention or retention shall be provided so that the developed rate of runoff does not exceed the undeveloped rate.
 - d. Such parking lots shall be continuously maintained with a hard, smooth, dustproof surface at all times.
- (4) *Lighting.* All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto only the parking area and property which it serves. No lighting shall be so located or visible as to be a hazard to traffic safety. Minimum light levels at any one location within the lot shall be one footcandle. A lighting plan shall be submitted along the site plan identified in subsections (1) through (3) of this section and shall include all light locations, photometric diagrams and light fixture details over one.
- (5) *Wall or berm requirements.* In addition to the landscape screen requirements identified under subsection (18) of this section, whenever a parking lot boundary adjoins a public right-of-way or property zoned for residential use, a barrier consisting of either a masonry wall three feet six inches in height or a berm three feet six inches in height shall be provided and located within the setback area.
- (6) *Lots located opposite residential property.* All street boundaries of such parking lots where residential property is located on the opposite side of the street shall be treated the same as set forth in subsection (5) of this section, except such portions as are used for entrances and exits.
- (7) *Signs.* No sign shall be erected upon such parking lots, except not more than one sign at each entrance to indicate the operator, the purpose for which operated and the parking rates, when charge is permitted. Such signs shall not exceed 15 square feet in area and shall not extend more than ten feet in height above the nearest curb and shall be entirely upon the parking lot.
- (8) *Drive width.* Entry driveways shall be at 12 feet wide for one-way travel and at least 24 feet wide for two-way travel.
- (9) *Layout plan requirements.* Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking angle (degrees)	Stall width (feet)	Aisle width (feet)	Parking stall length (feet)
Parallel	9	12	23
30	9.5	12	19

45	9.5	13	19
60	9.5	18	19
90	9.5	24	19

- (10) *Parking for the physically handicapped.* Each parking lot that serves a building, except single- and two-family dwelling units, shall have a number of level parking spaces as set forth in the following table, and identified by an above-grade sign which indicates the spaces are reserved for physically handicapped persons.

Total spaces in parking lot	Required number of accessible spaces
Up to 25	1
26—50	2
51—75	3
76—100	4
101—150	5
151—200	6
201—300	7
301—400	8
401—500	9
501—1,000	2 percent of total
Over 1,000	20 plus one space for each over 1,000

For all requirements pertaining to stall dimensions, striping, signage, ramps and additional requirements, the applicant shall reference the Federal Register, 28 CFR 36, "Americans with Disabilities Act," title 3, volume 56, number 144.

- (11) *Maneuvering lanes.* All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit two-way movement.
- (12) *Other driveway standards.* If abutting parking spaces are arranged at an angle other than those listed in this section, the minimum driveway width shall be determined according to the next higher standard from the table. For example, if 75 degree angle parking is provided, the minimum driveway width shall be the standards for 90-degree angle parking or 24 feet.
- (13) *Driveway width for driveways used by large vehicles.* If the driveway is regularly used by trash collection vehicles, delivery trucks or other large vehicles, the minimum width shall be increased to 24 feet.
- (14) *Other improvements.* Except for single- and two-family dwellings on individual lots, where three or more unenclosed parking spaces are provided, exclusive of drive-ways, the following additional improvements are required:
- a. *Drainage.* Parking areas shall be appropriately graded and equipped with facilities to collect and store stormwater on-site and transmit it to the approved public facilities, as determined by the city engineer.
 - b. *Marking.* All parking spaces shall be appropriately marked with painted lines.

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- (15) *Shared parking and access facilities.* In conjunction with multiple-family or nonresidential uses, two or more adjoining properties may be developed with shared parking and access facilities when approved under a single unified site plan. In such cases, the setbacks, curbing and perimeter landscaping requirement of this section shall not apply along the common property line.
- (16) *Setback requirements.* The setbacks of all off-street parking lots shall be in accordance with the following requirements:
- a. *Front yard.* No parking lot stalls or isles shall be located closer than 50 feet to the public road right-of-way.
 - b. *Side yard on interior lot lines.* No parking lot stalls or isles shall be located closer than ten feet to the adjoining parcel property line.
 - c. *Side yard on street side of corner lots.* No parking lot stalls or isles shall be located closer than 50 feet to the public right-of-way.
 - d. *Rear yard.* No parking lot stalls or isles shall be located closer than 20 feet to the rear property line to nonresidential uses. When a parking lot is located adjacent to any residential use, the setback shall be 50 feet.
 - e. *Rear yard abutting a street.* No parking lot stall or isle shall be located closer than 50 feet to the public right-of-way. If the rear yard is contiguous to an alley, the setback shall be ten feet.
- (17) *Landscape screen requirements.* When required, parking spaces and parking areas shall be effectively screened with perimeter landscaping on all sides adjacent to or visible from adjacent properties, streets or alleys. Large paved areas shall also include certain amounts of interior landscaping to further reduce the visual impacts of the areas, to reduce their heat radiation effects, to improve oxygen generation and to reduce air pollution.
- a. *Definition.* The term "landscaping" shall mean trees, shrubs, vines, fences, walls or earth berms, or some combination thereof, together with groundcover, lawns, mulch or bedding materials.
 - b. *Installation/maintenance.* Landscape screening shall be installed and maintained as required in this chapter.
 - c. *Screening.* Screening shall be provided for all uses where three or more unenclosed parking spaces are provided exclusive of driveways. Screening shall be provided in accordance with a landscape plan submitted as part of the application and shall meet the design standards in subsection (18) of this section.
- (18) *Design standards.* Design standards for landscape screen requirements.
- a. *Perimeter landscape screen.* Deciduous or evergreen shrubs used in a perimeter landscape screen shall be at least two feet high at initial planting and shall be expected and permitted to grow to a height of at least three feet within two years of planting; such materials shall be expected and permitted to grow to a height of five feet.
 - b. *Minimum caliper.* At initial planting, deciduous trees shall be a minimum of 2½-inch caliper, ornamental trees a minimum of two-inch caliper and evergreen trees a minimum of five feet in height.
 - c. *Required height.* The required height of a perimeter landscape screen may be reduced where it is determined by the city engineer that such landscaping would interfere with traffic safety and visibility.

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- d. *Required height for perimeter screening.* The required height of a perimeter landscape screen may be increased where significant changes in elevations between an adjacent property or public right-of-way make it necessary to comply with the intent of this article.
 - e. *Combination of plant materials.* The selected combination of plant materials shall be a harmonious combination of living deciduous and evergreen trees, shrubs and vines irregularly space to provide an effective year-round screen and to present an aesthetically pleasing view, and all quantities shall be based on the following densities:
 - 1. *Deciduous or evergreen shrubs.* Based on one shrub for every five feet of linear distance around the site perimeter.
 - 2. *Deciduous or evergreen trees.* Based on one ornamental, evergreen or canopy tree for every 30 feet of linear distance around the site perimeter.
 - f. *Groundcover and mulch.* Loose groundcover or mulch materials shall be placed or effectively contained so they do not spill over into parking and access facilities or the public right-of-way.
 - g. *Required features.* All required landscape features within three feet of the edge of parking or access facilities shall be protected from vehicle encroachment by curbing, wheel stops or similar means.
 - h. *Interior landscape for parking spaces.* Where 20 or more parking spaces are provided, there shall be at least ten square feet of interior landscaped area per space provided within the overall perimeter of the parking area.
 - i. *Minimum interior landscaped.* Interior landscaped areas shall be at least 125 square feet in an area with a minimum dimension of no less than eight feet.
 - j. *Shade tree minimum caliper.* At least one shade tree of a minimum 2½-inch caliper shall be planted in each interior landscaped area.
 - k. *Minimum interior landscape area.* There shall be at least one interior landscaped area for each 20 parking spaces provided or fraction thereof.
 - l. *Adjusted standards.* The application of such standards may be adjusted, in part or in whole, to allow credit for healthy plant material to be retained on or adjacent to the site if such an adjustment is consistent with the intent of this article.
- (19) *Maintenance.* It shall be the responsibility of the owner and occupant of the property to maintain all parking and access facilities in a safe and usable condition. This includes, among other things, patching, sealing and replenishing paving; repainting space markings; repairing or replacing curbing or wheel stops and cleaning on-site drainage facilities. It shall also be the responsibility of the owner and occupant to maintain required landscape in neat, clean, orderly and healthful condition. This includes, among other things, pruning, mowing, weeding, litter removal, replacement of dead or diseased plants, repair or replacement of broken or damaged walls, and the regular feeding and watering of plant materials.

(Code 1977, § 28-119; Ord. No. 190, 6-22-1992)

Sec. 44-170. Storage of aircraft, moving vans, campers, and other recreational vehicles, boats, boat and utility trailers, building materials, construction equipment, etc.

- (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:

Aircraft means any craft capable of flight in the air, prop or jet, rotor or fixed wing, but excluding ultralight float planes, which shall be considered as boats.

Moving van means any vehicle designed for hauling and/or moving furniture and/or other household and commercial items.

Recreational vehicle (RV) means a self-propelled recreational vehicle, or motor home, snowmobile, dirt bike or off-road vehicle.

Step van means a vehicle with a large box-type body or a vehicle large enough for a person to stand up in.

Tractor-trailer means any tractor used to pull an over-the-road trailer, whether for commercial or private use.

Travel trailer means a portable vehicular structure built on a chassis, which can be towed by an automobile, and is designed to be used principally as a temporary vacation dwelling.

Utility trailer means a vehicle on axles, used to transport recreational vehicles or other enclosed trailers, on axles, capable of being pulled on the roadways.

Van means a one-ton or smaller vehicle with a continuous body.

Watercraft means a boat, personal watercraft or jet-ski, but not including commercial barges.

Yard, front, means a yard extending across the full width of the lot between the front street lot line and the nearest line of the principal building.

- (b) *Provisions.* Aircraft, step vans, moving vans, buses, bus bodies, campers, recreational vehicles, travel trailers, boats, boat and utility trailers, mobile homes, tractor-trailers, tents, tourist cabins, motorized construction equipment capable of traveling on roadways, general construction equipment, building materials, and boat cribs and cradles, shall not be stored or parked in any zoning district of the city in excess of three days in any given year, except as provided in the table below:

	Objects Regulated	Zoning Districts Where Permitted	Additional Requirements
1.	Aircraft, moving vans, bus bodies, tourist cabins, tents (erected) and similar structures, tractor trailers/pups, and stake trucks	C-3, M-1, M-2, M-3	Permitted only as it pertains to a valid business located on that property.
2a.	Boats and other watercraft, travel trailers, utility trailers, boat trailers, and RVs	R-1, R-1-T, R-2 (other than vacant lots; see row 2b of this table for information regarding storage on vacant lots)	Within an enclosed garage, adjacent to a dwelling if parked behind the front (street) setback line; and during the months of January, February, March, November, and December at least 45 feet from the edge of the street or at least 25 feet from the street lot line, whichever is less; and during the months of April through October, at least 12 feet from the edge of the street if there is not sidewalk, or at least five feet from a sidewalk edge nearest the dwelling where a sidewalk exists and be at least 12 feet from the edge of the street, so long as to not block any street signs, sidewalks or obstruct traffic view; and not

			occupying more than one-third of the total yard space. Year-round storage is permitted if registered to the property owner or the property owner's immediate family, with a valid license and/or boat registration only. Notwithstanding any other provision to the contrary, storage between the street and sidewalk is prohibited.
2b.	Boats and other watercraft, travel trailers, utility trailers, boat trailers, and RVs	R-1, R-1-T, R-2 (vacant lots only)	On a vacant lot adjacent to the lot where the vehicle owner's dwelling is located if at least 45 feet from the edge of the street or at least 25 feet from the street lot line, whichever is less, and not occupying more than one-third of the total lot area. Year-round storage is permitted if registered to the property owner or the property owner's immediate family, with a valid license and/or boat registration only. There shall be no storage on vacant property not adjacent to the lot where the vehicle owner's dwelling is located.
2c.	Boats and other watercraft, travel trailers, utility trailers, boat trailers, and RVs	R-3	In an approved and regulated storage area registered to the owner or tenant.
2d.	Boats and other watercraft, travel trailers, utility trailers, boat trailers, and RVs	C-1, C-2,	No storage allowed. In case of automobile or marine repair, not more than 14 consecutive days or 14 calendar days in a month.
2e.	Boats and other watercraft, travel trailers, utility trailers, boat trailers, and RVs	C-3, M-1, M-2, M-3	Behind the building line, as defined in this zoning chapter.
3.	Trailer or RV hook-ups	All	Electric only, no water or sewage.
4.	Boat, RV or trailer occupancy	All	Not permitted.
5.	Building materials	R-1, R-1-T, R-2, R-3, C-1, C-2, C-3	Only with a valid permit issued by the city.
6.	Cribbing, boat cradles (not in use)	R-1, R-1-T, R-2	In rear yard only.
7a.	Construction equipment	R-1, R-1-T, R-2, R-3	Not permitted.
7b.	Construction equipment	C-1, C-2, C-3, M-1, M-2, M-3	Behind the building line, as defined in this zoning chapter, if it pertains to business which is currently licensed.
8.	Firewood	R-1, R-1-T, R-2, R-3	In a rear or side yard, behind the building line, as defined in the zoning chapter, 12 inches off the ground, and not higher than four feet from the ground.

(Code 1977, § 28-120; Ord. No. 190, 6-22-1992; Ord. No. 237, 5-26-1998; Ord. No. 331, § 2, 8-11-2008; Ord. No. 407, Art. I, 9-23-2019)

Secs. 44-171—44-193. Reserved.

ARTICLE VII. PERFORMANCE STANDARDS

DIVISION 1. GENERALLY

Sec. 44-194. Definitions.

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

Central air conditioning system includes any combination of equipment, whether compressor or other type, by which heat is removed from the air and from which the accumulated or effluent heat is fully or partially removed by the use of water or air cooled refrigerants. The term "central air conditioning system" does not include portable air conditioning units designed for installation in window openings. The term "central air conditioning system" shall include any portable units designed for window installation which are installed as permanent fixtures and remain in place year-around.

Other mechanical system includes any mechanical apparatus or combination of equipment which is utilized to treat or service the air, water or other necessity of a residential dwelling or its accessory buildings.

Pump includes any combination of equipment by which water or air or other substance is transferred from one location to another, or is transferred to and/or through mechanical equipment for the purpose of treating or otherwise altering the materials so moved.

Swimming pool filters includes any combination of equipment by which particulate matter or other contaminants are removed from water and returned to residential swimming pools, either permanent or temporary.

(Ord. No. 242, § 28-140, 8-10-1998)

Sec. 44-195. Performance requirements for all uses.

Uses in all districts of the city shall comply with the standards of performance set forth in this article; generally accepted methods of collection and standard methods of chemical analysis shall be used in the application of those standards.

- (1) *Air contaminants.* Air contaminants as measured not less than 100 feet and not more than one-quarter mile from stack or source. Air contaminants less dark in shade than that designated as No. 2 on the Ringelmann Chart, as published by the U.S. Bureau of Mines, are permitted except that No. 2 is permitted for one four minute period in each one-half hour. Air contaminants of such opacity as to obscure observer's view to a degree equal to or greater than described in this section shall not be permitted except that essentially water vapor effluents in the range of white or cream may be excepted from this rule.
- (2) *Particulate matter and dust.* Particulate matter and dust as measured at a convenient measuring point nearest to stack outlet or source. Particulate matter or dust as measured at and by any generally

accepted manner shall not be emitted in excess of three-tenths grain per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit not exceeding 50 percent excess air, except for periods of four minutes in any one-half hour, when it can equal but not exceed five-tenths grains per cubic foot of flue gas at a temperature of 500 degrees Fahrenheit not exceeding 50 percent excess air.

- (3) *Odor.* The emission of odors which are generally agreed to be obnoxious to any considerable number of persons, at their place of residence, shall be prohibited.
- (4) *Gases as measured at the property line.* Sulfur dioxide gas shall not exceed an average of three-tenths parts per million over a 24 hour period, provided, however, a maximum concentration of five-tenths part per million will be allowed for a one hour period out of a 24 hour period; hydrogen sulfide shall not exceed one-tenth part per million; fluorine shall not exceed one-tenth part per million; nitrous fumes shall not exceed five parts per million; carbon monoxide shall not exceed 15 parts per million.

(Code 1969, § 5.85; Code 1977, § 28-133)

Sec. 44-196. General requirements.

In addition to section 44-194, there shall not be discharged from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment or nuisance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause injury or damage to business or property.

(Code 1969, § 5.86; Code 1977, § 28-134)

Sec. 44-197. Radioactive materials.

Radioactive materials shall not be emitted to exceed quantities established as safe by the United States Bureau of Standards or as amended from time to time.

(Code 1969, § 5.87; Code 1977, § 28-135)

Sec. 44-198. Sanitary sewage wastes.

The following standards shall apply at the point of waste discharge into the public sanitary sewer system:

- (1) Acidity or alkalinity shall be neutralized within an average Ph range of between 5.5 and 7.5 as a daily average on the volumetric basis, with a temporary variation of pH 4.5 to 10.0.
- (2) Wastes shall contain no cyanide expressed as "CN" in excess of one part per million; chromium in excess of five parts per million; total iron in excess of five parts per million; copper in excess of three parts per million; chlorinated solvents in excess of ten parts per million; fluorides in excess of ten parts per million; hydrogen sulphide in excess of five parts per million and sulphur dioxide and nitrates in excess of ten parts per million.
- (3) Wastes shall not contain any insoluble substance in excess of 10,000 parts per million or exceed a daily average of 500 parts per million or fail to pass a number 8 standard sieve or have a dimension greater than one-half inch.
- (4) Wastes shall not have a chlorine demand greater than 15 parts per million.
- (5) Wastes shall not contain phenols in excess of 0.02 part per million.

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- (6) Wastes shall not contain any grease or oil or any oily substance in excess of 100 parts per million or exceed a daily average 25 parts per million.

(Code 1969, § 5.88; Code 1977, § 28-136)

Sec. 44-199. Central air conditioning systems; swimming pool filters; other mechanical equipment; location within residential districts.

- (a) In all residential districts, any central air conditioning systems, swimming pool filters, pumps, and any other mechanical systems shall be located in the rear yard of the residence to be served. No system may be located less than five feet from the side or rear lot line of the property being served.
- (b) In the event property layout interferes with compliance with this section, a property owner may locate mechanical apparatus regulated by this section in accordance with an alternative location to be specified by the city building department. In no event shall any installation be approved which could constitute the creation of a noise nuisance to adjoining landowners or otherwise interfere with the quiet enjoyment of other property.

(Ord. No. 242, § 28-141, 8-10-1998)

Secs. 44-200—44-225. Reserved.

DIVISION 2. RETENTION AND DETENTION PONDS/BASINS

Sec. 44-226. Definitions.

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

Administrative rules means the City of Gibraltar Stormwater Management Program Administrative Rules.

Applicant means the developer/owner who owns property located in the city and who seeks to develop that property for residential or commercial use.

Detention and retention ponds means a constructed pond or basin that temporarily stores water before discharging into a surface water. Detention basins can be classified into three groups:

- (1) Constructed wetland a detention basin that uses a variety of depths to create conditions suitable for the growth of wetland plants.
- (2) Extended detention basin a detention basin designed to treat stormwater by detaining it for an extended time period.
- (3) Wet detention basin a detention basin that contain a permanent pool of water that will effectively remove nutrients in addition to other pollutants.

(Ord. No. 318, 8-28-2006)

Sec. 44-227. Requirement of storm drainage system including detention and retention ponds.

An adequate storm drainage system, which includes necessary storm sewers and retention/detention ponds shall be required in all subdivisions and may be required in other areas of development. Detailed plans for storm

drainage systems shall be submitted to the city engineer for approval. Detention or retention ponds shall not be placed within a residential lot. Detention and retention ponds shall be placed in outlots, so dedicated with appropriate easements for drainage purposes. Such detention or retention ponds shall be set back from any road right-of-way a distance equal to the front yard setback requirements for the subdivision and from all other boundaries of the outlot a sufficient distance to meet side yard setback requirements. Applicant shall grant an easement to the city should it be necessary for the city to take over maintenance of the detention and retention ponds.

(Ord. No. 318, 8-28-2006)

Sec. 44-228. Design standards.

All detention and retention ponds shall meet the design specifications and requirements as set forth in chapter 14 as pertaining to the stormwater management, as well as all requirements of the administrative rules.

(Ord. No. 318, 8-28-2006)

Sec. 44-229. Landscaping.

In addition to all other requirements as may be set forth in this chapter and in any other applicable ordinances, a minimum of one evergreen tree shall be planted every 40 feet around the perimeter of all detention or retention ponds. If the pond is fenced, then landscaping shall be provided at a rate of one evergreen tree every 20 feet around the perimeter of the detention or retention pond. Language may be modified should the council mandate fences.

(Ord. No. 318, 8-28-2006)

Sec. 44-230. Condition of approval.

The planning commission shall not approve any site plan that has not addressed each retention, detention, or watercourse issue inherent to the property or the development project and which has not complied with this or any other applicable chapter.

(Ord. No. 318, 8-28-2006)

Sec. 44-231. Long-term maintenance.

- (a) Consistent with the administrative rules, an applicant shall submit a long-term maintenance plan as part of an application for stormwater construction approval. At a minimum, the long-term maintenance plan shall set forth:
 - (1) The preventive maintenance activities necessary to ensure that the stormwater management system will function properly as designed.
 - (2) A schedule describing the frequency with which preventative maintenance activities shall occur.
 - (3) The manner in which the applicant shall assure, through a legally binding instrument, that the stormwater management system shall be maintained in perpetuity.
- (b) Long-term maintenance shall include site monitoring to ensure that a stormwater management system is functioning properly as designed; remedial actions necessary to repair, modify, or reconstruct the system in the event the system does not function properly as designed at any time; notification to subsequent owners

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of limitations or restrictions on the property; actions necessary to enforce the terms of restrictive covenants or other instruments applicable to the property pursuant to chapter 14 as pertaining to the stormwater management, the administrative rules and such other actions as may be set forth in chapter 14 as pertaining to the stormwater management or the rules.

- (c) As a condition of final approval of the stormwater management system, an applicant for stormwater construction approval shall demonstrate to the city that the applicant has assumed responsibility for long-term maintenance of the stormwater management system in subsection (d) of this section.
- (d) Responsibility for long-term maintenance of a stormwater management system shall be assumed by the applicant. The applicant shall assume responsibility for long-term maintenance through a legally-binding instrument signed by the applicant and the city. The applicant may designate another entity (including without limitation a homeowners association, condominium association, or property owner) to undertake this responsibility; however, that applicant shall remain responsible for long-term maintenance.
- (e) The applicant will be required to post a performance bond to guarantee compliance with the long-term maintenance requirements of this article.

(Ord. No. 318, 8-28-2006)

Sec. 44-232. Special assessment.

Should the applicant fail to maintain the detention or retention ponds, the city shall take all necessary and available steps to ensure the maintenance of the ponds. If the applicant shall be in default of the maintenance agreement, the city, through its contractors, employees and agents, will have the right to enter the property and repair and maintain the stormwater management system to ensure the health, safety and welfare of its residents. The city may pursue whatever legal remedies it has available in order to be reimbursed for all costs incurred in taking over the maintenance and repair, including by not limited to, legal action against the applicant and assessing a special assessment to all benefited property pursuant to chapter 11 of the city Charter and chapter 44.

(Ord. No. 318, 8-28-2006)

Secs. 44-233—44-253. Reserved.

ARTICLE VIII. RESIDENTIAL WATERFRONT REGULATIONS

Sec. 44-254. Definitions.

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

Boat well means a designated space over water used for the tying or mooring of watercraft. A boat well may be designated space between land and a dock, between a dock and a second dock or between a dock and a pier.

Centerline of canal or waterway shall be a line equidistant from property lines on the opposite sides of the canal or waterway.

Dock means a pier or structure, either built over or adjacent to a body of water and usually supported by piles, said structure being used as a means of entrance or exit from watercraft and for the tying, securing or anchoring of watercraft thereto.

Recessed boat well means a designated space over water which is located within the shoreline with land abutting on two or more sides, which is used for tying or mooring of watercraft.

Shoreline of a canal shall be the boundary line of the adjacent property except as follows:

- (1) Retaining walls of a permanent nature or structure existing at the date of adoption of the ordinance from which this article is derived (May 25, 1959) which extend beyond the property line and which are more or less parallel to the property line shall be considered as the shoreline.
- (2) The shoreline of a waterfront lot located adjacent to a lot with an existing retaining wall shall be a line beginning at the corner of the existing retaining wall and extending to a corner of the far width of the lot.
- (3) Where lots without retaining walls are located between property with existing retaining wall and are not more than 150 feet apart between property lines, a continuous line approximately parallel to the property line, connecting the corners of the existing retainer walls shall be considered as the shoreline.

(Code 1969, § 5.91; Code 1977, § 28-148)

Sec. 44-255. Unobstructed width of canals and waterways.

A width of not less than 60 feet in all canals and waterways, the center of which shall be equidistant from the opposite property lines, shall remain open and unobstructed.

(Code 1969, § 5.92; Code 1977, § 28-149; Ord. No. 232, 1-26-1998)

Sec. 44-256. Construction of docks, structures, and boat wells.

- (a) For the purposes of determining conformance to this section, a boundary survey of a lot on which a boat dock, structure, and/or boat well is proposed shall be required as part of the building permit application. In addition to other information required as part of the building permit application, said survey shall identify edge of water, sea walls, and property lines.
- (b) A boat dock, structure, and/or boat well shall, together with moored watercraft, not extend into the canal or waterway more than 35 feet as measured at right angles to the property line furthest from the roadway; and, subject to the other provisions of this chapter.
- (c) A boat dock, structure, and/or boat well shall be built so as to provide access thereto without traversing into the waterway of an adjoining property. Said boat dock, structure, or boat well, together with moored watercraft, shall not interfere with or obstruct the use of a boat dock, structure, or boat well of an adjoining property.
- (d) Enclosing a boat dock, structure, or boat well with sides, or enclosing ends, is prohibited.
- (e) In addition to the requirements noted in subsections (a), (b), (c), and (d) of this section, on lots 52 to 99, inclusive, of Horse Island Subdivision, all boat docks, structures, and/or boat wells shall not extend into the canal or dredge cut more than 25 feet measured at right angles to the proposed property line furthest from the roadway as shown on a drawing entitled "Proposed Replat of Lots 52 to 99, inclusive, Horse Island Subdivision, L. 44, P. 34 W.C.R." as prepared by Leslie A. Doan, Civil Engineer, and dated November 14, 1958.
- (f) Appeals from decisions of the administrative officer pursuant to section 44-255 and/or this section, as well as requests for variances from section 44-255 and/or this section, shall be submitted to the board of zoning appeals. In making its decision, the board shall be guided by section 44-255 and/or this section, as well as all other applicable sections of the Code. In no case shall the board of zoning appeals be permitted to overturn a

decision of the administrative officer, or to grant a variance, which would result in obstruction of navigation. The decision of the board on appeals and variances shall be final.

(Code 1969, § 5.93; Code 1977, § 28-150; Ord. No. 95, 6-14-1976; Ord. No. 232, 1-16-1998; Ord. No. 248, § 1, 11-9-1998; Ord. No. 280, § 1, 8-13-2001)

Sec. 44-257. Construction, use of docks, waterfront structures, and boat wells.

- (a) The construction, use of docks, waterfront structures, and boat wells on any lot is subject to the zoning classification and restrictions as imposed by this chapter, provided, however, such construction and use is permissible either as a principal or accessory use as therein defined.
 - (1) A dock, waterfront structure, or boat well may be constructed and maintained as a principal use only on waterfront lots where there is not sufficient land above the mean water level to construct any type of habitable structure permitted by this chapter and where such lot is adjacent to another lot owned by the same owner upon which a habitable principal structure permitted by this chapter presently exists.
 - (2) The term "adjacent to" shall be interpreted to include any lot which would otherwise be contiguous with a waterfront lot but for a public roadway which separates the two lots and where both lots have common ownership.
 - (3) As a condition precedent to the issuance of a permit to build such structures as are permitted by this article on waterfront lots separated from the "adjacent to" lot by a roadway, the owners thereof shall give to the city by a recordable instrument in writing a covenant providing in substance as follows:

"COVENANT.

In consideration of the City of Gibraltar issuing a building permit for the construction of a dock, or boat well or other waterfront structure on Lot _____, _____ Subdivision, in said City, the undersigned Grantors hereby grant to the said City of Gibraltar a covenant running with the land that said Lot _____ of said subdivision may only be transferred by said Grantors, their heirs, successors and assigns, together with Lot _____ of said subdivision so as to preserve a common ownership of both lots so long as the dock or boat well or other waterfront structure constructed pursuant to such building permit is maintained thereon."

- (b) Construction of marine railways is not permitted on any residential waterfront lot in the city.

(Code 1969, § 5.94; Code 1977, § 28-151; Ord. No. 95, 6-14-1976; Ord. No. 247, § 28-151, 9-14-1998)

Sec. 44-258. Repairs and maintenance of docks, waterfront structures, boat wells and marine railways.

- (a) All docks, waterfront structures, boat wells and marine railways shall be maintained and kept in a good state of repair.
- (b) Wrecked, broken or derelict boats shall not remain docked, moored, harbored, anchored or otherwise left afloat or submerged within the city limits in excess of ten days from the date of shipwreck or harborage, after registered notice is duly mailed to the owner thereof, and within which time the owner shall remove the boat from the water. Upon failure to comply with such requirements the city may remove the boat from the water and assess the owner the cost thereof, and/or owner of abutting land in accordance with section 11.11 of the city Charter where such may apply, without responsibility on the part of the city, its agents or assigns, for any damages to said boats resulting from removal from the canals and waterways.

(Code 1969, § 5.95; Code 1977, § 28-152)

Sec. 44-259. Reserved.

Editor's note(s)—Ord. No. 407, Art. I, adopted Sept. 23, 2019, repealed § 44-259, which pertained to storage and derived from the Code of 1969, § 5.96; and the Code of 1977, § 28-153.

Sec. 44-260. Building permits.

- (a) No dock, waterfront structure, boat wells and marine railways shall hereafter be erected, moved or altered until a permit shall have been obtained upon the written application by the owner thereof from the building inspector.
- (b) The written application by the owner shall clearly show compliance with the provisions of this chapter.

(Code 1969, § 5.97; Code 1977, § 28-154)

Sec. 44-261. Uses prohibited.

The following uses are prohibited:

- (1) Any commercial use of a residential waterfront lot.
- (2) Recessed boat wells.
- (3) The use of a boat when moored or stored for residential living quarters.
- (4) The depositing, placing, scattering or throwing of any waste material, rubbish, brush, branches or trees, papers, debris, garbage, refuse and solids in any canal, waterway or river within the limits of the city.

(Code 1969, § 5.98; Code 1977, § 28-155)

Sec. 44-262. Waterfront yard setbacks.

- (a) *Lot line, waterfront.* The original plat line of a lot facing or adjacent to the Detroit River, Brownstown Creek, Frank and Poet Drain, or any canal or waterway located in the city. Any lot area existing outside the setback area shall still be included in total lot coverage.
- (b) *Established setback.* A distance from the original platted waterfront lot line (which may vary from lot to lot within a particular district due to past development patterns, building location, and the granting of variances), as determined for any lot by first identifying the two nearest lots with principal structures on them, and second calculating the distance of principal structure to the original plat line on each of those lots.
- (c) *Yard, waterfront.* The minimum distance from the original platted waterfront lot line permitted in any district, which shall be 25 feet from the original platted waterfront lot line, or the established setback, whichever is greater.

(Ord. No. 301, § 28-156, 1-12-2004)

Secs. 44-263—44-287. Reserved.

ARTICLE IX. R-1 ONE-FAMILY RESIDENTIAL DISTRICTS

Sec. 44-288. Uses permitted.

In all R-1 districts, except as otherwise provided for in this chapter, all buildings shall be erected and all land shall be used only for one or more of the following specified uses:

- (1) One-family dwellings.
- (2) Municipally owned and operated parks and playgrounds, municipally owned and operated buildings, available for use by the residents of the city.
- (3) Public and parochial schools, public buildings and churches, subject to the approval of the city planning commission.
- (4) Public utility buildings, such as substations, without service or storage yards, and gas regulator stations and enlargement of such uses upon approval of the city planning commission.
- (5) Temporary buildings for use incidental to construction work, which building shall be removed upon the completion or abandonment of the construction work. Such temporary buildings shall not be used as dwellings.
- (6) The growing of vegetables, fruit, flowers, trees and shrubs, provided such use is not operated for commercial purposes.
- (7) Church and public building bulletin boards, not exceeding 12 square feet in area appertaining to the lease, hire or sale of a building or premises, which sign shall be removed as soon as the building or premises are leased, hired or sold.
- (8) The storage or parking or use of trucks larger in capacity than a regularly manufactured pickup or paneled truck, including a truck-tractor or truck-trailer of any kind, and the storage of used cars and junkers shall not be considered a legal accessory use in an R-1 district.
- (9) Accessory buildings or uses customarily incident to any such permitted uses, when located on the same lot and not involving any business, profession, trade or occupation. One private garage for each residential lot in which there is housed not more than two motor vehicles, not more than one of which may be a commercial vehicle, not larger than a regularly manufactured pickup or paneled three-quarter-ton truck; provided however, one additional passenger motor vehicle may be allowed when all yard requirements and lot coverage requirements are complied with.
- (10) It is the stated intent of this section to allow home occupations as defined in section 44-25, subject to the following conditions. A medical marihuana home occupation is addressed separately from other forms of home occupations or home-based businesses in recognition of its unique nature. Medical marihuana home occupation regulations and requirements are presented in section 44-109.
 - a. There shall be no alteration in the residential character or function of the premises in connection herewith.
 - b. There shall be no signs, advertising devices or other manifestation located on the exterior of the dwelling structure or within any yard area which suggest or implies the existence of a home occupation.

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- c. Home occupations shall be located either in the basement or on the ground floor only and shall occupy no more than 25 percent of the floor area.
 - d. The sale of stock in trade, offering of stock in trade or commodities shall be permitted to be sold or offered for sale to clients by appointment only. They shall not be sold or offered for sale to the general public so as to invite walk-in trade.
 - e. No assistants, or employees, other than the dwelling occupants, shall be employed in connection with the home occupations, and such services or uses permitted shall be performed by one person only.
 - f. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.
 - g. Home occupation shall not require more than one offsite parking (place) in front of residence used for home occupation.
 - h. Home occupation shall not be of a nature which creates noise, vibration, glare, fumes, odors, or results in interference, becomes a nuisance, or other causes which are detrimental to the neighborhood in which it is located.
 - i. Home occupation shall not require delivery of goods or visits of customers before 8:00 a.m. or after 8:00 p.m.
 - j. Any home occupation shall be considered a special use and be granted or denied upon consideration of those standards.
 - k. Home occupations are to be inspected by all applicable building department inspectors before issuance of a special use permit and thereafter as determined by the building department.
 - l. License shall be obtained and renewed each year thereafter upon payment of a license fee as determined by ordinance and shall be limited to the applicant who legally resides in the residence.
 - m. Authority for granting or denying issuance of a home occupation "special use" permit is vested in the building inspector for the city. If after issuance of a permit the building inspector determines that such home occupation is objectionable and/or detrimental to the neighborhood, such permit shall be revoked upon 30 days notice to the home occupant. Decisions of the building inspector denying or revoking a special use home occupation permit may be appealed to the board of appeals by application for review by the board. Appeals must be filed with the board within 30 days of the denial or revocation by the building inspector.

(Code 1969, § 5.101; Code 1977, § 28-167; Ord. No. 23-Q, 9-28-1970; Ord. No. 195, 6-14-1993; Ord. No. 212, 1-23-1995; Ord. No. 313, § 28-167, 10-10-2005; Ord. No. 378, 2-23-2015)

Sec. 44-289. Building height.

No building hereafter erected or altered in R-1 districts shall exceed 30 feet in height or two stories, except as provided in article XXV of this chapter.

(Code 1969, § 5.102; Code 1977, § 28-168)

Sec. 44-290. Lot area per family.

In R-1 districts each one-family dwelling, together with its accessory buildings, hereafter erected, shall require a lot area of not less than 15,000 square feet when said lot is not served by either a municipal water or a municipal sewerage system; shall require a lot area of not less than 12,000 square feet when said lot is served either by a municipal water system or a municipal sewerage system; shall require a lot area of not less than 9,600 square feet when both a municipal water and a municipal sewerage system are available, and said lot shall have a width of not less than 80 feet at the front or rear building lines; provided, however, that this requirement shall not apply to any lot which at the time the ordinance from which this article is derived became effective was narrower at the street line or lesser in area than the specifications herein provided, if such lot was of record at the time of the adoption of the ordinance from which this article is derived.

(Code 1969, § 5.103; Code 1977, § 28-169; Ord. No. 265, § 1, 10-11-1999)

Sec. 44-291. Lot coverage.

In R-1 districts each one-family dwelling, together with accessory buildings hereafter erected on any lot, shall not cover more than 40 percent of the area of such lot.

(Code 1969, § 5.104; Code 1977, § 28-170; Ord. No. 204, 7-25-1994; Ord. No. 336, 3-9-2009)

Sec. 44-292. Front yards.

Each lot in R-1 districts shall have a front yard of not less than 25 feet; provided, however, that where a front yard of greater or lesser depth than specified, exists in front of dwellings on more than 50 percent of the lots of record on one side of the street in any block in an R-1 district, the depth of the front yard for any building thereafter erected or placed on any lot in such block shall not be less, but need not be greater, than the average depth of front yards of such existing buildings.

(Code 1969, § 5.105; Code 1977, § 28-171)

Sec. 44-293. Side yards.

All lots in R-1 districts shall have two side yards each having a width of not less than four feet and the combined width of both side yards shall not be less than 13 feet; provided, however, that principal buildings on adjoining lots shall be located not less than ten feet apart and further provided, that on lots less than 35 feet in width, the required combined width of side yards may be reduced by six inches for each foot or major fraction thereof by which the width of such lot is less than 35 feet and provided further, that the width of both side yards shall not be less than three feet each.

(Code 1969, § 5.106; Code 1977, § 28-172)

Sec. 44-294. Side yards—Nonresidential use.

Every lot on which a building or structure used for nondwelling purposes, other than an accessory building, is erected, shall have a side yard on each side of such lot, and each such yard shall be not less than 20 feet in width with an increase of one foot, in width, for each five feet or part thereof by which the said building or structure exceeds 35 feet in overall dimensions along the side yard and also an additional one foot for every two feet in height in excess of 35 feet.

(Code 1969, § 5.107; Code 1977, § 28-173)

Sec. 44-295. Same—Abutting upon a street.

In R-1 districts the width of the side yard abutting a side street shall not be less than ten feet.

(Code 1969, § 5.108; Code 1977, § 28-174)

Sec. 44-296. Rear yards.

Each lot in R-1 districts shall have a rear yard of not less than 35 feet in depth.

(Code 1969, § 5.109; Code 1977, § 28-175)

Sec. 44-297. Rear yards abutting side lot lines.

Where a side yard of an interior lot abuts a rear yard of a corner lot or an alley separating such lots, any accessory building on the corner lot shall sit back from the side street as far as the dwelling on the interior lot.

(Code 1969, § 5.110; Code 1977, § 28-176)

Sec. 44-298. Off-street parking facilities.

Off-street parking facilities shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.111; Code 1977, § 28-177)

Secs. 44-299—44-329. Reserved.

ARTICLE X. R-2 TWO-FAMILY RESIDENTIAL DISTRICTS

Sec. 44-330. Uses permitted.

In all R-2 districts, except as otherwise provided in this chapter, all buildings shall be erected and all land shall be used only for one or more of the following specified uses:

- (1) All uses permitted in R-1 districts.
- (2) Two-family dwellings.
- (3) Private clubs, fraternities and lodges, excepting those the chief activity of which is a service customarily carried out as a business.
- (4) Boardinghouses and lodgings, subject to the approval of the board of appeals.
- (5) A residence may be used for a home occupation, provided no goods are publicly displayed or sold on the premises, after approval by the board of appeals.
- (6) Private garages or community garages, either separated or in connected groups, having unpierced dividing walls between contiguous private garages.

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- (7) Open parking lots for the storage of self-propelled passenger vehicles for periods of less than one day, which shall be established and maintained as prescribed in article VI of this chapter.
 - (8) Buildings and uses customarily incident to such permitted uses, not involving any business, profession, trade or occupation, shall include not more than one private garage, which shall provide parking space for not more than two motor vehicles per living unit, not more than one of which may be a commercial vehicle, which shall not exceed one ton capacity and shall be kept housed within a garage when not in use, provided said commercial vehicle is owned and operated by a member of the family who resides in said living unit.

(Code 1969, § 5.115; Code 1977, § 28-189)

Sec. 44-331. Building height.

No building hereafter erected or altered in R-2 districts shall exceed 30 feet in height or two stories, except as provided in article XXV of this chapter.

(Code 1969, § 5.116; Code 1977, § 28-190)

Sec. 44-332. Lot area per family.

In R-2 districts each one-family dwelling, together with its accessory buildings, hereafter erected, shall require a lot area of not less than 12,000 square feet for the first unit, plus 6,000 square feet for each additional unit when said lot is not served by either a municipal water or a municipal sewerage system; shall require a lot area of not less than 12,000 square feet for the first unit, plus 6,000 square feet for each additional unit when said lot is served either by a municipal water system or a municipal sewerage system; shall require a lot area of not less than 6,000 square feet for the first living unit, plus 3,000 square feet for each additional living unit when both a municipal water and a municipal sewerage system are available, and said lot shall have a width of not less than 80 feet at the front or rear building lines; provided, however, that this requirement shall not apply to any lot which at the time the ordinance from which this article is derived became effective was narrower at the street line or lesser in area than the specifications herein provided, if such lot was of record at the time of the adoption of the ordinance from which this article is derived.

(Code 1969, § 5.117; Code 1977, § 28-191; Ord. No. 265, § 2, 10-11-1999)

Sec. 44-333. Percentage of lot coverage.

No dwelling, together with its accessory buildings hereinafter erected on any lot in R-2 districts, shall cover more than 25 percent of the area of such lot, provided, that this requirement shall not apply to any lot which at the time the ordinance from which this article is derived became effective was lesser in area than the specifications herein provided if such lot was of record at the time of the adoption of the ordinance from which this article is derived.

(Code 1969, § 5.118; Code 1977, § 28-192)

Sec. 44-334. Front yard.

Each lot in R-2 districts shall have a front yard of not less than 25 feet in depth.

(Code 1969, § 5.119; Code 1977, § 28-193)

Sec. 44-335. Side yards—One-family and two-family dwellings.

All lots in R-2 districts, on which a one-family dwelling is established, shall have two side yards, one with a minimum width of not less than four feet and the aggregate width of both side yards shall not be less than 13 feet. All lots in R-2 districts on which a two-family dwelling or a two-family income dwelling is established shall have two side yards of not less than ten feet each.

(Code 1969, § 5.120; Code 1977, § 28-194)

Sec. 44-336. Same—Nonresidential use.

Every lot on which a building or structure used for a nondwelling purpose, other than an accessory building is erected, shall have a side yard on each side of such lot, and each such yard shall be not less than 20 feet in width with an increase of one foot in width for each five feet or part thereof by which the said building or structure exceeds 35 feet in overall dimension along the side yard and also of an additional one foot for every two feet in height in excess of 35 feet.

(Code 1969, § 5.121; Code 1977, § 28-195)

Sec. 44-337. Same—Abutting upon a street.

In R-2 districts the width of side yards abutting upon a street shall not be less than ten feet.

(Code 1969, § 5.122; Code 1977, § 28-196)

Sec. 44-338. Rear yards.

Each lot in R-2 districts shall have a rear yard of not less than 50 feet in depth.

(Code 1969, § 5.123; Code 1977, § 28-197)

Sec. 44-339. Rear yards abutting side lot lines.

Where a side yard of an interior lot abuts a rear yard of a corner lot or an alley separating such lots, any accessory building on the corner lot shall sit back from the side street as far as the dwelling on the interior lot.

(Code 1969, § 5.124; Code 1977, § 28-198)

Sec. 44-340. Off-street parking facilities.

Off-street parking facilities shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.125; Code 1977, § 28-199)

Secs. 44-341—44-368. Reserved.

ARTICLE XI. R-1-T ONE-FAMILY RESIDENTIAL TRANSITIONAL DISTRICTS

Sec. 44-369. Uses permitted.

In all R-1-T districts, except as provided for in this chapter, all buildings shall be erected and all land shall be used only for one or more of the following specified uses:

- (1) All uses permitted in R-1 districts.
- (2) Parking of private passenger motor vehicles as prescribed in article VI of this chapter.

(Code 1969, § 5.131; Code 1977, § 28-211)

Sec. 44-370. Building height.

No building hereafter erected or altered in R-1-T districts shall exceed 30 feet in height or two stories, except as provided in article XXV of this chapter.

(Code 1969, § 5.132; Code 1977, § 28-212)

Sec. 44-371. Lot area per family.

In R-1-T districts each one-family dwelling, together with its accessory buildings, hereafter erected, shall require a lot area of not less than 15,000 square feet when said lot is not served by either a municipal water or a municipal sewerage system; shall require a lot area of not less than 12,000 square feet when said lot is served either by a municipal water system or a municipal sewerage system; shall require a lot area of not less than 9,600 square feet when both a municipal water and a municipal sewerage system are available, and said lot shall have a width of not less than 80 feet at the front or rear building lines; provided, however, that the requirement shall not apply to any lot which at the time the ordinance from which this article is derived became effective was narrower at the street line or lesser in area than the specifications herein provided, if such lot was of record at the time of the adoption of the ordinance from which this article is derived.

(Code 1969, § 5.133; Code 1977, § 28-213; Ord. No. 265, § 3, 10-11-1999)

Sec. 44-372. Lot coverage.

In R-1-T districts each one-family dwelling, together with accessory buildings, hereafter erected on any lot, shall not cover more than 25 percent of the area of such lot.

(Code 1969, § 5.134; Code 1977, § 28-214)

Sec. 44-373. Front yards.

Each lot in R-1-T districts shall have a front yard of not less than 25 feet; provided, however, that where a front yard of greater or lesser depth than specified exists in front of dwellings on more than 50 percent of the lots of record on one side of a street in any block in an R-1 district, the depth of the front yard for any building thereafter erected or placed on any lot in such block shall be not less, but need not be greater than the average depth of front yards of such existing buildings.

(Code 1969, § 5.135; Code 1977, § 28-215)

Sec. 44-374. Side yards.

All lots in R-1-T districts shall have two side yards each having a width of not less than four feet and the combined width of both side yards shall not be less than 13 feet; provided, however, that principal buildings on adjoining lots shall be located not less than ten feet apart, and further provided, that on lots less than 35 feet in width the required combined width of side yards may be reduced by six inches for each foot or major fraction thereof by which the width of such lot is less than 35 feet, and provided further, that the width of both side yards shall not be less than three feet each.

(Code 1969, § 5.136; Code 1977, § 28-216)

Sec. 44-375. Side yards—Nonresidential use.

Every lot on which a building or structure used for nondwelling purposes, other than an accessory building, is erected, shall have a side yard on each side of such lot, and each such yard shall be not less than 20 feet in width with an increase of one foot in width for each five feet or part thereof by which the said building or structure exceeds 35 feet in overall dimension along the side yard and also of an additional one foot for every two feet in height in excess of 35 feet.

(Code 1969, § 5.137; Code 1977, § 28-217)

Sec. 44-376. Same—Abutting upon a street.

In R-1-T districts the width of the side yard abutting a side street shall not be less than ten feet.

(Code 1969, § 5.138; Code 1977, § 28-218)

Sec. 44-377. Rear yards.

Each lot in R-1-T districts shall have a rear yard of not less than 35 feet in depth.

(Code 1969, § 5.139; Code 1977, § 28-219)

Sec. 44-378. Rear yards abutting side lot lines.

Where a side yard of an interior lot abuts a rear yard of a corner lot or an alley separating such lots, any accessory building on the corner lot shall sit back from the side street as far as the dwelling on the interior lot.

(Code 1969, § 5.140; Code 1977, § 28-220)

Sec. 44-379. Off-street parking facilities.

Off-street parking facilities shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.141; Code 1977, § 28-221)

Secs. 44-380—44-401. Reserved.

ARTICLE XII. R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 44-402. Uses permitted.

In all R-3 districts, except as otherwise provided in this chapter, all buildings shall be erected and all land shall be used only for one or more of the following uses:

- (1) All uses permitted in R-2 districts.
- (2) Apartment houses, efficiency apartments, up to and not exceeding eight housekeeping units, in any one building subject to site plan approved by the planning commission.
- (3) Single-family terrace dwellings in groups of not more than eight units, in one building, when all are erected at the same time.
- (4) Nonilluminated signs pertaining to the sale or lease of the lot or building, not exceeding six square feet in area.
- (5) Hospitals, rest homes, sanitariums, clinics and similar uses, but not for the feeble minded, subject to the approval of the city planning commission.
- (6) Institutions of a philanthropic or charitable nature, subject to the approval of the city planning commission.
- (7) Accessory buildings or uses customarily incidental to any of the subsections (1) through (6) of this section permitted uses shall include not more than one private garage or community garage which shall provide parking space for not more than two motor vehicles per living unit, not more than one of which may be a commercial vehicle which shall not exceed one ton capacity, provided, said commercial vehicle is owned and operated by a member of the family residing in said living unit. Where the area of a lot is greater than 7,200 square feet, the garage space may be increased, but in no case shall such space be greater than 25 percent of the area of the rear yard.
- (8) One nonilluminated sign not greater than six square feet in area pertaining to the sale or lease of the premises upon which it is maintained; one nonilluminated trespassing, safety or caution sign not over two square feet in area shall be permitted on a lot.

(Code 1969, § 5.145; Code 1977, § 28-233; Ord. No. 23-Q, 9-28-1970)

Sec. 44-403. Height of buildings.

No building, hereafter erected or altered, shall exceed 35 feet in height or 2½ stories, except as provided in article XXV of this chapter.

(Code 1969, § 5.146; Code 1977, § 28-234)

Sec. 44-404. Lot area per family.

- (a) In R-3 districts each one-family dwelling, together with its accessory buildings, hereafter erected, there shall be provided a lot area of not less than 15,000 square feet when said lot is not served by either a municipal water or a municipal sewerage system; shall provide a lot area of not less than 12,000 square feet per each

one-family dwelling when said lot is served either by a municipal water system or a municipal sewerage system; shall provide a lot area of not less than 9,600 square feet for each one-family dwelling when both a municipal water and a municipal sewerage system are available, and said lot shall have a width of not less than 80 feet at the front or rear building line.

- (b) All lots used for two-family dwellings shall provide the same minimum lot area as required in R-2 districts.
- (c) All lots used for multiple-family dwelling units shall provide the same minimum lot area per unit as follows:

Single-family terrace	2,320 square feet
Efficiency unit	2,300 square feet
One-bedroom unit	2,800 square feet
Two-bedroom unit	3,300 square feet
For each additional bedroom, library, recreation, or family room, add	500 square feet

(Code 1969, § 5.147; Code 1977, § 28-235; Ord. No. 23-Q, 9-28-1970; Ord. No. 265, § 4, 10-11-1999)

Sec. 44-405. Lot coverage.

In R-3 districts no principal building, together with its accessory buildings, hereinafter erected on any lot, shall cover more than 25 percent of the area of such lot.

(Code 1969, § 5.148; Code 1977, § 28-236)

Sec. 44-406. Front yards.

In R-3 districts every dwelling shall have a front yard of not less than 25 feet in depth.

(Code 1969, § 5.149; Code 1977, § 28-237)

Sec. 44-407. Side yards.

- (a) In R-3 districts there shall be provided a side yard on each side of every multiple-family dwelling which shall be not less than 15 feet with an aggregate width of both side yards of not less than 30 feet.

- (b) Yards required for a multiple-family complex shall be as follows:

Buildings front to front or rear to rear	70 feet
Front to side or rear to side	50 feet
Front of building to parking lot	25 feet
Rear or side of building to parking lot	10 feet

(Code 1969, § 5.150; Code 1977, § 28-238; Ord. No. 23-Q, 9-28-1970)

Sec. 44-408. Side yards—Nonresidential use.

On every lot on which is erected a building or structure used for nondwelling purposes, such structure, other than its accessory building, shall have a side yard on each side of such lot, and each such side yard shall not be less

than 20 feet in width, with an increase of one foot in width for each five feet or part thereof by which the said building or structure exceeds 35 feet in overall dimension along the side yard and also an additional one foot for every two feet in height in excess of 35 feet.

(Code 1969, § 5.151; Code 1977, § 28-239)

Sec. 44-409. Same—Abutting upon a street.

In R-3 districts the width of side yard abutting upon a side street shall not be less than 25 feet.

(Code 1969, § 5.152; Code 1977, § 28-240)

Sec. 44-410. Rear yards.

In R-3 districts each lot shall have a rear yard of not less than 50 feet.

(Code 1969, § 5.153; Code 1977, § 28-241)

Sec. 44-411. Rear yards abutting side lot lines.

Where a side yard of an interior lot abuts a rear yard of a corner lot on an alley separating such lots, any accessory building on the corner lot shall sit back from the side street as far as the dwelling on the interior lot.

(Code 1969, § 5.154; Code 1977, § 28-242)

Sec. 44-412. Off-street parking requirements.

Off-street parking requirements shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.155; Code 1977, § 28-243)

Secs. 44-413—44-437. Reserved.

ARTICLE XIII. R-3-A LOW DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sec. 44-438. Uses permitted.

In all R-3-A districts except as otherwise provided for in this chapter, all buildings shall be erected and all land shall be used for only one or more of the following uses:

- (1) All uses permitted in R-1 districts;
- (2) Quadruplex consisting of multiple-family dwellings of four units, each unit having an enclosed attached garage storage space for not less than one motor vehicle, each building having a separate entrance for each dwelling unit and which building shall have the visual impact of a large one-family home;
- (3) No more than ten percent of the dwelling units shall consist of more than two bedrooms;
- (4) Accessory buildings and structures such as and similar to a recreation building, swimming pool, private marina with boat docking facilities, and recreational vehicle storage space for tenants living on property.

(Code 1969, § 5.158; Code 1977, § 28-255; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-439. Height of building.

In R-3-A districts, no building hereafter erected or altered, shall exceed 30 feet or two stories, except as provided in article XXV of this chapter.

(Code 1969, § 5.158; Code 1977, § 28-256; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-440. Lot area per family.

In R-3-A districts, all one-family dwellings shall comply with requirements for R-1 one-family residential districts; all multiple-family dwellings (quadruplex) shall not exceed six units per acre, excluding therefrom all submerged land and/or land dedicated to public use.

(Code 1969, § 5.158; Code 1977, § 28-257; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-441. Lot coverage.

In R-3-A districts, every principal building together with its accessory buildings and structures, hereinafter erected shall not cover more than 25 percent of designated land area.

(Code 1969, § 5.158; Code 1977, § 28-258; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-442. Front yard.

In R-3-A districts, every dwelling shall have a front yard on each street side of not less than 25 feet in depth.

(Code 1969, § 5.158; Code 1977, § 28-259; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-443. Building spacing.

In R-3-A districts, the minimum distance between buildings shall be 50 feet.

(Code 1969, § 5.158; Code 1977, § 28-260; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-444. Building location.

In R-3-A districts, all buildings shall be accessible from a public street or an open court.

(Code 1969, § 5.158; Code 1977, § 28-261; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-445. Off-street parking requirements.

In R-3-A districts, off-street parking shall be provided as specified in article VI of this chapter; in addition, the planning commission shall take into consideration possible additional parking for visitors, and is authorized in such event to increase off-street parking as specified in article VI of this chapter.

(Code 1969, § 5.158; Code 1977, § 28-262; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-446. Public streets.

In R-3-A districts, public streets shall conform to at least all minimum requirements of chapter 32.
(Code 1969, § 5.158; Code 1977, § 28-263; Ord. No. 23-V, pt. II, 11-8-1971)

Sec. 44-447. Site plan approval.

In R-3-A districts, all quadruplex developments shall first require site plan approval.
(Code 1969, § 5.158; Code 1977, § 28-264; Ord. No. 23-V, pt. II, 11-8-1971)

Secs. 44-448—44-477. Reserved.

ARTICLE XIV. PRD PLANNED RESIDENTIAL DEVELOPMENT DISTRICTS

Sec. 44-478. Intent.

The intent of a planned residential development (PRD) district is to permit the use of flexible land use and design regulations which encourage innovative site design, allow for the mixture of residential dwelling types and encourage the preservation of the community's natural features and open spaces.

(Code 1977, § 28-265; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-479. Objectives.

To carry out the intent of the district, a planned residential development shall:

- (1) Provide common open space and recreation areas which satisfy the needs of the neighborhood.
- (2) Retain the site's natural characteristics through preservation of significant vegetation, stands of trees, natural drainageways, open fields and other natural features.
- (3) Encourage harmonious design and site planning of a quality that will produce a more desirable living environment than possible under standard zoning requirements.
- (4) Reflect the community-wide goals and objectives set forth in the city's master plan.
- (5) Ensure that city services and facilities, including streets and intersections, utilities, drainage systems and other public facilities are not overburdened by construction of the planned residential development.
- (6) Reduce the danger to public health, safety and welfare by protecting primary drainage patterns, natural floodways and wetlands, reducing soil erosion, and minimizing the negative influences upon the open and underground-water resources of the community.

(Code 1977, § 28-266; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-480. Permitted uses.

In the planned residential development district, no land or buildings shall be erected or used except for the following specified purposes:

- (1) All principal and accessory uses as permitted within the R-1, R-2 and R-3 zoning districts provided, however, that when both a municipal water and a municipal sewerage system are available, each one-family dwelling, together with its accessory buildings hereafter erected, shall require a lot area of not less than 7,200 square feet, and said lot shall have a width of not less than 60 feet at the front or rear building lines.
- (2) Golf courses, subject to the following conditions:
 - a. The site shall be so planned as to provide all ingress and egress directly onto a major thoroughfare, as designated on the city's master plan.
 - 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 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 effects upon adjacent property.
 - d. The minimum number of off-street parking spaces to be provided shall be six spaces per fairway plus one space per employee.

(Code 1977, § 28-267; Ord. No. 107, § 2, 4-16-1980; Ord. No. 265, § 5, 10-11-1999)

Sec. 44-481. Density provisions.

The maximum density allowed within a planned residential development district shall be five dwelling units per acre.

(Code 1977, § 28-268; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-482. Change of district.

- (a) All properties shall be rezoned to a PRD district following the chapter amendment procedures as set forth in article XXXII of this chapter, specifying the submission and review process to be followed, as well as the public hearing requirements.
- (b) All rezoning requests submitted for review shall contain the following information:
 - (1) A legal description of the site;
 - (2) A generalized sketch plan of the site which includes the number and type of dwellings as well as approximate locations;
 - (3) A description, written and/or graphic, which outlines the relationship of the planned development to adjoining uses, both existing and proposed.
- (c) Following favorable action on the rezoning request by city council, the applicant may submit an application for preliminary site plan approval. A request for preliminary site plan approval may be submitted jointly with a rezoning request.

(Code 1977, § 28-269; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-483. Preliminary application for site plan approval.

- (a) The intent of a preliminary application for site plan approval is to provide the applicant an opportunity to present conceptual site design plans for review and approval prior to the preparation and submission of detailed engineering drawings.
- (b) Preliminary application shall be made by the owner of any tract where the planned residential development is contemplated. The application shall be accompanied by a fee to be determined by resolution of the city council. All applications shall include the following information:
 - (1) A site plan submission according to article XXXII of this chapter;
 - (2) A legal description of the acreage comprising the proposed planned residential development;
 - (3) A written explanation of the exceptions requested to the applicable district requirements, if any are proposed;
 - (4) A general indication of the schedule of construction;
 - (5) Other pertinent information necessary to enable the planning commission to make a determination concerning the desirability of applying the provisions of this article.

(Code 1977, § 28-270; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-484. Public hearing.

A public hearing shall be held by the planning commission on the proposed site plan for the planned residential development. Notice of the hearing shall be published not less than five days, nor more than 15 days, prior to the hearing in a newspaper of general circulation within the city and shall be sent by mail or personal delivery to all persons to whom real property is assessed with 300 feet of the boundary of the property in question. One occupant of each structure within 300 feet of the site shall be notified, and where multiple dwellings exist, notice may be posted by the manager or owner at the primary entrance to the structure.

(Code 1977, § 28-271; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-485. Commission approval of preliminary site plan.

The planning commission may, after consideration of the objectives outlined in this article, recommend approval or disapproval of the proposed planned residential development site plan to the city council, with conditions when appropriate. The planning commission shall communicate, in writing, its recommendation to the applicant and to the city council with the reasons therefor.

(Code 1977, § 28-272; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-486. City council approval of preliminary site plan.

Upon recommendation of the planning commission, the city council shall review and take action on the preliminary application. If the application is approved by the city council, the applicant and the planning commission will be so notified. If the application is denied, the council shall communicate its reasons in writing to the planning commission and the applicant. Following preliminary approval by the council, a final site plan must be reviewed and approved.

(Code 1977, § 28-273; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-487. Final application for site plan approval.

- (a) The intent of a final application for site plan approval is to provide the commission and council an opportunity to ensure that all conditions of preliminary approval have been met and to review the detailed site engineering drawings which must be submitted by the applicant.
- (b) A final application for site plan approval shall be submitted to the planning commission and city council after preliminary approval is granted. Approval of this final application shall be granted only after all conditions of the preliminary approval have been satisfied.
- (c) Final approvals may be granted on each phase of a multi-phased planned residential development if each phase contains the necessary components to ensure protection of natural resources and the health, safety and welfare of the residents.
- (d) Final site plan submission requirements shall conform to article XXVII of this chapter.

(Code 1977, § 28-274; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-488. Design standards.

The following minimum design standards shall apply to all planned residential developments:

- (1) *Height, bulk, parking, lot area and yards.* The height and bulk of buildings, parking, loading, lot area, and yard requirements shall be the same as those established in the R-1 district for single-family development, R-2 district for two-family development, and the R-3 district for multiple-family development. The commission may, however, vary these standard requirements using the following as a guide:
 - a. All dwelling units with reduced lot and yard sizes shall abut or be in proximity to common open space or natural features held in common ownership.
 - b. All land area resulting from lot reduction shall be applied as common open space. This open space shall be in addition to the common open space requirement set forth in this article.
 - c. The variation of standards will not impede the normal and orderly development of surrounding property or diminish property values within the neighborhood.
 - d. The design and layout is consistent with the protection of the public health, safety and welfare.
- (2) *Multifamily development.* A maximum of 30 percent of the gross land area within a PRD shall be used for multiple-family development.
- (3) *Minimum parcel size.* The minimum parcel size for development of a PRD shall be ten acres.
- (4) *Common open space.* Common open space shall be provided within all PRD's according to the following:
 - a. The developer shall be responsible for the provision and maintenance of common open spaces.
 - b. All developments with common open space must include an acceptable method, subject to commission approval, which ensures adequate maintenance and management of open spaces.

Alternative methods of assuring management and maintenance include a surety bond, certified check, cash deposit, irrevocable bank letter of credit, deed restrictions or some other

performance guarantee. The petitioner must satisfy the commission that the selected method is adequate prior to receiving final site plan approval.

- c. A minimum of ten percent of the gross site area shall be retained as common open space.
 - d. Recreation space shall be provided as part of all multiple-family developments at a rate of 200 square feet per dwelling unit.
 - e. Common open space may include but is not limited to the following: Floodways, wetlands, drainageways, lake areas, woods, open fields, golf courses, school sites and other physical site features.
- (5) *Lot coverage.* A maximum of 30 percent of the land area set aside for multiple-family development shall be covered by structures.
- (6) *Environmental design.*
- a. Unique natural features of a site shall be preserved to the extent possible, and disturbance to the site's natural environment minimized. Special consideration shall be given to the retention of the city's natural drainageways and flood hazard areas.
 - b. The location of natural features must be considered when planning common open space, location of buildings, underground services, walkways, paved areas and finished grade levels. The petitioner shall include the means whereby natural features will be protected during construction.
- (7) *Vehicular circulation facilities.*
- a. In determining the number of driveway entrances, widths of pavements and driveways, and the width and length of acceleration, deceleration and passing lanes, the petitioner shall meet all applicable city and county ordinances.
 - b. All rights-of-way and street improvements shall follow the requirements set forth in the subdivision control ordinance or those established by the commission when applicable requirements are lacking.
- (8) *Pedestrian circulation facilities.* Pedestrian walkways shall be constructed in a location and to specifications established by the commission. Such walkways shall provide for pedestrian circulation throughout the development.
- (9) *Sanitary sewage disposal and water supply systems.* Approval of all water supply and sanitary sewage disposal systems shall be subject to compliance with requirements of the city council and the city engineer.
- (10) *Storm drainage.* The method proposed for accepting storm drainage shall be approved by the city council and the city engineer, and if involving county drains the proposed drainage shall be acceptable to the county drain commissioner.

(Code 1977, § 28-275; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-489. Plat review.

Approval of a preliminary and final site plan applications based upon the requirements set forth in this article does not eliminate the need to seek preliminary and final plat approval according to the requirements set forth in the subdivision control ordinance. Preliminary and final plat review as set forth in the subdivision control ordinance of the city may, however, be conducted concurrently with the application reviews provided for in this article.

(Code 1977, § 28-275.1; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-490. Amendment of plan.

Minor changes may be authorized by the zoning administrator if required by engineering or other circumstances not foreseen at the time that the final site plan was approved. All other changes in the approved final site plan must be made by the planning commission and council under the procedures authorized by this article for the approval of the final site plan.

(Code 1977, § 28-275.2; Ord. No. 107, § 2, 4-16-1980)

Sec. 44-491. Termination; extension.

If a preliminary application for approval of a planned residential development is approved by the city council, the applicant shall be granted a period of two years following said approval to submit a final application. Failure to submit a final application shall be deemed an abandonment of the planned residential development. At the written request of the applicant, the commission may grant a one-year extension if extenuating circumstances are deemed to exist.

(Code 1977, § 28-275.3; Ord. No. 107, § 2, 4-16-1980)

Secs. 44-492—44-505. Reserved.

ARTICLE XV. MHP MANUFACTURED HOUSING PARK DISTRICT

Sec. 44-506. Intent.

The MHP Manufactured Housing Park District is intended to provide for the location and regulation of manufactured housing parks. It is intended that manufactured housing parks be provided with necessary community services in a setting that provides a high quality of life for residents. These districts should be located in areas where they will be compatible with adjacent land uses.

(Ord. No. 23LLL, § 2(28-276), 8-27-2001)

Sec. 44-507. Law; rules; higher standard.

Regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the manufactured housing commission rules govern all manufactured housing parks in the city. When regulations in this section exceed the state law or the manufactured housing commission rules, the higher standards of this section are intended to insure that manufactured housing parks meet the development and site plan standards established by this section for other comparable residential development and to promote the health, safety and welfare of the city's residents. The higher standards incorporated herein have been approved by the manufactured housing commission in accordance with applicable state law. All manufactured housing parks must comply with the standards set forth in this section and those of the manufactured housing commission, both as now existing or hereinafter amended.

(Ord. No. 23LLL, § 2(28-277.1), 8-27-2001)

Sec. 44-508. Permitted uses.

In all areas zoned MHP, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal uses:

- (1) Manufactured housing parks after site plan review and approval as specified in these provisions.
- (2) Private swimming pools and swimming pool clubs.
- (3) Private noncommercial recreational facilities, such as a neighborhood center, a nonprofit swimming pool club, or similar facility.
- (4) Essential services, subject to the other related definition and use provisions of this section.
- (5) Uses and structures accessory to the subsections (1) through (4) of this section, subject to the provisions in this article. Permitted accessory uses and structures include, but are not necessary limited to parks, open space, and recreation facilities for the use of residents and their guests; community centers; one office building for the exclusive purpose of manufactured housing park business; utility and storage buildings for use of residents; garages and carports; and signs.

(Ord. No. 23LLL, § 2(28-277.2), 8-27-2001)

Sec. 44-509. Permitted uses after special approval.

The following uses may be permitted in the MHP district, subject to review and approval by the city planning commission in accordance with the special use approval procedures established in section 44-843.

- (1) Public, parochial and other private elementary, intermediate, or high schools licensed by the state to offer courses in general education.
- (2) Religious institutions including churches, synagogues, and temples.
- (3) Bed and breakfast establishments.
- (4) Public or private colleges, universities and other such institutions of higher learning, offering courses in general, technical or religious education.
- (5) Cemeteries.
- (6) Group day care homes and child care centers.
- (7) Municipal buildings and uses which do not require outside storage of materials or equipment.
- (8) Public or private golf courses, including country clubs.

(Ord. No. 23LLL, § 2(28-277.3), 8-27-2001)

Sec. 44-510. Development standards.

- (a) *Site plan review.* Pursuant to section 11 of Michigan Public Act 96 of 1987, as amended, preliminary plans shall be submitted to the city for review by the planning commission. The preliminary plans, prepared in accordance with shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.
- (b) *Procedure.* In preparing the preliminary plan and when reviewing the plan, the following procedures and requirements shall apply, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules.

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- (1) *Application filing.* Any person requesting any action or review under the provisions of this article shall file an application on the forms provided by the city. The information required shall be typed or legibly written on the form or on separate sheets attached to the form. Not less than 12 copies of the preliminary plan shall accompany the form.
 - (2) *Processing and review.* Applications accepted by the city shall be submitted to appropriate city staff and consultants for their written reviews and recommendations. The application shall be submitted along with all recommendations to the planning commission. Official receipt of the application is the time the complete plan arrives or is delivered to the city hall. The staff may advise and assist the applicant in meeting article requirements but shall have no power to approve or disapprove any application or in any way restrict an applicant's right to seek formal approval thereof.
 - (3) *Planning commission action.* The planning commission shall review all applications at a public meeting. The planning commission may consider all recommendations of the city staff and consultants. Pursuant to section 11 of Public Act 96 of 1987, as amended, the planning commission shall take action on the preliminary plan within 60 days after the city officially receives the plan. All applications that the planning commission has been charged with the authority to approve under the provisions of this article shall be approved, denied, or approved subject to conditions. The planning commission may table an application for further study or to obtain additional information, provided that final action is taken within the 60 day review period.
 - (4) *Filing fees.* All applications shall be accompanied by a filing fee to cover the cost of processing and reviewing the application. The fee shall be established by resolution of the city council, in accordance with section 24 of Public Act 184 of 1943, as amended. The filing fee and deposit shall be paid before the approval process begins. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the article shall suspend further review of the application and shall deny any new permits.
 - a. Any deposit toward the cost of review shall be credited against the expense to the city. Any portion of the deposit not needed to pay such expense shall be refunded without interest to the applicant within 30 days of final action on the application.
 - b. A schedule of the current filing fees and deposit requirements is available in the office of the city clerk and the building department.
 - (5) *Disclosure of interest.* The full name, address, telephone number, and signature of the applicant shall be provided on the application. If the application involves real property in the city the applicant must be the fee owner, or have identified legal interest in the property, or be an authorized agent of the fee owner. A change in ownership after the application is filed shall be disclosed prior to any public hearing or the final decision on the application.
 - a. *Required disclosure when applicant is not fee owner.* If the applicant is not the fee owner, the application should indicate interest of the applicant in the property, and the name and telephone number of all fee owners. An affidavit of the fee owner shall be filed with the application stating that the applicant has authority from the owner to make the application.
 - b. *Required disclosure when applicant is a corporation or partnership.* If the applicant or fee owner is a corporation, the names and addresses of the corporation officers and registered agent shall be provided, and if a partnership, the names and addresses of the partners shall be provided.
 - c. *Required disclosure when applicant or owner is a land trust.* If the applicant or fee owner is a trust or trustee thereof, the full name, address, telephone number, and extent of interest of each beneficiary must be provided.
 - (6) *Records.* The city shall keep accurate records of all decisions on all applications submitted pursuant to this article.

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- (c) *Minimum requirements.* Manufactured housing parks shall be subject to all the rules and requirements as established and regulated by state law including, by way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:
- (1) *Parcel size for overall park.* The minimum parcel size for manufactured housing parks shall be 15 acres.
 - (2) *Minimum site size.* Manufactured housing parks shall be developed with an average site size of 5,500 square feet. Individual sites may be reduced to as small as 4,400 square feet, provided that for every square foot of land gained through such reduction, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the open space required under the Manufactured Housing Commission Rules in effect at the time the proposal is submitted.
 - (3) *Setbacks.* Manufactured housing dwellings shall comply with the following minimum distances and setbacks:
 - a. Ten feet from any on-site parking space of an adjacent manufactured housing site.
 - b. Ten feet from any attached or detached accessory structure of an adjacent manufactured housing dwelling.
 - c. Fifty feet from any permanent building.
 - d. One hundred feet from any baseball, softball or similar recreational field.
 - e. Ten feet from the edge of an internal road, provided that such road is not dedicated to the public. Manufactured housing dwellings and other structures in the MHP district shall be set back at least 20 feet from the right-of-way line of a dedicated public road within the manufactured housing park.
 - f. Seven feet from any parking bay off a home site.
 - g. Seven feet from a common sidewalk.
 - h. All manufactured housing dwellings, accessory buildings and parking shall be set back not less than 20 feet from any manufactured housing park boundary line, except that a minimum setback of 50 feet shall be provided from existing and future right-of-way lines of abutting streets and highways.
 - i. Fifty feet from the edge of any railroad right-of-way.
 - (4) *Maximum height.* Buildings in the MHP district shall not exceed two stories or 30 feet in height, with height of building as defined in this chapter. Storage sheds shall not exceed the height of the manufactured housing dwelling.
 - (5) *Roads.* Roads shall satisfy the minimum dimensional, design, and construction requirements in the manufactured housing commission rules except as follows:
 - a. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
 - b. All roads shall be hard-surfaced and may be constructed with curbs and gutters.
 - c. In order to assure a clear vision zone is provided at an intersection with a county road and to assure that all construction in a public road right-of-way is performed in accordance with adopted county standards, entryway details, including road section specifications, stormwater drainage, landscaping and signage shall be subject to the review and approval of the Wayne County agencies. Additionally, all public road improvements proposed as part of the

manufactured housing park design shall be built to the standards of the public authority that will own and maintain the road.

- d. Entranceway structures, including but not limited to, walls, columns and gates marking the entrance to a manufactured housing park, may be permitted, and may be located in a required yard, except as provided in this section. Such entranceway structures shall be designed to maintain a clear vision zone and to permit unobstructed access by all emergency equipment and shall comply with all codes and ordinances of the city and county. Sight distance shall be approved by the county department of public services. The structure shall also be approved by the city building department.
- (6) *Parking.* Parking shall satisfy the following requirements:
- a. All manufactured housing sites shall be provided with two parking spaces per manufactured housing commission rules.
 - b. In addition, a minimum of one parking space for every three manufactured housing sites shall be provided for visitor parking located convenient to the area served. Visitor parking spaces shall be counted and designated separately from all other parking spaces including those spaces required for employees and any community facility.
 - c. No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.
 - d. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured housing park, but shall be limited to use only by residents of the manufactured housing park. If proposed, the location of such storage areas shall be shown on the preliminary site plan. No part of any such storage area shall be located in any required yard on the perimeter of the manufactured housing park. Such storage area shall be screened from view from adjacent residential properties with an opaque six foot wooden fence, six foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (that is, no more than 15 feet apart) which can be reasonably expected to form a complete visual barrier that is at least six feet above ground level within two years of planting. Park owners who prohibit storage of boats, motorcycles, recreation vehicles and similar equipment are not required to construct common areas for storage and parking.
- (7) *Sidewalks.* Sidewalks shall satisfy the following requirements a five foot wide concrete sidewalk shall be constructed along the public roads on which the manufactured housing park fronts. Such sidewalk shall be located within the road right-of-way or easement, beginning one foot inside the right-of-way or easement line.
- (8) *Accessory buildings and facilities.*
- a. Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only.
 - b. Site-built buildings within a manufactured housing park shall be constructed in compliance with the city building codes and shall require all applicable permits. Any addition to a manufactured housing dwelling that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured housing shall comply with the city building codes. Site plan approval shall be required prior to construction of any on-site building within a manufactured housing park, except for storage sheds or garages for individual manufactured houses; storage sheds and garages require a building permit.

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- c. No personal property, unless otherwise specified in this article, including tires, shall be stored outside or under any manufactured home, or within carports which are open only on one side. Bicycles, motorcycles and similar modes of transportation may be parked in carports.
 - d. Storage sheds need not be supplied by the owner of the manufactured housing park. A storage shed shall not exceed a floor area greater than 144 square feet, may be placed upon any individual home site for the storage of personal property. The installation of any such shed or garage shall comply with codes and regulations of the city and shall require a building permit.
 - e. A carport shall not exceed 576 square feet in area.
- (9) *Open space.* Open space shall be provided in any manufactured housing park containing 50 or more manufactured housing sites. The open space shall comply with the following requirements:
- a. A minimum of two percent of the park's gross acreage shall be dedicated to well drained, usable open space, provided that a minimum of 25,000 square feet of contiguous open space shall be provided.
 - b. Open space shall be located conveniently in relation to the majority of dwelling units intended to be served. Up to 25 percent of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.
- (10) *Landscaping.* A landscape plan shall be incorporated in the preliminary plans submitted for site plan review to the city planning commission. The landscape plan shall indicate the type and size of landscape planting improvements to be completed in the proposed manufactured housing park. The landscape plan shall be drawn to the same scale used for preparation of the site plan.
- a. *Perimeter screening.* All manufactured housing parks shall be screened from existing adjacent residential land use by either a six foot wall or a densely planted landscaped greenbelt.
 - 1. If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
 - 2. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings, which shall be a minimum of three feet in height at the time of planting, and which shall be planted so as to form a complete visual barrier at maturity. Deciduous plant materials may be used provided that visual screening is maintained throughout the year.
 - b. *Landscaping adjacent to road.* A landscaped berm measuring 2.5 to three feet in height shall be constructed along the public roads on which the manufactured housing park fronts. The berm shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal. The berm shall be landscaped with trees and shrubs in a manner consistent with landscaping required for other development in city.
 - c. *Site landscaping.* A minimum of one deciduous or evergreen tree shall be planted per two manufactured housing sites.
 - d. *Parking lot landscaping.* Off-street parking lots containing more than 15 spaces shall be provided with at least ten square feet of interior parking lot landscaping per space. Such areas shall measure at least 150 square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one deciduous tree shall be planted per parking lot landscaped area. This requirement is consistent with other developments within the city.

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- e. *Signs.* Signs shall be permitted in accordance with the following regulations and other safety provisions of this article. In particular, no sign shall be permitted to be placed in the clear vision zone as described in this article.
 - f. *Manufactured housing park.* Each manufactured housing park shall be permitted either:
 - 1. Two signs, each of which shall not exceed five feet in height and 16 square feet in area and shall be set back a minimum of ten feet from any property or right-of-way line, or
 - 2. One sign which shall not exceed five feet in height and 32 square feet in area and shall be set back a minimum of ten feet from any property or right-of-way line.
 - g. *Management offices and community building.* Management offices and community buildings in a manufactured housing park shall be permitted one identification sign not to exceed six square feet in area.
- (11) *Trash receptacles.* If proposed, trash receptacles shall comply with the following requirements:
- a. Receptacles shall be set back a minimum distance of 50 feet from the perimeter of the manufactured housing park and at least 15 feet from any building, in a location that is clearly accessible to the servicing vehicle.
 - b. Receptacles shall be screened on three sides with a decorative masonry wall or wood fencing, not less than six feet in height. The fourth side of the receptacle screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other three sides.
 - c. Receptacles shall be placed on a concrete pad which shall extend six feet in front of the receptacle enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the receptacle enclosure to prevent damage to the screening wall or fence.
- (12) *Canopies and awnings.* Canopies and awnings may be attached to any manufactured housing dwelling and may be enclosed for use as a sun room or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this article and shall require a building permit.
- (13) *Travel trailer/recreational vehicles.* Travel trailers, recreational vehicles or those similar in nature, shall not be occupied as a permanent living quarter in a manufactured housing park.
- (14) *Towing mechanisms.* Towing mechanisms shall be removed from all manufactured housing dwellings at the time of installation and stored so as to not be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured housing dwellings within the community.
- (15) *Skirting.* All manufactured housing dwellings must be skirted within 90 days of installation and must meet the design and installation requirements as stated in Manufactured Housing Commission Rule 604, as amended.
- (16) *Water and sanitary sewer service.* All manufactured housing parks shall be served by approved central water and sewage systems, which shall meet the requirements of the Michigan Department of Environmental Quality. The plumbing connections to each manufactured housing park site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.
- (17) *Storm drainage.* The manufactured home park shall be equipped with storm drainage facilities so as to dispose of all storm drainage surface water in such a way as to prevent the drainage of water onto adjacent property or toward buildings. All stormwater drainage improvements shall be subject to the review and approval by the state department of environmental quality (MDEQ) in accordance with the MDEQ Manufactured Home Park Standards.

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- (18) *Telephone and electric service.* All electric, telephone, cable TV, and other lines within the park shall be underground.
- (d) *Operational requirements.*
- (1) *Permit.* It shall be unlawful for any person to operate a manufactured housing park unless that individual obtains a license for such operation in compliance with the requirements of Michigan Public Act No. 96 of 1987, as amended. The building official shall communicate his recommendations regarding the issuance of such licenses to the Director of the Manufactured Housing and Land Development Division, Michigan Department of Consumer and Industry Services. Additionally, no manufactured housing dwelling shall be placed on a site in an approved manufactured housing park until a building permit has been obtained to approve the manufactured housing dwelling setup on the lot.
 - (2) *Violations.* Whenever, upon inspection of any manufactured housing park, the building official finds that conditions or practices exist which violate provisions of this article or other regulations referenced herein, the building official shall give notice in writing by certified mail to the Director of Michigan Manufactured Housing and Land Development Division, Department of Consumer and Industry Services, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance with the article or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.
 - (3) *Inspections.* The building official or other authorized city agent is granted the authority, as specified in Michigan Public Act No. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions of this article or other regulations referenced herein. No manufactured housing dwelling shall be occupied until a certificate of occupancy for that dwelling is obtained from the building official.
 - (4) *License.* A manufactured housing park shall not be operated until a license has been issued by the Michigan Manufactured Housing and Land Development Division, Department of Consumer and Industry Services. Buildings constructed on-site, such as a management office or clubhouse, shall require a city building permit prior to construction and a certificate of occupancy prior to use.
- (e) *Sale of manufactured housing.* The business of selling new or used manufactured housing as a commercial operation shall not be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or used manufactured housing dwellings located on sites within the manufactured housing park to be used and occupied on that site may be sold by a licensed dealer or broker. This section shall not prohibit the sale of a used manufactured housing dwelling by a resident of the manufactured housing park provided the park's regulations permit such sale.
- (f) *School bus stops.* School bus stops shall be located in an area that is acceptable to the school district and the manufactured housing park developer.
- (g) *Mailbox clusters.* The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mailbox clusters are required, they shall be located at least 200 feet from any intersection of a manufactured housing park road with a public road.

(Ord. No. 23LLL, § 2(28-277.4), 8-27-2001)

Secs. 44-511—44-525. Reserved.

ARTICLE XVI. PROFESSIONAL OFFICE DISTRICT

Sec. 44-526. Intent.

The professional office district is designed to accommodate various types of office uses performing administrative and professional services. These are typically to be small office buildings which can serve as a transitional use between the more intensive uses of land such as major thoroughfares and/or commercial districts and the less intensive uses of land such as single-family residential.

(Code 1977, § 28-278; Ord. No. 23HH, 3-18-1985)

Sec. 44-527. Uses permitted.

In a professional office district (POD) no building, structure or land shall be erected or used except for the following specified uses unless otherwise provided in this chapter:

- (1) Executive, administrative and professional offices.
- (2) Medical offices, including clinics and medical laboratories.
- (3) Facilities such as convalescent and nursing homes.
- (4) Churches and related facilities.
- (5) Funeral homes.
- (6) Multiple-family dwellings.
- (7) Accessory structures customarily incidental to principal uses.
- (8) Veterinary clinics and hospitals, provided all activities are conducted within a totally and permanently enclosed building and provided no noise or odors are created which are discernible beyond the boundaries of the property.

(Code 1977, § 28-279; Ord. No. 23HH, 3-18-1985)

Sec. 44-528. Required conditions.

The following conditions are required in a professional office district (POD):

- (1) No interior display shall be visible from any property line.
- (2) The outdoor storage or display of goods or materials shall be prohibited irrespective of whether or not they are for sale.
- (3) Where housing or indoor storage of goods or materials in quantities greater than normally incidental to such uses shall be prohibited.
- (4) Not more than 50 percent of any front, side or rear yard abutting a street shall be used for vehicular parking or driveways in order to maintain the transitional character of the area that this district is intended to preserve.

(5) No moving or flashing parts or lights or devices shall be permitted. All incandescent light sources shall be shielded from view from residentially zoned property and no lighting fixture shall be so located and directed as to be a hazard to public safety.

(6) All site plan and development requirements section 44-888 shall be satisfied.

(Code 1977, § 28-280; Ord. No. 23HH, 3-18-1985)

Sec. 44-529. Height of buildings.

No building hereafter erected or altered shall exceed 35 feet in height or 2½ stories, except as provided in article XXV of this chapter.

(Code 1977, § 28-281; Ord. No. 23HH, 3-18-1985)

Sec. 44-530. Lot coverage.

No principal building, together with its accessory buildings, hereafter erected on any lot shall cover more than 25 percent of the area of such lot.

(Code 1977, § 28-282; Ord. No. 23HH, 3-18-1985)

Sec. 44-531. Front yards.

Every building shall have a front yard of not less than 50 feet in depth.

(Code 1977, § 28-283; Ord. No. 23HH, 3-18-1985)

Sec. 44-532. Side yards.

(a) There shall be provided a side yard on each side of every building which shall be not less than 15 feet with an aggregate width of both side yards of not less than 30 feet.

(b) Yards required for a multiple-family complex shall be the same as found in the R-3 district.

(Code 1977, § 28-284; Ord. No. 23HH, 3-18-1985)

Sec. 44-533. Rear yards.

Each building shall have a rear yard of not less than 50 feet.

(Code 1977, § 28-285; Ord. No. 23HH, 3-18-1985)

Sec. 44-534. Off-street parking.

Off-street parking requirements shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1977, § 28-286; Ord. No. 23HH, 3-18-1985)

Sec. 44-535. Screening.

Off-street parking areas and related service drives shall be effectively screened on any side which adjoins residential development by screening with an opaque hedge or other natural landscaping. A solid uniformly constructed wall or fence not less than four feet nor more than six feet in height, neat and orderly in appearance, may be substituted subject to commission approval in instances where existing features suggest it may be appropriate.

(Code 1977, § 28-287; Ord. No. 23HH, 3-18-1985)

Secs. 44-536—44-542. Reserved.

ARTICLE XVII. C-1 LOCAL BUSINESS DISTRICTS

Sec. 44-543. Uses permitted.

- (a) In C-1 districts, except as otherwise provided in this chapter, all buildings shall be erected and all land shall be used only for one or more of the following specified uses:
- (1) Clothing service, including laundry pickup, automatic laundry, dressmaking, millinery, tailor shop, shoe repair shop.
 - (2) Food service, including grocery, meat market, supermarket, restaurant, delicatessen and fruit market, ice-o-mats and similar self-service units.
 - (3) Personal services, including barbershop and beauty shop.
 - (4) Municipally owned and operated buildings.
 - (5) Public utility buildings, telephone-exchange buildings, electric transformer stations and substations, and gas regulator stations, with service yards, but without storage yards.
 - (6) Water and sewage pumping stations, subject to the approval of the planning commission.
 - (7) Retail services including banks, drug stores, haberdashers, stationery, book stores, news dealers, apparel shops, show rooms for articles to be sold at retail. Gasoline service stations upon approval of planning commission.
 - (8) Signs, as hereinafter regulated.
 - (9) Private clubs, fraternities and lodges, excepting those the chief activity of which is a service customarily carried out as a business.
 - (10) Buildings and uses customarily accessory to any such permitted uses when located on the same lot.
- (b) Such specified stores, shops or businesses shall be retail establishments selling new merchandise or services only, and shall be subject to the following conditions:
- (1) Such stores, shops or businesses shall be conducted entirely within a building.
 - (2) Products made incident to a permitted use shall be only sold at retail on the premises.
 - (3) All public entrances to such stores, shops or businesses shall be from the principal street upon which the property abuts, or within 50 feet thereof, except that a rear entrance from the building to a public or private parking area may be provided.

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- (4) Dwelling units above or in the rear of a commercial use shall not be permitted.
 - (5) Any exterior sign displayed may project not more than 18 inches beyond the face of the wall or front or side property line and shall be attached to and be parallel to the wall of the building fronting the principal street or, in the case of a corner building, on that portion of the side street wall within 50 feet of the principal street and shall pertain only to the use conducted within the building.
 - a. One nonilluminated sign pertaining to the sale or lease of a building or lot and not exceeding 30 square feet in area for any one building or lot.
 - b. Roof signs and projecting signs and billboards shall not be permitted in C-1 districts.
 - (6) All exterior walls of every building which faces or abuts on any street or property classified as residential, hereafter erected, extended or where the exterior is structurally altered, shall be designed, treated and finished in a uniform manner similar to the exterior surfaces at front entrances of such buildings.
- (c) Approval of the board of appeals.
- (1) Repair or storage facilities incidental to any of the permitted uses only on approval of the board of appeals.
 - (2) Public parking areas for the exclusive use of the patrons of the stores, shops or business in the immediate commercial district (when located and developed as required in article VI of this chapter).

(Code 1969, § 5.161; Code 1977, § 28-289; Ord. No. 365, 6-27-2011)

Sec. 44-544. Height regulations.

In C-1 districts no building hereafter erected or altered shall exceed 35 feet in height, except as provided in article XXV of this chapter.

(Code 1969, § 5.162; Code 1977, § 28-290; Ord. No. 153, 5-11-1987)

Sec. 44-545. Lot area.

Every lot in C-1 districts used as a business shall have an area sufficient in size to provide an adequate and safe water supply and a safe and adequate sewage disposal system as established by standards required by the state or county health department rules and regulations.

(Code 1969, § 5.163; Code 1977, § 28-291)

Sec. 44-546. Front yards.

In C-1 districts front yards shall be provided, as measured from the centerline of the street as specified under section 44-93. Commercial buildings and uses may be set back from the front building line in order to allow for off-street parking. Off-street parking may be permitted in the front of commercial buildings when boundary of parking area is located not less than five feet from the front property line, when access to each parking stall is from a drive located on business property and the plot plan of parking area is approved by the planning commission.

(Code 1969, § 5.164; Code 1977, § 28-292)

Sec. 44-547. Side yards of interior lot lines.

In C-1 districts side yards are not required along an interior side lot line where all walls of buildings abutting such interior side lot line are wholly without windows or other openings and are of fireproof construction, but if the side wall is not of fireproof construction, a side yard of not less than ten feet shall be provided. When the interior business lot abuts a residential lot, a side yard of not less than 20 feet shall be provided in addition to the required greenbelt.

(Code 1969, § 5.165; Code 1977, § 28-293)

Sec. 44-548. Side yards on the street side of corner lots.

In C-1 districts no side yard is required on the street side of corner lots when the side yard is not used for parking. When parking is furnished in the side yard on the street side of a corner lot parking shall comply with regulations specified in section 44-546.

(Code 1969, § 5.166; Code 1977, § 28-294)

Sec. 44-549. Rear yards.

In C-1 districts a rear yard not less than 20 feet shall be required; where alleys exist the measurements of the rear yard may include the width of the alley.

(Code 1969, § 5.167; Code 1977, § 28-295)

Sec. 44-550. Rear yards abutting a street.

In C-1 districts on any lot running through from street to street, a rear yard shall be provided on the rear street conforming to the requirements for front yards on that street.

(Code 1969, § 5.168; Code 1977, § 28-296)

Sec. 44-551. Greenbelt.

All nonresidential uses, when adjacent to a residential district and not separated therefrom by a street or alley, shall provide and maintain in a healthy growing condition, greenbelt buffer strip of trees and shrubs of not less than eight feet in width, along the adjoining property line.

(Code 1969, § 5.169; Code 1977, § 28-297)

Sec. 44-552. Size of buildings.

No commercial or business building shall hereafter be erected or altered in a C-1 district having a first floor area of less than 400 square feet or as otherwise approved by the zoning board of appeals.

(Code 1969, § 5.170; Code 1977, § 28-298)

Sec. 44-553. Loading space and off-street parking requirements.

Loading space and off-street parking requirements shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.171; Code 1977, § 28-299)

Secs. 44-554—44-572. Reserved.

ARTICLE XVIII. C-2 GENERAL COMMERCIAL DISTRICTS

Sec. 44-573. Uses permitted.

In C-2 districts, except as otherwise provided in this chapter, all buildings shall be erected and all land shall be used only for one or more of the following specified uses:

- (1) All uses permitted in C-1 districts.
- (2) Retail stores, business and professional offices, newspaper distributing stations, hotels, restaurants, indoor theatres, assembly halls, trade schools, mortuaries, veterinary hospitals, research and testing laboratories, parking lots, motor vehicle sales rooms, open air sales and display of motor vehicles, or other machinery and equipment, provided that outdoor or open display of used parts for motor vehicles, used materials or other equipment, or any open storage yards for coal, oil, lumber, contractor's machinery or equipment or new or used building materials, shall not be a permitted use in a C-2 district. The storage of lumber and other building supplies or similar materials for retail sales shall be housed within building having four walls and a roof.
- (3) The executive or administrative offices or departments of professional, philanthropic, industrial or commercial enterprises.
- (4) Personal service shops such as barbershops, beauty parlors, shoe repair shops, tire repair shops, laundry pickup shops, dry cleaning pickup shops, messenger or telegraph service stations and any similar service or use.
- (5) Office and showroom of a plumber, electrician, decorator or similar trade.
- (6) Publicly owned buildings, public utility buildings, telephone exchanges, transformer stations and substations with service yards, but without storage yards, water and sewerage pumping stations.
- (7) Gasoline service stations, garages (this does not include the storage of wrecked or junked cars), cleaning establishments, dance halls, pool rooms, roller rinks, bowling alleys, rebound tumbling apparatus or other outdoor recreational facilities or those conducted within a building upon approval of the planning commission.
- (8) Establishments within buildings or structures for the repair, alterations, finishing, assembling, fabrication, or storage of goods primarily for the residents of the locality or for sale at retail on the premises, provided there is not in connection therewith the operation of any activity or the storage or display of goods in such manner as to be obnoxious or offensive by reason of the emission of odors, fumes, dust, smoke, waste, noise or vibration, and further provided, that no commercial enterprise involving the use of machinery or processes for the repair, conversion, alteration, finishing or fabrication of goods shall be begun or extended, if the measurable noise emanating from the premises

is greater than 65 decibels, as measured from any point on the property line. Noise may equal street traffic noise at such periods as the adjoining street traffic noise exceeds 65 decibels.

- (9) Motels or motor courts, subject to the following requirements:
- a. Requirements for motels and motor courts. Lot area and yards: In C-2 districts each unit of a motel or motor court shall be provided with a lot area of not less than 600 square feet for the first unit of 175 or more square feet and an additional lot area equal to two times the room area for each additional room of 80 square feet or more; side yards of not less than ten feet each; a front yard of not less than 25 feet; and a rear yard of not less than 15 feet; and no separate buildings shall be less than ten feet apart. Where the front yard is used for an access road and to provide off-street parking space, a planting strip not less than eight feet wide shall be provided and maintained along the front lot line, two driveway openings not more than 24 feet each in width excepted, as a landscaped area with a low hedge or suitable planting.
 - b. Size of units. Each unit shall have one room of not less than 150 square feet of floor area, a bathroom of not less than 25 square feet of floor area and not less than 50 square feet of floor area for a kitchenette, if provided.
 - c. Residence for management. One complete dwelling unit, of not less than 720 square feet of floor space for the permanent residence of the owner or manager of the motel or motor court, shall be provided as a part of each motel or motor court.
 - d. Greenbelt or barrier wall. Where a motel or motor court is adjacent to a residential district, or where a rear yard of a motel or motor court is located on the opposite side of a street zoned for a residential use, a four foot chainlink fence or masonry wall shall be erected on the property line and a greenbelt planting strip shall be planted and maintained inside of and parallel to such fence or masonry wall. The greenbelt planting shall be composed of deciduous trees, spaced not more than 40 feet apart and not less than one row of shrubs, spaced not more than five feet apart, and which grow at least five feet or more in height. In place of the fence a solid masonry wall, not less than 3½ feet and not more than five feet in height, shall be erected and maintained thereon.
- (10) Signs pertaining to the use of the premises on which located or to goods sold or services provided or activities conducted therein, shall be a part of the building and may project not more than 18 inches beyond the face of the wall or front and/or side property line, and shall be attached to and be parallel to the wall of the building fronting the principal street or, in the case of a corner building, on that portion of the side street wall within 50 feet of the principal streets. Signs shall be limited in size and shall not exceed 35 square feet in area. Signs shall be maintained in a clean, presentable condition so as not to become an eyesore.
- a. Signs pertaining to premises or use of premises not housed in buildings may be freestanding, but in such case shall observe all yard requirements for structures on the lot in which erected and shall not exceed in display surface an area of 70 square feet; provided, that when there is an open front yard, such signs must be set back not less than ten feet from the front lot line or must set back against the wall of the building.
 - b. Billboards, not greater than 300 square feet in area.
 - c. One nonilluminated sign pertaining to the sale, rental or lease of a building or lot and not exceeding 30 square feet in area for any one building or lot.
- (11) Temporary buildings and signs for a use incidental to construction work, which buildings or signs shall be removed upon the completion or abandonment of the construction work.

(Code 1969, § 5.175; Code 1977, § 28-311)

Sec. 44-574. Height regulations.

In C-2 districts no building hereafter erected or altered shall exceed 35 feet in height, except as provided in article XXV of this chapter.

(Code 1969, § 5.176; Code 1977, § 28-312; Ord. No. 153, 5-11-1987)

Sec. 44-575. Lot area.

Every lot in C-2 districts used as a business shall have an area sufficient in size to provide an adequate and safe water supply and a safe and adequate sewage disposal system as established by standards required by the state or county health department rules and regulations.

(Code 1969, § 5.177; Code 1977, § 28-313)

Sec. 44-576. Front yards.

In C-2 districts there shall be a front yard of not less than 170 feet. Refer to section 44-93 of article IV of this chapter.

(Code 1969, § 5.178; Code 1977, § 28-314; Ord. No. 173, 6-26-1989)

Sec. 44-577. Side yards on interior lot lines.

In C-2 districts side yards are not required along an interior side lot line where all walls of buildings abutting such interior side lot line are wholly without windows or other openings and are of fireproof construction, but if the side wall is not of fireproof construction, a side yard of not less than ten feet shall be provided. When an interior business lot abuts a residential lot a side yard of not less than 20 feet shall be provided in addition to the required greenbelt.

(Code 1969, § 5.179; Code 1977, § 28-315)

Sec. 44-578. Side yards on the street side of corner lots.

In C-2 districts no side yard is required on the street side of corner lots, when the side yard is not used for parking. When parking is furnished in the side yard on the street side of a corner lot, a side yard of not less than 75 feet shall be provided.

(Code 1969, § 5.180; Code 1977, § 28-316)

Sec. 44-579. Rear yards.

In C-2 districts a rear yard of not less than 20 feet shall be required; where alleys exist the measurements of the rear yard may include the width of the alley.

(Code 1969, § 5.181; Code 1977, § 28-317)

Sec. 44-580. Rear yards abutting a street.

In C-2 districts on any lot running through from street to street, a rear yard shall be provided on the rear street conforming to the requirements for front yards on that street.

(Code 1969, § 5.182; Code 1977, § 28-318)

Sec. 44-581. Greenbelt.

All nonresidential uses, when adjacent to a residential district and not separated therefrom by a street or alley, shall provide and maintain in a healthy growing condition a greenbelt buffer strip of trees and shrubs of not less than eight feet in width, along the adjoining property line.

(Code 1969, § 5.183; Code 1977, § 28-319)

Sec. 44-582. Size of buildings.

No commercial or business building shall hereafter be erected or altered in a C-2 district having a first floor area of less than 400 square feet or as otherwise approved by the zoning board of appeals.

(Code 1969, § 5.184; Code 1977, § 28-320)

Sec. 44-583. Loading space and off-street parking requirements.

Loading space and off-street parking requirements shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.185; Code 1977, § 28-321)

Secs. 44-584—44-614. Reserved.

ARTICLE XIX. PCD PLANNED COMMERCIAL DEVELOPMENT DISTRICTS

Sec. 44-615. Intent.

The planned commercial development (PCD) district is established with the intent of creating a commercial center which incorporates modern concepts of service and design while ensuring a harmonious and functional relationship with the immediate surroundings and the community.

(Code 1977, § 28-322; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-616. Objectives.

To carry out the intent of this district, a planned commercial development shall:

- (1) Encourage the use of common circulation elements (including parking areas, entrances, exits and service-ways).
- (2) Accommodate on-site pedestrian and traffic circulation with minimum conflicts.

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- (3) Ensure that all adverse impacts on adjacent properties are minimized to the extent possible.
 - (4) Encourage a harmonious arrangement of commercial businesses in a single structure or a cluster of structures.
 - (5) Reflect the community-wide goals and objectives set forth in the city's master plan.
 - (6) Ensure that city services and facilities, including streets and intersections, utilities, drainage systems and other public facilities are not overburdened by construction of the planned commercial development.

(Code 1977, § 28-323; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-617. Permitted uses.

- (a) In a planned commercial district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses:
 - (1) Any use permitted in a C-1 local business district.
 - (2) Accessory structures and uses customarily incident to such permitted uses.
- (b) The outdoor storage and display of goods or materials shall be prohibited.

(Code 1977, § 28-324; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-618. Permitted uses, special approval.

- (a) The following uses may be permitted after review of the preliminary site plan by the planning commission and under such conditions imposed by the planning commission after finding that the use is not injurious to the district; is not contrary to the spirit and purpose of this article; is not incompatible with already existing uses in the area; would not interfere with orderly development of the area; and would not be detrimental to the safety or convenience of vehicular or pedestrian traffic:
 - (1) Bowling alleys, indoor archery ranges, indoor tennis courts, indoor skating rinks, or similar forms of indoor commercial recreation when located at least 100 feet from any residential lot in an adjacent residential district.
 - (2) Establishments for the operation of coin-operated amusement devices, billiard parlors, or other similar indoor recreation uses.
- (b) The commission may, as part of its approval, permit commercial recreational facilities to be constructed as independent, freestanding structures.

(Code 1977, § 28-325; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-619. Change of district.

- (a) All properties shall be rezoned to a planned commercial district following the chapter amendment procedures as set forth in article XXXII of this chapter, which specifies the submission and review process to be followed, as well as the public hearing requirements.
- (b) All rezoning requests submitted for review shall contain the following information:
 - (1) A legal description of the site;

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- (2) A generalized sketch plan of the site which includes the type of structures as well as approximate locations;
 - (3) A description, written and/or graphic, which outlines the relationship of the planned development to adjoining uses, both existing and proposed.
- (c) Following favorable action on the rezoning request by the city council, the applicant may submit an application for preliminary site plan approval. A request for preliminary site plan approval may be submitted jointly with a rezoning request.

(Code 1977, § 28-326; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-620. Preliminary application for site plan approval.

- (a) The intent of a preliminary application for site plan approval is to provide the applicant an opportunity to present conceptual site design plans for review and approval prior to preparation and submission of detailed engineering drawings.
- (b) Preliminary application shall be made by the owner of any tract where the planned commercial development is contemplated. The application shall be accompanied by a fee to be determined by resolution of the city council. All applications shall include the following information:
 - (1) A site plan submission according to article XXVII of this chapter;
 - (2) A legal description of the acreage comprising the proposed planned commercial development;
 - (3) A written explanation of the exceptions requested to the applicable district requirements, if any are proposed;
 - (4) An indication of the schedule of construction;
 - (5) Other pertinent information necessary to enable the planning commission to make a determination concerning the desirability of applying the provisions of this article.

(Code 1977, § 28-327; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-621. Public hearing.

A public hearing shall be held by the planning commission on the proposed site plan for the planned commercial development. Notice of the hearing shall be published not less than five days, nor more than 15 days, prior to the hearing in a newspaper of general circulation within the city and shall be sent by mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question. One occupant of each structure within 300 feet of the site shall be notified, and where multiple dwellings exist, notice may be posted by the manager or owner at the primary entrance to the structure.

(Code 1977, § 28-328; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-622. Commission approval of preliminary site plan.

The planning commission may, after consideration of the objectives outlined in this article, recommend approval or disapproval of the proposed planned commercial development site plan to the city council, with conditions when appropriate. The planning commission shall communicate in writing its recommendation to the applicant and to the city council with the reasons therefor.

(Code 1977, § 28-329; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-623. City council approval of preliminary site plan.

Upon receiving a recommendation of the planning commission, the city council shall review and take action on the preliminary application. If the application is approved by the city council, the applicant and the planning commission will be so notified. If the application is denied, the council shall communicate its reasons in writing to the planning commission and the applicant. Following preliminary approval by the council, a final site plan must be reviewed and approved.

(Code 1977, § 28-330; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-624. Final application for site plan approval.

- (a) The intent of a final application for site plan approval is to provide the commission and council an opportunity to ensure that all conditions of preliminary approval have been met and to review the detailed site engineering drawings which must be submitted by the applicant.
- (b) A final application for site plan approval shall be submitted to the planning commission and city council after preliminary approval is granted. Approval of this final application shall be granted only after all conditions of the preliminary approval have been satisfied.
- (c) Final site plan submission requirements shall conform to article XXVII of this chapter.

(Code 1977, § 28-331; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-625. Design standards.

The following minimum standards shall apply to all planned commercial developments:

(1) *District requirements.*

- a. The height and bulk of buildings, parking, loading, lot area, signs and yard requirements shall be the same as those established for the C-1 (local business) zoning district, excepting:
 - 1. The minimum front yard depth shall be 170 feet from the edge of the existing or proposed street right-of-way;
 - 2. The minimum lot area for consideration as a planned commercial development shall be ten acres;
 - 3. The minimum lot frontage permitted shall be 500 feet;
 - 4. A maximum of 25 percent of the gross land area of a site may be covered by structures.
- b. The commission may vary these requirements, however, if it is found that:
 - 1. The intent and spirit of the requirements of this article as they relate to the zoning district are met;
 - 2. The request is not contrary to the public interest; and
 - 3. The intent of the city master plan as it relates to commercial policies is met.

(2) *Pedestrian circulation.*

- a. Pedestrian traffic shall be separated from vehicular traffic to the extent possible.

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- b. Pedestrian circulation shall be accommodated throughout the development through the provision of walkways, etc.
 - c. A continuation of pedestrian walkways shall be encouraged from adjacent properties.
- (3) *Traffic.*
- a. Improvements shall be provided which minimize conflicts between the traffic resulting from the commercial site and traffic on existing and/or proposed streets and highways. Methods to improve traffic flow which may be required include, but are not limited to, the following:
 - 1. Road or street widening;
 - 2. Acceleration and deceleration lanes;
 - 3. Traffic control devices and lanes.
 - b. Common parking facilities shall be provided as a means to improve circulation and customer convenience.
 - c. The number of entrances and exits to adjacent streets shall be minimized to the extent possible as a means to improve traffic flow.
 - d. All loading and unloading operations shall be of such a design and location that conflicts with internal traffic circulation are avoided and the impact on adjacent properties is minimized.
- (4) *Landscaping.*
- a. Landscaping shall be used to aid in establishing the circulation patterns of vehicles and pedestrians, to identify entrances and to improve the appearance of the site.
 - b. A minimum of ten percent of the net site area shall be landscaped, including but not limited to grassed areas, planting areas, shrubbery and trees, natural areas and other commission-approved treatments.
- (5) *Site screening.*
- a. Screening shall be used as a means to separate the commercial site from adjacent land uses when deemed necessary by the commission.
 - b. The degree and type of screening necessary will be based on the nature of surrounding land uses and the intensity of proposed development. In its review of a site screening proposal, the commission will consider the following:
 - 1. Setback from the adjacent right-of-way or real estate.
 - 2. Surrounding zoning and land use.
 - 3. Compatibility of proposed parking with the surrounding area.
 - 4. Sight lines from the surrounding area.
 - 5. Extent and effectiveness of landscaping when used for buffer purposes.
- (6) *Natural features.* The natural setting of a site shall be preserved to the extent possible. Special consideration shall be given to retention of the city's natural drainageways and potential flooding areas.
- (7) *Sanitary sewage disposal and water supply systems.* Approval of all water supply and sanitary sewage disposal systems shall be subject to compliance with requirements of the city council and the city engineer.

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- (8) *Storm drainage.* The method proposed for accommodation of storm drainage shall be approved by the city council and the city engineer, and if involving county drains the proposed drainage shall be acceptable to the county drain commissioner.

(Code 1977, § 28-332; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-626. Amendment of plan.

Minor changes in the siting of buildings and structures may be authorized by the zoning administrator if required by engineering or other circumstances not foreseen at the time that the final site plan was approved. All other changes in the approved final site plan must be made by the planning commission and the council under the procedures authorized by this article for approval of the final site plan.

(Code 1977, § 28-333; Ord. No. 107, § 3, 4-16-1980)

Sec. 44-627. Termination; extension.

If a preliminary application for approval of a planned commercial development is approved by the city council, the applicant shall be granted a period of two years following said approval to submit a final application. Failure to submit a final application shall be deemed an abandonment of the planned commercial development. At the written request of the applicant, the commission may grant a one-year extension if extenuating circumstances are deemed to exist by the commission.

(Code 1977, § 28-333.1; Ord. No. 107, § 3, 4-16-1980)

Secs. 44-628—44-657. Reserved.

ARTICLE XX. C-3 MARINE COMMERCIAL DISTRICTS

Sec. 44-658. Uses permitted.

- (a) In C-3 districts except as otherwise provided in this chapter all buildings shall be erected and all land and waterways shall be used only for one or more of the following specified uses:
- (1) All uses as permitted in C-1 districts.
 - (2) Boat liveries and marinas.
 - (3) Retail sales, servicing and storage of boats, motors and marine supplies except this shall not permit the storage of old boats or barges beyond a reasonable degree of repair, nor shall this permit the dry land storage of any boats or barges for more than one 12 month period.
 - (4) Buildings and uses customarily accessory to any of the permitted uses, but which will not be detrimental to adjacent residential districts.
 - (5) Publicly owned buildings, public utility buildings, telephone exchanges, transformer stations and substations with service yards, but without storage yards, water and sewerage pumping stations.
 - (6) Signs pertaining to the use of the premises on which located or to goods sold or services provided or activities conducted therein, shall be a part of the building and may project not more than 18 inches beyond the face of the wall or front and/or side property line, and shall be attached to and be parallel

to the wall of the building fronting the principal street or, in the case of a corner building, on that portion of the side street wall within 50 feet of the principal street.

- (b) Signs pertaining to premises or use of premises not housed in buildings, such sign may be freestanding, but in such case shall observe all yard requirements for structures on the lot on which erected and shall not exceed in display surface an area of 70 square feet, provided that when there is an open front yard, such signs must be set back not less than ten feet from the front lot line or must be set back against the side building wall.
- (c) One nonilluminated sign pertaining to the sale, rental or lease of a building or lot and not exceeding 30 square feet in area for any one building lot.

(Code 1969, § 5.191; Code 1977, § 28-334)

Sec. 44-659. Height regulations.

In C-3 districts no building or structure hereafter erected or altered shall exceed 35 feet in height, except as provided in article XXV of this chapter.

(Code 1969, § 5.192; Code 1977, § 28-335; Ord. No. 153, 5-11-1987)

Sec. 44-660. Lot area.

Every lot in C-3 districts used as a business or marine commercial use shall have an area sufficient in size to provide an adequate and safe water supply and a safe and adequate sewage disposal system as established by the standards required by the state and county health department.

(Code 1969, § 5.193; Code 1977, § 28-336)

Sec. 44-661. Front yards.

In C-3 districts a front yard of not less than ten feet, in addition to one-half the width of the street, shall be required for all buildings and structures. When off-street parking is furnished between the building and a street, all parking facilities shall comply with regulations specified under section 44-560.

(Code 1969, § 5.194; Code 1977, § 28-337)

Sec. 44-662. Side yards on interior lot lines.

In C-3 districts side yards are not required along an interior side lot line where all walls of buildings abutting such interior side lot line are wholly without windows or other openings and are of fireproof construction, but if the side wall is not of fireproof construction, a side yard of not less than ten feet shall be provided. When an interior business lot abuts a residential lot a side yard of not less than 20 feet shall be provided in addition to the required greenbelt.

(Code 1969, § 5.195; Code 1977, § 28-338)

Sec. 44-663. Side yards on the street side of corner lots.

In C-3 districts no side yard is required on the street side of corner lots when the side yard is not used for parking. When parking is furnished in the side yard, on the street side of a corner lot, a side yard of not less than 75 feet shall be provided.

(Code 1969, § 5.196; Code 1977, § 28-339)

Sec. 44-664. Rear yards.

In C-3 districts a rear yard not less than 20 feet shall be required; where alleys exists the measurements of the rear yard may include the width of the alley.

(Code 1969, § 5.197; Code 1977, § 28-340)

Sec. 44-665. Rear yards abutting a street.

In C-3 districts on any lot running through from street to street, a rear yard shall be provided on the rear street conforming to the requirements for front yards on that street.

(Code 1969, § 5.198; Code 1977, § 28-341)

Sec. 44-666. Greenbelt.

All nonresidential uses, when adjacent to a residential district and not separated therefrom by a street or alley, shall provide and maintain in a healthy growing condition a greenbelt buffer strip of trees and shrubs of not less than eight feet in width, along the adjoining property line.

(Code 1969, § 5.199; Code 1977, § 28-342)

Sec. 44-667. Size of buildings.

No commercial or business building shall hereafter be erected or altered in a C-3 district having a first floor area of less than 400 square feet or as otherwise approved by the zoning board of appeals.

(Code 1969, § 5.200; Code 1977, § 28-343)

Sec. 44-668. Loading space and off-street parking requirements.

Loading space and off-street parking requirements shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.201; Code 1977, § 28-344)

Sec. 44-669. Restrictions on use of moored watercraft for dwelling purposes.

- (a) There shall be no year-round occupancy of any moored watercraft in any marina, and the uses permitted under this article do not contemplate any use of a moored watercraft as a residence or dwelling.

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- (b) Any occupancy of a moored watercraft for a continuous period of 90 days shall be deemed to be in violation of this restriction and shall subject the watercraft owner and the occupant of the moored watercraft to the penalties, as provided, for violation of this chapter, unless the individual watercraft owner has made application for an extension of time, as herein provided.

(Code 1977, § 28-345; Ord. No. 23-VV, 5-31-1988)

Sec. 44-670. Limited waiver of restriction upon individual application.

- (a) For reasons of extreme hardship, such as mechanical failure or damage to the watercraft or for other meritorious reasons, a watercraft owner may make written application to the city administrator for an extension of time in which to comply with the restriction imposed by section 44-669. Up to three extensions may be granted by the city administrator. No fourth extension is authorized without specific approval of the city council.
- (b) Such application shall be made only by the individual watercraft owners, on his own behalf, and shall state the reasons which would require an extension of time beyond the period limited herein. Such application shall be accompanied by a permit fee payable to the city clerk, in accordance with the schedule of fees adopted by the council.
- (c) The city administrator is hereby granted discretion to grant or deny said application for good cause shown, but shall not extend the waiver beyond 90 days additional, but shall refer any such further application to the city council for a determination.

(Code 1977, § 28-346; Ord. No. 23-VV, 5-31-1988)

Secs. 44-671—44-698. Reserved.

ARTICLE XXI. M-1 LIGHT MANUFACTURING DISTRICTS

Sec. 44-699. Intent and purpose.

The M-1 district is designed to accommodate light industrial uses which are compatible with adjacent residential districts. Light industrial uses are intended to be free from danger of fire, explosion, toxic and noxious matter, radiation, and similar hazards, and offensive noise, vibration, smoke, odor and other similar objectionable influences. It is further intended that the M-1 district be used as a transitional zoning district to separate and buffer residential zoning districts from the heavier industrial use districts.

(Code 1969, § 5.205; Code 1977, § 28-356; Ord. No. 346, 5-10-2010)

Sec. 44-700. Uses permitted.

- (a) In M-1 districts, except as otherwise provided in this chapter, all buildings shall be erected and all land shall be used, only for one or more of the following specified uses:
- (1) Any wholesale business, including warehouse and storage buildings; resale shops, laundry and dry cleaning establishments; open storage for pleasure boats, when located not less than 25 feet from any street property line.

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- (2) Uses of a light industrial nature using light machinery and conducted entirely within an enclosed, substantially constructed building, provided the front yard area around such building is used only for landscaping and the parking of cars and with loading and unloading operations in the rear.
 - (3) Publicly owned buildings, public utility buildings, telephone exchanges, transformer stations and substations with service yards and/or storage yards, water and sewerage pumping stations.
 - (4) Uses as permitted under subsections (1) and (2) of this section shall comply with performance standards as listed in article VII of this chapter.
 - (5) One or more illuminated or non-illuminated sign relating only to the name and/or use of the premises on which it is located or activities conducted therein. The sign may be attached to the building or may be freestanding, but in any case the building or support to which the sign is attached shall be on or back of the building line and the sign shall not project more than 15 inches beyond the building line and a clear span of not less than ten feet shall be provided below all parts of such sign.
 - (6) The manufacture, compounding, assembling or treatment of articles of merchandise from previously prepared materials such as, but not necessarily limited to, cloth, glass, leather, paper, plastics, rubber, precious or semi-precious stones, metal and wood.
 - (7) The manufacture, compounding, processing, packaging or treatment of products such as, but not necessarily limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, and hardware.
 - (8) Other uses similar to the above uses.
- (b) Outdoor advertising signs and billboards not greater than 300 square feet in area.
 - (c) One non-illuminated sign pertaining to the sale, rental or lease of a building or lot and not exceeding 50 square feet in area for any one building or lot.
 - (d) Safety signs shall be permitted to adequately protect any condition unsafe or dangerous to the public welfare as may be required by the director of public safety or city engineer.

(Code 1969, § 5.206; Code 1977, § 28-357; Ord. No. 346, 5-10-2010)

Sec. 44-701. Machines permitted.

In all M-1 districts any machine is permitted, except those machines as are prohibited in section 44-702, when the building construction and machine foundations are such that sections 44-700(d) and 44-703 are fully complied with.

(Code 1969, § 5.207; Code 1977, § 28-358)

Sec. 44-702. Uses prohibited.

Any use prohibited in M-2 and M-3 districts shall also be prohibited in M-1 districts. In addition, the following uses are prohibited: Junk yards or used auto parts; auto wrecking establishments; any business handling wastes and junk; the incubation, raising, killing or storage of poultry; hot forging presses, steam and board hammers; and open storage, except as permitted under section 44-700(a).

(Code 1969, § 5.208; Code 1977, § 28-359)

Sec. 44-703. Measurable noise.

In all M-1 districts the measurable noise emanating from the premises used for activities permitted under this article shall not exceed 75 decibels during the sleeping hours or between the hours of 10:00 p.m. and 6:00 a.m. as measured at the boundary property lines. Noises shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.

(Code 1969, § 5.209; Code 1977, § 28-360)

Sec. 44-704. Source of power.

Power for any manufacturing process or activity shall be derived from electrical energy and smokeless fuel.

(Code 1969, § 5.210; Code 1977, § 28-361)

Sec. 44-705. Vibration.

Machines or operations which cause vibration are permitted, but no operation shall cause a ground displacement exceeding 0.003 of one inch as measured at the property line.

(Code 1969, § 5.211; Code 1977, § 28-362)

Sec. 44-706. Fire and safety hazards.

- (a) The storage and handling of flammable liquids, liquefied petroleum gases and explosives, shall comply with the state rules and regulations as established by the Fire Prevention Code (MCL 29.1 et seq.).
- (b) There shall be no bulk storage of flammable fluids above ground, except this shall not prevent the use of a 200 gallon storage tank for fuel oil for heating purposes. Other types of storage, only on approval of the board of appeals. The use of flammable gas, enameling and paint spraying operations shall be permitted when incidental to the principal operation and when such operations are contained within a masonry building of four hour construction.

(Code 1969, § 5.212; Code 1977, § 28-363)

Sec. 44-707. Hours of work.

In all M-1 districts, shops permitted and used under the provisions of section 44-700(b) shall schedule the hours of work between 6:00 a.m. and 10:00 p.m., which may include Sundays and holidays; provided, however, this shall not prevent the servicing of the building or equipment used in the normal operation of the shop between the hours of 10:00 p.m. and 6:00 a.m., provided that the hours of work may be extended by the board of appeals.

(Code 1969, § 5.213; Code 1977, § 28-364)

Sec. 44-708. Building height.

No building hereafter erected or altered in any M-1 district shall exceed 30 feet in height, except as provided in article XXV of this chapter.

(Code 1969, § 5.214; Code 1977, § 28-365)

Sec. 44-709. Yard requirements.

- (a) No structure, or part thereof, hereafter erected or altered in any M-1 district shall be located or extended in front of a building line established by ordinance, or in the event that no such building line has been established, nearer than 25 feet from the street lot line.
- (b) Any building constructed in an M-1 district shall be located not nearer than ten feet from any side or rear lot line that does not abut a street or alley; provided that if all portions of the building within ten feet of the lot line are enclosed with an unpierced wall of fireproof construction with a parapet wall extending not less than 18 inches above the adjoining roof construction, said building may be extended or constructed out to the side lot line; provided, further, that no passageway of less than three feet in width shall be left between the lot line and the building.

(Code 1969, § 5.215; Code 1977, § 28-366)

Sec. 44-710. Greenbelt.

Where an industrial district is located adjacent to a residential district, and not separated therefrom by a street or alley, a greenbelt buffer strip of trees and shrubs of not less than eight feet in width shall be provided and maintained along the property line. The board of appeals may vary these requirements where conditions are such that a greenbelt buffer strip will not serve a useful purpose.

(Code 1969, § 5.216; Code 1977, § 28-367)

Sec. 44-711. Off-street parking and loading space facilities.

Off-street parking facilities and loading space shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.217; Code 1977, § 28-368)

Secs. 44-712—44-734. Reserved.

ARTICLE XXII. M-2 MEDIUM INDUSTRIAL DISTRICTS

Sec. 44-735. Intent and purpose.

The M-2 district is designed to accommodate medium industrial uses whose external physical effects are restricted to the area of the district.

(Ord. No. 347, 5-10-2010)

Sec. 44-736. Uses permitted.

In the M-2 district, except as otherwise provided for in this chapter, all buildings shall be erected and all land shall be used, only for one or more of the following specified uses when such uses comply with the performance standards as listed in article VII of this chapter:

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- (1) All uses allowed in the M-1 light manufacturing district as permitted and regulated under section 44-700.
 - (2) Uses primarily engaged in the processing, preparing and storage of the following goods and materials:
 - a. Food products such as fruit and vegetable canning or fish canning and curing.
 - b. Wood products such as millworks or paperboard manufacturers.
 - c. Stone, clay and concrete products, such as brick and tile manufacturing, concrete block and related products manufacturing, and ceramics and earthenware.
 - (3) Other uses similar to the above uses.

(Code 1969, § 5.221; Code 1977, § 28-380; Ord. No. 347, 5-10-2010)

Sec. 44-737. Machines permitted.

In all M-2 districts, all machines are permitted when installed so as not to allow or exceed measurable noise, odor, fumes, dust, glare, radioactive materials or smoke as in this chapter defined and limited.

(Code 1969, § 5.222; Code 1977, § 28-381)

Sec. 44-738. Measurable noise.

In all M-2 districts the measurable noise emanating from the premises for any activity permitted in this district shall not exceed 80 decibels during the normal work period or between the hours of 6:00 a.m. and 10:00 p.m., and shall not exceed 75 decibels during the sleeping hours or between the hours of 10:00 p.m. and 6:00 a.m. as measured at the boundary property lines. Noises shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.

(Code 1969, § 5.223; Code 1977, § 28-382)

Sec. 44-739. Source of power.

Power for any manufacturing or heating process or activity shall be derived only from electrical energy, smokeless fuels, such as gas or oil, smokeless solid fuels containing less than 20 percent of volatile content on a dry basis, and bituminous coal fired by mechanical equipment.

(Code 1969, § 5.224; Code 1977, § 28-383)

Sec. 44-740. Vibration.

No manufacturing operation shall cause a ground displacement exceeding 0.003 of one inch as measured at the boundary property line.

(Code 1969, § 5.225; Code 1977, § 28-384)

Sec. 44-741. Fire and safety hazards.

- (a) The storage and handling of flammable liquids, liquefied petroleum gases and explosives, shall comply with the state rules and regulations as established for the Fire Prevention Code (MCL 29.1 et seq.).

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- (b) In M-2 districts bulk storage of flammable liquids, liquefied petroleum gases and explosives may be stored above ground.

(Code 1969, § 5.226; Code 1977, § 28-385)

Sec. 44-742. Storage of materials.

- (a) Storage of used rags, waste, paper or similar materials, as a business, shall be permitted when enclosed in a masonry building of four hour construction and no part of which may be located closer than 50 feet from an adjoining property line.
- (b) All open storage, other than junk, shall be located within an area enclosed within a fence, six feet high, located 50 feet from the front property lines, or side street lines, with an eight foot greenbelt planting strip, not less than eight feet or more in height outside of said fence to normally screen view of stock piles from the street and adjacent properties. On the side and rear property lines the fence shall be on the property line and an eight foot greenbelt planting strip, not less than eight feet or more in height, shall be planted and maintained along the fence inside of the property to screen the stock piles from the adjacent properties. The open storage of lumber, coal or other combustible materials shall not be less than 25 feet from any interior lot line. A roadway shall be provided, graded and maintained from the street to the rear of the property to permit free access of fire trucks at any time.
- (c) Open storage of junk, wrecked cars to be dismantled, or other waste products shall comply with the following requirements:
 - (1) The yard area must be located adjacent to a railroad right-of-way and siding facilities shall be provided for, whereby all salvaged products can be shipped by rail and shall be located not less than 150 feet from any street or highway right-of-way line.
 - (2) The storage yard area must be completely enclosed within an eight foot solid masonry wall or metal fence with a greenbelt planting of trees and shrubs, not less than 20 feet in width along the three sides which are not adjacent to the railroad.
 - (3) The burning of tires, oil wastes or other waste products shall not be permitted in conjunction with any salvage operation.
- (d) Waste materials, incidental to the principal operations shall be kept in neatly stored containers, screened from public view, which shall be removed and emptied periodically so that no wastes shall be piled on open ground.

(Code 1969, § 5.227; Code 1977, § 28-386)

Sec. 44-743. Signs.

- (a) One or more illuminated or nonilluminated sign relating only to the name and/or use of the premises on which it is located or activities conducted therein. The sign may be attached to the building or may be freestanding, but in any case the building or support to which the sign is attached shall be on or back of the building line and the sign shall not project more than 18 inches beyond the building line and a clear span of not less than ten feet shall be provided below all parts of such sign.
- (b) Outdoor advertising signs and billboards not greater than 300 square feet in area.
- (c) One nonilluminated sign pertaining to the sale, rental or lease of a building or lot and not exceeding 50 square feet in area for any one building or lot.

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- (d) Safety signs shall be permitted to adequately protect any condition unsafe or dangerous to the public welfare, as may be required by the public safety director or the building inspector.

(Code 1969, § 5.228; Code 1977, § 28-387)

Sec. 44-744. Uses prohibited.

Any use prohibited in the M-3 districts shall also be prohibited in M-2 districts, unless such uses are specifically permitted in this district; provided, however, that satisfactory proof and evidence has been furnished the planning commission that new engineering design and practice will render such prohibited use capable of complying with article VII of this chapter and this article.

(Code 1969, § 5.229; Code 1977, § 28-388)

Sec. 44-745. Building height.

No building hereafter erected or altered in any M-2 district shall exceed 45 feet in height, except as provided in article XXV of this chapter; provided, however, such height may be increased one foot for each five feet by which such building is set back in excess of 100 feet from the property lines.

(Code 1969, § 5.230; Code 1977, § 28-389)

Sec. 44-746. Yard requirements.

- (a) No structure, or part thereof, hereafter erected or altered in any M-2 district, the principal use of which is general industrial use, shall be located or extended in front of a building line established by ordinance, or in the event that no such building line has been established nearer than 50 feet from the front lot line or nearer than 20 feet from a side or rear lot line abutting on a street or railroad right-of-way; provided where other general industrial buildings have been previously constructed in the same block, located at a distance from the front property line, greater or less than 50 feet, as specified, then such industrial building hereafter constructed, may, with the consent of the board of appeals, be located at a distance from the front lot line equal to the minimum distance established by other buildings in the block; provided that in case of doubt or dispute as to proper location the matter shall be decided by the board of appeals whose decision shall be final.
- (b) Any building constructed in an M-2 district shall be located not nearer than 20 feet from any side or rear lot line that does not abut a street or alley or railroad right-of-way.

(Code 1969, § 5.231; Code 1977, § 28-390)

Sec. 44-747. Greenbelt.

Where an industrial district is located adjacent to a residential district, a greenbelt buffer strip of trees and shrubs, of not less than eight feet in width, shall be provided and maintained along the property line. The board of appeals may vary these requirements where conditions are such that a greenbelt buffer strip will not serve a useful purpose.

(Code 1969, § 5.232; Code 1977, § 28-391)

Sec. 44-748. Off-street parking and loading space facilities.

Off-street parking facilities and loading space shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.233; Code 1977, § 28-392)

Secs. 44-749—44-779. Reserved.

ARTICLE XXIII. M-3 HEAVY INDUSTRIAL DISTRICTS¹

Sec. 44-780. Intent and purpose.

The M-3 district is designed to accommodate industrial uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage or manufacturing processes that potentially involve hazardous materials or commonly recognized offensive conditions.

(Ord. No. 351, 5-10-2010)

Editor's note(s)—Prior to its reenactment by Ord. No. 351, § 44-780 was repealed by Ord. Nos. 345 and 352, adopted May 10, 2010. The former § 44-780 pertained to intent and purpose of the M-3 general industrial districts and derived from § 5.237 of the 1969 Code and § 28-404 of the 1977 Code.

Sec. 44-781. Uses permitted.

In the M-3 district, except as otherwise provided for in this chapter, all buildings shall be erected and all land shall be used, only for one or more of the following specified uses when such uses comply with the performance standards as listed in article VII of this chapter:

- (1) All uses allowed in the M-1 light manufacturing district as permitted and as regulated under section 44-700.
- (2) All uses allowed in the M-2 medium industrial district as permitted and as regulated under section 44-736.
- (3) Salvage yard, subject to the following requirements:
 - a. All outdoor storage used in the course of the applicant's business shall be restricted to the rear yard or be set back from the front property line not less than 100 feet, whichever is less restrictive.
 - b. All outdoor storage shall be set back not less than 100 feet along all property lines which abut residentially zoned property.
 - c. Material storage shall not exceed a height of 20 feet.

¹Editor's note(s)—Ord. No. 351, adopted May 10, 2010, changed the title of art. XXIII from "M-3 General Industrial Districts" to "M-3 Heavy Industrial Districts".

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- d. All outdoor storage shall be set back not less than ten feet along any interior lot line.
 - e. An all weather durable roadway shall be provided and maintained from the street providing primary site access to the rear of the outside storage to permit access by emergency vehicles at any time. Any portion of the roadway open to the general public shall be paved.
 - f. Combustible materials stored on the site shall be arranged to prevent the spread of fire.
 - 1. Individual combustible material storage areas shall not occupy a land area greater than 2,000 square feet or a diameter of 50 feet.
 - 2. Combustible material storage areas shall not be located closer than ten feet to other combustible storage areas, buildings, loading areas, and off-street parking areas.
 - g. All open storage areas shall be screened from all streets, screened from private road easements serving two or more parcels, screened on all sides abutting a non-industrial zoning district, and screened to prevent visibility from all horizontal lines of sight from neighboring residentially zoned property. The options for screening shall consist of a solid eight-foot tall wall or fence having an adjacent obscuring greenbelt, or by a landscaped berm, meeting the following requirements:
 - 1. A greenbelt shall not be less than 20 feet wide planted with one deciduous tree having a diameter at breast height of 2.5 inches or greater or an evergreen tree not less than five feet in height for each 30 feet or portion thereof of greenbelt length.
 - 2. A berm shall be at least three feet above grade where so located. It shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal, with at least a two-foot wide flat crown. The berm shall be planted with grass to ensure it will retain its shape and height. Evergreen trees not less than five feet in height shall be planted in a staggered pattern on the crown of the berm and in sufficient quantities so as to form a complete visual barrier within five years of planting.
- (4) Publicly owned buildings, public utility buildings, telephone exchanges, transformer stations with service yards and/or storage yards.
 - (5) Shipyards for the manufacture and repair of boats.
 - (6) Sanitary sewage plants, water plants, and electric power generating plants.
 - (7) Cargo and freight terminals.
 - (8) Other uses similar to the above uses.

(Ord. No. 351, 5-10-2010)

Editor's note(s)—Prior to its reenactment by Ord. No. 351, § 44-781 was repealed by Ord. Nos. 345 and 352, adopted May 10, 2010. The former § 44-781 pertained to uses permitted in the M-3 general industrial districts and derived from § 5.238 of the 1969 Code and § 28-405 of the 1977 Code.

Sec. 44-782. Performance requirements for all uses.

All uses shall comply with the performance standards as listed in article VII of this chapter.

(Code 1969, § 5.239; Code 1977, § 28-406)

Sec. 44-783. Measurable noise.

In all M-3 districts the measurable noise emanating from the premises for any activity permitted in this district shall not exceed 85 decibels during the normal work period or between the hours of 6:00 a.m. and 10:00 p.m., and shall not exceed 75 decibels during the sleeping hours or between the hours of 10:00 p.m. and 6:00 a.m. as measured at the boundary property lines. Noises shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.

(Code 1969, § 5.240; Code 1977, § 28-407)

Sec. 44-784. Source of power.

Power for any manufacturing or heating process or activity shall be derived only from electrical energy, smokeless fuels, such as gas or oil, smokeless solid fuels containing less than 20 percent of volatile content on a dry basis, and bituminous coal fired by mechanical equipment.

(Code 1969, § 5.241; Code 1977, § 28-408)

Sec. 44-785. Vibration.

No manufacturing operation shall cause a ground displacement exceeding 0.003 of one inch as measured at the boundary property line.

(Code 1969, § 5.242; Code 1977, § 28-409; Ord. No. 23-Q, 9-28-1970)

Sec. 44-786. Glare and radioactive materials.

Glare from any process which emits harmful ultraviolet rays shall be performed so as not to be seen from any point beyond the outside of the property. Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, or as the same are amended from time to time.

(Code 1969, § 5.243; Code 1977, § 28-410)

Sec. 44-787. Fire and safety hazards.

- (a) The storage and handling of flammable liquids, liquefied petroleum gases and explosives, shall comply with the state rules and regulations as established by the Fire Prevention Code (MCL 29.1 et seq.).
- (b) In M-3 districts, bulk storage of flammable liquids, liquefied petroleum gases and explosives, may be stored above ground.

(Code 1969, § 5.244; Code 1977, § 28-411)

Sec. 44-788. Storage of materials.

Open storage of materials which are of a character or similar to or accessory to the permitted uses listed in section 44-781.

- (1) All open storage shall be located not less than 100 feet from any front or street property line and not less than 20 feet from any adjoining side lot line. Storage shall be at least partially screened from view

by either a masonry wall or a wood, metal or solid fiber construction fence, which shall be not less than ten feet in height. A 20 foot greenbelt planting strip shall be planted and maintained along the street or front property line.

- (2) Open storage of lumber, coal or other combustible materials shall not be less than 25 feet from any interior lot line. A roadway shall be provided, graded and maintained from the street to the rear of the property to permit free access of fire trucks at any time.
- (3) Waste materials, incidental to the principal operations shall be kept in neatly stored containers, screened from public view, which shall be removed and emptied periodically so that no wastes shall be piled on open ground.

(Code 1969, § 5.245; Code 1977, § 28-412)

Sec. 44-789. Signs.

- (a) One or more illuminated or nonilluminated sign relating only to the name and/or use of the premises on which it is located or activities conducted therein. The sign may be attached to the building or may be freestanding, but in any case the building or support to which the sign is attached shall be on or back of the building line and the sign shall not project more than 18 inches beyond the building line and a clear span of not less than ten feet shall be provided below all parts of such sign.
- (b) Outdoor advertising signs and billboards not greater than 300 square feet in area.
- (c) One nonilluminated sign pertaining to the sale, rental or lease of a building or lot and not exceeding 50 square feet in area for any one building or lot.
- (d) Safety signs shall be permitted to adequately protect any condition unsafe or dangerous to the public welfare as may be required by the director of public safety or the building inspector.

(Code 1969, § 5.246; Code 1977, § 28-413)

Sec. 44-790. Uses prohibited.

In all M-3 districts no building shall be used for schools, hospitals, clinics and other institutions for human care; retail sales, except where incidental to a permitted principal use; residences of any kind or conversion of existing buildings to additional dwelling units, except for a watchman or caretaker employed on the premises and members of his family; or any uses for the carrying on of manufacturing or storage activities of the character of or similar to junk yards, storage yards for wrecked or junked cars, bulk storage of rags, paper or waste materials, corrosive acid manufacturing, cement, lime, gypsum or plaster manufacturing, distillation of bone, coal, tar, petroleum, refuse, grain or wood alcohol, explosive manufacturing or storage, or dead animal reduction, glue manufacturing, asphalt refining or manufacturing, smelting or refining of toxic ores or metals, stockyards, tanning, curing or storage of raw hides or skins, slaughter houses or other similar factories or uses.

(Code 1969, § 5.247; Code 1977, § 28-414)

Sec. 44-791. Building height.

No building or structure hereafter erected or altered in any M-3 district shall exceed 45 feet in height at the building line, except as provided in article XXV of this chapter; and further provided, that a building or structure may be increased in height by one foot for each foot such building or structure is set back from the front, side and rear building lines.

(Code 1969, § 5.248; Code 1977, § 28-415)

Sec. 44-792. Yard requirements.

No building or structure, or part thereof, hereafter erected or altered in any M-3 district, the principal use of which is heavy industrial use, shall be located or extended in front of a building line established by ordinance, or in the event that no such building line has been established nearer than 100 feet from the front lot line or nearer than 60 feet from a side or rear lot line abutting on a street.

(Code 1969, § 5.249; Code 1977, § 28-416; Ord. No. 353, 5-10-2010)

Sec. 44-793. Greenbelt.

Where an industrial district is located adjacent to a residential district, a greenbelt buffer strip of trees and shrubs, of not less than 20 feet in width, shall be provided and maintained along the property line. The board of appeals may vary those requirements where conditions are such that a greenbelt buffer strip will not serve a useful purpose.

(Code 1969, § 5.250; Code 1977, § 28-417)

Sec. 44-794. Off-street parking and loading space facilities.

Off-street parking facilities and loading spaces shall be provided as hereinbefore specified in article VI of this chapter.

(Code 1969, § 5.251; Code 1977, § 28-418)

Secs. 44-795—44-804. Reserved.

ARTICLE XXIV. PLANNED UNIT DEVELOPMENT

Sec. 44-805. Purpose and intent of this article.

The provisions of this article provide enabling authority and standards for the submission, review and approval of applications for planned unit developments. It is the intent of this article to authorize the use of planned unit development regulations for the purpose of: Encouraging the use of land in accordance with its character and adaptability; conserving natural resources and natural features and energy; encouraging innovation in land use planning; providing enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of this city; and bringing about a greater compatibility of design and use between neighboring properties. The provisions of this article are not intended as a device for ignoring this chapter or the planning upon which it has been based. To that end, provisions of this article are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this article to ensure appropriate, fair and consistent decision making.

(Code 1977, § 28-419; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-806. PUD regulations.

- (a) A parcel submitted for consideration as PUD shall be a minimum of 80 continuous acres.
- (b) A planned unit development may be approved in any location in the city, subject to review and approval as provided for in this article.
- (c) Any land use authorized in this chapter may be included in a planned unit development as a principal or accessory use, subject to adequate public health, safety and welfare protection mechanisms being designed into the development as provided in this article.
- (d) The applicant for a planned unit development must demonstrate as a condition to being entitled to planned unit development approval that:
 - (1) Grant of the planned unit development will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved.
 - (2) In relation to underlying zoning, the proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities and utilities, and shall not place an unreasonable burden upon the subject and/or surrounding land and/or property owners and occupants and/or the natural environment.
 - (3) The proposed development shall not have a materially adverse impact upon the master land use plan of the city, and shall be consistent with the intent and spirit of this article.
 - (4) In relation to underlying zoning, the proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
 - (5) The proposed development shall contain at least as much as usable open space as would be required in this chapter in relation to the most dominant use in the development.
 - (6) The proposed development shall be under single ownership and/or control such that there is a single person or entity having responsibility for completing the project in conformity with this article. The provision shall not prohibit a transfer of ownership and/or control, upon due notice to the planning commission and the city's building department.

(Code 1977, § 28-420; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-807. Project design standards.

- (a) Residential uses shall be permitted with a maximum density of one times the units per gross acre authorized in the residential underlying zoning district in which the property is situated, which may be increased pursuant to subsection (d) of this section. For purpose of this calculation, gross acreage shall include all areas to be used for residential purposes, including off-street parking, and all open space devoted exclusively for residential use or for natural resource preservation. The density for residential uses in a nonresidential district shall be determined in the discretion of the city council consistent with the master plan, the standards contained in this chapter, and the impact such density would have upon water and sewer services, stormwater drainage, road capacity, traffic, parks and recreation, fire and police services, schools, character of the area, and any planned public and private improvements in the area.
- (b) In residential underlying zoning districts, nonresidential uses shall be permitted as part of a common planned unit development with a residential component to the extent the applicant demonstrates by expert analysis and the city council finds, in its discretion, that the nonresidential uses shall principally serve the persons residing in the residential units in the project. This restriction shall not apply in nonresidential underlying

zoning district. Nonresidential uses, including, without limitation, parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principles, provided it is recognized that this provision may have limited application to multi-use buildings.

(c) Applicable regulations:

- (1) Subject to subsection (c)(2) of this section, all regulations applicable to lot size, lot width, lot coverage, parking and loading, general provisions, and to other requirements and facilities shall be as follows:
 - a. Single-family detached residential uses shall meet the regulations applicable in the R-1 district.
 - b. Single-family attached residential uses shall meet the regulations applicable in the R-2 district.
 - c. Multiple-family residential uses shall meet the regulations applicable in the R-3 district.
 - d. Commercial uses shall meet the regulations applicable in the C-2 district.
 - e. Office uses shall meet the regulations applicable in the C-1 district.
 - f. Industrial uses shall meet the regulations applicable in the M-1 or M-2 district.
 - g. Mixed uses shall meet the regulations applicable to the most dominant use in the mix, with the determination relative to which uses constitutes the "dominant use" being determined in the discretion of the city council.

- (2) Consistent with the planned unit development concept, and toward the end of encouraging flexibility and creativity in development, departures from compliance with the regulations provided for in subsection (1) of this section may be granted in the discretion of the city council as part of the approval of a planned unit development. Such departures may be authorized on the condition that there are features or planning mechanisms deemed adequate by the city council designed into the project for the purpose of achieving the objectives intended to be accomplished with respect to each of the regulations from which a departure is sought.

- (d) An additional density increase of ten percent of dwelling units for residential uses may be allowed in the discretion of the city council based upon a demonstration by the applicant of design excellence in the planned unit development resulting in a substantial benefit to all or a significant portion of ultimate residential users of the project, including, without limitation, development of innovative design producing significant energy efficiency, pedestrian or vehicular safety, or a long-term aesthetically pleasing appearance. Such additional density authorization shall only be permitted if and to the extent that compliance can be maintained with the PUD regulations of section 44-806.
- (e) The development shall be designed so as to promote preservation of natural resources and natural features. In the interpretation of this provision, natural resources and natural features may be impaired or destroyed if it is in the public interest to do so. In determining whether action is in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of natural resources and natural features, and taking into account the provisions and standards of Act 127 of the Public Acts of 1970, as amended, of the Michigan Environmental Protection Act.
- (f) The city council shall take into account the following considerations, as the same may be relevant to a particular project and ensure compliance with all related applicable regulations: Perimeter setback and berming; thoroughfare, drainage and utility design; underground installation of utilities; insulating the pedestrian circulation system from vehicular thoroughfares and ways; achievement of an integrated development with respect to signage, lighting, landscaping and building materials; and noise reduction and

visual screening mechanisms, particularly in cases where nonresidential uses adjoin off-site residentially zoned property.

(Code 1977, § 28-421; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-808. Procedure for review and approval.

- (a) The grant of a planned unit development application shall require a rezoning (i.e., an amendment of the zoning map) so as to designate the property which is the subject to the application as planned unit development. Further, an approval granted under this article, including all aspects of the final plan, and conditions imposed, shall constitute an inseparable part of the rezoning amendment.
- (b) Prior to the submission of an application for planned unit development approval, the applicant shall meet with the city administrator, the chairman of the planning commission and the building inspector and director of the department of public works of the city, together with such consultants as either deem appropriate. The applicant shall present at such conference, at least a sketch plan of the proposed planned unit development, as well as the following information:
 - (1) A legal description of the property in question; the total number of acres in the project;
 - (2) A statement of the approximate number of residential units, if any, the approximate number and type of nonresidential units, and the approximate number of acres to be occupied by each type of use; the known deviations from the chapter regulations to be sought;
 - (3) The number of acres to be preserved as open or recreational space; and
 - (4) All known natural resources and natural features to be preserved.
- (c) Thereafter, seven copies of a preliminary plan, including preliminary site plan, conforming with section 44-809, shall be submitted within 90 days of the preapplication conference required in the immediately preceding subsection. Such submission shall be made to the city clerk on behalf of the planning commission, which shall present the same to the planning commission for consideration at a regular or special meeting.
- (d) The planning commission shall review the preliminary plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. Following review, the planning commission shall provide the applicant with written comments which shall be part of the official minutes of the planning commission. The action of the planning commission shall take place within 60 days of receipt of all materials required in the application, unless mutually agreed upon between the planning commission and the applicant.
- (e) The planning commission shall forward the preliminary plan, together with its written comments, to the city clerk, who shall notice the preliminary plan for a public hearing before the city council as provided by law. Within a reasonable time following the public hearing, the city council shall approve, approve with conditions or deny the preliminary plan. The effect of the approval or approval with conditions shall be to authorize the concept embodied in the preliminary plan, subject to submission, review and approval of the final plan as provided below. In reviewing the preliminary plan, the city council shall make a finding and determination with respect to compliance with the PUD regulations set forth in section 44-806 and generally review and determine whether the basic concept of the proposal is consistent with the intent and spirit of this article. Inasmuch as the specific details of a project plan are at the very essence of the concept of planned unit development, approval of the preliminary plan shall not constitute a final approval, and preliminary plan approval shall be subject to review and approval of the final plan as provided for in this article.
- (f) Within 12 months following receipt of preliminary plan approval, the applicant shall submit to the city clerk on behalf of the planning commission ten copies of a final plan, including final site plan, conforming with section 44-809. This plan shall constitute an application to rezone the parcel, and shall be noticed for public hearing before the planning commission and otherwise acted upon by the planning commission, the county

and the city council as and to the extent provided by law. If the final plan has not been submitted within such period, the preliminary plan approval shall lapse and the applicant must recommence the review process, provided the city council may extend the time for submission of the final plan upon a showing by the applicant that no material change of circumstance has occurred.

(Code 1977, § 28-422; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-809. Applications.

- (a) *Preliminary plans.* The preliminary plans shall include the following:
- (1) Applicant's name and address.
 - (2) The name of the proposed development.
 - (3) Common description of property and complete legal description.
 - (4) Dimensions of land, width, length, acreage and frontage.
 - (5) Existing zoning of the parcel involved and zoning of all adjacent properties.
 - (6) Statement of intent of proposed use of land and any phasing of the project.
 - (7) Name, address, city and phone number of firm.
 - (8) Existing and proposed right-of-way width of all adjoining and internal roads, and layout of all internal roads.
 - (9) Proposed acceleration, deceleration and passing lanes.
 - (10) Location of existing drainage courses, floodplains, lakes, streams and wetlands.
 - (11) Intention with respect to water and sewer.
 - (12) All parking areas and number of spaces by size.
 - (13) The number and location of areas to be preserved as open or recreational space.
 - (14) All known natural resources and natural features to be preserved.
 - (15) Density calculations, number and types of units (if applicable), and floor area per habitable space.
 - (16) Fair representation of the development concept, including each type of use, square footage or acreage allocated to each use, approximate locations of each principal structure and use in the development, setbacks, typical layout and elevation for each type of use.
 - (17) Specifications of each deviation from the applicable chapter regulations which will be sought to be approved, and the safeguards, features and/or planning mechanisms proposed to achieve the objectives intended to be accomplished by the regulations from which a deviation is being sought.
 - (18) The planning commission and/or city council may require a topographical map if the size of the project and/or nature of the topography indicates that such document would be meaningful to the review.
- (b) *Final site.* The final site plans shall include the following:
- (1) All requirements for site plan review under article XXVII of this chapter.
 - (2) A site plan showing the type, location and density of all uses.
 - (3) All open spaces, including preserves, recreational areas and the like, and each purpose proposed for such areas.

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- (4) Evidence of market need for the uses and economic feasibility of the project.
 - (5) A separately delineated specification of all deviations from this chapter which would otherwise be applicable to the uses and development proposed in the absence of this article. This specification should include chapter provisions from which deviations are sought, and if the applicant elects to be governed by section 44-807(e), the reasons and mechanisms to be utilized for the protection of the public health, safety and welfare in lieu of the regulations from which deviations are sought shall be specified.
 - (6) In the event the property on which the project is to be situated consists of 25 acres or more, a community impact statement shall be submitted as part of the application.
 - (7) A detailed landscaping plan.
 - (8) A specific schedule of the intended development and construction details, including phasing or timing, and the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities and visual screening features.

(Code 1977, § 28-423; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-810. Performance guarantees.

The city council, after recommendation from the planning commission, may require reasonable performance guarantees, as authorized under the Michigan Zoning Enabling Act to ensure completion of improvements.

(Code 1977, § 28-424; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-811. Imposition of conditions as may be warranted.

Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent land uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the project and those immediately adjacent, and the community as a whole, shall be reasonably related to the purposes affected by the planned unit development, and shall be necessary to meet the intent and purpose of this article, and be related to the objective of ensuring compliance with the standards of this article. All conditions imposed shall be made a part of the record of the approved planned unit development.

(Code 1977, § 28-425; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-812. Phasing and commencement of construction.

- (a) *Phasing.* Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and nonresidential uses, phasing shall contemplate that at least 35 percent of all proposed residential units are completed concurrent with the first phase of any nonresidential construction; completion of at least 75 percent of all proposed residential construction prior to the second phase of nonresidential construction; and completion

of 100 percent of all residential construction prior to the third phase of nonresidential construction. For purposes of carrying out this provision, the percentages shall be approximations as determined in the discretion of the city council, and further such percentages may be significantly varied should the city council determine, in its discretion, that the applicant has presented adequate and effective assurances that the residential component of the project shall be completed within the specified period.

- (b) *Commencement and completion of construction.* Construction shall be commenced within one year following final approval of a planned unit development, or within one year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. Each phase of the project shall be commenced within one year of the schedule established for same in the application submitted for the planned unit development. If construction is not commenced within such time, any approval of the final plan for the project shall expire and be null and void, provided an extension for a specified period may be granted by the city council upon good cause shown if such request is made to the city council prior to the expiration of the initial period. Moreover, in the event a final plan has expired, the city council shall be authorized to rezone the property in any reasonable manner, and if the property remains classified as planned unit development, a new application shall be required and shall be reviewed in light of the then-existing and applicable law and chapter provisions.

(Code 1977, § 28-426; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-813. Effect of approval.

If and when approved, the planned unit development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. The applicant shall record an affidavit with the Wayne County Register of Deeds containing the legal description of the entire project, specifying the date of approval of the planned unit development, and declaring that all future development of the planned unit development property has been authorized and required to be carried out in accordance with the approved planned unit development unless an amendment thereto is duly adopted by the city council upon the request and/or approval of the applicant, or applicant's transferees and/or assigns.

(Code 1977, § 28-427; Ord. No. 23-QQ, 3-14-1988)

Sec. 44-814. Fees.

There shall be an advance payment of fees at the time of the presubmission conference held pursuant to section 44-808(b), and at the time of filing of the preliminary plan and final plan, pursuant to sections 44-808(c) and (f), respectively. The amount of such fees shall be established by the city council by ordinance or resolution.

(Code 1977, § 28-428; Ord. No. 23-QQ, 3-14-1988)

Secs. 44-815—44-826. Reserved.

ARTICLE XXV. HEIGHT AND YARD EXCEPTIONS

Sec. 44-827. Height of public and semipublic buildings.

The height of public or semipublic buildings, churches, cathedrals, temples, hospitals, sanitariums or schools shall not in any case exceed 50 feet, and if the height of any such building exceeds the height allowed in the district

concerned, then any such building shall be set back from all lot lines not less than one foot in addition to the required yard dimensions for each foot such buildings exceed the height allowed in the district concerned.

(Code 1969, § 5.256; Code 1977, § 28-430)

Sec. 44-828. Height of certain structures, when not included.

Chimneys, cooling towers, elevators, bulkheads, fire towers, silos, steeples, penthouses, stacks, stage towers, or scenery lofts, tanks, water towers, pumping towers, radio towers, television antennas, monuments and mechanical appurtenances pertaining to and necessary to the permitted uses of the district in which they are located, shall not be included in calculating the height of the principal structures.

(Code 1969, § 5.257; Code 1977, § 28-431)

Sec. 44-829. Height of parapet walls.

Parapet walls may extend not more than five feet above the allowable height of a building.

(Code 1969, § 5.258; Code 1977, § 28-432)

Secs. 44-830—44-839. Reserved.

ARTICLE XXVI. PLANNING COMMISSION APPROVAL

Sec. 44-840. Planning commission duties.

The city planning commission is hereby designated the commission as specified in sections 2 and 12 (MCL 125.32, 125.42) of Public Act No. 285 of 1931 and section 301 of the Michigan Zoning Enabling Act (MCL 125.3301) and shall perform the duties of said commission as provided in these Acts.

(Code 1969, § 5.261; Code 1977, § 28-445)

Sec. 44-841. Applications to commission.

In cases where the city planning commission is empowered to approve certain uses of premises under the provisions of this chapter or in cases where the city planning commission is required to make an investigation, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said city planning commission for the proper consideration of the matter.

(Code 1969, § 5.262; Code 1977, § 28-446)

Sec. 44-842. Special permits.

The city planning commission, after public hearing, shall have the power to grant special permits heretofore authorized and upon the conditions set forth in this article.

(Code 1969, § 5.263; Code 1977, § 28-447)

Sec. 44-843. Schools and churches.

The planning commission may permit the erection of public and parochial schools, public buildings and churches, provided the buildings cover not more than 30 percent of the land area and the proper yard space and adequate parking space is provided and such location is not injurious to the surrounding neighborhood and in accord with the spirit and purpose of this chapter.

(Code 1969, § 5.264; Code 1977, § 28-448)

Sec. 44-844. Public service buildings and structures.

The city planning commission may permit the erection and use of a building or an addition or enlargement to an existing building, of a public service corporation to be used for public utility purposes in any district permitting such use when they shall find such use, building or structure in compliance with the following:

- (1) *Uses permitted.* Permitted uses are public utility building, telephone exchanges, transformer stations and substations with service yards, but without storage yards.
- (2) *Yard requirements.* Irrespective of the yard requirements of the district in the yard is located.
 - a. *Front yards.* A front yard of not less than 25 feet shall be provided and landscaped and the planting maintained in a healthy growing condition.
 - b. *Side yards.* Two side yards shall be provided, each shall be not less than 20 feet in width and each shall be landscaped with an eight foot wide greenbelt planting which shall be maintained in a healthy growing condition.
 - c. *Rear yards.* A rear yard shall be provided which shall be not less than 20 feet in depth and shall be landscaped with an eight foot wide greenbelt planting which shall be maintained in a healthy growing condition.
- (3) *Height of building.* Height of buildings is two stories or 35 feet.
- (4) *Off-street parking.* The number of parking spaces provided shall equal the number of persons in the largest shift.
- (5) *Copies of proposed plan.* Four certified copies of the proposed plan, including specific reference to such conditions, shall be attached to the resolution by the city planning commission. One copy shall be for the files of the city clerk, one copy for the building inspector, one copy for the planning commission and one for the public utility company or the petitioner.

(Code 1969, § 5.265; Code 1977, § 28-449)

Sec. 44-845. Hospitals, rest homes, sanitariums, clinics and institutions of a philanthropic or charitable nature.

The planning commission may permit the erection and use of a building or the use of premises in districts where such uses are permitted, provided that the planning commission shall find that such use will not substantially interfere with the use or value of surrounding property, and provided, that the building used for such purpose will be in harmony with the character of the district in which it is located and shall comply with the following regulations:

- (1) No such building shall exceed 55 feet in height. See section 44-827.

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- (2) There shall be a front yard having a depth of 25 feet.
 - (3) There shall be two side yards each of which shall be not less than 20 feet in width with an increase of one foot in width for each five feet or part thereof by which the said building or structure exceeds 35 feet in overall dimensions along the side yard.
 - (4) There shall be a rear yard with a depth of not less than 30 feet.
 - (5) Not more than 30 percent of the lot may be covered by buildings or structures.

(Code 1969, § 5.266; Code 1977, § 28-450)

Sec. 44-846. Gasoline service stations.

The planning commission may permit a gasoline service station in C-1, C-2 and C-3 districts, provided that the planning commission shall find that said gasoline service station is so arranged and maintained so as not to affect adversely the normal development or use of neighborhood property in the same district or in an adjoining residential district and in addition the following conditions and safeguards are complied with:

- (1) Gasoline service stations shall observe all regulations required for such structures and their uses by the laws of the state and city code.
- (2) Gasoline service stations shall provide a front yard and two side yards of not less than 20 feet each.
- (3) Where open space is used for storage, parking or sales purposes and is adjoining a residential district, separated only by an alley, a solid wall, compact planting screen or a uniformly painted board fence, not less than four feet in height, shall be erected to screen the view and temper the noise of the station from the adjoining residential district.
- (4) Pumps, hoists or other equipment used in servicing of motor vehicles by either a service garage or a gasoline service station, shall be placed and used only inside the lot lines and shall be set back not less than 18 feet from any street line to which the pump island or hoist is vertical and 12 feet from any street line to which the pump island or hoist is parallel, and not less than ten feet from any residential boundary line; and no servicing shall be permitted on any vehicle while said vehicle is resting wholly or partly on a sidewalk or on a public street or highway.
- (5) On all corner lots all vehicular entrances to or exits from any curb openings shall be set back a minimum of ten feet from the corner property lines extended or from the established right-of-way lines as shown on the master thoroughfare plan. All curb openings, whether on a corner lot or not, shall not exceed 35 feet at the property line. There shall be a minimum of 30 feet measured along the property line between any series of driveways. On corner lots no driveway from a side street shall be less than 40 feet from the rear property line as measured along the side street property line.
- (6) The total storage gasoline capacity of each gasoline service station, hereafter established, shall at no time be in excess of 10,000 gallons per unit, or more than 20,000 gallons.

(Code 1969, § 5.267; Code 1977, § 28-451)

Sec. 44-847. Amusement places.

The planning commission may permit a dance hall, pool room, roller rink or bowling alley when after a public hearing the planning commission shall find that such use will not:

- (1) Impair the adequate supply of light and air to adjacent property.
- (2) Increase the hazard from fire, flood or other dangers to said property.

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- (3) Diminish the market value of adjacent land and buildings.
 - (4) Increase the congestion on public streets in such a manner as to constitute a hazard to the public welfare.
 - (5) Be injurious to contiguous or surrounding property.
 - (6) Be opposed to the spirit and intent of this chapter.
 - (7) Otherwise impair the public health, safety, comfort and general welfare.

(Code 1969, § 5.268; Code 1977, § 28-452)

Sec. 44-848. Recreational facilities.

The planning commission may permit a rebound tumbling apparatus, a rebound tumbling apparatus center or other outdoor or indoor recreational facility only when after a public hearing the planning commission shall find such use to be in compliance with the following:

- (1) Scaled plans shall be submitted in duplicate, showing the location of the rebound tumbling apparatus, the service building and/or any other buildings on the lot. Sufficient construction details for service buildings and mechanical details for toilets, drinking fountain and drainage facilities shall be present that are satisfactory to the building department.
- (2) Rebound tumbling apparatus shall be located on the lot to provide the following minimum distances measured from the outside of the frames:
 - a. At least six feet at ends to nearest obstacle.
 - b. At least four feet on exposed sides to nearest obstacle.
 - c. At least four feet between rows of rebound tumbling apparatus.
 - d. In any row, at least three feet between frames or three feet of approved padding between rebound tumbling apparatus.
- (3) Pits shall not exceed four feet in depth without special permission and shall be drained as required by the plumbing code. The construction of the pits, the framing and the padding shall be according to manufacturer's plans and specifications, subject to the approval of the building department.
- (4) The ground area surrounding the rebound tumbling apparatus shall have a level surface of sod, or of pea gravel or equivalent type of material to prevent dust nuisance.
- (5) Toilet facilities for each sex and an approved drinking fountain shall be installed as required by the planning department.
- (6) Each rebound tumbling apparatus facility shall be completely enclosed with a substantial fence and gate not less than six feet nor more than eight feet in height. Strands of barbed wire on brackets shall not be permitted. The fencing material shall be of a type difficult to climb from the outside. Entrance gates shall be equipped with secure locks for use when the facility is not attended.
- (7) Electrical illumination of the area shall be restricted as directed by the city planning commission and approved by the electrical inspection department. There shall be a clear vertical distance of not less than 20 feet between any rebound tumbling apparatus and any overhead utility lines.
- (8) Off-street parking shall be provided as follows:
 - a. One space for each rebound tumbling apparatus in the approved site.
 - b. Seven spaces for each nine hole miniature golf course.

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- c. One space for each additional operational attraction.
 - d. One space for each employee on duty.
- (9) Any lighting provided, other than signs, shall be so screened as to prevent all direct light rays from falling upon any adjacent residential zoned property.
 - (10) Walls or fences of either masonry or wood construction, six feet in height, shall be constructed between the approved premises and any adjacent residentially zoned property. If such fence is of wooden construction the design or type of fencing shall be subject to approval of the commission.
 - (11) Loudspeakers or public address systems shall be prohibited.
 - (12) Permitted hours of operation shall be 10:00 a.m. to 11:00 p.m., seven days per week.
 - (13) Commission must find such use to be not injurious to contiguous or surrounding neighborhood.
 - (14) Applicant shall file either a certificate or photostatic copy of a policy of insurance, said policy to insure the owner of the rebound tumbling apparatus, rebound tumbling apparatus center or other recreational facility against any liability for injuries arising out of the ownership, maintenance or use of said recreational facility. Said policy of insurance shall have a minimum coverage of \$10,000.00 for two or more persons injured as the result of any one occurrence or accident. The policy of insurance shall be acceptable and approved by the city attorney.

(Code 1969, § 5.269; Code 1977, § 28-453)

Sec. 44-849. Setback variance; C-2 district.

The planning commission may permit a variable setback in a C-2 district, which may be either greater or lesser when it is found that the master plan for the development of a specific block will be more equitable and will better serve the people of the city. This shall not prevent a uniform covered canopy walk to extend not more than 12 feet in width along the street side of the building. When parking is located between the building and the street, all parking facilities shall comply with the regulations specified under section 44-546.

(Code 1969, § 5.270; Code 1977, § 28-454)

Sec. 44-850. Commercial garages.

The planning commission may permit a commercial garage in C-1, C-2, M-1, M-2 and M-3 districts, provided that the planning commission shall find that said commercial garage is so arranged and maintained so as not to affect adversely the normal development or use of neighboring property in the same district or in an adjoining residential district and in addition the following conditions and safeguards are complied with:

- (1) All operations of the commercial garage, except the gasoline pumps, shall be conducted entirely within the building, provided, however, a storage yard adjacent to the garage shall be permitted for storing of wrecked cars taken in after an accident prior to being repaired when enclosed by a building or solid masonry wall not less than six feet in height.
- (2) The height of the building shall not exceed the height limit for the district in which it is located.
- (3) Commercial garages shall comply with the conditions as set forth under section 44-846.

(Code 1969, § 5.271; Code 1977, § 28-455)

Sec. 44-851. Prohibited industrial uses.

The planning commission may permit a prohibited use or a use of like character in an M-2 and M-3 districts, provided that:

- (1) The use shall be located at least 300 feet from every residential district.
- (2) The use shall be located at least 150 feet from any other district.
- (3) The applicant shall furnish satisfactory proof and evidence that the use can and will comply with the requirements set forth for the district in which the use is permitted, and article VII of this chapter.

(Code 1969, § 5.272; Code 1977, § 28-456)

Secs. 44-852—44-880. Reserved.

ARTICLE XXVII. SITE PLAN AND DEVELOPMENT APPROVAL

Sec. 44-881. Authority to approve uses.

The city planning commission is hereby designated the commission as specified in the city planning commission article and shall perform the duties of said commission as provided in section 2-74.

(Code 1969, § 5.275; Code 1977, § 28-468; Ord. No. 23-Q, 9-28-1970)

Sec. 44-882. Survey and plans.

Where the planning commission is empowered to approve certain uses of premises or site and development plans, under the provisions of this chapter, or in cases where the commission is required to make an investigation, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said commission for evaluation and consideration of the matter.

(Code 1969, § 5.275; Code 1977, § 28-469; Ord. No. 23-Q, 9-28-1970)

Sec. 44-883. Jurisdiction.

The planning commission shall investigate the circumstances of each case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any public hearing which may be held relative thereto as required under its rules of procedure or of any public hearing required by this chapter.

(Code 1969, § 5.275; Code 1977, § 28-470; Ord. No. 23-Q, 9-28-1970)

Sec. 44-884. Purpose.

The purpose of site plan and development approval is to determine compliance with this chapter and city standards and specifications and to provide for the orderly development of the proper ingress and egress, sufficient highways and streets, the stability of land values, investments and the general welfare, and to prevent the impairment or depreciation of land values and development by the erection of structures, or additions or alterations thereto, without proper attention to siting, or to unsightly, undesirable or obnoxious appearances, and

also to afford protection to related or adjoining residential properties by the construction of suitable masonry fences or walls.

(Code 1969, § 5.275; Code 1977, § 28-471; Ord. No. 23-Q, 9-28-1970)

Sec. 44-885. Approval by the city planning commission.

The planning commission shall direct and carry out the duties herein set forth.

(Code 1969, § 5.275; Code 1977, § 28-472; Ord. No. 23-Q, 9-28-1970)

Sec. 44-886. Approval required.

Site plan and development approval is required for the following uses:

- (1) All conditional uses.
- (2) Any use requiring planning commission approval.

(Code 1969, § 5.275; Code 1977, § 28-473; Ord. No. 23-Q, 9-28-1970)

Sec. 44-887. Application.

Application shall be made by the property owner or agent on a form prescribed by the city for this purpose.

(Code 1969, § 5.275; Code 1977, § 28-474; Ord. No. 23-Q, 9-28-1970)

Sec. 44-888. Site plan and development requirements.

All site plans submitted to the planning commission shall contain such information as will permit the commission to consider the following:

- (1) The siting of all structures on subject property and on adjoining properties, to determine that light and air are preserved, so as not to be detrimental to the orderly and harmonious development of adjacent premises.
- (2) The relations between the development on the site and the existing and prospective development of the contiguous land.
- (3) Landscaping and/or fencing of yards and setback areas, use of landscaping and/or wall or fencing for screening purposes.
- (4) Design of ingress and egress, construction plans and specifications of streets, highways, exits and entrances abutting streets and together with engineer's estimate of cost of construction of such proposed streets, highways and means of ingress and egress.
- (5) Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets and connections to adjoining properties.
- (6) Off-street parking and loading facilities and construction details.
- (7) Drawings and sketches, in duplicate, of exterior and elevations, and/or perspective drawings under consideration.
- (8) The impact of proposed improvements upon the natural wooded areas of a site.

(Code 1969, § 5.275; Code 1977, § 28-475; Ord. No. 23-Q, 9-28-1970; Ord. No. 122, § 1, 10-13-1981)

Sec. 44-889. Action by planning commission.

The planning commission shall have the function, duty and power to approve or disapprove, or to approve subject to compliance with such modifications or conditions as it may deem necessary to carry out the purpose of these regulations; the design and site plan of all proposed buildings or structures, or the development of the entire property; the specifications of all exits, entrances, streets, highways or other means of ingress and egress; the proposed method, time of construction of the latter and the mode of financing therefor; and the proposed manner of dedication to the public or maintenance of the same; and the location and construction of screening walls and/or fences.

(Code 1969, § 5.275; Code 1977, § 28-476; Ord. No. 23-Q, 9-28-1970)

Sec. 44-890. Principles to be followed.

In carrying out the purpose of site plan and development approval the following principles shall be given primary consideration:

- (1) It is not the purpose of this chapter that design control should stifle architectural design or individual initiative as to particular style of architecture selected; rather, it is the intent of this chapter that any control of design exercised be the minimum necessary to achieve the overall objectives of the chapter. Good architectural character is based upon the appropriate use of sound materials, and upon the principles of harmony and proportion in the elements of the building.
- (2) It is also the purpose of this chapter to assure development of unsubdivided or unplatted properties, or generally of multiple residences, office or business complexes, commercial complexes, shopping center complexes, manufacturing and industrial park complexes and heavy industrial uses in a manner suitable for the use intended and with proper ingress and egress, sufficient parking facilities, exits and entrances, streets, roads and alleys, and screening walls and/or fences and to control the construction of the same to assure whereby they are engineered, planned and installed correctly to assure the needs of public safety, health and welfare and to assure rendition of proper municipal services concerning fire and police protection, surface water and sanitary sewerage drainage, traffic control and maintenance services as furnished or may be required by the city, and to assure preservation and protection of property rights to relate to adjoining residential properties.
- (3) With regard to the planning and construction of streets, roads and alleys and incidental construction thereto concerning drainage, curbs, gutters, fences and screening walls, etc., the same shall comply with the requirements and specifications as provided by chapter 32, and the planning commission may recommend to the city council who may require the deposit or escrow of money or funds sufficient to assure the construction of the same, before granting approval of the development plan. The applicant shall be required to deposit with the clerk the sum of money estimated to pay engineering and inspection fees incurred thereupon by the city and shall be obligated to the exact cost thereof in accord with established schedule of engineering fees, or as otherwise required by the city council.
- (4) It is the purpose of this section to assure natural wooded areas are respected during site developments. Woodlands serve to stabilize land areas, provide wind breaks, reduce pollution and enhance community character. Only in the following instances shall significant trees (those six inches in diameter and five feet above grade) be removed:

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- a. The tree is located in the buildable area, yard area or street right-of-way of any property on which a structure or improvement is to be placed, which said tree unreasonably restricts the permitted use of the property.
 - b. The tree is diseased, injured or infected beyond restoration, in danger of falling so as to endanger other structures, interferes with utility services, or creates unsafe visual clearance.
- (5) In instances where tree removal is necessary, the applicant may be required to replace trees elsewhere on the site. In determining whether the replacement of trees is reasonable and shall be required, the planning commission shall consider the intended use of the property together with an evaluation of the following:
- a. A minimum density of 16 trees per acre or its equivalent on smaller parcels.
 - b. Number of trees to be removed on the entire property.
 - c. Number, location, condition of trees on adjacent property.
 - d. Area to be covered with structures, parking and driveways.
 - e. Character of the site and its environs, including topographic and soil conditions, grading plan, and drainage requirements.
 - f. A minimum requirement of one tree for each 50 feet of road frontage.

(Code 1969, § 5.275; Code 1977, § 28-477; Ord. No. 23-Q, 9-28-1970; Ord. No. 122, § 2, 10-13-1981)

Sec. 44-891. Signs.

In carrying out the purpose of development approval with respect to the external design of the building, particular attention shall be given to signs and outdoor advertising structures which shall comply with the requirements of the sign chapter.

(Code 1969, § 5.276; Code 1977, § 28-478; Ord. No. 23-Q, 9-28-1970)

Sec. 44-892. Appeal from the decision of the planning commission.

The determination of the planning commission with respect to site plan and development approval is appealable to the board of appeals, such request being filed within 30 days after determination of the planning commission, such determination is final.

(Code 1969, § 5.276; Code 1977, § 28-479; Ord. No. 23-Q, 9-28-1970)

Sec. 44-893. Downtown development authority (DDA) district development standards.

- (a) *Requirements.* Except as otherwise noted in this section, any new or modified uses requiring site plan review within the boundaries of the downtown development authority (DDA), as now existing or hereinafter amended in the DDA's tax increment financing and development plan, shall comply with the following requirements:
 - (b) *Part I.* Part I applies to uses within areas 1, 5, and 6 of the DDA district.
 - (1) *Building entrances.* All buildings shall have at least one public entrance that faces the street. Rear entrances are permitted, but only if there is also a primary entrance from the main street.

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- (2) *Doors.* Doors measuring seven to eight feet in height are strongly suggested. Doors, measuring less than seven feet in height shall have a glass transom with a minimum height of 12 inches.
- (3) *Facade design.* All building facades that face a street shall conform to the following design criteria:
- a. *Fenestration.* All facades visible from the street must be glazed with transparent glass, as follows:
 1. *First floor.* First floor minimum 60 percent of facade, 70 percent maximum.
 2. *Second floor.* Second floor minimum 30 percent of facade, 60 percent maximum.
 3. *Glazing.* Glazing on first floor retail space shall occur between two feet six inches minimum and eight feet maximum in height above the sidewalk. First floor height shall be 12 feet minimum. Blank, windowless walls are prohibited.
 4. *Vertical window.* Vertical window orientation shall have a ratio of one wide to two high minimum, and shall be consistent with adjacent buildings. Each shutter to be mounted on either side of a window shall be equal to one-half of the width and one times the height.
 - b. *Building materials.* Buildings are to be constructed from permanent materials that will weather handsomely over time and lend themselves to a nautical theme, such as brick, stone, masonry, cedar shakes, wooden-flat board, or other natural materials. Buildings with multiple storefronts shall be unified through the use of architecturally compatible materials, colors, details, awnings, signage, and lighting fixtures.
 - c. *Exterior colors.* Exterior colors shall be compatible with the colors on adjacent buildings. Proposed colors shall be specified on the site plan. Bright or fluorescent colors are prohibited. Samples of building materials and colors are required at the time of site plan approval.
- (4) *Side or rear facade design.* Wherever a side or rear facade is visible from a public street, or if parking is located at the side or rear of a building, the facade shall be designed to create a pleasing appearance, in accordance with the following design criteria:
- a. *Facades to be similar.* Materials and architectural features similar to those present on the front of the building shall be used on the side or rear facade. All visibly exposed sides of a building shall have an articulated base course and cornice. The base course shall align with either the kickplate or sill level of the first floor. The cornice shall terminate or cap the top of a building wall, and may project out horizontally from the vertical building wall plane and may be ornamented with moldings, brackets and other details. The middle section of a building may be horizontally divided at floor, lintel, or sill levels with belt or string courses.
 - b. *Screened in waste and service areas.* Waste receptacle and service areas shall be completely screened with a decorative masonry wall as approved by the planning commission.
 - c. *Landspaced areas.* Open areas shall be landscaped with lawn, ground cover, ornamental shrubs and trees. On every site involving new development or redevelopment, foundation plantings adjacent to the building shall be provided. This shall be above and beyond any other landscaping and screening requirements in this chapter.
- (5) *Awnings.* Awnings shall be permitted on buildings as follows:
- a. *Canvas or similar water-proofed material.* All awnings must be made from canvas fabric or similar water-proofed material, rather than metal, aluminum, plastic, or rigid fiberglass.
 - b. *Attached directly to building.* All awnings shall be attached directly to the building, rather than supported by columns or poles.
 - c. *Compatible awnings used to unify structure.* In buildings with multiple storefronts, compatible awnings should be used as a means of unifying the structure.

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- (6) *Lighting.* Exterior lighting shall consist of the historic-era lighting as approved by the downtown development authority and must be placed and shielded so as to direct the light onto the site and away from adjoining properties. Any lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited, except where historic-style lighting is used that is compatible with existing historic-style lamps as proposed by the DDA or as otherwise approved by the city.
- a. *Sidewalks and parking areas.* Sidewalks and parking areas shall be properly lit to facilitate the safe movement of pedestrians and vehicles and provide a secure environment. In parking areas, the light intensity shall average a minimum of one footcandle, measure five feet above the surface. In pedestrian areas, the light intensity shall average a minimum of two footcandles, measured five feet above the surface.
 - b. *Vehicular ways.* Light poles used to illuminate vehicular ways shall not exceed 35 feet in height.
 - c. *Pedestrian ways.* Light poles used to illuminate pedestrian ways shall not exceed 15 feet in height.
- (7) *Parking.* Parking and parking lot design shall comply with the standards of this section, in addition to the provisions of section 44-165, off-street loading and unloading space.
- a. *In-front parking.* No new parking lot shall be created nor any existing parking lot expanded in front of a building unless the planning commission determines that parking in front of the building would be acceptable for either of the following reasons:
 1. Front yard parking is required to maintain the continuity of building setbacks in the block while making efficient use of the site; or
 2. Front yard parking is required for the purposes of traffic safety and to minimize driveway curb cuts where the new parking lot is proposed to connect with one or more parking lots on adjoining parcels.
 - b. *New parking in rear.* If the planning commission determines that a new parking lot must be created or an existing parking lot must be expanded, the parking lot shall be located to the rear of buildings, unless subsection (6)1.a. and b. of this section are satisfied, on the interior of the lots, accessed by means of common driveways, preferably from side streets or lanes. Such parking lots shall be small in scale where possible, and interconnected with commercial parking lots on adjacent properties. Cross-access easements for adjacent lots with interconnected parking lots shall be required, in language acceptable to the city attorney. Common, shared parking facilities are encouraged, wherever possible.
 - c. *Parking in front or side must be screened.* Parking located in front or on the side of a building shall be screened from the road with one of the following: a 36 inch decorative masonry or stone wall; a 48 inch ornamental fence; or a 36 inch evergreen hedge. This shall be above and beyond any other landscaping and screening requirements in this chapter.
 - d. *Paving confined to minimum area.* In order to maximize the amount of land area left for landscaping and open space, paving shall be confined to the minimum area necessary to comply with the parking requirements of section 44-169, regulations for the development and maintenance of parking lots.
 - e. *Parking layout to consider pedestrian circulation.* Parking lot layout shall take into consideration pedestrian circulation; pedestrian crosswalks shall be provided, where necessary and appropriate, shall be distinguished by textured paving, and shall be integrated into the pedestrian network system. Pavement textures shall be required on pedestrian access ways, and strongly encouraged elsewhere in the parking lot, as surfacing materials, or when used as accents.

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- f. *Non-required nautical features may be used as in areas of parking.* Non-required nautical features may be used as decorative accents in areas of parking and the associated landscaped areas as follows:
1. Ornamental fencing may be used to distinguish the edge of an area, which consists of a design that is complementary to the downtown area's nautical theme. Round pier posts with a maximum height of four feet that are bounded with rope can serve as the posts for decorative fencing.
 2. Parking space striping may include a nautical theme that includes an anchor image with a chainlink image used as the space demarcation.
 3. Large anchors and driftwood may be used as part of the landscaping design.
- (8) *Landscaping.* Landscaping shall comply with the standards of this subsection, which shall be above and beyond any other landscaping and screening requirements in this chapter.
- a. *Street trees.* On every site involving new development or redevelopment, street trees with a minimum caliper of 2½ inches shall be provided at 25 foot intervals. Any of the following street trees with a minimum caliper of 2½ inches shall be planted within the road right-of-way at 25 foot intervals:
 1. Norway Maple;
 2. Red Maple;
 3. Green Ash;
 4. Bradford Pear; or
 5. Little Leaf Linden.Subject to review and approval by the planning commission.
 - b. *Plans submitted for review.* On every site involving new development or redevelopment, a landscape plan shall be submitted for review and approval. The landscape design shall complement the character of the downtown.
 - c. *Function requirements.* Lots for apartment and nonresidential uses shall balance the functional requirements of parking with the provision of pedestrian amenities. Transition areas between parking and civic, commercial or residential uses shall be designed with textured paving, landscaping and street furniture.
 - d. *Decorative accents.* Non-required nautical features may be used as decorative accents in areas that require landscaping as described in subsection (b)(7)e. of this section.
- (9) *Building setback.* Buildings shall have the front facades built at the least distance of setback as allowed in figure 7 of the DDA development plan. All side and rear yard setback distances are as required in the particular zoning district of the subject site as otherwise outlined in this chapter, or the average setback of other buildings on the block as determined by the planning commission. Where there is a conflict between these requirements and the requirements of any particular zoning district, these requirements included shall take precedent.
- (10) *Building height.* Maximum height of all buildings shall be two stories and 28 feet. Both stories shall contain habitable commercial, office, or residential spaces. Where there is a conflict between these requirements and the requirements of any particular zoning district, these requirements shall take precedent.

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- (11) *Building mass.* Buildings located at gateways entering the central business district, area 1, along Middle Gibraltar and North Gibraltar Roads, shall mark the transition into and out of the downtown in a distinct fashion, using massing, additional height, contrasting materials and architectural embellishments to obtain this effect. Buildings on corner lots shall be considered more significant structures, since they have at least two front facades visibly exposed to the street. The planning commission may require additional height and architectural embellishments, such as corner towers, relating to their location. Where there is a conflict between these requirements and the requirements of any particular zoning district, these requirements shall take precedent.
- (12) *Service access.* A service alley or designated loading space shall be reserved at the rear of the building. Where there is a conflict between these requirements and the requirements of any particular zoning district, these requirements shall take precedent.
- (13) *Signs.* The following requirements are in addition to the requirements for signs outlined in section 44-99. Where there is a conflict between these requirements and the requirements of section 44-99, the following requirements shall take precedence:
- a. *Wall-mounted signs.* Wall-mounted signs may be permitted subject to the following:
 1. The sign shall be affixed to the front facade of the building, and shall project outward from the wall to which it is attached no more than six inches.
 2. The area of the signboard shall not exceed five percent of the ground floor building facade area, or 24 square feet, whichever is less.
 3. The maximum permitted height is 15 feet above the front sidewalk elevation, and shall not extend above the base of the second floor window sill, parapet, eave or building facade.
 4. The height of the lettering, numbers or graphics shall not exceed 12 inches.
 5. The sign shall be granted to commercial uses occupying buildings facing on public streets only and shall not be allocable to other uses.
 6. Wall-mounted signs are limited to one sign per business.
 7. Applied letters may be used for wall-mounted signs, if constructed of painted wood, painted cast metal, bronze, brass or black anodized aluminum. Applied plastic letters shall not be permitted. The height of applied letters shall not exceed 12 inches.
 8. Signs should closely resemble or match the nautical thematic signage, as outlined in subsection (b)(13)j. of this section.
 - b. *Painted window or door signs.* Painted window or door signs are permitted, provided the following standards are met:
 1. The sign shall not exceed ten percent of the window or door area, or four square feet, whichever is less.
 2. The sign shall be silk-screened or hand painted.
 3. The height of the lettering, numbers or graphics shall not exceed six inches.
 4. Painted window or door signs are limited to one sign per business, painted on either the window or the door, but not on both.
 5. Painted window or door signs may be in addition to a wall-mounted sign, a freestanding sign, or an awning or valance sign.
 - c. *Awning signs.* Awning signs may be permitted for ground floor uses only, provided the following standards are met:

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1. If acting as the main business sign, it shall not exceed ten square feet in area, and the height of the lettering, numbers or graphics shall not exceed eight inches.
 2. If acting as an auxiliary business sign, it shall be located on the valance only, shall not exceed four square feet in area, and the height of the lettering, numbers or graphics shall not exceed four inches.
 3. Awning signs are limited to two such signs per business, on either awning or valance, but not on both.
 4. If acting as the main business sign, it shall not be in addition to a wall-mounted sign.
- d. *Freestanding signs.* One freestanding sign may be provided, subject to the following conditions:
1. The building where the business to which the sign refers, shall be set back a minimum of five feet from the street line.
 2. The area of the signboard shall not exceed 36 square feet.
 3. The height of the lettering, numbers or graphics shall not exceed four inches.
 4. The height of the top of the signboard, or of any posts, brackets or other supporting elements shall not exceed six feet from the ground.
 5. Signs should closely resemble or match the nautical thematic signage, as outlined in subsection (b)(11)j. of this section.
 6. The sign shall be located within four feet of the main entrance to the business, and its location shall not interfere with pedestrian or vehicular circulation.
 7. Freestanding signs are limited to one sign per building and shall not be in addition to wall-mounted signs or awning or valance signs.
- e. *Multiple street frontage.* Businesses located in corner buildings are permitted one sign for each street frontage.
- f. *Service entrances.* Businesses with service entrances may identify these with one sign not exceeding two square feet.
- g. *Rear parking lot.* One directional sign, facing a rear parking lot, may be erected. This sign may be either wall-mounted on the rear facade, projecting or freestanding, but shall be limited to three square feet in area.
- h. *Restaurants and outdoor cafes.* In addition to other signs, restaurants and outdoor cafes shall be permitted the following, limited to one sign per business:
1. A wall-mounted display featuring the actual menu as used at the dining table, to be contained within a shallow wood or metal case, and clearly visible through a glass front. The display case shall be attached to the building wall, next to the main entrance, at a height of approximately five feet, shall not exceed a total area of two square feet, and may be illuminated.
 2. A sandwich board sign, as follows:
 - (i) The area of the signboard, single-sided, shall not exceed five square feet.
 - (ii) The signboard may be constructed of wood, chalkboard or finished metal.
 - (iii) Letters may be painted or handwritten.

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- (iv) The sign shall be located within four feet of the main entrance to the business and its location shall not interfere with pedestrian or vehicular circulation.
 - (v) The information displayed shall be limited to daily specials and hours of operation.
 - (vi) The sign shall be removed at the end of the business day.
 - i. *Number of address.* Each business shall identify the number of its address within the signboard. One sign facing each street or parking lot may be permitted.
 - j. *Changeable copy signs.* One changeable copy sign shall be permitted as part of any freestanding sign. The area of a changeable copy sign shall be contiguous, and shall not exceed 50 percent of the area of the freestanding sign on which it is located, or 12 square feet, whichever is less. If a changeable copy sign is proposed to be an electronic message center sign, such sign shall meet the following additional requirements:
 - 1. *Animation.* Copy may appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or otherwise portray movement or animation.
 - 2. *Frequency.* Copy without animation shall change not more frequently than once per six seconds.
 - 3. *Dimming.* Any sign shall be equipped with and shall use photosensitive or similar mechanisms to automatically adjust sign brightness and contrast based on ambient light conditions.
 - 4. *Illumination.* Illumination levels shall not exceed 5,000 nits when measured from the sign's face at its maximum brightness, from dawn to dusk and 3,500 nits when measured from the sign's face at its maximum brightness from dusk to dawn.
 - 5. *Certification.* Any sign permit application shall include a certification from the owner, operator, and/or manufacturer of the sign stating that (i) the sign shall at all times be operated in accordance with City codes, and (ii) the owner, operator, and/or manufacturer shall provide proof of such conformance upon request of the city.
 - 6. *Correction of defects.* Any sign found by the building official to be in violation of this chapter shall be turned off until such time as the building official determines that such sign is in conformance with this chapter.
 - k. *Design standards.* Signs should closely resemble or match the nautical thematic signage as illustrated below. Cylindrical pier posts bounded with roping should be used as the freestanding portions of signs with carved wood faces of the sign that include lettering, scripts, or images is preferred. The face portions of signs that are carved wood should include the lettering, scripts, or corporate images. All signs are subject to the review and approval of the planning commission and shall conform to the following design criteria:
 - 1. *Faces of signs.* The face of the signs should be carved and include lettering, scripts, or images. The signboard may be constructed of wood, with wood or cast iron brackets, and shall be architecturally compatible with the style, composition, materials, colors and details of the building, as determined by the planning commission. Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition, materials, colors and details of the building, as well as with other signs used on the building or its vicinity, as determined by the planning commission.
 - 2. *Facade features.* Signs shall fit within the existing facade features, shall be confined to signable areas, and shall not interfere with door and window openings, conceal

architectural details or obscure the composition of the facade where they are located. Signs shall be placed on a facade only in a manner historically appropriate to the style of the building.

3. *Same height for same blockface.* Whenever possible, signs located on buildings within the same blockface shall be placed at the same height, in order to create a unified sign band.
4. *Wooden pier posts.* Cylindrical wooden pier posts bounded with roping should be used as the freestanding portions of signs.
5. *Materials for signs.* Wood and painted metal may be used as materials for signs. Flat signs should be framed with raised edges. The face of each sign should be framed with a narrow relief of wood and should be accented with a contrasting color. Signs using wood shall use only high-quality exterior grade wood with suitable grade finishes. A minimum of 30 percent of the wooden face of the sign should remain as a natural wood or a neutral color to serve as the background. Sign colors should be compatible with the colors of the building facade. A dull or matte finish is recommended, for it reduces glare and enhances legibility.
6. *Signs spot-lighted or back-lighted.* Signs other than electronic message center signs shall be either spot-lighted or back-lighted with a diffused light source. Spot-lighting shall require complete shielding of all light sources; light shall be contained within the sign frame and shall not significantly spill over to other portions of the building, or site. Back-lighting shall illuminate the letters, characters, graphics or background on the sign. Fluorescent bulbs may be used to illuminate the interior of display cases.
7. *Concealed mounting.* Signs shall be mounted so that the method of installation is concealed. Signs applied to masonry surfaces should be mechanically fastened to mortar joints only, and not directly into brick or stone. Drilling to provide electrical service should also follow the same rule.
8. *Pedestrian circulation.* Pedestrian circulation shall be developed for each side of the street in the entire DDA district concrete paving surfaces shall be used. Any portion of the concrete may be substituted with brick pavers or another acceptable textured surface, with approval from the planning commission. All subject site development shall further conform to the standards illustrated in figure 8 of the DDA development plan.
9. *Sidewalk displays.* Sidewalk displays shall be permitted directly in front of an establishment, provided at least five feet of clearance is maintained along pedestrian circulation routes.
 - (i) Display cases shall be located against the building wall and shall not be more than two feet deep. The display area shall not exceed 50 percent of the length of the store front.
 - (ii) Display cases shall be permitted only during normal business hours, and shall be removed at the end of the business day. Cardboard boxes shall not be used for sidewalk displays.
 - (iii) Sidewalk displays shall maintain a clean, litter-free and well-kept appearance at all times and shall be compatible with the colors and character of the storefront from which the business operates.
10. *Courtyards and plazas.* Exterior public and semi-public spaces, such as courtyards or plazas, shall be designed for function, to enhance surrounding buildings and provide amenities for users, in the form of textured paving, landscaping, lighting, street trees, benches, trash

receptacles and other items of street furniture, as appropriate. Courtyards shall have recognizable edges defined on at least three sides by buildings, walls, elements of landscaping, and elements of street furniture, in order to create a strong sense of enclosure.

11. *Mechanical equipment.* All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties, by using walls, fences, roof elements, penthouse-type screening devices or landscaping.
- (14) *Fire escapes.* Fire escapes shall not be permitted on a building's front facade. In buildings requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.
- (15) *Prohibited.* Solid metal security gates or solid roll-down metal windows shall be prohibited. Link or grill type security devices shall be permitted only if installed from inside, within the window or door frames; or, if installed on the outside, if the coil box is recessed and concealed behind the building wall. Security grills shall be recessed and concealed during normal business hours. Models which provide a sense of transparency, in light colors, are encouraged. Other types of security devices fastened to the exterior walls are prohibited.
- (c) *Part II.* Part II applies to uses within those portions of areas 2, 3, and 4 of the DDA district that have frontage on Gibraltar Road, Middle Gibraltar Road, North Gibraltar Road, or West Jefferson Avenue. All building facades that face a street shall conform to requirements of subsection (b)(2) of this section, facade design.
 - (1) *Lighting.* Exterior lighting shall conform to the requirements of subsection (b)(3) of this section, lighting.
 - (2) *Parking.* Parking and parking lot design shall conform to the requirements of subsection (b)(6) of this section, parking.
 - (3) *Landscaping.* Landscaping shall conform to the requirements of subsection (b)(7) of this section, landscaping.
 - (4) *Building setback.* Building setback shall conform to the requirements of subsection (b)(8) of this section, building setback.
 - (5) *Building height.* Maximum building height shall conform to the requirements of subsection (b)(9) of this section, building height.
 - (6) *Building mass.* Buildings on corner lots shall be considered more significant structures, since they have at least two front facades visibly exposed to the street. The planning commission may require additional height and architectural embellishments, such as corner towers, relating to their location. Where there is a conflict between these requirements and the requirements of any particular zoning district, these requirements shall take precedent.
 - (7) *Service access.* Service access shall conform to the requirements of subsection (b)(11) of this section, service access.
 - (8) *Signs.* Signs shall conform to the requirements of subsection (b)(12) of this section, signs.
 - (9) *Pedestrian circulation.* Pedestrian circulation shall conform to the requirements of subsection (b)(13) of this section, pedestrian circulation.
 - (10) *Mechanical equipment.* Mechanical equipment shall conform to the requirements of subsection (b)(16) of this section.

(11) *Traffic flow.* Curb cuts shall be limited to include a minimum separation distance of 175 feet.
(Ord. No. 23KKK, § 1(28-480), 5-14-2001; Ord. No. 316, § 1, 3-13-2006; Ord. No. 332, § 3, 8-11-2008)

Sec. 44-894. Period of project completion and improvements.

- (a) An approved site plan shall remain valid for a period of one year from the date of approval. Projects requiring phased construction shall receive separate approvals for each phase prior to commencing construction. Each approval so granted shall be treated as an original approval date for purposes of computing the period of completion.
- (b) All improvements shall be completed within one year from the date of site plan approval. For purposes of this section, improvements shall be defined as those features and actions associated with a project that are considered necessary by the planning commission to protect natural resources or the health, safety, and welfare of the residents of the city and future users and inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of site plan approval. Any improvements not installed by that deadline shall be completed no later than July 1 of the following construction season.
- (c) The planning commission may, at its discretion, provide successive extensions of the required period of project completion beyond the one year granted under section 44-894(a). Such extensions are subject to the following requirements and conditions.
 - (1) Time extensions shall only be granted by the planning commission upon a filing of just cause outside of the ordinary control of the owner and/or the developer. Such cause shall include, but not necessarily be limited to: unexpected delays in securing public agency approvals and permits; declining market demand; and, accidents produced by any force of nature which is irresistible such as lightning, fires, flooding, tornadoes, or earthquakes. In no instance, however, shall time extensions be granted by the planning commission for projects where no substantial physical construction work for the facilities needed for the use have begun (that is, prior to the establishment of vested interests) or owing solely to the economic hardship of the developer.
 - (2) Period of extension granted by the planning commission shall be commensurate with the cause of action; however, no single extension granted by the planning commission shall exceed two years.
 - (3) A request to extend a project completion deadline for cause shown shall be made in writing by the property owner prior to the projected project completion expiration date. This application shall include specific reason(s) believed to justify the time extension and detailed information on how and when the applicant/developer proposes to complete the project.
 - (4) A complete application shall entitle the applicant to make a formal presentation to the planning commission and simultaneously extend the period of project completion until the date acted upon by the planning commission in accordance with section 44-894(c)(6) below.
 - (5) The planning commission shall act upon a request to extend a project completion deadline within 90 days of receipt of a complete application. In consideration of such a request, the planning commission shall convene a public hearing.
 - (6) The planning commission may approve, deny or conditionally approve a request to extend a project completion deadline. Any decision on such a request shall state the findings of fact and any conditions imposed thereon. All conditions imposed shall remain unchanged except upon the mutual consent of the applicant and the planning commission.

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- (7) The planning commission's denial to extend a project completion deadline shall not prevent the applicant from submitting a new site plan for review and approval in accordance with the submittal and processing requirements of Article XXVII of Chapter 44.

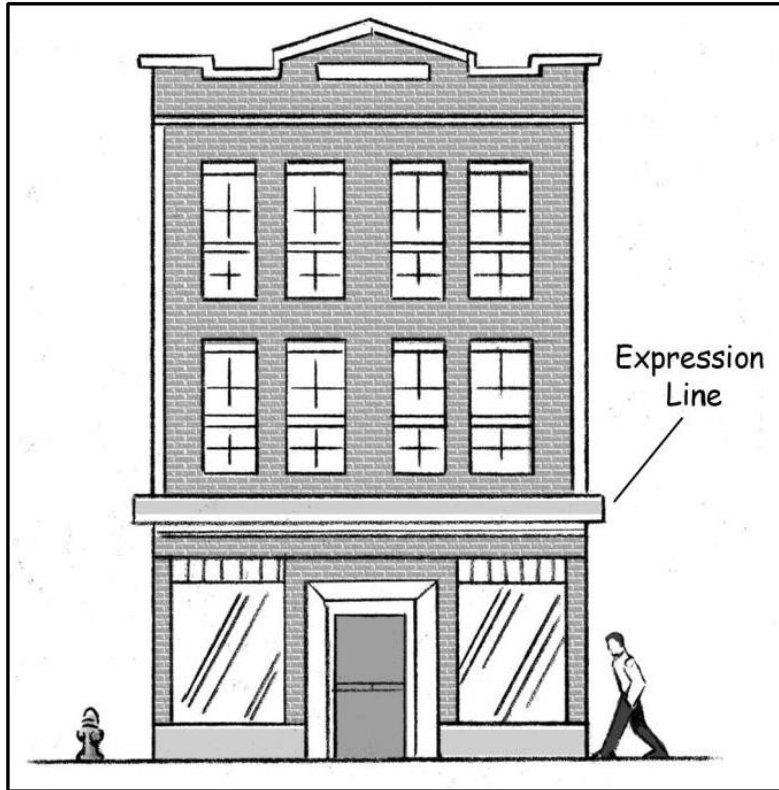
(Ord. No. 371, 3-25-2013)

Sec. 44-895. Downtown waterfront overlay district.

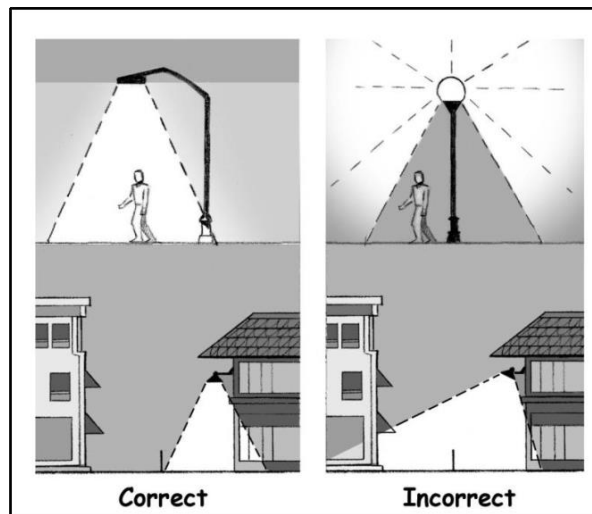
- (a) *Purpose.* The city's most significant natural asset, the Detroit River, plays an important role in enhancing the quality of life of its residents. The downtown waterfront overlay district is intended to capitalize on the value of the Detroit River as an essential economic, recreational and environmental resource by encouraging land use changes from single use to mixed-use practices and land use patterns that limited the extent to which people could view, access and enjoy the riverfront by providing opportunities for clear views, easements and recreational opportunities. It is intended that:
- (1) Visibility of the Detroit River shall be expanded and enhanced by requiring building setbacks that will provide for improved view of the water from North Gibraltar Road.
 - (2) A river walk shall be created along the entire length of the waterfront parallel to North Gibraltar Road River to allow for continuous connection alongside the river for recreational and environmental quality purposes through donation, acquisition and easements. This river walk may extend over the water either partially or completely.
 - (3) A variety of people-oriented destinations shall be created along the river walk to provide visual interest, activity and vibrancy. Mixed-use development and high-density residential construction are essential components for encouraging pedestrian activity and public safety.
 - (4) Offering additional building height as an incentive for providing pedestrian access along the waterfront.
- (b) *Requirements.*
- (1) Except as otherwise noted in this section, any new or modified uses requiring site plan review within the downtown waterfront overlay district, shall comply with all of the requirements of section 44-893(b) downtown development authority (DDA) district development standards in addition, the requirements of the downtown waterfront overlay district as outlined in this section shall be optional requirements. Bonuses and parking reductions are available to applicants only if they meet all of the requirements of the downtown waterfront overlay district.
 - (2) *Building entrances.* All buildings shall have at least one public entrance that faces the street. Rear entrances are permitted, but only if there is also a primary entrance from the main street. For buildings with street and river or canal frontage, building entrances shall be provided on both the street and the river side of the building.
- (c) *Doors.* Primary entry doors shall be a minimum of seven and a maximum of eight feet in height. Doors measuring seven feet in height shall have a glass transom with a minimum height of 12 inches.
- (d) *Façade design.* All building facades that face a street shall conform to the following design criteria:
- (1) *Fenestration.* All facades visible from the street must be glazed with transparent glass, as follows:
 - a. *First floor.* First floor minimum 60 percent of façade, 70 percent maximum.
 - b. *All floors above the first floor.* Upper floors minimum 30 percent of facade, 60 percent maximum.
 - c. *Glazing.* Glazing on the first floor retail space shall occur between two feet six inches minimum and eight feet maximum in height above the sidewalk. First floor height shall be 12 feet minimum. Blank, windowless walls are prohibited, except where windows would face electrical

equipment, service areas or garbage containers. In such situations, the planning commission shall have the ability to permit windowless walls.

- d. *Vertical windows.* Vertical window orientation shall have a ratio of one wide to two high minimum. Each shutter to be mounted on either side of a window shall be equal to one-half of the width and one times the height.
- (e) *Service access.* The planning commission shall have the right to modify or waive the requirements for off-street loading areas specified in section 44-165. Any such modification or waiver shall be based upon a review of a site plan and/or the surrounding area and a determination that there is satisfactory loading space serving the building or that the provision of such loading space is physically and/or functionally impractical to provide.
- (f) *Building materials.* Buildings are to be constructed from permanent materials that will weather handsomely over time and lend themselves to a nautical theme, such as brick, stone, masonry, cedar shakes, or wooden-flat board. Buildings with multiple storefronts shall be unified through the use of architecturally compatible materials, colors, details, awnings, signage, and light fixtures. Exterior insulation systems or EIFS are prohibited on all buildings.
- (g) *Reflective materials.* The use of highly reflective surfaces, including reflective glass and mirrors, is prohibited on the ground floor.
- (h) *Expression line.* The base of any building shall be distinguished from the remainder of the building by providing design elements that enhance the pedestrian environment. A horizontal line on the façade known as the expression line (EL) shall distinguish the base from the remainder of the building. If applicable, the height of the EL shall be related to the prevailing scale of development in the area. The EL shall be created by a change in material, a change in design, or by a continuous setback, recess, or projection above or below the expression line. Elements such as cornices, belt courses, corbelling, molding, stringcourses, ornamentation, awnings or canopies, and changes in material or color or other sculpturing of the base, are appropriate design elements for enhancing the pedestrian environment.



- (i) **Lighting.** Exterior lighting shall consist of the historic-era lighting as approved by the downtown development authority and must be placed and shielded so as to direct the light onto the site and away from adjoining properties. Any lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights, and lights where the lens is visible outside of the light fixture shall be prohibited, except where the historic-style lighting is used that is compatible with existing historic-style lamps as proposed by the DDA or as otherwise approved by the city.



- (j) **Parking.** Parking and parking lot design shall comply with the standards of this section, in addition to the provisions of section 44-165, off-street loading and unloading space, with the following exceptions:

- (1) For residential units in mixed-use buildings, one parking space per bedroom or two spaces per unit, whichever is less, shall be required.
- (2) *Shared parking.* The planning commission may reduce required parking spaces by up to 20 percent based on the inclusion of a parking demand assessment in the site plan application.
- (3) *In-front parking.* No new parking lot shall be created nor any existing parking lot expanded in front of a building unless the planning commission determines that parking in front of the building would be acceptable because such parking will provide new dedicated pedestrian connection to the waterfront riverwalk.
- (4) *Off-site parking facilities.* Required parking for a development may be located off-site under certain circumstances. Requests for off-site parking must meet the requirements of this section.
 - a. *Residential uses.* Parking facilities accessory to dwelling units shall be located on the same zoning lots as the use served. Spaces accessory to uses other than dwellings may be located on a lot adjacent to or across the street from the lot occupied by the use served; but in no case at a distance to excess of 300 feet.
 - b. *Nonresidential uses.* Parking facilities accessory to non residential uses may be located on other than the same zoning lot as the use served (off-site). All required parking spaces shall be within 300 feet of such zoning lot. No parking spaces accessory to a use in the waterfront overlay district shall be located in a residentially zoned district, unless authorized by the planning commission.

(k) *Building height requirements and bonus.*

Minimum Height	Two stories (24 feet)
Maximum Height	Two stories (24 feet)
Up to two additional stories permitted	One story bonus for the provision of 40 foot setback from the Detroit River or canals connecting to the river for purpose of creating a waterfront pedestrian riverwalk; Additional bonus story awarded for provision of pedestrian connection between the riverwalk and North or Middle Gibraltar Roads.
Boat storage buildings	Boat storage buildings may not exceed 50 feet as measured from the finished grade to the peak of the roof.

(l) *Site Layout and Building Placement.*

Site Layout and Building Placement: Downtown Waterfront Overlay	
Minimum Lot Area	As required in the base Zone District.
Minimum Lot Width	As required in the base Zone District
Minimum Front Setback	All buildings shall maintain a minimum setback of 25 feet from a floodwall, shore or dock line of the Detroit River or canals connecting to the river, whichever is applicable. Boat storage buildings are not subject to the 25 foot setback requirement.
	Buildings shall have the front facades built in accordance with the DDA district requirements specified in section 44-893(b)(9).

Side Yard Setback	20 foot minimum setback on one side. The planning commission may waive or modify this requirement if convenient water access is provided. Such access shall contain pedestrian amenities.
Permitted Yard Encroachment	The land between the building and the river shall be landscaped or designed as an urban open space for pedestrian use. Uncovered, outdoor seating areas may extend into the rear yard, provided that a minimum of ten feet is maintained between the river walk, floodwall, shore or dock line of the Detroit River and canals thereof, whichever is applicable.
Minimum Green Space	20 percent of lot area.

- (m) *Permitted uses.* All uses within the underlying zoning district are permitted in the downtown waterfront overlay district as well as the following:
- (1) All uses as permitted in C-1 districts.
 - (2) Boat liveryes and marinas.
 - (3) Retail sales, serving and storage boats, motors and marine supplies except this shall not permit the storage of old boats or barges beyond a reasonable degree of repair, nor shall this permit the dry land storage of any boats or barges for more than one 12-month period.
 - (4) Buildings and uses customarily accessory to any of the permitted uses, but which will not be detrimental to adjacent residential districts.
 - (5) Publicly owned buildings, public utility buildings, telephone exchanges, transformer stations and substations with service yards, but without storage yards, water and sewerage pumping stations.
 - (6) Residential units on upper floors of buildings.
 - (7) Professional offices.
 - (8) Restaurants and bars.
 - (9) Canoe, kayak, non-motorized personal watercraft and bicycle sales and rentals.

(Ord. No. 372, 3-25-2013)

Secs. 44-896—44-919. Reserved.

ARTICLE XXVIII. BOARD OF APPEALS

Sec. 44-920. Establishment of board.

- (a) There is hereby established a zoning board of appeals consisting of five members appointed by the mayor, by and with the consent of the city council, one appointed for a term of one year; two appointed for two years; and two appointed for three years; subsequent terms shall be for three years. The members shall be citizens (not holding any elective office) of the United States and residents of and owners of real property in the city. Their compensation shall be as established by the city council.

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- (b) The board shall perform its duties and exercise its powers as provided by law in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done.

(Code 1969, § 5.281; Code 1977, § 28-491)

Sec. 44-921. Secretary of the board of appeals.

The board shall elect its own secretary who shall submit a copy of all of the board's actions to the city clerk. The board shall annually elect its own chairman and vice-chairman.

(Code 1969, § 5.282; Code 1977, § 28-492)

Sec. 44-922. Meetings and records.

- (a) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Meetings may be called at the request of three members of the board. The board shall keep minutes of its proceedings showing the vote of each member upon every question decided by it, or if any member is absent or fails to vote indicating such fact. Statement of the facts found by the board shall be included in the minutes of each case heard or considered by it. The reason for recommending or denying variances shall appear in the minutes. The reason for recommending or denying an exception as herein provided or for expressing a specific interpretation of this chapter shall also appear in the minutes. In every instance, a statement of the facts upon which such recommendations are based shall appear in the minutes.
- (b) The minutes of the board shall be open to public examination at reasonable hours.

(Code 1969, § 5.283; Code 1977, § 28-493)

Sec. 44-923. Rules and procedure.

The board shall adopt general rules and regulations governing its procedure, and shall make rules for the filing of appeals and other matters requiring its attention, which shall not cause unreasonable delays in the transaction of its business. Hearings shall be held on all appeals. The board shall cause to be given notice of such hearing setting forth the time and place and the nature of the appeal not less than 15 days to advance of such hearing and in the official paper of the city and by other means which the board determines to be necessary. In addition, the board shall cause to be given additional notice to all owners of property of record as required by state law.

(Code 1969, § 5.284; Code 1977, § 28-494)

Sec. 44-924. Appeals and review.

- (a) The board shall hear and decide appeals from and review any order, requirements, decision or determination made by any administrative official charged with the enforcement of this chapter. They shall also hear and decide all matters referred to them or upon which they are required to pass upon by this chapter. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under this chapter or to effect any variation in such chapter.
- (b) Appeals to the board may be taken by any person aggrieved by or any officer, department, board or bureau of the city affected by a decision of the building inspector or administrative official charged with the enforcement of this chapter. Such appeal shall be taken in the manner prescribed by the board by general

rule, by filing with the building inspector and with the board, not later than ten days after the date of the building inspector's decision, which is appealed from, a notice of appeal specifying the ground thereof. The building inspector shall forthwith transmit to the board all papers constituting the records upon which the action appealed from is taken.

(Code 1969, § 5.285; Code 1977, § 28-495)

Sec. 44-925. Decisions of the board.

The board shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the board's decision shall be transmitted to the applicant or appellant and to the building inspector. Such decision shall be binding upon the building inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the board. A decision of the board shall not become final until the expiration of five days from the date such decision is made unless the board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the records.

(Code 1969, § 5.286; Code 1977, § 28-496)

Sec. 44-926. Stay of proceedings.

- (a) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board after the notice of appeal shall have 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 such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application or notice to the officer from whom the appeal is taken and on good cause shown.
- (b) The board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officers from whom the appeal is taken.

(Code 1969, § 5.287; Code 1977, § 28-497)

Sec. 44-927. Fees for appeals.

A fee in the amount established in the schedule of fees adopted by the council shall be paid to the building inspector or administrative official at the time the notice of appeal is filed, which the building inspector or administrative official shall forthwith pay over to the city treasurer to the credit of the general fund of the city.

(Code 1969, § 5.288; Code 1977, § 28-498)

Sec. 44-928. Jurisdiction.

- (a) *Advisory opinions.* To render an advisory decision, or opinion, on any matter referred to it by the building inspector, whether or not such matter is expressly or clearly implied by the terms of this chapter as being within the scope of his power and authority to dispose of, when in his judgment, such action would be necessary or helpful in maintaining the spirit and intent of this chapter.

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- (b) *Variances.* The board of appeals, as herein created, is a body of limited powers. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the board shall have powers in passing upon appeals to vary or modify any of the provisions of this chapter relating to the construction, structural changes in equipment or alteration of buildings or structures, so that the spirit of the chapter shall be observed, public safety secured and substantial justice done.
 - (c) *Variation in yards, lot area and percentage of lot coverage.* To permit variation or modification of yard, lot area and percentage of lot coverage, and floor area requirements of this chapter as may be necessary to secure an appropriate improvement of a parcel of land which is of such size, shape or dimension, or which has such peculiar or exceptional geographical, or topographical conditions that it cannot be appropriately improved without such variation or modification, provided, that the purpose and spirit of this chapter shall be observed, public safety secured and substantial justice done.
 - (d) *Off-street parking variations.* Permit a variation or modification in the required location of off-street parking facilities, if after investigation by the board, it is found that such variation is necessary to secure an appropriate development of a specific parcel of land which has such peculiar or exceptional geographical or topographical conditions, or is of such a size, shape or dimension that it cannot reasonably supply, at that location, the total amount of off-street parking spaces as is required for the particular use, as long as the remaining required off-street parking spaces are supplied within a distance of not more than 500 feet of the building.
 - (e) *Restrictions on board action.* No variance in the provisions or requirements of the chapter shall be authorized by the board unless the board finds evidence that all the following facts and conditions exist:
 - (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
 - (2) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 - (3) That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the intent and purpose of this chapter or the public interest.
 - (4) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.

(Code 1969, § 5.289; Code 1977, § 28-499)

Sec. 44-929. Exceptions.

The board shall have authority to make exceptions as specifically set forth in this chapter, subject to the conditions specifically described.

- (1) *Lots divided by district boundaries.* Where a district boundary line divides a lot of record, the board shall have power to permit the extension of a use permitted on the less restricted portion of such a lot to that portion of said lot which lies in the more restricted district, provided that such extension shall be made for a distance of not to exceed 50 feet beyond the district boundary line in any case.
- (2) *Lots abutting a different zoning district.* Permit an exception in the use and location of buildings on any lot abutting a different zoning district, provided that the use or location shall not have an undesirable effect upon the more restricted district and provided further, that the yard requirements cannot be

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- less than 50 percent of the requirements for the more restricted district, and provided further, that the variation shall not extend more than 50 feet into the more restricted district.
- (3) *Height of building as originally planned.* Permit the erection of a building to its full height or use, as originally planned, when foundations and structural members are designed to carry such building higher, when said building has been partially erected previous to the adoption of this chapter.
- (4) *Boardinghouse and lodginghouses.* Permit a boardinghouse or lodginghouse in an R-2 district, provided:
- a. Two persons shall be permitted for each sleeping room in excess of the sleeping rooms required of the family.
 - b. Parking space on the lot shall be provided for each person lodging at the house in addition to the family unit.
 - c. No sign shall be displayed on the premises other than one card, which may be displayed in the window indicating boarding or lodging.
- (5) *Home occupation in R-2 districts.* Permit a home occupation, as herein defined, in a dwelling in an R-2 district, provided:
- a. That such use shall be conducted entirely within the dwelling and shall occupy only one room on the ground floor which shall not be greater than 200 square feet in area.
 - b. That there shall be no display or advertising or other outward indication of such special use other than one sign not exceeding two square feet in area bearing the name and occupation, word only, of the practitioner.
 - c. That in other respects the building and premises shall be so treated and the permitted activity so conducted, that the use of such lot will be in harmony with the character of the district in which it is located.
- (6) *Project sign.* The board may grant a temporary permit for a freestanding ground sign, to be used during the development of a project for advertising the project, for a period of not more than one year. Such sign shall not be greater than 300 square feet in size and shall be set back from any street line a distance of not less than 50 feet.
- (7) *Building size reduction.* Permit the erection of a commercial building of a size less than that required in sections 44-546, 44-582, 44-667 and 44-709 for businesses which, because of their specific characteristics, such as real estate offices, outdoor sales offices, service shops or businesses of a similar nature, may not require the floor space as herein provided.
- (8) *Repair or storage facilities in C-1 and C-2 districts.* Permit incidental facilities for repair or storage in a C-1 and C-2 district, provided:
- a. Not more than ten percent of the floor area of the building shall be used for repair and/or storage facilities.
 - b. No operation requiring a motive power of over five horsepower shall be permitted.
 - c. Repairs and minor accessory operations to fit the merchandise to the customers' specific needs only shall be permitted.
- (9) *Extension of hours of work.* Permit the extension of hours of work in M-1 districts, when such extension is necessary because of an emergency, and under such conditions and safeguards as will protect the neighboring residential districts from unnecessary disturbances.

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- (10) *Circuses, fairs, carnivals and similar uses.* Permit a circus, fair, carnival and similar uses in any district under the following conditions:
- a. When engaged in by schools, churches, fraternal societies and similar nonprofit organizations as an accessory use for the sole purpose of raising money for the financial support of such institutions in pursuit of their natural functions; provided, that such uses are confined to the land and buildings normally used and occupied by such institutions.
 - b. Such use and occupancy is temporary and/or seasonal only.
 - c. Such use and occupancy is not detrimental to adjacent surrounding property.
 - d. Such use and occupancy is not disturbing to the public peace and tranquility.
 - e. Such use and occupancy will not create undue traffic and congestion.
 - f. Permits for such uses may be granted for periods not to exceed eight days consecutively and may be renewable for not more than eight days.
- (11) *No authority for change in use.* The board shall have no authority to authorize a change in the use of any parcel of property or to change the height requirements in this chapter, other than is herein specifically specified.

(Code 1969, § 5.290; Code 1977, § 28-500)

Sec. 44-930. Interpretation.

The board shall interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several zoning districts accompanying and made a part of this chapter, in those cases where the street layout actually on the ground varies from the street layout as shown on the aforesaid map.

(Code 1969, § 5.291; Code 1977, § 28-501)

Editor's note(s)—The zoning map is on file in the office of the city clerk.

Secs. 44-931—44-948. Reserved.

ARTICLE XXIX. ADMINISTRATION

Sec. 44-949. Administrative officer.

The provisions of this chapter shall be administered by the building inspector or by such deputies of his department as the building inspector may delegate for such work. He shall make such general rules and prescribe the use of such forms and methods consistent with the intent of this chapter as may facilitate the work. With the approval of the city council the building inspector may employ expert service to aid in the administration of the chapter.

(Code 1969, § 5.296; Code 1977, § 28-513)

Sec. 44-950. Building permits.

- (a) No building or structure shall hereafter be erected, moved, repaired, altered or razed until a permit shall have been obtained by the owner of said building from the building inspector. No such permit shall be issued for the erection, moving, repair, alteration or razing of any building or structure or part thereof, which is not in accordance with the provisions of this chapter.
- (b) Any building permit issued under the provisions of the city Code shall be valid only for a period of six months following the date of the issuance thereof.

(Code 1969, § 5.297; Code 1977, § 28-514)

Sec. 44-951. Use permits.

- (a) No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, without a use permit having first been issued by the building inspector. No such use permit shall be issued to make such a change unless it is in conformity with the provisions of this chapter or amendments thereto hereafter duly enacted.
- (b) The building inspector shall place his stamp of approval on the plans submitted to him with date of approval. One copy of the plans shall be returned to the applicant submitting such plans and the second copy shall be placed on file in the office of the building inspector. In all cases when the building inspector shall refuse to issue a permit, he shall state such a refusal, in writing, with the cause and reasons for said refusal.

(Code 1969, § 5.298; Code 1977, § 28-515)

Sec. 44-952. Application for permits.

An application for a building or use permit shall be made to the building inspector. Such application shall be accompanied by a plat in duplicate, drawn to scale, showing the exact dimensions of the land and structure to which the permit is to apply, the lines of all the lots or parcels under separate ownership contained therein, the width of and alignment of all abutting streets, alleys, easements of access and public open space, the area, size, position and height of all buildings or structures with plans drawn to scale, of the proposed structure or alteration and such other information as may be deemed necessary for the proper enforcement of this chapter. An accessory building, when erected at the same time as the principal building on a lot and shown on the application thereof, shall not require a separate permit. Whenever the buildings, lands and uses thereof, as set forth on the application are in conformity with the provisions of this chapter, it shall be the duty of the building inspector to issue a permit within ten days after the receipt of such application. All permits, when issued, shall be conspicuously posted upon the premises.

(Code 1969, § 5.299; Code 1977, § 28-516)

Sec. 44-953. Schedule of fees for building and use permits.

Before any permit shall be issued, under this chapter, an inspection fee shall be paid in an amount fixed by a schedule established by resolution of the city council.

(Code 1969, § 5.300; Code 1977, § 28-517)

Sec. 44-954. Inspection for building and land use.

It shall be the duty of the holder of every permit to notify the building inspector, in writing, of the time when such building or land use will be ready for inspection. Two such inspections shall be requested on all buildings. The first of these inspections shall be requested when excavation for foundations has been completed, and the second inspection shall be requested when the building is completed. In case of sheds and garages, having an area of less than 800 square feet, only one inspection, by the building inspector, shall be required, which inspection shall be requested as soon as wall studs are in place. In the case of change in land use or use of a building one inspection shall be required when such land use or building has been completed. Failure to notify the building inspector of the time for such inspection shall automatically cancel the permit. Before reissuing a second permit the building inspector may require the payment of a second fee. A notice to call the attention of the holders of permits to the requirements of this section shall be printed on all permits issued.

(Code 1969, § 5.301; Code 1977, § 28-518)

Sec. 44-955. Occupancy.

It shall be unlawful to use or permit the use of any building or structure hereafter altered, extended or erected or to use or permit the use of any land until the building inspector shall have made an inspection of the building or land and shall have approved the same for occupancy or use.

(Code 1969, § 5.302; Code 1977, § 28-519)

Sec. 44-956. Certificate of occupancy.

No land or building hereafter erected or altered shall be occupied, used or changed in use until a certificate of occupancy shall have been issued by the building inspector stating that the land or building or proposed use of a building or land complies with all the building and health laws and ordinances and the provisions of this chapter.

(Code 1969, § 5.303; Code 1977, § 28-520)

Sec. 44-957. Application for certificate of occupancy.

Certificates of occupancy shall be applied for coincident with the application for a permit and shall be issued within ten days after the erection or alteration of such building or the use of land shall have been completed in conformity with the provisions of these regulations. A record of all such certificates shall be kept on file in the office of the building inspector and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. No fee shall be charged for an original certificate applied for coincident with the application for a permit; for all other certificates, or for copies of any original certificates, there shall be a charge as established in schedule of fees adopted by the council. No permit for the excavation for or the alteration of any building or for any use of land shall be issued before application has been made for a certificate of occupancy.

(Code 1969, § 5.304; Code 1977, § 28-521)

Sec. 44-958. Temporary certificate of occupancy.

The building inspector may issue a temporary certificate of occupancy for a part of a building prior to the occupation of the entire building, provided such temporary certificate shall not remain in force for a period in excess of six months nor more than five days after the building is fully completed and ready for occupancy, and

provided further, that the owners, at the time of application for said temporary certificate of occupancy, shall execute and sign a statement of willingness to comply with all conditions set forth in said certificate under penalty of revocation thereof.

(Code 1969, § 5.305; Code 1977, § 28-522)

Sec. 44-959. Certificate of occupancy for nonconforming buildings.

A certificate of occupancy shall be required for each nonconforming use of buildings existing prior to the time of passage of the ordinance from which this chapter is derived. Application for such certificate of occupancy for nonconforming uses shall be filed with the building inspector by the owner or lessee of the building occupied by such nonconforming use within one year from the effective date of the ordinance from which this chapter is derived. It shall be the duty of the building inspector to issue a certificate of occupancy for such nonconforming use upon such application. The failure of the owner or lessee of the building occupied by such nonconforming use to obtain such certificate of occupancy for same within one year from the effective date of the ordinance from which this chapter is derived, shall create a conclusive presumption that such nonconforming use did not exist prior to the effective date of the ordinance from which this chapter is derived, and such nonconforming use shall be discontinued within one year from the effective date of the ordinance from which this chapter is derived.

(Code 1969, § 5.306; Code 1977, § 28-523)

Secs. 44-960—44-976. Reserved.

ARTICLE XXX. INTERPRETATION AND APPLICATION

Sec. 44-977. Purpose.

This chapter shall be liberally construed in such manner as to best effectuate its purpose. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare. The provisions of this chapter shall be construed if possible, in such manner as to make all provisions of this Code consistent therewith; however, where an inconsistency or conflict cannot be avoided, then the most restrictive of such inconsistent or conflicting provisions shall control and prevail.

(Code 1969, § 5.311; Code 1977, § 28-535)

Secs. 44-978—44-997. Reserved.

ARTICLE XXXI. VIOLATIONS AND PENALTIES

Sec. 44-998. Violations.

Any structure upon which construction is started, or any structure which is altered, enlarged or repaired or any use of land which is begun or changed after adoption of this chapter and in violation of any of its provisions is hereby declared a nuisance per se. Any court of competent jurisdiction shall order such nuisance abated and the owner or agent in charge of such building or premises shall be adjudged guilty of maintaining a nuisance per se. Any person who violates any provision of this chapter, the owner of any structure or land or part thereof, and any

person, architect, builder, contractor, plumber or agent employed in connection therewith, and who has assisted knowingly in the commission of any such violation, shall be guilty of a separate offense, and upon conviction thereof shall be liable to the penalties herein provided.

(Code 1969, § 5.313; Code 1977, § 28-547)

Sec. 44-999. Penalties.

Except as otherwise provided, any violation of this chapter shall be a misdemeanor.

(Code 1969, § 5.314; Code 1977, § 28-548)

Secs. 44-1000—44-1026. Reserved.

ARTICLE XXXII. CHANGES AND AMENDMENTS

Sec. 44-1027. Amendment procedure.

The city planning commission may, of its own motion or on request of the city council, or upon petition, initiate recommendations for changes, amendment or supplements to this chapter. The planning commission shall receive petitions from individual property owners or groups of property owners requesting district change, amendments or supplements to this chapter. The planning commission shall consider each petition and after careful study vote on the issue as stated in the petition. When approved by a majority vote, said planning commission shall prepare an ordinance amending, supplementing or changing the district boundaries or the regulations herein established and shall cause to be prepared a notice according to section 103 of the Michigan Zoning Enabling Act (MCL 125.3103), indicating the proposed change in the regulations or in the district boundary lines and describing the boundaries of territory to be affected, which notice shall set a date for a public hearing for consideration of such proposed amendment, supplement or change. After due publication or posting and public hearing of such proposed amendment, supplement or change, as required by law, the planning commission may modify said ordinance or without modification may cause such ordinance to be submitted to the city council of the city. Whenever a written protest against such proposed amendment, supplement or change is presented, duly signed by the owners of 20 percent or more of the frontage proposed to be altered, or by the owners of 20 percent or more of the frontage immediately in the rear thereof, or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered, such amendments shall not be passed except by the favorable vote of four-fifths of the entire city council.

(Code 1969, § 5.317; Code 1977, § 28-560)

Sec. 44-1028. Time limit of petitions that have been denied.

A period of not less than one year is required between presentation of petitions for a change or amendment applying to a specific piece of property, where such petition was denied.

(Code 1969, § 5.318; Code 1977, § 28-561)

Sec. 44-1029. Fees.

A fee as established in the schedule of fees adopted by the council shall be paid with each petition presented for a change or amendment to this chapter. Said fee shall apply to the cost incurred in relation to the petition and the balance, if any, shall be returned to the petitioner.

(Code 1969, § 5.319; Code 1977, § 28-562)

Sec. 44-1030. Validity.

This chapter and the various sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph or section is adjudged to be unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be affected thereby.

(Code 1969, § 5.320; Code 1977, § 28-563)

Sec. 44-1031. Effective date.

The provisions of the ordinance from which this chapter is derived were declared to be immediately necessary for the preservation of the public peace, health and safety and ordered to take immediate effect and be in force from and after publication.

(Code 1969, § 5.321; Code 1977, § 28-564)

Sec. 44-1032. Adoption and publication.

The ordinance from which this chapter is derived was adopted, approved and passed by the village council of the Village of Gibraltar July 8, 1957, and published July 24, 1957, in the Guardian.

(Code 1969, § 5.322; Code 1977, § 28-565)